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Floor Debate
April 09, 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 fifty-seventh day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Senator Watermeier. Please rise.

SENATOR WATERMEIER: (Prayer offered.)

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

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

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

CLERK: No corrections, Mr. President.

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

CLERK: Mr. President. Enrollment and Review reports LB751, LB1121, LB1121A to Final Reading. That's all that I have. [LB751 LB1121 LB1121A]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Members, we'll now proceed to the agenda, Select File, which requires a number of voice votes. I ask you to please be attentive. First bill is LB861. Mr. Clerk. [LB861]

CLERK: Mr. President, with respect to LB861, Senator Wishart, I have Enrollment and Review amendments first of all. (ER121, Legislative Journal page 907.) [LB861]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB861]

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SENATOR WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB861. [LB861]

PRESIDENT FOLEY: Members, you've heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB861]

CLERK: Mr. President, Senator Harr had two amendments, both to be withdrawn. Senator Watermeier would move to amend with AM2854. (Legislative Journal page 1454.) [LB861]

PRESIDENT FOLEY: Senator Watermeier, you're recognized to open on AM2854. [LB861]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraskans. After LB861 advanced from Select File, I met with the Risk Management in the DAS Office regarding the committee amendments. AM2854 is the result of our meeting. The amendment strikes the original sections and all amendments thereafter that. However, it only makes technical changes to the original legislation to make the claims process more workable. The amendment clarifies that Risk Management can investigate a claim on behalf of the Legislature and make a recommendation for that payment. It does also strike the Harr amendment, which is LB883, a bill still in Judiciary Committee that Senator Harr has indicated he would pull all of his amendments to this bill. As you recall, LB861 would require the state to pay a county's prosecution cost arising from a single Correctional institution incident if it exceeds the threshold amount for such county. The threshold amount is the amount of property tax revenue raised by a county from a levy of 2.5 cents per \$100 of taxable valuation. The state would only pay the prosecution costs that are in excess of the threshold amount. I look at LB861 as a catastrophic insurance policy. It will only kick in when the prosecution costs become an extreme hardship for county residents. It may never kick in, and I hope that it is never needed. I urge your favorable vote on AM2854 and the advancement of LB861. Thank you, Mr. President. [LB861 LB883]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Is there any discussion of AM2854? Seeing no discussion, Senator Watermeier waives close. The question before the body is the adoption of AM2854 to LB861. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record please. [LB861]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Watermeier's amendment. [LB861]

PRESIDENT FOLEY: AM2854 is adopted. Mr. Clerk. [LB861]

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CLERK: Mr. President, I have nothing further pending on the bill. [LB861]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB861]

SENATOR WISHART: Mr. President, I move to advance LB861 to E&R for engrossing. [LB861]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB861 advances. Moving to LB1081. [LB861 LB1081]

CLERK: LB1081. I have E&R amendments, first of all, Senator. (ER143, Legislative Journal page 1144.) [LB1081]

PRESIDENT FOLEY: Senator Wishart. [LB1081]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB1081. [LB1081]

PRESIDENT FOLEY: Members, you've heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB1081]

CLERK: Senator Linehan will move to amend with AM2823. (Legislative Journal page 1420.) [LB1081]

PRESIDENT FOLEY: Senator Linehan, you're recognized to open on AM2823. [LB1081]

SENATOR LINEHAN: Good morning, Mr. President. Good morning, colleagues. AM2823 just works to reduce the fiscal note. I worked with the Department of Ed and Senator Groene and since this will be the first couple of years the schools are doing that, we took the reporting part...the Department of Ed out, which reduced the fiscal note \$60,000 a year. So I'd appreciate your support on AM2823. [LB1081]

PRESIDENT FOLEY: I'm sorry, Senator Linehan. Had you concluded your remarks? [LB1081]

SENATOR LINEHAN: Yes. [LB1081]

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PRESIDENT FOLEY: Thank you, Senator Linehan. Discussion on AM2823? Senator Groene. [LB1081]

SENATOR GROENE: Thank you, Mr. President. Worked with Senator Linehan, local schools, and the understanding was there wouldn't be a fiscal note, but there was. The Department of Ed didn't like it because it gave them a lot of dictates. But Senator Linehan is going to accomplish something that should have been done in our basic education in our statutes to emphasize to our schools as far back as cavemen writing on walls and taught their children to communicate that the number one duty of our schools is to teach our children to communicate, to read, to have a good vocabulary and to read and write. This will be the first time in our statutes, thanks to Senator Linehan and all the work she did with other senators and the education people and time she spent on the road talking to public schools that this will be emphasized in our statutes. But we took the mandates out. There is still the mandate they will have to test to identify these children and, most importantly, to communicate to the parents. That is in there, but the mandates of how they should address it are out of it. They are now recommendations with the use of "may." It is going to be local control, local issue. It will not be "oversaw" by the Department of Education. This is the way it should be done. I applaud Senator Linehan on her work and to working with others. This amendment is good. It takes the pressure off small schools to come up with programs and staffing that they don't have and the dictates of how a teacher should do it. Well, trust the teachers there. If we give them direction, they will do it the right way and the administrators will do it the right way. So I am in full support of AM2823 for everything I just espoused. It's in the right direction. An employee cannot do the right thing unless we give them direction and our public schools employees need that direction and this will do it without the burdensome "shalls" on a lot of...on a big part of it. So thank you. I support AM2823 amended into LB1081. I do not support anybody else's amendments that are coming forward if they try, because we need to keep this clean. Thank you. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Harr. [LB1081]

SENATOR HARR: Senator Groene, will you yield to a question? [LB1081]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB1081]

SENATOR GROENE: Yes. [LB1081]

SENATOR HARR: What's your definition of clean? [LB1081]

SENATOR GROENE: I took a shower this morning. [LB1081]

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SENATOR HARR: What's that? [LB1081]

SENATOR GROENE: I took a shower this morning. [LB1081]

SENATOR HARR: I didn't hear you. [LB1081]

SENATOR GROENE: I took a shower this morning. [LB1081]

SENATOR HARR: Okay. Thank you. [LB1081]

SENATOR GROENE: You did not put the context of the word clean. [LB1081]

SENATOR HARR: All right. Thank you. Nor did you. That's my point. Folks, we're here on a bill that we heard last year in committee. Senator Linehan then pulled it on the floor, a similar bill. She then at the eleventh hour, 20 minutes before we heard it, on a late night, gave me an amendment and said, hey, it's a good thing. Told me she had worked with the Commissioner of Education. Told me a deal had been worked out. It was after hours. I couldn't get a hold of the Commissioner of Education nor anyone from the Department of Education. And let me just tell you something. When I did, what was represented on the floor and what Senator Linehan told me and what the department told me were two different things. And now we're here again today because what was given that night wasn't ready for prime time. That's why we have committees. Why wasn't this bill introduced? That's all I want to know. Why wasn't this bill introduced like every other bill? Because this is similar, but not the same, as what she had done. Senator Pansing Brooks and Senator Linehan deserve a lot of credit. They've worked hard. They've tried to find a solution. But I'm not sure, number one, this is the solution; two, the fact we're bringing the eleventh hour with changes that no one has really had a chance to look at. I just pulled back on an AG bill that changed a paragraph. And when I brought that amendment, I was told, well, you can't bring this. This isn't similar enough to the underlying bill. I haven't had a chance to read it. Senator Linehan brings it, something that's a lot more complex, and I don't hear those same people standing up with those same arguments. They're being disingenuous. And then I hear Senator Groene say, Senator Linehan's is okay, but if you bring any other amendment, seen or unseen by him, he will object to it because he wants to keep it clean because he took a shower this morning. Folks, what are we doing here? Is this how we want to start our day? Because we're going to have a long day today if this is how we're going to do it. I have my light on and next round I will be asking Senator Linehan some questions. Thank you. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Linehan, you're recognized. [LB1081]

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SENATOR LINEHAN: Thank you, Mr. President. Would Senator Pansing Brooks yield for some questions, please? [LB1081]

PRESIDENT FOLEY: Senator Pansing Brooks, will you yield, please? [LB1081]

SENATOR PANSING BROOKS: I will. [LB1081]

SENATOR LINEHAN: Senator Pansing Brooks, do you have any idea how many people we have talked to regarding AM2823? [LB1081]

SENATOR PANSING BROOKS: It must be probably 40 to 50. I don't know. [LB1081]

SENATOR LINEHAN: And would those groups represent the school boards? [LB1081]

SENATOR PANSING BROOKS: They represent school boards, the school administrators, they represent the teachers, they represent every single group that had any concern. It included the special ed teachers. It included every single group that we could meet with. [LB1081]

SENATOR LINEHAN: Do you remember how many times we met with the Department of Ed on this particular piece of legislation and your dyslexia legislation? [LB1081]

SENATOR PANSING BROOKS: I think it was four times, five times. [LB1081]

SENATOR LINEHAN: And generally when we met with them, did they seem in agreement with what we were doing? [LB1081]

SENATOR PANSING BROOKS: Yes. And the thing that was amazing to me is the effort that you made, even though I'm thrown into a group of others that may have helped on this. I'm trying not to get angry right now, but I got a little bit of a nod in the fact that someone might have helped on Education with this. But, yes, there were incredible work by many people, they had changes to make, they had different ways to improve this. I felt that you were quite willing to listen. And I was willing to listen and to...I think the bill is quite strong and the fact that so many groups have stood down on this is remarkable. And it is truly going to benefit the kids of Nebraska. I am concerned a little bit about changing all the "shalls" to "may." Again, if we don't encourage and have people really doing the work we want them to do, then it's easy to just pass it by. But there are teeth in this bill and I appreciate the fact that you tried to work to take the

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money out of...the fiscal note numbers out so that we can look at that again another year.
[LB1081]

SENATOR LINEHAN: Thank you, Senator Pansing Brooks. This has been hard, but it's also been very rewarding. We met with multiple teachers, multiple reading specialists, principals, superintendents, I've e-mailed back and forth, we met with the Department of Ed. We met with representatives of all the groups. A lot of the changes aren't changes that Senator Groene or Senator Pansing Brooks or Senator Linehan wanted. We tried...not everybody in the education establishment, which we all know is rather large, agrees on everything. So most of the changes that have happened in the last month or so are changes that we had to negotiate between education groups, not between senators or between us, Senator Groene, and Senator Linehan or Senator Pansing Brooks or any other senators. And I've tried to be open and honest about this and tell people what's going on. And if I failed to do so in some particular case, I apologize for that. But I'm here and more than willing to answer any questions. Thank you very much, Mr. President. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Kolowski. [LB1081]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Senator Linehan, would you stand for some questions, please? [LB1081]

PRESIDENT FOLEY: Senator Linehan, will you yield? She said, yes. [LB1081]

SENATOR LINEHAN: Yes, I'm sorry. [LB1081]

SENATOR KOLOWSKI: Thank you. I appreciate that. Had you brought this forward to anyone in the body before Senator Baker--I'm thinking of Senator Baker or myself--in depth, as far as our education background to talk about some of the issues that were...that are contained in this particular bill? [LB1081]

SENATOR LINEHAN: I think I've spoken to Senator Baker. I haven't sat down and gone over each line. I did...I think one of the last conversations I had last week was with Millard Public Schools and they were still supportive, though they...they were...Millard and some of the other schools actually like the "shalls" and they wanted them left in there. So there was some concern from those schools, but then you have...it's the balancing act between the large urban schools and the more rural schools that don't have the summer school programs. So that was, I think, the last time I talked to anybody that would be...you represent would have been Millard. And I'm sorry if I didn't come back and tell you that right away. It was during all the hubbub last week. [LB1081]

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SENATOR KOLOWSKI: Okay. Senator Harr had made his comments about the bill and where we are with this at this particular time and how many people have a background or have had any connection with this bill as far as any explanation. That might have been very handy and helpful to us as we move on to this next level. I'll stop there and I'll have some other questions later on. Thank you very much. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Pansing Brooks. She waives the opportunity. Senator Baker. [LB1081]

SENATOR BAKER: Thank you, Mr. President. Again, I'm going to be brief and repeat some of the same things I said last time. I don't object to the content of what is prescribed as how reading should be taught, I just question whether it belongs in state statute. What next? Telling schools how to teach math, driver's ed, reading, English, math, you name it? I just think those things belong in the domain of the Department of Education in Rule 10. Again, I think the Education Committee, if they're going to go down this path, they better make sure they're hand-in-hand with the state Department of Education, not just doing a big end run around them to try to go directly. To believe that you're going to change drastically the way things are done by putting it in state law, you're crazy. People won't accept it. They may be mentally compliant, but they'll never be committed to making that change. I just think that it's a wrong way to go as far as trying to put school curriculum into state law. And that's all I've got to say. Thank you. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Harr. [LB1081]

SENATOR HARR: Thank you. Senator Linehan, would you yield to a question? [LB1081]

PRESIDENT FOLEY: Senator Linehan, would you yield, please? [LB1081]

SENATOR LINEHAN: Yes, I would. Thank you. [LB1081]

SENATOR HARR: So I was listening to your back and forth with Senator Pansing Brooks and I appreciated it. And I was thinking, did you talk to Dr. Blomstedt? [LB1081]

SENATOR LINEHAN: Yes. [LB1081]

SENATOR HARR: And did he sign off on this? [LB1081]

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SENATOR LINEHAN: Okay. I've met with Dr. Blomstedt on this issue I think two or three times. The last meeting Dr.--it's not doctor--Commissioner Blomstedt was ill. It was last Monday morning at 8:00, so Dr. Frison came and somebody from their Finance Department. Brian nor Commissioner Blomstedt was there because he was ill. [LB1081]

SENATOR HARR: Thank you. So the answer is, no. Folks, you heard that...hey, it's my time. You answered my question. You don't have a mike. If you want to turn on your light you...okay. So again, let's repeat. The Commissioner of Education, I asked her did she speak to him and did he sign off on it? And the answer was, no. Period. If she wants to hit her light and refute that, she can. I had had communication with Dr. Blomstedt as recently as yesterday, so I think I know where I stand and I think I know where this bill stands. This bill is feel-good legislation, as Senator Baker said. It didn't come out of committee. It didn't even get introduced. It was brought as an amendment. I voted for it, I think, because it had been represented to me that it had been signed off by all parties. In fact, it has not. And now we have another amendment to the amendment to a bill that we can't bring anything else on--which I'm not quite sure why--or at least Senator Groene won't accept it. But, folks, we're having a debate on the floor on the last day...well, I guess this is Select, so it's not the last day. But we're having a debate here. Senator Linehan knows that this is something I've thought about. Senator Pansing Brooks knows this is something I've thought about. Neither one of them have approached me about this or the change that we're doing here today. And ask yourself this, if we are making real and substantial changes, why would we worry about the fiscal note and how we can deal with the fiscal note on this? We should be doing this because it's right. This is symbolic, at best. It creates work for our schools. And then I hear, well, our schools have too high of property taxes. We test our kids too much. We are teaching our kids too much, but this one, this is okay. We can do it because I like it. It reminds me of a bill...another bill we had where we did a whole bunch of changes to our justice system and then we turned around and said, whoa, whoa, whoa, whoa, except for what I believe needs to be prosecuted harder. And then we started raising sentences again. Right? That's what we're doing with this, in essence. We're saying we need to have more local control. We need to lower our property taxes. We need to spend more time teaching our kids and less testing and more efficient testing except for this, three times a year we got to test these kids. We got to test our kids more on reading. And don't get me wrong, I am a huge proponent of reading, because you--as the old cliche goes--you learn to read K-3 and you learn from reading. And I can tell you stories of people who never learned how to read and the problems that it creates. [LB1081]

PRESIDENT FOLEY: One minute. [LB1081]

SENATOR HARR: But this...this is not a solution, this is a way to say I did something on it without addressing the underlying problem. And so I think we need to have a conversation about what this really does and how it works. And I'll probably be introducing a bracket on the underlying bill if that's the route we want to take on this. And that allows us some time to discuss

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what, in fact, this proposed AM2823 does or does not do and we can have full and fair debate. So thank you very much. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Harr. (Doctor of the day introduced.) Continuing discussion, Senator Linehan, this is your third opportunity. [LB1081]

SENATOR LINEHAN: Again, I met with Commissioner Blomstedt and Senator Pansing Brooks and other staff at least three times. Then last Monday--well, it was actually a week ago last Friday--I called to meet with them. It may have even been Thursday. They could not meet. I offered to meet over the weekend. We decided 8:00 Monday morning would be the best time. I was there. Senator Pansing Brooks was there. Her staff, Chris, was there. My staff, Jack, was there. There was another individual--I think his name was Sean (phonetic), but I'm not absolutely certain...I had not met him before...from their Fiscal Office--and we met for an hour and we went over the bill. And then we went back and forth by phone. So I don't know if somehow Commissioner Blomstedt didn't know about those meetings or he wasn't told. And I don't know what sign off means. I don't know how I could have been more inclusive with the Commissioner of Education. The fact is--and I tried to allude this before, but now I'll be more specific--the different groups of educators aren't all on the same page on this. There are educators who like the bill with all the "shalls," many of them, especially reading specialists and principals and elementary schoolteachers. They all appreciated very much the "shalls." Regarding what has been referred to this morning as testing, there is no testing as we all understand testing in this bill. It does require that they assess children three time a year. An assessment is not a test. The child doesn't sit down with a piece of paper and a pencil and have to mark some ovals. They sit down with a teacher. There are four or five commercially available assessments. One is DIBELS, one is MAPP. Elkhorn schools use both, Elkhorn schools use both. Lincoln Public Schools use both. Norris uses both. York Public Schools uses them...assessments. Lexington Public Schools use these assessments. Assessment...these assessments, if you want to dig down deep into this, where you have schools doing this they're seeing huge gains. And the people, the professionals that are in the room with the little kids...little children...the students, kindergartners through third grade, they are seeing great improvements in this. And I have talked to principals and superintendents of curriculum and nobody at the Department of Ed that I recall--and Senator Pansing Brooks, if you have time on the mike, if you remember I think since we were in all the meetings--nobody ever argued that these assessments were problematic. Everybody...you can't help a child make progress if you don't know where the child is. The reasons they need to do the assessments, which most schools are already doing, is because, as we all know, if we had children or grandchildren, they're very clever, and unless you actually sit down and make sure they're reading, they can memorize. They might not know how to read, but they can memorize a book. So these assessments are very important. I don't know how...we didn't miss any groups of people here. [LB1081]

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PRESIDENT FOLEY: One minute. [LB1081]

SENATOR LINEHAN: And I should stop right now and just thank all the people that worked really, really hard on this, including superintendents, the Department of Ed, elementary schoolteachers from all over the state who went back and forth and reread...I would think this is probably one of the most read, most well understood pieces of legislation that this body will pass this year. And one last thing, this did come out of committee. So to say it didn't come out of committee is not true. It was pulled, but that's still...it's in the rules and we brought it out of committee. Thank you, Mr. President. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Pansing Brooks. [LB1081]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I rise in just abject disbelief over this attempted extended debate. As a reminder to each of you, are you hearing from your school districts or your teachers or are you hearing from the administrators? We're not. We are not hearing from them because we have worked so hard with all of those groups. Senator Harr said that I knew that he had a real interest in this and nobody had worked with him. I had no idea he was interested in this. So this same kind of shenanigans happened on my human trafficking bill two years ago where he said, well, it's not true, the Attorney Generals and county attorneys didn't support it, so he added an amendment. And then it came back that we had to take off his amendment because they said, sit down, we are supportive of this. So this is the same kind of thing to say...maybe he has talked to Director Blomstedt, but we just met two days ago with two of his main staff members who helped us change it in the way they wanted because we were trying to get the numbers out for the fiscal note and they said they felt it was a really good bill. Maddie Fennell helped write this from the NSEA. She said, it's a very good bill and is important. Mike Delaney worked on this and also supported it and said it was a good bill. So to all of a sudden be coming in and saying, oh, no one supports this. No one talked to me. Well, we don't come to you on every single bill, Senator Harr. We go and we work in our committees and we work with the people that we can, and there were so many meetings that I would daresay that most of you wouldn't have wanted to go to all those meetings with us. I barely wanted to, but I felt it was important because Senator Linehan was working on reading and working on helping our kids read and helping our schools attend to reading issues. So her work was valuable. My support is valuable. And all of a sudden there is this little bombshell that's thrown in and everybody is saying, well, is that true? No. Look at your e-mails. Do you think if the schools, the teachers, the administrators were all against this you would hear this resounding silence? Remember, how do they react when there is something of key import? Our boxes are inundated, they are all in the back lobby. So just to readjust our minds on this, this is not a big issue with the schools. We have worked with Dr. Frison and the fiscal analyst for the Department of Ed. We've worked with Director Blomstedt. So I don't know where this is coming from. I'm happy to find out and call Matt to see what this is about. But, again, my friends, look at your e-mails, look at

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your phones. You're not getting them ringing off the hook as you have on other issues that relate to education. Just think about what happened when originally the bill discussed retention. Senator Linehan has taken that part out of the bill and it's no longer there. It's been watered down some by the "mights" or the "mays" rather than the "shalls." [LB1081]

PRESIDENT FOLEY: One minute. [LB1081]

SENATOR PANSING BROOKS: But, again, look at your e-mails, look at the calls to your offices, look at the lobby, and then tell me that this isn't just a little bombshell dropped in the middle of our session to spend more time on something. This amendment would have come on General until that fiscal note was added. And so then Senator Linehan and I met with the Department of Ed to say, what can we do to this to pull off the part of the expense? So that's when the change was made. That's why Senator Linehan didn't bring it in on General. It was all ready to be there, but she didn't want to cause a cost. So I would daresay there have been very few bills that have had this much attention, this much work, and this much discussion with all of the people that have an interest in this, all the educators. Thank you, Mr. Lieutenant Governor. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Groene. [LB1081]

SENATOR GROENE: Thank you, Mr. President. I heard, as Chairman of the Education Committee, from a lot of small schools. You have to understand the amendment that was worked out by Senator Pansing Brooks and Senator Linehan that we adopted into LB1081, nobody seen it. It was dropped that day or the day before to the reading bill. So everybody was scrambling to read it and see what was in it. I agreed to have it dropped because there was support. I don't think there was a negative vote against it last round. But Senator Linehan, I asked her...they visited...Doniphan was the smallest school. They visited one school of the bottom 210 school districts probably in the state. Otherwise, it was Lexington, York, was the smaller ones they visited. Well, there's 200-plus school districts out of 244 that don't have the resources those do with the tax dollars or the personnel. They contacted me. And I was also told there was no fiscal note, and there was. So, as chairman, which I expect you think your "chairmans" do as the point person on committee bills, I sat down with Senator Linehan and said, we got a problem. So we kept the mandates if you call about identifying children with reading problems including dyslexia, using existing...a lot of the small schools said, we have no problem with that. We already test for reading and we can fit that right into what we do. It was the mandates. If you read the original amendment, there were six or seven or eight things they had to do, programs they had to start, they don't have the personnel for it, the financing for it. We fixed that. And put the "may" in it. There's nothing wrong with this amendment, folks. It emphasizes the importance of reading in our schools without the mandate of the cost. Reading is important and the

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vocabulary goes along with it, public speaking goes along with it. You've got to be able to read. There is no conspiracy here. And I'm trying to figure out...I'm going to have to sit down with Mr. Blomstedt and find out what his position is and I'm going to start asking for it in writing, because I'm hearing all sorts of things. But to his defense, there's a lot of steps in here of what he knew was going on and what point in time did somebody call him. But I've heard this too much. He told me this, Department of Ed told me this, and then somebody else says they told me that. From now on, I'm going to start looking for positions in writing and a date on them. So for their defense, for our information we can have a time line. But we ought to be going on. Senator Linehan worked hard and so did Senator Pansing Brooks on trying to get reading and dyslexia and other things into it that we can identify. This just emphasizes it. So let's pass this and go on. Time is clicking. I still disagree with the fiscal note, the newest one, but we'll live with it. [LB1081]

PRESIDENT FOLEY: One minute. [LB1081]

SENATOR GROENE: So it's \$20,000, I believe, minus. And as long as it's minus, I can live with it. There's no conspiracies here. It's just that there's 210 small school districts just can't do everything that we all...that some people think, they go into the big schools. It's just not there, folks, the resources to do it. So thank you and vote for AM2823 and then LB1081. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Harr, you are recognized. This is your third opportunity. [LB1081]

SENATOR HARR: Thank you. I feel bad the Department of Education has been thrown in in this way, so I'm just going to talk for myself and I'm not going to attack fellow senators and call them hypocrites, not hypocrites by name. And no, Senator Groene, that's not a reference to you, this time. Joking, for the record. But, folks, think about what we are doing here. We keep hearing property taxes, property taxes, property taxes. My property taxes are too high. And then we turn around and we constantly say, hey, you in the urban areas, take on more property tax burden. You need to pay for this, whether it's a juvenile public defender, which I agree with, reading assessments. We keep adding burden upon burden upon burden. And then I turn around and I get e-mails talking about, who is standing up for Omaha? Our taxes are too high in Omaha. Our OPS, it's our kids are so much more expensive. How can they do it cheaper in the rural areas? Why do you think they can? Because we keep putting more burdens on ourselves. And then I hear, oh, big government Omaha. And we in the rural districts, we know what we're doing. But I bet you, you guys will vote for this. And you'll say, oh, it doesn't affect my district. It's only 210 will be left out. It's okay. And then you'll turn around the next year and say, you guys in Omaha, you guys in Lincoln, you're too expensive. You get all this state aid, and with no good results. As a result, we're paying property taxes. I've heard it all. We need to have...this piecemeal policy

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making doesn't work. It works if we're fixing around the edges and we have a common belief of what we believe in, but we don't have that at this point. And so once again we're adding burdens. I hear property taxes are too high. And I see people who have taxes...property worth three times what mine is, four times as much as mine, paying less in property taxes. Ag land worth four times what my home is, land that makes money. My house does not make me money. Now, some could argue farming doesn't make money right now, but that's a different story. It has the potential to make money. My house does not have the potential to make money, and I'm paying more in property taxes. Why is that? We need to have a conversation about that and what we're going to do. And Senator Pansing Brooks says, I haven't had my mailbox or e-mails full. Well, I have. And I've talked to superintendents as recently as this morning about this. And I've talked to a principal about this--that's all I had time for because of the way it was brought about--whether this is useful or not. So we got a lot of work to do. This is symbolic. I'm not sure how much it really does, I'm not sure it's worth wasting this amount of time on it. I do commend Senator Linehan and... [LB1081]

PRESIDENT FOLEY: One minute. [LB1081]

SENATOR HARR: ...and Pansing Brooks for their hard work. I do think they have their heart in the right place. I do think they are bright, intelligent women. I may not agree with how they're going at it, but this is, as Senator Groene said, watered down. And so I will stand down on this, let this pass. But I felt it was important that we clarified the record. To say that overall support is there would not be accurate or to say that no one has heard from anyone would not be accurate either. So I thank you for listening and look forward to...Senator Kolterman, will you yield to a question quickly? [LB1081]

PRESIDENT FOLEY: Senator Kolterman, would you yield? There's seven seconds. [LB1081]

SENATOR KOLTERMAN: Yes. [LB1081]

SENATOR HARR: A how many days do I have left? [LB1081]

SENATOR KOLTERMAN: Three, and I am counting. [LB1081]

SENATOR HARR: Thank you. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Harr. (Visitors introduced.) Continuing discussion, Senator Schumacher. [LB1081]

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SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. As I looked through the legislation, I tried to find where the meat is, how this is going to make life any different one way or the other, and I'm struggling with that. But first, I've got a question for Senator Linehan if she'd answer. [LB1081]

PRESIDENT FOLEY: Senator Linehan, would you yield, please? [LB1081]

SENATOR LINEHAN: Yes. [LB1081]

SENATOR SCHUMACHER: Senator, the legislation says that the department "shall" make public a list of proper assessments that these schools are supposed to use and what the threshold level is. What standards...how does the department do this? Does it hold hearings? Does it just get together in a meeting? Are there rules and regulations that they have to adopt by which they approve an assessment? How do they do this? [LB1081]

SENATOR LINEHAN: That's an excellent question, Senator Schumacher. Thank you. This is something the department and I went back and forth on and with the schools. The decision...and I hope it's reflected in this language and the Department of Ed helped with this, is there's no need for them to like make up new rules or assessments because of the products that are already commercially available that come with what's standard for kindergarten, first, second, and third grade. Actually, several of the schools use DIBELS and MAPP all the way through the elementary school up through sixth grade. So they're already scientifically researched, scientifically based. [LB1081]

SENATOR SCHUMACHER: But, Senator, where is...if I'm a vendor of one of these tests, how do I know what rule or regulation or...can I look to to tell whether or not I can go to the department and ask for approval of my test? [LB1081]

SENATOR LINEHAN: Well, I think the vendors are very aware of how to work with the Department of Ed since the Department of Ed, I think they just recontracted with MAPP to do all the new testing that the other real testing...remember, these are not tests, these are assessments. The tests that they have to do by law, according to the Legislature, in the third, eighth grade, are already...they've contracted with MAPP. So I'm pretty sure they all know how to deal with the Department of Ed. [LB1081]

SENATOR SCHUMACHER: Okay. Thank you, Senator. And that's one point of the issue that I just raised, because in a rule...in an area where you abide by the rule of law, there's a law and then there's regulations so that vendors and competitors in the market know what standards

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they've got to meet, and it isn't just some back room meeting and it might favor one or the other. But this particular law says the department "may" make those rules, but doesn't have to make the rules that prescribe the test on which the child is graded. But this is what this bill does, and I'm not sure where the meat is. These are where the "shalls" are. Schools "shall" administer assessment three times a year. If a student doesn't meet the threshold--for which we don't have a good definition or rule or regulation--the student is identified as reading deficient and "shall" stay so labeled until they perform okay. The district is mandated to provide a program to any labeled student during school hours and then a summer school reading program option. Parents are notified. A student who has a deficiency "shall" be entitled to services as long as deficient. Everything else is a "may." And I'm under the impression that schools already "may" do all the other things that they "may" do under these bills. So if we think by passing this there's going to be a whole lot more kids at the end of grade three who are reading okay, then I think we're... [LB1081]

PRESIDENT FOLEY: One minute. [LB1081]

SENATOR SCHUMACHER: ...we're just making ourselves feel okay. I don't see any harm in this amendment, but this probably is not the magic solution to getting kids to read okay by the end of grade three, and that's a worthy goal. Thank you. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Linehan, you're recognized to close on AM2823. [LB1081]

SENATOR LINEHAN: Thank you, Mr. President. It's been a good discussion. I would appreciate very much if we could get your green vote on AM2823 and then on LB1081. Thank you. [LB1081]

PRESIDENT FOLEY: Thank you, Senator Linehan. Members, you heard the discussion of AM2823. The question for the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1081]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Linehan's amendment. [LB1081]

PRESIDENT FOLEY: AM2823 is adopted. Mr. Clerk. [LB1081]

CLERK: I have nothing further on the bill, Mr. President. [LB1081]

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PRESIDENT FOLEY: Senator Wishart. [LB1081]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB1081 to E&R for engrossing. [LB1081]

PRESIDENT FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB1081 advances. Our next bill is LB1081A. Mr. Clerk. [LB1081 LB1081A]

CLERK: Mr. President. LB1081A. If I...may I read a couple of items, Mr. President, before? [LB1081A]

PRESIDENT FOLEY: Please do. [LB1081A]

CLERK: Thank you. Amendments to be printed to LB117 by Senator Kuehn and I have a Rules Committee report with regards to proposed rules changes. Mr. President, returning to LB1081A, no E&Rs. I do have an amendment from Senator Groene that he wishes to withdraw. AM2756 to be withdrawn. Senator Groene would move to amend with AM2884. (Legislative Journal pages 1476-1481.) [LB117 LB1081A]

PRESIDENT FOLEY: Senator Groene, you are recognized to open on AM2884. [LB1081A]

SENATOR GROENE: Thank you, Mr. President. All this amendment does is change the fiscal note to reflect the changes of taking the mandates out to the Department of Education. It's less costly and it fits under Senator...the Speaker's edict that we do not have a plus A bill. So I'd appreciate a vote for AM2884. It's just an update on the original A bill. Thank you. [LB1081A]

PRESIDENT FOLEY: Thank you, Senator Groene. Is there any discussion on the amendment? Seeing none, Senator Groene you're recognized to close. Senator Groene? You're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM2884. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record please. [LB1081A]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Groene's amendment. [LB1081A]

PRESIDENT FOLEY: AM2884 is adopted. Mr. Clerk. [LB1081A]

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CLERK: Nothing further on the bill, Mr. President. [LB1081A]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB1081A]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB1081A to E&R for engrossing. [LB1081]

PRESIDENT FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB1081A advances. Our next bill is LB1089. Mr. Clerk. [LB1081A LB1089]

CLERK: LB1089. Senator, I have E&R amendments, first of all. (ER159, Legislative Journal page 1311.) [LB1089]

PRESIDENT FOLEY: Senator Wishart. [LB1089]

SENATOR WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB1089. [LB1089]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. E&R amendments are adopted. Mr. Clerk. [LB1089]

CLERK: Mr. President, Senator Smith has AM2779. I have a note you wish to withdraw. Mr. President, Senator Smith would move to amend with AM2806. (Legislative Journal page 1390.) [LB1089]

PRESIDENT FOLEY: Senator Smith, you're recognized to open on AM2806. [LB1089]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I consulted with members of the Revenue Committee and we agreed. I wanted to particularly thank Senator Schumacher and Senator Harr for helping to review this amendment. It deals with the federal 1031 like-kind exchange of personal property and the potential increase in Nebraska personal property taxes. Although this amendment may be a bit premature, I feel it's important to address this issue as best we can this year and allow time for the Revenue Committee next year to address this in a long-term approach with adjustments related to recent federal tax changes. Under the Internal Revenue Code, Section 1031, a taxpayer can make a like-kind exchange of similar property both real and personal. An example would be trading your current tractor for a

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newer model or a small business owner exchanging an older piece of equipment for a newer one. The primary benefit was that the capital gain created by the exchange could be deferred until the property was exchanged again. Under the federal tax changes that took place back in December, only real property now qualifies for like-kind exchange. The like-kind exchange rules formally allow the taxpayer to have a lower basis in the personal property. The basis used to be the difference between the depreciated equipment and the new equipment. Now because of the federal changes, the basis will be the full value of the new equipment. In Nebraska, this means the property will be valued at a higher amount for personal property purposes. There is another amendment on another bill that tries to address this same issue, but the Department of Revenue believes the language of this amendment more clearly addresses the concerns with a 1031 exchange issue. Additionally, there may still be issues down the road as other changes occur on capital expensing of equipment. And that is why I've decided to include with this particular amendment a two-year sunset provision that if changes are needed in the future, there will be an opportunity to then address them. And, again, Senator Friesen has worked with me on this and I appreciate that. Thank you very much, Mr. President. [LB1089]

PRESIDENT FOLEY: Thank you, Senator Smith. Debate is now open on the amendment. Senator Krist. [LB1089]

SENATOR KRIST: Thank you, Mr. President. I have a similar amendment on LB1099, which is on Final Reading, which would cause us to pull it back, have another additional day of layover and then bring it back again. I appreciate Senator Smith putting this on there. However, I'd like to ask him some questions if he would be available. [LB1089 LB1099]

PRESIDENT FOLEY: Senator Smith, will you yield, please? [LB1089]

SENATOR SMITH: Yes, I will. [LB1089]

SENATOR KRIST: Why do you feel it is necessary to put a sunset on this particular item? [LB1089]

SENATOR SMITH: Well, again, when we introduced LB1090 earlier this year, we realized that there were going to be other changes that need to be made as a result of the federal tax changes that occurred in D.C. And for that reason we felt the 1031 exchange issue could very well be addressed possibly through other changes in that federal tax code. We just don't know. And so the sunset would allow for the Revenue Committee to look into this in depth and to make any further changes necessary. [LB1089 LB1090]

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SENATOR KRIST: Senator Smith, thank you for your courtesy in yielding. But, colleagues I want you to listen to what I have to say very carefully. If indeed we expect the federal government to change their code again in any way, we are reacting in LB1090 the same way we're reacting here and that is to change the code so that we don't collect the \$230 million extra tax that the federal government would put on us. And I think that's still a valid concern. I think that's a good thing to do. But why not sunset those provisions as well? If we're being consistent, why not sunset those provisions as well? I'd also say that we've delayed implementing anything in preparing ourselves to collect Internet sales tax. LB44 went down in flames because we didn't want the Department of Revenue to prepare to go forward in the event that there were some changes, and the Supreme Court ruling would be in place. Why aren't we doing something in that area? It could be very well that the Supreme Court would come out with their ruling and we could be collecting revenue on Internet sales tax as early as July, August, September of this year. I find sometimes that we shoot from the hip and we put sunsets on things in sometimes a very appropriate way and in sometimes I have a question about how we do that. In this particular item I would support Senator Smith's amendment, but I would also put on the record for those of you who will be here next year, pay attention to those sunsets. You'll have a really big sunset coming up on the Advantage Act next year. Don't wait until it's time to get on the floor and debate those sunsets, look at what it will actually do to your budget. Look forward to making those changes before the eleventh hour. With that, again, I will support AM2806, and my intention will be to pull my amendment on Final Reading for LB1090. Thank you, colleagues. [LB1089 LB1090 LB44]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Friesen. [LB1089]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I want to thank Senator Smith for including it in this bill. We did discuss this earlier and we've talked about it. It kind of came up late as an issue, but this does give us two years to fix it. I'm very supportive of that. It allows us to look at how the federal tax code will treat certain things and it gives us time to make adjustments next year if we need it. And so rather than do a permanent fix right now, I'm fully supportive of doing the two-year extension and it will let us...the opportunity to fully address it next year. Thank you, Mr. Lieutenant Governor. [LB1089]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Harr. [LB1089]

SENATOR HARR: Thank you. Would Senator Smith yield to a question? [LB1089]

PRESIDENT FOLEY: Senator Smith, would you yield, please? [LB1089]

SENATOR SMITH: Yes. [LB1089]

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SENATOR HARR: Thank you, Senator Smith. When did you file this amendment? [LB1089]

SENATOR SMITH: Well, the date is on there. Looks like April 3 and April 4. [LB1089]

SENATOR HARR: Okay. And I looked at it, and I was trying to find the underlying bill for that amendment. Where is that bill? [LB1089]

SENATOR SMITH: The underlying...LB1089? [LB1089]

SENATOR HARR: No, no, no, for AM2806. [LB1089]

SENATOR SMITH: Well, that...there is none. It did not have a hearing. And, Senator Harr, you're aware of that. We had that conversation already. [LB1089]

SENATOR HARR: Okay. I just wanted to make sure we got that on the record, because we seem to be passing a lot of amendments without hearings. And then let me ask you, what is the fiscal note on this? [LB1089]

SENATOR SMITH: There should not be a fiscal note for the state. I believe it's a local issue. [LB1089]

SENATOR HARR: Okay. Let me ask you this then, because this is the problem with how we do fiscal notes. What's the cost to the counties if we were to pass this? [LB1089]

SENATOR SMITH: I do not have the information, Senator Harr. [LB1089]

SENATOR HARR: Thank you. [LB1089]

SENATOR SMITH: I would assume perhaps little, if none. [LB1089]

SENATOR HARR: Okay. And you know what happens when you assume. So folks, here we are passing a bill on the last day...well, again, I say that but it's not. Here we are passing an amendment that didn't have a hearing, that we don't know the financial consequences of it. I heard little to none on the state...well, not on the state, little to none on the counties. Yet this is about property taxes. You think your property taxes are too high, and I don't know a person who doesn't. And we hear, we need to broaden the base and lower the rate over and over. There are too many exemptions. We need to do something about that. And then what do we do? We turn

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around, we say, oh, but wait, we think it's okay for--and I'm not picking and I apologize ahead of time to Senator Lindstrom, that we passed Social Security, which is a good bill. But, you know, we say one thing and do another. And now here we are on AM2806, a bill that never had a hearing, where we never got our county officials, our school officials and others to say whether they're for or against it. We talk about how every bill has a hearing and that's what makes our Unicameral so special and so great. And then we turn around and we say, well, I mean every bill does, but not every law is a bill. We'll go ahead and just do AMs late in the game towards the end of session in reaction to something that D.C. did, where they passed a bill without pushing it out of committee. Right? We say we don't want to be like Washington and then we turn around and we learn our lessons from Washington. Let's pass something at the eleventh hour without having it properly vetted. Do I think this is a good policy? Maybe. But folks, there is a procedure that we follow. And we have to practice validity to that process. We have to be true to the process. If this is so important, we can pass it next year. The fiscal note on this is zero to none, the impact to the counties. We won't know the fiscal note on this--which will get me on another one of my rants--until Final Read. How come we don't get fiscal notes right away? Is this a way to create legislation? Senator Stinner is not here right now, but Senator Stinner, Chair of Appropriations, allotted... [LB1089]

PRESIDENT FOLEY: One minute. [LB1089]

SENATOR HARR: ...\$500,000 for us to spend on the floor. This may not come out of it, but this again, we are using state policy to raise property taxes, robbing Peter to pay Paul. I'm not sure this is something we should be doing. Again, I don't think the underlying idea is bad, but I do think we have to have a conversation about it. And I think we need to talk about it and there needs to be a hearing. Didn't happen here. So thank you very much. [LB1089]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Friesen. [LB1089]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. First of all, this bill will have no fiscal impact. It will do what we tried to accomplish with all of the rest of the changes to our federal tax codes, and that is hold everyone harmless. If this amendment is not adopted, then it will conceivably double a personal property tax expense for the individual. And so it would be a windfall for the counties. The counties are okay with this amendment, they have no problem with it, they will be held harmless if this passes. There will be no influx of dollars, there will be no loss of dollars. What this does is prevent a large personal property tax increase. So, yes, we have been working on reducing property taxes and that includes all property taxes. This would allow a large spike in the personal property tax obligation. So it holds counties harmless, it has no fiscal note because that is the intent is to hold it harmless and we would proceed the way we have proceeded in previous years. It matches in the fact that we're trying to harmonize our federal tax

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code and our state tax code and this is one of the changes that was made that wasn't picked up on right away. So if the intent was to harmonize our tax code and create no huge liabilities for anyone, this needs to pass. Thank you, Mr. Lieutenant Governor. [LB1089]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Smith. [LB1089]

SENATOR SMITH: Thank you, Mr. President, and thank you, Senator Friesen, for your remarks and I also appreciate the courtesy and remarks from Senate Krist and his willingness to remove the similar approach off of LB1090, which is sitting on Final. I did talk to Senator Harr about this amendment in advance and asked him to review it. I know it did not have a hearing, but there were a number of senators that approached me and felt that it was absolutely critical that we address this issue this year for 1031 exchanges that could have an adverse effect on them. We did have assurances similar to what comments were made by Senator Friesen, we did have assurances from NACO that the assessors would not modify their approaches as a result of this amendment. Again, we tried to be very sensible and reasonable in our approach here in putting a two-year sunset and allowing ample time next year for the Revenue Committee to look into this matter as well as other matters that will need to be addressed due to changes at the federal level. Thank you, Mr. President. [LB1089 LB1090]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Harr. [LB1089]

SENATOR HARR: Thank you, Mr. President. And, Senator Smith, I'm going to thank you and I want to thank Senator Friesen, because I didn't know these things. And again, that is the importance of committee hearings. I'll also want to, on the record, thank Larry Dix, who in between contacted me and said, hey, counties don't have a problem with this. But no one ever told me until this was introduced where they stood. Did Senator Smith ask me to read it? Yeah. And I did read it, but as some if you may know, we had a lot of stuff going on outside of that. I think I can support this because of the two-year sunset on it, but...or the concept. But I really do have a problem when we constantly do this stuff. You know, I'm listening to the radio and I constantly hear President Trump and his tax cut and how wonderful that tax reform was and the fact that we are better off because of that and our economy is humming because of that. And then I see LB1090 that says, oops, we have a \$200 million dollars tax windfall because of what the Senate, the House, and President Trump did. And then I see AM2806, and what do we have? We have a windfall--a tax increase. Let's call it what it is, a tax increase, because of what President Trump, the Senate and the House did. One point five trillion dollars and they couldn't find a way to make sure there wasn't a tax increase? Come on, folks. So when you constantly hear how wonderful that tax cut was, remember, it wasn't always a tax cut. And we had to do something to stop our President, Senator Fischer, Senator Sasse, Senator Fortenberry, Senator Bacon, and Senator Smith from raising our taxes, because that's what they did. They raised our

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taxes. Now we are attempting to hold it harmless, whether it's successful or not, Senator Smith doesn't know. Senator Friesen doesn't know. Nobody knows. That's why we had to put a sunset on this. That bill was passed in the...at such a late hour that no one had a chance to read it, that we couldn't even introduce a bill three weeks later, because we still didn't know what was in that underlying federal legislation. And so we have this AM here today, amendment today, because when we found out what was in it, as Pelosi would say, you got to pass it to find out what's in it. We didn't have a chance to introduce a bill or a law, so we're doing it on the fly, just like how the underlying bill was passed on the fly. And we didn't like how that was made. We didn't like how Obamacare was made. And here we are, folks, making tax policy on the fly, trying to react to a tax increase our federal delegation put on us. We didn't get a chance to go to our federal delegation beforehand and say, whoa, whoa, whoa, you're raising our taxes here, because that's what they did. So I think I'm okay with it, but understand what our federal delegation did to us, what President Trump did to us and what we are doing today by sidestepping the rules that we have. Thank you. [LB1089 LB1090]

PRESIDENT FOLEY: Thanks, Senator Harr. Senator Groene. [LB1089]

SENATOR GROENE: Thank you, Mr. President. I stand in support of AM2806 and LB1089. This is not an agriculture amendment. This is if you have a factory or a warehouse and you got a forklift and you trade it, you're going to get hit with a higher property tax. If you own a manufacturing plant and you trade a shears or a bending tool, which they do, you're going to get hit with a property tax increase. The Case combine factory is in Omaha, the CLAAS one is, I believe, in Sarpy County. We have manufacturing plants and dealerships that deal in this equipment. You will affect businesses' willingness to trade equipment because of the cost. And it's appreciable. This also...it's not just the counties--the property taxes brought in from the person would be all the taxing entities, the schools. I haven't heard anybody complain that they are greedy and want more property taxes from a farmer trading a combine or a warehouse owner trading a forklift. This needs to be fixed so we're held harmless in our local tax policy due to federal changes. The only reason it's an emergency is, as Senator Harr pointed out, this happened so fast with the feds changing the tax policy that some of the things weren't caught at the time of the hearing on LB1089. By all those reading through the volumes of tax changes from the feds, and it was caught. So this is how the process works. We fix what we caught and make everybody whole. So thank you, Mr. President. Vote green on AM2806 and LB1089. [LB1089]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Schumacher. [LB1089]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I'll just rise briefly to say that basically AM2806 maintains the status quo as far as this 1031 exchange property is concerned so that there isn't a bump up in personal property taxes without having the

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system, the Revenue Committee, this body, do a thorough analysis of how that federal law impacted us. And it has a two-year drop-dead date on it so that in the course of the next two years the proper adjustments can be made in a permanent fashion. Right now we don't really know the impact of a lot of these things. And, in fact, maybe nobody knows, not even Washington, because they're trying to now write the regulations which will probably be more intense than the Obamacare regulations. But hey, it's a good feeling when you're in line to get a trillion and a half dollars on the backs of your kids, so I would encourage your support for AM2806. [LB1089]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Clements. [LB1089]

SENATOR CLEMENTS: Thank you, Mr. President. I rise in support of AM2806 and LB1089. AM2806 is an adjustment that I've been hoping to see come on our laws because I've been a tax preparer for 39 years. And especially with farmers, they've been concerned as I've been doing their taxes this season about what's going to happen here. Just for an example, if they bought a \$50,000 piece of machinery, it gets personal property tax over a 7-year period. Then after a couple years they trade it, get \$25,000 trade-in for a new \$50,000 piece of equipment, and the \$25,000 difference is what they were expecting to pay tax on. But the new piece of equipment that's worth \$50,000, they would start paying on \$50,000 again, whereas they've already paid on the first \$25,000 for several years. And it is fair and equitable to add this amendment so that we don't end up with double taxation on basically the same purchase of equipment. So I support that and I ask for your green vote on AM2806. Thank you. [LB1089]

PRESIDENT FOLEY: Thank you, Senator Clements. (Visitors introduced.) Senator Smith, you're welcome to close on AM2806. He waives close. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1089]

CLERK: 42 ayes, 0 nays on the adoption of the amendment. [LB1089]

PRESIDENT FOLEY: AM2806 is adopted. Mr. Clerk. [LB1089]

CLERK: I have nothing further on the bill, Mr. President. [LB1089]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB1089]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB1089 to E&R for engrossing. [LB1089]

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PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB1089 advances. Proceeding now to LB994. [LB1089 LB994]

CLERK: LB994. I have E&Rs first of all, Senator. (ER158, Legislative Journal page 1311.) [LB994]

PRESIDENT FOLEY: Senator Wishart. [LB994]

SENATOR WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB994. [LB994]

PRESIDENT FOLEY: Members, you've heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB994]

CLERK: Senator Friesen would move to amend with AM2799. (Legislative Journal page 1420.) [LB994]

PRESIDENT FOLEY: Senator Friesen, you're recognized to open on AM2799. [LB994]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Members, this amendment is a technical amendment brought to our attention by Bill Drafting Office because we refer to two commissions in the bill, the Public Service Commission and the Nebraska Information Technology Commission. When we use the word "commission" we needed to clarify which commission we were referring to. This amendment clarifies that we were referring to the PSC. I urge you to adopt this technical change. [LB994]

PRESIDENT FOLEY: Thank you, Senator Friesen. Is there any discussion on the amendment? Senator Harr. [LB994]

SENATOR HARR: Just clarification if Senator Friesen would yield to a question. [LB994]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB994]

SENATOR FRIESEN: Yes, I would. [LB994]

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SENATOR HARR: Thank you. So this bill would apply to both private companies and public power that own dark fiber? [LB994]

SENATOR FRIESEN: This refers to how we describe the commission. [LB994]

SENATOR HARR: Not the amendment, but the underlying bill. [LB994]

SENATOR FRIESEN: Well, the underlying bill, it talks about the different entities that it provides for a committee to be formed and to proceed forward with the best alternative that there may be. Where they head, we won't know. [LB994]

SENATOR HARR: Okay. So to answer my question, it does apply to dark fiber owned by public power as well? [LB994]

SENATOR FRIESEN: Well, if it's included in there, I don't recall any specific language to that effect. [LB994]

SENATOR HARR: Okay. So I guess my...I didn't see it either. So that was my question. Does dark fiber include public power companies or not, as far as this LB994? [LB994]

SENATOR FRIESEN: As far as LB994, I do not think we address anything regarding dark fiber. It just allows the Public Service Commission to form a committee that looks at broadband expansion into rural areas using...I forget the language, but the best technology that would fit. [LB994]

SENATOR HARR: Okay. Thank you. [LB994]

PRESIDENT FOLEY: Thank you, Senators Harr and Friesen. Senator Schumacher. [LB994]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Senator Harr touched on a touchy subject, because in an age where we have supposedly broadband shortage in rural Nebraska, we have entities like the phone companies and cable companies that own fiber optic cable buried in the ground and we have a lot of it owned by power companies. But as you work on these issues in the future, you will see that the phone companies have successfully blocked access to that fiber that's owned by public power companies. So it just lays there idle, good many of the strands. And what this little wrinkle is about--and it's interesting because it's the way that the market is cornered by a select group of people who are receiving subsidies in the

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form of universal service from the federal government, from the state government--but if you rent a piece of dark fiber, according to this law, from a phone company, then you do not have to pay sales tax. If you use a provision buried in our law which permits you to rent or buy a piece of fiber from a power company under limited conditions and high restrictions, you will have to pay sales tax. So it's going to cost you 5.5 percent to 7 percent more to rent from the power company than it would from another phone company. And that's how these intricacies in the system work in order to favor established local phone companies, to thwart the bringing of broadband to some sectors of our area. And just be aware of that, as you see these legislations come through. You are dealing with a clique of about 40 phone companies who have got the corner on the market and make some really great political contributions as a result of the state's generosity of about \$30 million, \$40 million a year from the Universal Service Fund. Watch out for that puppy, because it's well wired. Thank you. [LB994]

PRESIDENT FOLEY: Thank you, Senator Schumacher. (Visitors introduced.) Senator Friesen, you're recognized to close on AM2799. He waives close. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB994]

CLERK: 38 ayes, 0 nays on the adoption of the amendment. [LB994]

PRESIDENT FOLEY: AM2799 is adopted. Mr. Clerk. [LB994]

CLERK: I have nothing further on the bill, Mr. President. [LB994]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB994]

SENATOR WISHART: Mr. President, I move to advance LB994 to E&R for engrossing. [LB994]

PRESIDENT FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB994 advances. LB994A. [LB994 LB994A]

CLERK: LB994A. Senator, I have no amendments to the bill. [LB994A]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB994A]

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SENATOR WISHART: Mr. President, I move to advance LB994A to E&R for engrossing. [LB944A]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB994A advances. Members, pursuant to the agenda we're now going to move to the 10:30 agenda, General File 2018 senator priority bills. Mr. Clerk. [LB944A]

CLERK: Mr. President. LB1115 is a bill introduced by Senator Murante. (Read title.) The bill was introduced on January 18, at that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM2664, Legislative Journal page 1167.) [LB1115]

PRESIDENT FOLEY: Senator Murante, you're recognized to open on LB1115. [LB1115]

SENATOR MURANTE: Thank you, Mr. President; members, good morning. I rise today to offer to you LB1115. LB1115 is introduced for the purposes of effectuating Article III, Section 5 of our state constitution which dictates to the Legislature the basis of apportionment for legislative districts. And I'll read the applicable language from our state constitution. "The basis of apportionment shall be the population excluding aliens, as shown by the next preceding federal census." What LB1115 proposes to do--and I will get into the committee amendments a little bit later--is to say that for the purposes of redistricting, the Legislature shall use first and foremost the census data which is compiled by the Census Bureau at...during every year that ends in zero. If the census does not have that information that we would use the noncitizen population estimates that is populated by the Census Bureau. To be clear, this is a constitutional provision. It is not a serious public policy position to take that we should simply ignore a provision of our constitution. What we're talking about here applies to legislative districts and political subdivisions, it does not apply to redistricting for the House of Representatives, the Public Service Commission, the State Board of Education, the Board of Regents, or any other map that is to be drawn by the Legislature. And the reason for that is simple. There is no such language in our constitution mandating noncitizens be excluded in those redistricting constitutional provisions as they do exist in the legislative constitutional provision. So in my view, simply put, we don't have a choice, we have to enact legislation to effectuate this provision of the constitution. I will tell you in our research of redistricting history, I can't find an instance in the last 30 years where this provision was effectuated or even discussed. I can't find any evidence that the members of the Legislature in years past were even cognizant of this constitutional provision. And in point of fact, we had a member of a previous Redistricting Committee testify in the public hearing on this bill that he was not even aware that this provision was included in our state constitution. Well, the fact remains that in 2021 it has now been brought to our

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attention. I will not be here in 2021 for one reason or another, but many of you on this floor will be. And no longer will the excuse be acceptable that we were unaware that this provision existed. It exists. We are constitutional officers in our own right. We have a sworn duty to uphold our state constitution and I believe that this is something that we have to do. So if I may, Mr. President, I'd like to go ahead and open on the committee amendments and then the amendment that I have thereafter if that's...if that works. [LB1115]

PRESIDENT FOLEY: Please proceed with the committee amendment, Senator Murante. [LB1115]

SENATOR MURANTE: So the committee amendment strikes the Supreme Court districts from the bill and makes technical changes to Census Bureau terminology. The reason for that is simple, although one could construe the language in our state constitution to authorize, if not mandate, state Supreme Court districts to be drawn the same way as our legislative districts. It is not plain on its face, and so I wanted to eliminate any possible objections to the bill by taking that out, leaving therefore no interpretation when it comes to judicial Supreme Court districts and so they were removed with AM2664. Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Murante. Mr. Clerk. [LB1115]

CLERK: Mr. President, Senator Murante would move to amend the committee amendments with AM2698. (Legislative Journal page 1306.) [LB1115]

PRESIDENT FOLEY: Senator Murante, you're recognized to open on AM2698. [LB1115]

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. Literally the day that the Government, Military and Veterans Affairs Committee advanced this bill to General File, the Trump administration announced that as part of the census process in 2020, that he is exploring the possibility of asking the citizenship question as part of the census process. What this amendment says is that if that language is included in the census, that for the purposes of redistricting we will utilize that census information that is acquired during the normal census process. If it is not included and the census itself does not contain this information, then what we will use is the noncitizen population estimate that is maintained by the Census Bureau as well. So, again, quite frankly, friends, I don't see that we have much choice. I don't believe that it's a serious position to take that we should just look at this provision of the constitution and ignore it. We are all now aware that this constitutional provision exists. I am aware of no effort to remove it from our state's constitution. And I believe that this is something that we ought to do. Thank you, Mr. President. [LB1115]

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PRESIDENT FOLEY: Thank you, Senator Murante. Debate is now open on LB1115 and pending amendments. Senator Morfeld. [LB1115]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise in opposition to the committee amendments, the proposed amendment, and the underlying bill on several different grounds. First, while it may very well be in our constitution, there are several things in our constitution that have been found to be unconstitutional and superseded by our federalist government where the federal constitution is supreme over the state constitution. I'll draw your attention to Article XIV of our United States Constitution, which requires equal protection under the law. This Equal Protection Clause has been found in many different court cases to also apply to all citizens when looking at census apportionment. I just want to read the most recent case, federal case. Evenwel v. Abbot, Governor of Texas, et al. This was actually decided on April 4, 2016, by the United States Supreme Court. And an excerpt from the beginning of that case states, "Constitutional history shows that, at the time of founding, the Framers endorsed allocating House seats to States based on total population. Debating what would become the Fourteenth Amendment, Congress reconsidered the proper basis for apportioning House seats. Retaining the total-population rule, Congress rejected proposals to allocate House seats to States on the basis of voter population." I want to repeat that. "Retaining the total-population rule, Congress at the time rejected proposals to allocate House seats to States on the basis of voter population. Framers recognized that the use of total-population baseline served the principle of representational equality. Appellants' voter-populations rule is inconsistent with 'the theory of the constitution.' This court recognized in Wesberry as an underlying not just the method of allocating House seats to States but also the method of apportioning legislative seats within States." That's the end of the excerpt from the recent Supreme Court case. So first off, I think that it's important to note that there are several parts in our constitution that are unconstitutional that still exist. One notable one that's still in our constitution, I believe, is Article 1, Section 29. "Marriage; same-sex relationships not valid or recognized. Only marriage between a man and a woman shall be valid or recognized in Nebraska." It goes on to talk a little bit about that. That is something that's in our constitution that has been found to be unconstitutional. It still remains there. And as somebody who took an oath and swore an oath to defend the constitution, I took an oath not only to defend the constitution of the state of Nebraska but also our federal constitution as well. And in our system of government, the federal constitution supersedes anything that's in the state constitution that's found to be unconstitutional or based on Supreme Court precedent, may be constitutionally suspect. I do not have a duty to enforce that, we do not have a duty to enforce that, nor will I by supporting this legislation. So based on state and federal constitutional grounds, I oppose it. Also on moral grounds I oppose it. Immigrants in our community provide a critical function in ensuring that we have robust communities, both culturally, economically, and otherwise. They contribute millions and millions and billions of dollars to our economy on the state and federal level. Some of our districts have thousands of immigrants, both documented and maybe some undocumented, that contribute to our economies and deserve representation.

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Maybe they don't have the right to vote, they don't get to vote. And we can argue the merits of that some other time but they deserve representation. They deserve representation, and this is not only been recognized by me on this floor,... [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR MORFELD: ...but rather by Congress when adopting the Fourteenth Amendment, by the Supreme Court, and many other authorities. This is not necessary. We do not have to enact this. And in my view, given varying different potential interpretations of alien in our own constitution, even if it is interpreted the way that Senator Murante claims, I believe that it would be unconstitutional. So this legislation is not necessary. I believe it's constitutionally suspect. I believe the current provision in our constitution is also constitutionally suspect based off recent case law and based on the Fourteenth Amendment of the United States Constitution. And I urge you to vote against LB1115. Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Krist. [LB1115]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. Senator Morfeld is much more experienced and has articulated concerns about interpretation of our constitution, as well as federal guidelines that would come from our federal constitution. I'd like to bring to your attention, though, a handout that I made available to you this morning. And I intend on getting up on the mike more than once this morning to object to AM2698, AM2664, and the underlying bill, LB1115. First of all, we have a process for redistricting and I believe that when that process starts, that the Redistricting Committee, as it is formed by this Legislature, will have to deal with this question. We don't need to change statutes and slap anybody in the face, which I believe this is. At some point, we're going to have to be mindful that no matter what the federal government or what our state constitution says, the federal government may trump--no pun intended--what we think we should or should not do. But in that letter I bring to your attention and I think it's one, two, three, four, the sixth paragraph down and I want to read this into the record. In the time since the one person one vote principle was handed down in Reynolds v. Sims the Supreme Court has consistently looked at total population figures when evaluating whether districting maps violate the Equal Protection Clause by deviating impermissibly from perfect population equality. LB1115 sets up a conflict with the Equal Protection Clause by removing the number of noncitizens from the state representation, but including the number in Congressional representation. Why do you think that is? Why do you think that any party or any special interest would want to exclude that number? If it is a good number to be adjusted in our own constitution--and that is the interpretation--why would there be a motivation to exclude that from our own...from the Congress? Because it's based on population. And the fact is, that we are dangerously close to losing one of our seats because of

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our population. So it's fine to make sure that within our legislative races and other races that were enumerated by Senator Murante we discount and "discompletely" the population base that's here. But when it comes to our representation in Washington D.C., by gosh we're not going to lose a seat. When the Governor got up in his opening remarks either this year or last year, I'm not sure which, he said be proud, we're over 1.9 million people. You know what that census is with that 1.9? It includes the people in your districts who are paying taxes, who are quote unquote by some definition, aliens. Now, I would venture to guess that if you've been part of this discussion the way I have for the last ten years, you have a hard time defining what an alien is. Are they an alien to the United States, are they an alien to Nebraska, are they nonpaying people, nontaxpaying people who are here? Do they have green cards? Do they have families? Are they participating in your education institutions? Are we educating those people? So we are interpreting things differently. And I think our constitution and the United States Constitution is always interpreted, is always interpreted, by the judiciary. So what I've read to you in terms of that equal clause is an interpretation that's been fondly held, substantially held and to emphasize it once again,... [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR KRIST: ...evaluating whether redistricting maps violate the Equal Protection Clause by deviating impermissibly from perfect population equality--and there's a reference in your handout to that--LB1115 sets up a conflict with the Equal Protection Clause by removing the number of noncitizens from state representation but including the number in Congressional representation. So, in my mind, it's all or none and I think you see in terms of what we would not want to do is jeopardize our representation at the federal level. And, again, I intend to speak several times on this. I will not support LB1115 or any of the amendments thereof. Thank you. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Pansing Brooks. [LB1115]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I agree with what Senator Krist and Senator Morfeld just said on the mike. I think that the...the phrase that comes to mind is "numbers count." And I know that seems ridiculous, but they do count. And there are so many instances in the law when it's important to know who's here, what's going on. If you look at the schools, how many people are in a district counts. That is an important number, because it deals with the number of teachers that will go to a specific school or the number...the amount of funding that goes to a specific school or to a district. We deal with numbers and the veracity of numbers all the time. I stand opposed to both amendments and the underlying bill. We each represent about 36,000 people. Did all of those 36,000 people vote? Nope. I had about 12,000 who voted in my district and I know there are districts that had way less. So which

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numbers are appropriate to count? Which numbers are of value and which aren't? Again, many of the people that...as Senator Krist said, does alien mean a noncitizen or a non-Nebraska citizen? The provision that Senator Murante is talking about comes from the constitution. But a section of the state constitution, Article I, Section 25 prohibits discrimination against quote-unquote aliens regarding their ownership of property. And it's been interpreted in dicta in cases by different commentators as meaning noncitizens and non-Nebraska residents. What does he mean by the use of the word "noncitizen"? Many noncitizens live in Nebraska, but that does not mean that they are here illegally. Many noncitizens live in Nebraska legally, legally. So...and they're taxpaying citizens. There are permanent residents who are green cardholders. There are refugees, there are exchange students, there are special visa holders like InvestaVisa holders, etcetera. These people are entitled to representation, just like I'm entitled to representation and each of us here is entitled to representation. Many noncitizens live with citizens such as parents who are permanent residents who have children that are born in the United States. This bill could provide a legal split within these families. So clearly when you think about it from another standpoint as a state, as a community needs to look at infrastructure, is it better to not have the actual numbers of who is living in a community and where they're living? It's my understanding the estimates are about 100,000 people we're talking about. And that there are inaccuracies...about 10 percent inaccurate in some instances. That was what I understand came out of the hearing. So what's better? Just think of the infrastructure of our state alone. When you're talking about that many people, is it better to just disregard and move forward? That doesn't make any sense. Does every federal law that applies to us...there are federal laws that apply to us that deal with the number of people we have in our state. Certainly, the way that we figure out Congressional representatives affects the number of people that are living in our state. How is that all related? And again, to me this does not make any sense. This bill will result in changing various legislative districts, it could result in counties being split between districts, which is something that historically the state has tried to avoid doing, as it necessarily dilutes the representation of rural Nebraska. One of my legislative assistants was not a resident, but she's got a family here. Should we just not count her? She is now a resident. But while she was working with me, she was here legally and not a resident. So should we just take that family and cut it down by a third? [LB1115]

PRESIDENT FOLEY: Time, Senator. That's time, Senator. [LB1115]

SENATOR PANSING BROOKS: Time? [LB1115]

PRESIDENT FOLEY: Yes. [LB1115]

SENATOR PANSING BROOKS: Okay. [LB1115]

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PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Vargas. [LB1115]

SENATOR VARGAS: Thank you very much. Colleagues, this is...this one is particularly hard. And I guess maybe the reason why it's hard is this will actually detrimentally affect my district. I have one of the largest districts with residents that are noncitizens. And I'm more taking pause because I...we all campaigned and we talked to people. We obviously talked to everybody in the community. We obviously talked to voters, but we go to community events and we engage with everybody. We don't ask them, hey, are you a citizen? I can't talk to you. We talk to every single individual. Part of the reason we do that is because, at least for me, I believe every single person's vote in our area and every single person's voice matters in the political process. There are people that come and testify here. The people that testify get to share their voice. We're not asking them whether or not they're a resident or a citizen; people deserve political representation. And in my district what this would do would essentially consolidate half my district, a little less than half...well, 30 percent to 40 percent of individuals at least, and those individuals wouldn't have representation. So the hardest thing I have with this is there's people that are here paying taxes, contributing to their community, supporting one another, supporting initiatives and work that we do, and kids in the schools. And those individuals would not have political representation, wouldn't be included in some of these redrawing of lines, which really concerns me because that's the opposite of what I campaigned on. I campaigned on making sure that we increase civic health, that everybody feels like they have a voice in the political process. But if we were to do this, we would essentially be saying that individuals in our community, some people deserve to have political representation and some don't, which is a very tricky slope to go down. And so I am against LB1115 and the underlying amendments, because I believe inherently that every single individual in our community deserves a voice in the political process. Otherwise, I would say, are we going to start to screen and people are coming in here and trying to advocate on types of bills and it's like, well, no, you can't because you're not a citizen, you don't have a voice. And I think that's a really dangerous place to go. And it's also not a really positive policy place to go. I'm not saying that there isn't something that may or may not happen at the federal level that allows certain things to happen, but the question of what we have in front of us isn't whether or not we are able to or not able to do something, the question is if it's the best policy decision to ensure that all individuals in our community have a voice in the political process. And the reason why I say that is because if the shoe was on the other foot and we were somebody that was trying to make sure that our voice was heard and we know that there's individuals in our community that represent an area, we want to make sure that individual when we give them a call, that when we're telling them about issues that impact an entire community, that they're listening to us and not only listening to those individuals that are representative in the area. If we're going to go even further, when I get e-mails from constituents that are outside my district, I listen to them as well. When people e-mail me on issues that have to do with, let's say, NRD levies that we have increased in the past and telling me that this is important for their district, I listen to them. Now, they're not my constituents, but they're somebody else's

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constituents. I don't ask them whether or not they're a resident or a citizen because in my belief the individuals that are contacting us are contacting us because they live in the state and because they care about Nebraska. They care so deeply about Nebraska that they're willing to then reach out to their elected officials and they're asking for their voices to be heard. We start to go down this route, at what point do we start putting up walls around who we listen to and who we don't listen to? And so... [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR VARGAS: Did you say it's time? Sorry. [LB1115]

PRESIDENT FOLEY: That's one minute, Senator. [LB1115]

SENATOR VARGAS: Okay, thank you. I think you're seeing where I'm getting at. There are enough reasons, at least personal for me, and also policywise that are leading us to believe that it's not the best decision to move forward, and at what point do we stop? How many more walls are we going to put up and for what reasons? And what policy decision are we actually trying to solve by doing this? So colleagues, I ask you to consider the implications of how this will impact not just my community, but every single one of our communities have some percentage of residents that deserve to have their voices heard. And if we're going to go down this route, at what point are we going to stop? Are we going to start having people not coming to the Capitol, not being able to testify, not be able to submit their testimonies or come to hearings? Or if we send e-mails we're going to stop listening to them because they don't represent our area? And that's really dangerous because that's just not how we've worked here. And so I ask you to stand against LB1115. I have a deep respect for Senator Murante and I understand some of the reasons... [LB1115]

PRESIDENT FOLEY: That's time, Senator. [LB1115]

SENATOR VARGAS: ...why I brought this, but from my standpoint there isn't a good enough policy reason instead of ideology... [LB1115]

PRESIDENT FOLEY: Time, Senator. [LB1115]

SENATOR VARGAS: ...to then do this. Thank you very much. [LB1115]

PRESIDENT FOLEY: Thank, Senator Vargas. Mr. Clerk. [LB1115]

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ASSISTANT CLERK: Mr. President. First of all an announcement that Urban Affairs will hold an Executive Session at 11:00 in Room 2022. In addition to that, Mr. President, a priority motion: Senator Morfeld would move to bracket the bill until April 18. [LB1115]

PRESIDENT FOLEY: Senator Morfeld, you're recognized to open on your bracket motion. [LB1115]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I introduce this bracket motion because, number one, as I discussed earlier, I believe the language is constitutionally suspect. I think I object to it on moral grounds and I also want to note that the term "alien" is not defined in our constitution either. And so we don't even know necessarily exactly how we should be interpreting that or what it should look like. I think Senator Blood just brought up a good point to me off the mike, which I'm sure she'll make the point on the mike, this would also exclude military members, some of which are also noncitizens from also being counted within the census, based on the interpretation that Senator Murante is making. I think that's an interesting point to be made. I think it's also a good point to be made that a lot of immigrants and noncitizens in the state are here legally. I know many of them that are in my district and I know some that may not be. In either case, the ones that are here legally, in particular, I think should be counted. I think the ones that are not here legally also should be counted. But that being said, this is a pretty broad and sweeping reform, and it's a particular interpretation of our constitution that I don't think is settled in law. In addition, I do believe based on the current case law from the United States Supreme Court, which was very recent, 2016, and based on the history and precedent set by the United States Congress under Article XIV of our...or...yeah, Article XIV of the Equal Protection Clause of the United States Constitution, this type of provision within the state constitution, depending on how it's interpreted--which we don't know yet--is constitutionally suspect and likely unconstitutional. That being said, from a practical point of view we have three days left in the session. This bill does not have 33 votes, so we can continue to argue this for three hours and it will die or we can bracket it and move on with the session. Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Continuing discussion, Senator Murante. [LB1115]

SENATOR MURANTE: Thank you, Mr. President. Members, I do rise in opposition to the bracket motion. I'll most likely be having a conversation with Senator Morfeld off the microphone relative to his last point, because I do think he has a point to make there. Time is short and I certainly don't want to be dilatory on these sorts of matters, but I do need to address a couple of different issues. First of all, there was some talk about if we advance LB1115, that we are putting some sort of risk into losing a Congressional district. Friends, Congress determines

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how Congressional districts are apportioned. If we had some capacity to determine how Congressional districts were apportioned, we would include cows in our count and then we would have 50 Congressional districts. We don't have any capacity to influence how Congress apportions Congressional districts. There is a Congressional apportionment formula which has been determined by Congress and I will let you know that of the scientific analysis that I've seen of the latest population estimate, Nebraska is not at risk of losing a Congressional seat in 2020. Why just the legislative districts? That was brought up. Because that's what's in the constitution. I mean, I feel like we're going to keep coming back to this point over and over again. Why did we exclude the Board of Regents? Because the provision in the constitution relative to the Board of Regents does not mandate that noncitizens be excluded. Does this apply to federal funding? Of course not, because once again, Congress determines for themselves the basis for federal funding. If they want to use total population, they can use total population. If they want to exclude aliens, they can exclude aliens. It's federal money so they determine for themselves their own funding formula. If we had control over that, I guarantee you we would manipulate the numbers in the opposite direction so that we could get as much federal funding as possible. But, of course, we don't have that authority. It was suggested that if we adhere to this provision of the constitution, that we will be completely unable to talk with folks who are noncitizens. That as legislators, as elected representatives, the noncitizens will have complete inability to come testify at public hearings, to talk to their state legislators and that legislators themselves would be completely incapable of hearing their opinions and then factoring that into their decision-making process. I would say, each of us here have their own decision-making process. You can choose to gather information from whichever sources you find most valuable. If you choose to give them more or less weight, that is up to you. This bill doesn't impact that. Whether you're listening to the opinions of someone who lives in your district, who doesn't live in your district, who doesn't live in the state, who doesn't live in this country, that's your prerogative, but that's up to you. That is not impacted by LB1115. And it should be noted that this provision of our state constitution has never been litigated. What you're being asked to do is to ignore this provision of the constitution because some people think that a future court might rule that it is unconstitutional. That's not our job. We are here to adhere to our constitution and to enact laws which effectuate that constitution. If there were something directly on point, this bill wouldn't be here. But there's not. And I think Senator Hilgers is going to talk a little bit about the Supreme Court actually ruling that states have wide power to redistrict state legislative maps. And I would urge you, whether this bill passes or fails, by ignoring this provision of the constitution, we are putting the maps that are enacted in 2021 in grave risk, especially if a seat gets moved from one part of the state to another, using the rationale that we should simply ignore the constitution will bring immediate litigation. Why wouldn't somebody file a lawsuit if they're detrimentally hurt... [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

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SENATOR MURANTE: ...by the redistricting process in 2021, when the plain language of the constitution says that aliens are to be excluded? This provision was put in the constitutional convention of 1920. The census form from that year used the term, "alien" and "noncitizen" interchangeably. When the census collected this data, our state removed it. The census stopped collecting it. We may start again. That's up to the federal government. But we can't just ignore the constitution. We are opening ourselves up for litigation for years to come. It's not a responsible approach. I appreciate that truly as a person who is a Christian and believes in...that we are...all have inherent value, I certainly agree with that point. [LB1115]

PRESIDENT FOLEY: Time, Senator. [LB1115]

SENATOR MURANTE: Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Hilgers. [LB1115]

SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. I rise in support of LB1115 and I want to just speak a little bit on the question I think most matters here, at least for me, which is the constitutional question. I think there are two parts to that. One is, does the Nebraska Constitution apply here? I think the answer to that is clearly, yes. The second question is one that was touched upon by Senator Morfeld, which is is our constitutional provision itself superseded by a higher authority, that being the federal constitution? I certainly agree with Senator Morfeld that if it is, that this particular provision would not apply and would not, what I believe, dictate the result of LB1115. And I also agree with Senator Morfeld that the Supreme Court has looked to the Fourteenth Amendment and the equal protections contained within that amendment to review apportionment of various political subdivisions, whether they be federal Congressional districts or at the state level. I do deviate from Senator Morfeld, however, when he discusses his position of, that this particular type of provision would be unconstitutional, because I don't think the cases bear that out. I will cite initially to the Evenwel decision that I believe Senator Morfeld is quoting from, which is a recent Supreme Court decision. I think it lays out really sort of the disparate treatment of federal Congressional districts and the state's authority, which is a little more broad or a little more discretion in apportioning local political subdivisions such as legislative districts. And I'm quoting from the court decision now and it sort of lays out this disparate treatment between the two. It says, "Over the ensuing decades, the Court has several times elaborated on the scope of the one-person, one-vote rule. States must draw Congressional districts with populations as close to perfect equality as possible." In other words, colleagues, when we're dealing with Congressional districts that we have, it is a very strict requirement of equal population. But the court goes on to say in contrast, that strict standard in the federal context with the more lax standard in the state context, the court says, "But, when drawing state and local legislative districts, jurisdictions are permitted to deviate somewhat from

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perfect population equality to accommodate traditional districting objectives, among them preserving the integrity of political subdivisions, maintaining communities of interest, and creating geographic compactness." The court goes on to say that's sort of the standard the court uses to judge these types of subdivisions. Where the maximum population deviation between the largest and smallest district is less than 10 percent, the court has held a state or local legislative map presumptively complies with the one-person, one-vote rule. In contrast, maximum deviations above 10 percent are presumptively impermissible. The court actually goes on to say...so the question here is, does Nebraska, through the state constitution provision here, Article III, Section 5, do we have the authority to put that...to implement that in practice? And I believe that Evenwel doesn't decide the question. In fact, the court in its conclusion, it's the last paragraph, the state of Texas in this particular case actually requested an affirmative ruling that they could do...that Texas could do what it is that is being done in Article III, Section 5 here. And the court refused to address it. The court said, "Because history, precedent, and practice suffice to reveal the infirmity of appellants' claims, we need not and do not resolve whether, as Texas now argues, States may draw districts to equalize voter-eligible population rather than total population." So I don't think the question is answered by the Evenwel decision. And, in fact, it cites to a previous Supreme Court decision, the Burns case, which I'll quote from briefly. How much time do I have left, Mr. President? [LB1115]

PRESIDENT FOLEY: One and a half minutes. [LB1115]

SENATOR HILGERS: Thank you. Where the court...it is from an earlier decision, it says neither...in Reynolds v. Sims, which is sort of one of the seminal cases in this area...nor in any other decision has this court suggested that states are required to include aliens, transients, short-term or temporary residents or persons denied the vote for conviction of crime in the apportionment base by which their legislators are distributed and against which compliance of the Equal Protection Clause is to be measured. So in contrast to the federal Congressional districts, when we're talking about legislative districts, the court has not spoken with the same kind of authority as suggested by some of the earlier argument. There's one other case that I will cite to. I'll come back one more time on the mike just to complete the record when I come back just to sort of, I think, tie off this line of discussion, which is, the federal constitution, the Fourteenth Amendment to the constitution, I do not believe forecloses what it is that is in our Nebraska Constitution. Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Morfeld. [LB1115]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I want to just note a few different things after my colleague, Senator Hilgers', remarks here. First off, the case that we were just stating, Evenwel v. Abbott, that case was actually an interesting case in the sense that

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people that were in a district that was heavily nonimmigrant, so not a lot of immigrants, sued stating that districts that had a lot of immigrants had violated the Equal Protection Clause because noncitizens had more weight than actual citizens in terms of redistricting. The court case was then looking at whether or not that actually violated the Equal Protection Clause, to count noncitizens as citizens in terms of reapportionment and apportionment of districts. The court found that it was completely permissible to count citizens and that the state may do so. And so I think that while this case is not clearly on point on this topic, because it's essentially kind of the reverse argument of what we're making right now, I believe that this case lays the constitutional framework, history, and groundwork to find that our provision, which was enacted in 1920 as Senator Murante noted, would be unconstitutional. In fact, I think you just have to look at the context of what was going on in 1920. We had just gotten out of World War I. We had a constitutional convention within the state, something I think Senator Halloran would really enjoy and appreciate probably to a certain extent. And there were a lot of anti-immigrant sentiments, anti-immigrant sentiments that, quite frankly, I think would be in violation of the Fourteenth Amendment of our constitution. And I also think that there is enough questions in terms of what constitutes an alien, what does not constitute an alien. Is that an immigrant that is here legally or is that an immigrant that may not be documented? We don't know. And I think that with the current case law going on within the Supreme Court and then also some of the historical precedents that are clearly stated under the Fourteenth Amendment of the United States Constitution, I believe this clause of our constitution is a moot point. And to effectuate legislation to actually carry it out, I think puts us in a precarious position. Precarious because we don't even know if the U.S. Census is going to collect this information; that has not been settled. Multiple jurisdictions have filed against the United States government to stop that. So, say we don't collect that information under the United States Census and then we have this law on the books that requires that we apportion districts accordingly. Where is the fiscal note for that? Are we going to do our own state census? That will cost at least millions of dollars, because we'll be in the position to apportion our districts based on this statute that we pass. How are we going to get that information if we're not even sure that the United States government--who actually effectuates the census--will actually collect that information? So suddenly we're in the position as a state where in order to follow the law, we're going to have to have our own census. Are you prepared to pay for that? Do we have the money for that? We barely have the money as it is. We just had to do budget readjustments. Colleagues, this is a portion of our constitution that, number one, is uninterpreted. Number two, I think that there's fairly clear Congressional history, constitutional history... [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR MORFELD: ...and also just on the plain language of the Fourteenth Amendment, that this is in violation of. And I also believe that it puts us in a precarious position of if the federal

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government doesn't even collect this data, we will be responsible for collecting it ourselves. Are we prepared to pay for that? Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Wishart. [LB1115]

SENATOR WISHART: Thank you, Mr. President. Colleagues, I rise today pretty heavy-hearted. This bill makes me sad. And with that, I strongly support the bracket motion. I will go ahead and let Senators Morfeld and Hilgers and Murante battle back and forth about the constitutionality of this bill, although my 2 cents would be the fact that still in our constitution we refer to immigrants as aliens is problematic just in itself and it's something we should work to address. What I'm rising today to speak about is the human element behind this legislation. I am really proud and privileged to represent a number of refugees and immigrants in District 27, many of whom I met when I knocked on their doors and sat in their living rooms and talked to them about the journeys that they've took, the incredible journeys they took to get here. And as somebody...just myself who was very homesick when I went away to college, very homesick for Lincoln, I can't even imagine what it's like for someone through no choice of their own to flee a country and to come here and then if we pass this kind of legislation for us to be telling them, you're not even welcome here and we're not even going to count you here. I can't even imagine what that feels like. I remember the last day I was knocking on election day, because I love knocking doors, so I figured even if it really doesn't matter I'm going to knock all the way to 8:00 at night. And I was knocking through a neighborhood and I knocked on the door of a gentleman who is from Iraq who served in the war in Iraq alongside American troops. And he then had to flee his country, because obviously if you're fighting with the United States in Iraq, his life and the life of his family was at risk. He's not a citizen yet, but he is somebody who I would definitely call an American. And he spoke to me about the journey that he took to get here and that his family took to get here. And he spoke to me about some of the discrimination since then he has experienced. And he said to me before I left, he said, I just want to know where in this world I can fit. Where does my family and I, where do we fit? And I told him, you fit here. You fit here in Lincoln. And I told him that when I was at a vigil for Syrian refugees several years ago, there was a pastor who told this story about Lincoln that made me so proud of the city. He said that...and I'll encourage everyone to fact check this because I just heard this story, but I truly believe it as somebody who was born and raised in Lincoln. He said that during the time of Japanese internment, one of the ways that Japanese-Americans could avoid internment camps, young Japanese-Americans could, was by enrolling in universities across the country. And across the country universities wouldn't accept them. They didn't have the courage to say, we'll take you. But UNL did. UNL-Lincoln, in Lincoln, was one of the few universities that accepted Japanese-Americans. To me that's why I love Lincoln, that's why I love this state. I do not believe this bill represents our state well. Thank you. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Blood. [LB1115]

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SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand in support of the bracket motion and against the amendment and ultimate bill. I was one of two people who voted no when they did try and vote it out of committee, which of course it made it anyway. This weekend, fellow Senators Walz and Howard joined me at the luau at Creighton University, we had a wonderful time. But what made it a wonderful time is that we were all able--and I had already met them and had been hanging out with them--but the other senators got to meet some wonderful women from the Filipino-American group that's out of Omaha. You're not going to meet a prouder bunch of Americans than the Filipino-American group that comes out of Omaha. But with that, I started talking to how a lot of them came...how they came to the United States. And many of them came through the military, being spouses of people that are serving our country and giving us the freedom to stand at the mike today and speak, giving us the freedom to vote for whom we choose to vote for. And that got me thinking more and more about this bill. And with that, I would ask that Senator Murante yield to a question, please. [LB1115]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB1115]

SENATOR MURANTE: Yes. [LB1115]

SENATOR BLOOD: Senator Murante, when you're speaking about noncitizen population, can you show me where there's clarification that this would not apply to the foreign-born that are serving right now in the military that might live in our district? [LB1115]

SENATOR MURANTE: So we would have to go...and we did a careful vetting, and Senator Vargas and I were actually just talking about this, of what the term "alien" meant as it was applied when the constitutional convention adopted it and then the voters ratified it. It goes back to 1920 and this constitutional provision conformed to the census information as to what a noncitizen was and I have the information right in front of me. So the citizenship question, which was question 127, column 13, year of immigration to the United States. This question applies to all foreign-born persons, male and female, of whatever age. It should be answered. Therefore, for every person whose birthplace was in a foreign country, enter the year in which the person came to the United States that has been in the United States for more than one year, give the first arrival. This question applies to all foreign-born persons, male or female, of whatever age. It should be answered. Therefore, for every person whose birthplace was in a foreign country...and then it goes on to list a number of different what means what, depending on how you answered the question. But I can...I don't want to bore the record too much, but I can share the information with you off the microphone if you'd like. [LB1115]

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SENATOR BLOOD: So are you telling me that a noncitizen would not be somebody then that's serving in the military, that may have been foreign-born? Is that what you're telling me? That's the specific question. I want a yes or a no. [LB1115]

SENATOR MURANTE: So what the job of a person is... [LB1115]

SENATOR BLOOD: A yes or a no, sir. [LB1115]

SENATOR MURANTE: I'll give you a complete answer, Senator Morfeld, the...excuse me, Senator Blood. [LB1115]

SENATOR BLOOD: Excuse me? [LB1115]

SENATOR MURANTE: Senator Blood, my apologies. [LB1115]

SENATOR BLOOD: And while you're giving that answer, this would...also my question would be, what about the spouses and children of these people serving in the military? That's my concern. When we have, I think it's around 65,000 foreign-born people serving, protecting us daily in the military, thousands of spouses that are yet to become citizens, and hundreds of children, and you always talk about how you represent Sarpy County. And one of the biggest job providers in Sarpy County and one of the reasons why we have so many military families is Offutt Air Force Base. [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR BLOOD: Can you please tell me yes or no, does this apply to these spouses? Does this apply to these people that are serving our country? [LB1115]

SENATOR MURANTE: It would apply to any person who is not a citizen of the United States. [LB1115]

SENATOR BLOOD: Oh, my goodness. All right. That's exactly what I need to hear. Thank you, Senator Murante. With that, if I do have any time, I would yield it to Senator Chambers. [LB1115]

PRESIDENT FOLEY: Senator Chambers, 33 seconds. [LB1115]

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SENATOR CHAMBERS: Thirty-three seconds. Just enough time to say that I appreciate my seatmate, not only the fact that she's a fine person willing to speak for her points of view, but when it comes to her discussion with Senator Murante, she was right, he was wrong. And on my time, I'll be able to go into my detail. Thank you. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Wayne. [LB1115]

SENATOR WAYNE: Thank you. I was going to ask Senator Hilgers some questions, but Senator Murante kind of answered. The fact of the matter is, is when you do constitutional analysis...I'm going to give you a historical analysis of why we're here. And the reason I know probably a little bit more than most people in the body about it, because of LB75 last year, we dealt with all our constitution and the ex-felons and whether felons should be able to vote, because most of this is a historical context. So prior to 1920, our constitution read and continued to read all the way up till earliest I could find is mid-1800s, that the census was to include all inhabitants, excluding Indians not taxed, and soldiers of the United States Army. They kept the same provision in 1871 when they tried to redo our constitution, as those were called, that we were vetoed becoming a state because of another section of our constitution. So they tried to fix it. This did not pass. They come back in 1875 and they include the same language, exclude Indians not taxed and soldiers and officers of the United States Army and Navy. We fast forward, jump forward to 1920. Although Senator Murante is somewhat right where that definition was out there, there is no legislative history to say that the federal census is where they got that definition from. What I would submit to you, the reason that definition and the reason why aliens came about was in part due to the federal census, but something also happened in 1918 that changed Nebraska, particularly the Omaha area, for time to come. And that was in 1918 in September, Offutt Air Force Base came. Our Air Force came, our military came specifically, the Navy started coming more and more as World War I approached and underneath that provision, Bellevue, i.e., Offutt, was not being included in any of the census tracts that was going to occur in 1920, because it excluded officers in the Army and those in the Navy and other military personnel, which was specifically in our constitution. There were debates in 1891 through 1999 discussing the make-up of our electorate and the number of, at the time, senators and legislatures. There were numerous bills talking about how to come to population and consensus to where it would be a equal distribution between Douglas County and Sarpy County throughout the legislative history, i.e., there were many soldiers who were not being counted in 1819, based on our constitution. So if you take that collective legislative history and bring it forward, what we're really talking about is they wanted to include Army and Navy and military personnel to be counted for, but they also still wanted to not include those who were not taxed, i.e., Indians who were not taxed at the time. Well, that changed--guess what--a couple years ago, about ten years ago when the federal government allowed undocumented workers to get a tax identification number. So if you fast forward through the legislative history, if this was about those who are not paying taxes, not being accounted for, underneath this current proposal what would have to happen is, we would

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have to take the federal census, get a number of those who are undocumented and then take a subset of that and find out those who are not paying taxes, which is actually all available right now. I don't think people have thought through the cost of that. I don't think our Secretary of State has thought through the cost of that. So the fiscal note, if at all, will be a lot more than what is actually projected. [LB1115 LB75]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR WAYNE: So there's a historical context that has all changed because our federal government now allows tax identification numbers to apply to even those who are undocumented, which goes against the legislative history of what...and the reason why this was passed. Aliens today does not mean the same thing that aliens in 1920. So you have to go not just to the legislative context, but through the historical context of what was happening in Nebraska, because the original language excluded Native Americans who were not taxed and military personnel. Again, Offutt came in 1918. And we had to make sure they were counted for legislative districts, so they had to figure out a way to talk about someone who was not paying taxes and that has completely changed in today's realm with the federal government allowing tax identification numbers to be applied to undocumented workers. Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Murante. [LB1115]

SENATOR MURANTE: Thank you, Mr. President. And, members, good morning. I rise in continued opposition to the bracket motion. I will say to Senator Wayne, the story I was telling Senator Vargas earlier was looking at the floor transcripts of our constitutional convention in 1920 relative to this provision and the previously mentioned provision where the term "alien" is included in our constitution, was kind of a fascinating discussion that first and foremost, there are...some things never change. The bulk of that conversation relative to the apportionment process dealt with the relative power and size of Douglas County versus the rural parts of the state of Nebraska and a concern from many in the farming communities that there would be too much power and influence in the Nebraska State Legislature concentrated to members from Douglas County. And in addition, a lot of the conversation about the term "alien" dealt with Italians, actually. It was Italian immigrants in 1920 and there was actually a pocket of apparently Italian farmers in the state of Illinois where there is some legislative record of there being a desire to encourage those folks to move to the state of Nebraska and to become citizens of our state, which was the genesis of where this kind of came from. But that floor discussion back in 1920 was a fascinating one and I think that that should shed some light onto the historical context. But also, we don't need to look too far as to what those members of the 1920 constitutional convention, how they interpreted that provision of the constitution because for a

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period of time, this provision of the constitution was not ignored. We haven't always ignored it. It has been effectuated in years past. We just haven't, in recent history, paid much attention to it. So how did they do it back then? Well, back then the Census Bureau, as the Trump administration proposes, asked the citizenship question, which you heard me speak in part on the microphone. Then they were excluded from the legislative district counts. I am unaware of...the only litigation I can find relative to redistricting in this state is after the 1991 redistricting process which dealt with legislative districts in Madison County, but it had nothing to do with this provision of the constitution. So we have enforced this provision of the constitution. It has not been litigated, and I don't think we need to glean or hypothesize what those folks back in the 1920s and '30s meant because this is just what they did. And I'm proposing that we go back to a point where we are serious about our policy positions and that we're serious about our duty to adhere to the constitution, and that just like they did in the 1920s and shortly thereafter, that we adhere to our constitution. And I do appreciate...and I want to make very clear that I don't bear any ill will or malice towards any other individual. That's not what this is about. To me, it's a simple, plain reading of our state constitution, that the basis of apportionment shall be the total population, excluding aliens. And I think you know and I know that that provision is never coming out of our state constitution. I would oppose taking that out of our state constitution and I know the people of Nebraska would oppose taking it out of our state constitution. So we're stuck with it. And now we can't simply ignore it. We have to effectuate it. And I believe that we are, as policy makers, are well within our rights to take into consideration anyone living within our districts... [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR MURANTE: ...living within our state, living within our nation, or elsewhere. We can glean that information and answer phone calls and have constituent meetings and have meetings with folks even if they aren't constituents. But I don't think that...I believe that ignoring the rule of law sends entirely the wrong message, both to the citizens of the state and elsewhere. So I believe LB1115 is entirely appropriate. Quite frankly, I don't see that we have much choice. There's going to come a point where we have some time to figure it out between now and 2021. We won't be redistricting any time soon. But when redistricting comes, friends, if you try and include noncitizens into that redistricting process, you are opening up yourself to a world of litigation. [LB1115]

PRESIDENT FOLEY: Time, Senator. [LB1115]

SENATOR MURANTE: Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Vargas. [LB1115]

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SENATOR VARGAS: Thank you very much. Senator Murante, I thought you were going to say "friends all" for a second. Colleagues, I voice my opposition to this. And another argument to why I don't believe this is the best policy route for us to go, and I can stand up here and talk about the fact that the xenophobia and my immigrant background and stand on my personal side and that part is absolutely true. But the part that I'm really more concerned about is if this...let's open up the conversation for...if the constitution upholds this--and let's say that is a reality that allows this--then for the last...let's just use for the last several years, decade, more than a decade that we haven't addressed this issue and that maybe it's come up, people in this body have decided that it's either not worthy of their time, people in this body have decided that it's cost prohibitive, it's too expensive, that maybe it's not worthwhile, or it's also just not the best policy decision. But we're trying and attempting it this year. I understand that, as an idea, as a bill, yes. But if it hasn't been enacted by past bodies and it's not deemed as necessary, it's not solving an inherent problem that we're trying to address, then all just on that argument that's enough to then not move forward and not support the underlying amendments and Senator Murante's LB1115, because we are generally debating issues here that we're trying to really solve large systematic problems in our state. And so, again, for argument's sake, if we are obviously allowed to do this in the constitution, it hasn't been done by past bodies. And so I ask the question, why is that the case? There must have been a larger policy decision or some more arguments. Not everybody is in lockstep, but there's a reason why maybe individuals decided it was not the best or the most important reason why to move forward on such a harmful public policy. I've also been thinking and I made this notion that, at what point do we stop? I say that really honestly. And as Senator Murante responded to, it's within everybody's volition and autonomy to decide what they do, with who they listen to and who contacts them and what we do in hearings and I do understand that. That's why I said, more importantly, this is at what point do we stop and at what point will be more legislation in this arena separating on creating walls between different people? And I think that's very, very dangerous. So I was thinking a little bit farther in terms of, well, would we start creating lines just for people that are citizens...sorry, people that are voting age citizens and then excluding youth, because they obviously can't vote and so they shouldn't have a voice in this process as well? And it just got me down this really tricky slope of when do we stop? And just because we can--if that's the argument that people are going to use--doesn't mean we should. So colleagues, I ask that we do not support this bill. And again, I've shared my personal side. But on the principle of public policy, we're not finding an economic, a strong economic reason. Again, we've had this conversation about the importance of our immigrant community in our state and why we want to support them and how they're continuing to expand and grow, not just urban and rural Nebraska as well. And this would be a step in the direction where we're essentially saying that there's a group of individuals that do not...that we do not believe, immigrants in particular, that we do not believe deserve a voice, which is just...I truly believe not indicative of this body and not indicative of some of the debates we've had. And we've moved in directions where we've been more supportive of growing our state and one of that is including our immigrant community. I'm not saying that's a blanket, everybody supports that. But we have the larger

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majority had conversations doing that in this body. And I want to continue to uphold that principle because I believe our state will continue to grow and it will be because of our inclusive nature as a state and as a community. [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR VARGAS: So I ask, colleagues, for us to consider the economic reasons, the quality of life reasons, public policy, basically fiscal conservative nature of this bill and where we can then move forward on actual issues that I think are going to help grow our state rather than something that is not actually creating or solving a public policy problem that we're seeing. So with that, I'd ask you to not support LB1115 and the underlying amendments. Thank you very much, colleagues. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Hilgers. [LB1115]

SENATOR HILGERS: Thank you, Mr. President. Good morning, again, colleagues. Just to finish off some of the conversation that I was having earlier regarding the constitutionality under the federal constitution of our state constitutional provision in Article III, Section 5. And before...when I was speaking before, I walked through two cases referencing a third case from the United States Supreme Court. The Evenwel decision, the Burns decision and the Reynolds v Sims decision. And I want to just cite and quote from a First Circuit decision that's more recent than those three decisions that sort of...it's helpful, not because I think it's binding on us. If you recall, we're in the Eight Circuit under the territory of the U.S. Court of Appeals for the Eighth Circuit. The First Circuit covers parts of northeast...the northeastern portion of the United States. So it's not binding, I don't read it because it's binding. I do read it though because I think it's helpful and instructive to kind of encapsulate some of the constitutional principles that we've been speaking about. And the case I'm citing to is the Davidson v. City of Cranston decision from 837 F.3d 135. And the court is describing some of these previous decisions, most importantly the Evenwel, which is that most recent United States Supreme Court decision and I'm just going to quote from it. "Several principles emerge from Evenwel. First, the court did not disturb precedents holding that where Reynolds requirements of population-base apportionment are met, a plaintiff usually must show invidious discrimination to make out an apportionment claim under the Equal Protection Clause." And it goes on to say, "The second, Evenwel reinforced the principle established by earlier Supreme Court decisions that courts should give wide latitude to political decisions related to apportionment that work no invidious discrimination. It has long been constitutionally acceptable, but by no means required, to exclude nonvoting persons such as" and the case now is itself quoting "'aliens, transients, short-term or temporary residents, or persons denied the vote for conviction of crime, excluding those individuals from the apportionment base,' so long as the apportionment scheme does not involve

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invidious discrimination." The court has repeatedly cautioned that such decisions, absent any showing of discrimination, "involve choices about the nature of representation with which we have been shown no constitutionally founded reason to interfere." So to sort of summarize all that, again, when we're not talking about the apportionment of Congressional district, which is a different...I agree with those that would say that is a stricter standard. That is certainly true. When we're dealing with apportionment of state legislative districts, the Supreme Court has shown...provided a wider bit of latitude to states and those apportionment decisions. And as it describes it, so long as it's within that 10 percent or a presumptively valid threshold, you can still challenge those decisions. And they've cited under this Equal Protection Clause the way to do that would be through an invidious discrimination claim. Sort of I think that was sketched out by Senator Wayne a few minutes ago. That's how you would challenge it. So there is no per se bar to what we're doing. There's no case that says that the Nebraska constitutional provision at issue would be unconstitutional. It certainly could be challenged and I'm not suggesting someone wouldn't bring that challenge or that it might not ultimately be successful. I'm not weighing in on that particular portion. But I will say, if the reason that you are thinking about voting against this is because you think our constitutional provision is itself unconstitutional, I don't think there's grounds under Supreme Court authority to make that determination, certainly as it stands today. And I believe that we do have the authority to do what we're doing, because they relate to local subdivisions and not Congressional districts. And with that, Mr. President, I would urge adoption of LB1115. Thank you. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Pansing Brooks. [LB1115]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Again, I want to say, numbers count. In District 28, I gave numbers that were slightly off. I guess the total population now is up to 39,347--it's increased even in the four years since I've been in the Legislature--6.5 percent are noncitizens, which is 2,559 people are noncitizens. And I just want to mention, do we all remember the days when Native Americans were not full persons under the law and when African-Americans were not full people under the law and women were not full people under the law? Alexander Hamilton once declared, quote, there can be no truer principle than this, that every individual of the community at large has an equal right to the protection of government, unquote. This is a fundamental principle of our moral fabric to the point that equal protection is implicit in the concept of liberty. And I would just say to you that this is...I can't even understand why we're talking about this. It's discriminatory and I want to yield the rest of my time to Senator Chambers who will be very articulate about this, I presume. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers, 3:40. [LB1115]

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SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Pansing Brooks. Members of the Legislature, the moral, the ethical, the policy arguments have been made very well against this bill. But what I want to talk about is the selective use of provisions of the constitution and I'm going to talk about my prairie dog bill. This constitution that Senator Murante is preaching from, in Article I, Section 3, guarantees due process of law. Under that prairie dog law, your property can be taken without due process of law. You do not have to be given notice. Senator Murante voted against my bill, which would have done away with an unconstitutional law. That law clearly is unconstitutional. There is another provision of the constitution which that law ignores. It's Article VII, Section 5. A person can have a fine running up to \$1,500 for not paying off what the county wants from doing action against that person without giving notice. That law says the money would go to the county to enforce that law. The constitution says all fines are to go for the support of the common schools. So in two clear position points, that law is unconstitutional. My bill would have repealed that law and Senator Murante voted no. He wants the unconstitutional law. After all of his explanations, Senator Hilgers, even when discussing this that I was doing, admitted and acknowledged that that prairie dog law does not require a person to have notice before action is taken against that person and the denial of notice is the denial of due process. You know what he did on my bill? He sat here and did not vote. And that's why I question what these people do when they stand up and preach about the constitution. I look at what they actually do. Every one of these bills that Senator Murante has brought, first he wanted to go against black people and also Latinos with that one where he wanted the identification. This one, he has selected the Latinos. And if they happen to be black people who are also Latino, he would go after them. He has yet to bring any bill that would enforce constitutional provisions that benefit people. So what I intend to do is point out what I see as hypocrisy. It's hypocritical when people know to do and they don't do. Senator Hilgers knows that that prairie dog law is unconstitutional, but he wouldn't vote. Senator Murante has been shown that it's unconstitutional and he voted against it. [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR CHAMBERS: He's running hot and hard for an office that he probably can't lose. All of the big shot "Repelicans" support him. I told him the other day he should stop bringing these things that take away his credibility that put him in a position of a very...well, he and I had that conversation. I told him he can win without doing that. He ought to try to reclaim some shred of dignity. Then he brings this particular thing. I definitely will vote against the bracket motion. I'm hurrying now because I'm on somebody else's time. But if the discussion continues this afternoon, I certainly shall speak and I see that Senator Hilgers will be here and I intend to interrogate him. I intend to interrogate him like those who ran the Inquisition interrogated people. [LB1115]

PRESIDENT FOLEY: Time, Senator. [LB1115]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Krist. [LB1115]

SENATOR KRIST: Thank you, Mr. President. I will speak one more time on this issue. Many of you who have been here for a few years know that the Exec Board Chair has the rare privilege of interviewing and hiring these talented young people that are with us every day in pages. During my time as Exec Board Chair, I was able to interview and hire a very fine individual, his name was Abid Kassim. Abid was in his country, an interpreter for our U.S. Forces. And at the end, his life was threatened on several levels. He was brought to this country, attended the University of Nebraska-Lincoln, and the entire time that he was here under that program he was, by definition, not a citizen of the United States, by this bill would not be counted in the census. But I think that that's a wrong message to send. Abid was a war hero. There was no question about it. The things that he did to serve, put his own life and his family's life on the line to help us succeed in Southwest Asia was indeed remarkable. And there are so many other people in that category. We have many people in the United States Armed Forces, as has been discussed by Senator Blood and others, who are not U.S. citizens and they are allowed to serve. The Filipino community, particularly, find it a way to be a path to citizenship to serve in the United States Navy. Check it out, Google it. There's an incredible database on those that were not citizens but served very successfully, very nobly as members of our Armed Forces. I would also say I want to follow up on what Senator Wishart said. If you travel down Dodge Street and 144th, you'll see an area that's being cleared out. There is a semblance of what used to be a farm there owned by Boys Town. That was the largest concentration of Japanese-Americans in the country and that was a sanctuary for them. They were doctors, lawyers, educators. They worked at Boys Town. Father Flanagan brought them in, gave them someplace during that time. Would they be counted? Would we have treated them the way they are if Nebraska was to go forward on something like this? Nebraska has a rich history of being a melting pot, bringing in folks from all different parts of the world. And they become citizens and they've been productive and they've paid taxes. I think the statistic is that we have over \$40 million, someplace within the state of Nebraska that's being paid in in some kind of sales tax or some kind of income tax for people who are not quote, unquote, citizens of Nebraska. They may be here legally or illegally. They need to be counted. So I asked Senator Baker to answer some questions for me on the mike and we'll do it very quickly. Senator Baker, if you will yield. [LB1115]

PRESIDENT FOLEY: Senator Baker, will you yield, please? [LB1115]

SENATOR BAKER: Yes. [LB1115]

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SENATOR KRIST: When you were a superintendent, where did you get the numbers for the census? How did you look at your apportionments? [LB1115]

SENATOR BAKER: We had to conduct our own census annually to determine how many children ages 5 to 18 resided in the district. And that was the basis for apportionment payments, one of our revenue sources. [LB1115]

SENATOR KRIST: So we basically, in that particular case, did it by ourselves. That wasn't a very inexpensive option for you. You had to go forward and find those. [LB1115]

SENATOR BAKER: It was very difficult, when people move in and out every week. So we had to do our best to find out all the children, 5 to 18 who resided there, and that included homeless if we believed that was where they were being homeless. [LB1115]

SENATOR KRIST: Thank you, Senator Baker. I think it's been mentioned on the mike by several of you how expensive...are we ready to spend that money to recreate that database that's not currently...or to interfere with the database that we currently get? With that, I will...how much time do I have left? [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR KRIST: Okay. I'll just yield it back to the Chair. Thank you, colleagues, for listening. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Halloran. [LB1115]

SENATOR HALLORAN: Thank you, Mr. President. I stand opposed to bracket motion and I stand in support of LB1115 and associated amendments. I would like to yield my time to Senator Murante, please. [LB1115]

PRESIDENT FOLEY: Senator Murante, 4:45. [LB1115]

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. It's a statement that's been mentioned on the floor before, but I'll say it again. We're all entitled to our own opinions. We are not entitled to our own facts. LB1115 doesn't cost anything. Inserting one data point into our software system does not cost anything. This bill does not mandate us to conduct our own census. I mean, that's all nonsense and I won't give it any more time than it deserves.

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What we do have before us is a means to effectuate a provision of our constitution that our state previously effectuated, but in 1960 stopped. And they stopped because the federal government stopped collecting noncitizen data on the census. There are two things that exist today that did not in 1960. One, the Census Bureau provides a noncitizen population estimate on an annual basis; and two, the Trump administration has announced his desire to once again count noncitizens for the purposes of the census. So we once again have the ability to effectuate this provision of our constitution, to do it without cost, to do it without disenfranchising somebody. Now, as I said previously, I will not be here in 2021, but let me guarantee you--I see some of my rural colleagues on the floor right now--if this Legislature proceeds in 2021 to move a district out of rural Nebraska and put it into Douglas County because noncitizens are counted, I guarantee you there will be a lawsuit. The people of Nebraska are not going to stand for that. The constitution is plain as day. It says what it says. For the purposes of legislative districts, the population basis shall be the total population, excluding aliens. We can't just ignore it. We can't pretend it doesn't exist and we all know it's not going to change. So I have provided, through AM2698, two different means of effectuating that provision. First, if the federal government again begins collecting noncitizen data as part of the census process, we will use that data. If they do not--which it seems more and more likely that they will--but if they do not, we will use the noncitizen population estimate that is populated by the Census Bureau. That's the right thing to do. People are watching us. People watch the respect that we have for our laws and the extent to which we are going to adhere to our constitution. Ignoring the constitution, the elected officials of this state, the elected representatives of this state, ignoring the constitution facilitates a demeaning and a degrading of the rule of law. [LB1115]

PRESIDENT FOLEY: One minute. [LB1115]

SENATOR MURANTE: And I will make a promise. I'm the Chairman of the Government, Military and Veterans Affairs Committee and on a regular basis the ACLU comes in and makes promises that they'll file a lawsuit on matters that they don't agree with. So let me make a comparable promise. If in 2021 this Legislature attempts to include noncitizens as part of the redistricting process for legislative districts, I will personally file the lawsuit in state court to ensure that our state lives up to our constitutional obligations. This is our job. This is our duty. We cannot ignore it. That is not a serious policy position to take. We need to adhere to our constitution and respect the rule of law. Thank you, Mr. President. [LB1115]

PRESIDENT FOLEY: Thank you, Senator Murante. Items for the record, please. [LB1115]

ASSISTANT CLERK: Mr. President. Your Committee on Enrollment and Review reports LB449, LB194, and LB793 to Select File. Amendments to be printed: to LB989 from Senator Smith; Senator Pansing Brooks to LB845; and Senator Wishart to LB989. Name adds: Senator

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Hilgers would add his name to LB738 and to LB1040. (Legislative Journal pages 1482-1488.)
[LB449 LB194 LB793 LB989 LB845 LB989 LB738 LB1040]

Finally, a priority motion. Senator Kuehn would move to recess until 1:30 p.m.

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

RECESS

PRESIDENT FOLEY PRESIDING

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

CLERK: I have a quorum present.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Any items for the record?

CLERK: One item: Enrollment and Review reports LB861 as correctly engrossed. That's all that I have, Mr. President. (Legislative Journal page 1488.) [LB861]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Speaker Scheer.

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. If you would, please pass over LB1115 at the request of the introducer, and we'll move directly to LB989, please. Thank you.

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

CLERK: Mr. President, LB989 is a bill by Senator Wishart relating to transportation, authorize the testing of autonomous vehicles by a city of the primary class. Senator Wishart presented her bill last Friday, I believe. There were...committee amendments were offered by the Transportation Committee. Those are pending. There was an amendment to the committee amendments by Senator Larson that was adopted. I do have other amendments and motions to the committee amendments, Mr. President. [LB989]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Wishart, we were on this bill just recently, so if you'd want to take a minute or two to refresh us and then we'll jump in. [LB989]

SENATOR WISHART: Thank you, Mr. President. Well, just to fill everybody in, I introduced LB989 specifically so that Lincoln was able to move forward with the opportunity for a pilot shuttle project in the city of Lincoln. Since then we moved forward in adopting Senator Larson's amendment to the committee amendment, that I would encourage you then to adopt my bill. This would put in place a regulatory framework in our state. And just to remind you all, currently our state is silent in terms of autonomous vehicles. This would put in place regulatory framework that is both supportive of public safety but also very pro business. It would make Nebraska one of the leaders in this technology. And so again, with that, I encourage you to vote in support of AM2612 and LB989. [LB989]

PRESIDENT FOLEY: Thank you, Senator Wishart. Mr. Clerk. [LB989]

CLERK: Mr. President... [LB989]

PRESIDENT FOLEY: Senator Friesen, would you like a minute or two to refresh us on the committee amendment? [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Catch my breath. Yes, the committee amendment, my committee counsel and I worked with the city of Lincoln and Senator Wishart to address the numerous issues that we had with the bill. So we spent a lot of time coming up with what we felt was a committee amendment that addressed all the issues. We worked with DMV, everyone else that we could think of, and we came up with this, what we called a compromise as a Transportation Committee amendment. So it addressed a lot of the issues of creating a test program, but it also opened it up to statewide testing if they wanted to do that. There were processes in place so they could file for a permit to have a test facility or a test plan, and there was an appeal process for that, and a method to go forward to run testing programs anywhere in the state. And so with that, I think we set the parameters. I thought we had a good bill. It addressed a lot of the different issues that I've been bringing up since the other amendment was brought forward. Thank you, Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Mr. Clerk. [LB989]

CLERK: Mr. President, I do have amendments to the committee amendment. Senator Friesen, I had priority motion you filed last Friday, Senator, to recommit the bill. [LB989]

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SENATOR FRIESEN: That's correct. [LB989]

PRESIDENT FOLEY: Senator Friesen, you can open on your motion to recommit the bill to committee. [LB989]

SENATOR FRIESEN: Okay. Basically what I've been bringing up on the floor in the past is that with Senator Larson's amendment adopted, it basically gutted everything that the Transportation Committee committee amendment did. It has opened it up to fully autonomous vehicles that are allowed to run anywhere in the state with no licensing, no permit required. They don't even have to notify anybody. They could come in here and run with the absolute minimum required insurance, liability insurance, and not notify anybody that they had a testing program going on. They're not even required to accumulate any data. It's just opening it up. So you have vehicles out there, and I'll use an example of a Level 3 vehicle. It's capable of fully autonomous driving but it has a steering wheel, brakes, and everything like a current automobile. And so those vehicles, if they're able to be sold to an individual in the state, then that means they have been approved by the National Highway Vehicle (sic--Traffic) Safety Administration. And so then were...they are able to sell those vehicles to individuals and they are able to operate as long as they meet the Rules of the Road. So they would be fine. And that was an amendment I also had to allow them to operate. But when you get to Level 4 and Level 5 vehicles, a Level 5 vehicle, which would be allowed to operate Senator Larson's amendment, could be able to operate in the state anywhere it wants, fully autonomous, no one in the vehicle, and with minimum insurance requirements that are comparable to the minimum that you are required to buy on your vehicle. These vehicles are still not approved by the National Highway Safety Administration and they are meant to be operated in a test pilot program. What we have done in Nebraska is exempt them from having a test pilot program. So basically it lets them operate anywhere in the state. The way the bill is now written, also allows semi trucks, delivery trucks to run fully autonomous in the state. We could have semis, 80,000-pound trucks running down the interstate fully autonomous. So we have opened this up now without being prepared, without looking at insurance requirements, and who might be at fault in an accident. So let's use a scenario where you're driving a Level 3 vehicles and you're inebriated. You're driving down the road. The vehicle is in full control. And a pedestrian steps out in front of you and the car runs them over. The car stops. There's someone injured. Who's at fault? Are we drunk driving? Do you have a DUI? The person wasn't driving the car. He was just sitting there behind the wheel, hands off the wheel. The car would indicate he did not have control of the vehicle. So who would be at fault? Would they issue a ticket to the car? We have not looked at any of these issues in our rules and regs, in our insurance industry--we have opened this up to what the courts may end up deciding--and with that car probably having a minimal amount of insurance coverage. So I think the risk is too great to just open this up. I feel it needs to be more controlled. And I have said if it can run one year, we will do an LR over the summer. We will study all of these issues that tie into the autonomous vehicle problem that we want to fix. And we can easily come back with legislation next year that

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addresses these things, whereas now we are just opening it up. And we can do the study, but if something happens in the meantime, the courts will have to sort through it and figure it out. I think if we would put this program back under some sort of testing program, some sort of reporting requirements where they would be required to report at least the number of times that a vehicle disengages, those types of things, that's what we're going to be trying to learn something from. And as they bring them into the climate that we have here, I'm curious as to how an autonomous vehicle handles a one-inch snow on the road where there's no markings on the road left; it's just a white background. And when we say that these vehicles are really smart and they can see everything, they obviously couldn't see the semi it ran into when it couldn't differentiate the color from one thing or another. It did not see the bicycle that was walking in front of it. So there are issues out there yet. Some states have already suspended their testing program. We don't have a process where we can suspend this if something goes wrong. So I'm asking you to look at the bill, study it, and see if the safety risks outweigh being first on this issue. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Debate is now open on the motion and the underlying bill. Senator Erdman. [LB989]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good afternoon. We talked about this bill last week, and I had several questions that I asked that did not receive an answer, so maybe I'll be more specific. And I was wondering if Senator Wishart would yield to a question. [LB989]

PRESIDENT FOLEY: Senator Wishart, would you yield, please? [LB989]

SENATOR WISHART: Yes, I will. [LB989]

SENATOR ERDMAN: Senator, so in Senator Friesen's comments about the person who's intoxicated, driving or riding in the vehicle, in his example who would get the citation if that vehicle ran over someone? [LB989]

SENATOR WISHART: And are you talking about a Level 2, 3, 4, or 5? [LB989]

SENATOR ERDMAN: You tell me which level you want to talk about. [LB989]

SENATOR WISHART: Okay. So in terms of, say, a Level 3 vehicle, which still requires the person to be aware and requires them to take over control of the vehicle, that person would be at fault. [LB989]

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SENATOR ERDMAN: Okay. [LB989]

SENATOR WISHART: Terms of...okay. [LB989]

SENATOR ERDMAN: All right. So the second, next question is then my grandkids are at home, my vehicle is in the driveway, say it's a Level 5 vehicle, and they want to go to the mall, and they get in and go to the mall. Are they driving without a license? [LB989]

SENATOR WISHART: In terms of a Level 5 vehicle? [LB989]

SENATOR ERDMAN: Yes. [LB989]

SENATOR WISHART: At this point, a Level...well, that's something we would have to figure out. Level 5s are not going to be ready until about 15 years from now. And again, I want to make sure everyone is clear that federal law preempts any state law, and currently any vehicle within our regulatory framework in Senator Larson's amendment is required to follow the federal regulations around a vehicle. [LB989]

SENATOR ERDMAN: Okay. Okay. So if the vehicle is now...a Level 3 vehicle is driving down the highway, how do they know that they're in the wrong lane or to move back into the center? How do they know that? What guides them? [LB989]

SENATOR WISHART: Through the camera system and the computer system. [LB989]

SENATOR ERDMAN: It's not by the paint on the highway? [LB989]

SENATOR WISHART: Well, the camera system and the computer system will recognize the paint on the highway. [LB989]

SENATOR ERDMAN: Okay. I have a friend who has a new Jeep that has that provision to keep it on the highway and she told me that in some of the states that she has driven her new Jeep that the paint on the highway is not recognized by her computer and doesn't put her back on the road. So we have many situations here. The other question I may have for you is so if an autonomous vehicle, whatever, a 3 or a 4, whatever, is driving down the road and it needs to be stopped, how does the police stop such a car? [LB989]

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SENATOR WISHART: So these vehicles are capable of acknowledging emergency vehicles, including police. [LB989]

SENATOR ERDMAN: So if they were at the stoplight and a firetruck came, they would know to wait to let the firetruck go through? [LB989]

SENATOR WISHART: Absolutely. [LB989]

SENATOR ERDMAN: Okay. This looks to me like that it's something like Senator Friesen said, we need to have an opportunity to study this. I think there are so many liability ramifications for us opening our state up to this. I can't imagine an 80,000-pound vehicle going down the road with no driver. We don't even do that with trains and trains are on a track. I can't comprehend how we'd want to do this with a semi loaded with 40,000 pounds of product. So I'm in favor of the recommit to committee. This is a bill that's significantly ahead of its time and so I'm going to vote for recommit to committee. Thank you. [LB989]

PRESIDENT FOLEY: Thank you, Senators Erdman and Wishart. Senator Blood. [LB989]

SENATOR BLOOD: Thank you, Mr. President. I stand again against the recommit to committee and in favor of Senator Wishart's forward-thinking bill, hoping to make Nebraska a leader in technology for once in our long history. I just have so many issues, what's been said on the floor today and last week. I remind you again, for those of you that didn't go to the Web site from Sweden, it's already happening in other countries. They are far ahead of us. These issues are nonissues. He talked a little bit, Senator Erdman talked a little bit about a friend's Jeep not recognizing lines. I don't know why that's even an issue that pertains to this bill. Basically, if you had somebody that was autonomous...driving an autonomous vehicle such as Jeep and it didn't identify the lines so you don't use that feature when you're driving in that state. It's just like the testing. They're not going to be putting these vehicles where the vehicles are not able to function properly. But more than that, here's...this is just a short list that could I come up with in the last 30 seconds of vehicles that I know are already autonomous and already driving on our streets every single day and I'm not hearing about accidents. Are you? Are you hearing about statistics on Audi, BMW 7 Series, Honda Advanced Driver, Mercedes-Benz E-Class, Tesla Vision, Volvo Pilot Assist, Cadillac Super Cruise? Saw an awesome commercial yesterday where the man was going like he was on a roller coaster ride. I don't know if I'd be doing that, but. Jeep Renegade, Compass; Alfa Romeo; Dodge Charger, Durango--oh my gosh, we might as well stay home because of all those vehicles are on the road right now and it must be a really dangerous world because all this science fiction vehicles that are driving by themselves are going to start hitting pedestrians and cyclists. We better be really, really worried about that. Oh, wait, that's not happening. Do your research. You know, with all due respect, I'm in the age bracket that a lot of

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you naysayers are in. We're not that old. Don't fear technology. The same thing happened on my digital letter technology bills. We have an opportunity to move Nebraska forward. And although Senator Larson and I rarely see eye to eye, in this case I understand what he's trying to do-- embrace the technology, put us in line with what's going on with the federal government and help us be forward thinking. But I can't stress enough, gentlemen and any women who happen to be against this, but I haven't met any yet, I'm sure there's a few on the floor, this is nothing to fear. It's already here. Until you can start bringing me stories on all of those different vehicles that I named off saying how they're running over pedestrians, running over cyclists, veering off the road, the points you're making are moot. And by the way, all those vehicles are indeed insured. Insurance companies are running to insure vehicles like this because they're probably making more on premiums because of the technology. So I would think the insurance agents right now that are watching this ought to be getting on the phone and calling their senators that are naysayers because I see an opportunity for you guys to make money. With that, if I have any time left I would yield it to Senator Wishart. [LB989]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Wishart, 1:30 if you care to use it. [LB989]

SENATOR WISHART: Sure. Thank you, Senator Blood, and thanks for being an advocate for technological advancement. Again, colleagues, I just wanted to be very clear. Right now our statutes are completely silent when it comes to autonomous vehicles. When I listed off the Level 3 technology, which is a technology that will be on-line next year, we are silent on our statutes in terms another of that. What Senator Larson's amendment did when we amended it on to the committee amendment, which again I encourage you to amend on to LB989, was to put in place a regulatory framework that is both encouraging public safety and very pro business. So again, I would encourage my colleagues to vote no on the motion to recommit this bill to committee. Thank you. [LB989]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Bostelman. [LB989]

SENATOR BOSTELMAN: Thank you, Mr. President. So, I'm going out here to read the National Highway Traffic Safety Administration's Web site, "Automated Vehicles for Safety." Overview: The continuing evolution of automated technology aims to deliver even greater safety benefits in automated driver systems that one day can handle the whole task of driving when we don't want to or cannot do it ourselves. Fully automated cars and trucks that drive us instead of us driving them will become a reality. These self-driving vehicles ultimately will integrate our...onto U.S. roadways by progressing through six levels of driver assistance technology advancements in the coming years. The evolution of automated safety technologies goes on, says the continuing evolution of automated technology aims to deliver even greater safety benefits

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and one day deliver ADS, automatic...automated driving systems that can handle the whole task of driving when we don't want to or can't do ourselves. Then you go down and there's five areas of safety. It talks about a vision for safety. It says, learn more. Five areas of safety. From 1950 to 2000 we have safety, convenience, and features--cruise control, seat belts, anti lock brakes; 2000 to 2010 is what I believe Senator Blood is talking about, is advanced safety features--electronic stability control, blind spot detection, forward collision warning, lane departure warnings; 2010 to 2016 continues on along those lines--advanced driver assistance features, rearview video systems, automatic emergency braking, pedestrian automatic emergency braking, rear automatic emergency braking, rear cross-traffic alert, lane centering assist; 2016 to 2025, partially, partially automated safety features--lane keeping assist, adaptive cruise control, traffic jam assist, self-park; 2025 and beyond is fully automated safety features--highway autopilot. So what we're talking about again, remember, there's three levels, 3, 4, and 5; 4 and 5 are totally automated features. What the National Highway Safety Administration is saying, that's at least another seven years out before we're going to be ready to go there. So I'm going to come back to things I spoke about the other day, what Senator Wishart had in LB989 itself and what the committee amendment does was provide this state with the opportunity to do testing and receive data to safely move these systems on to, if it is full automation, on to our roadways or not. And when we do this right now, I think it is too soon. And here's another thing under frequently asked questions. When will self-driving vehicles be available? Automated or self-driving vehicles are a future technology rather than one that you will find in a dealership tomorrow or in the next few years, next few years. A variety of technology hurdles have to be cleared and other important issues must be addressed before these types of vehicles can be available for sale in the United States. The Department of Transportation is committed to supporting the innovators who are developing these types of vehicles to ensure their safe testing and development before they are available to customers. Once again, I think we had Director Lahm was here. She spoke of things that they're doing at the state level, on the national level to address some of these issues. There's policies, procedures, safety standards coming out for how these vehicles may be employed or be tested in the state. Right now, if we're going to do 4 and 5 vehicles in the state, we have to have this test plan... [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR BOSTELMAN: ...in place. If we don't have it then they cannot come in, they cannot operate in this state. It was argued the other day that we need to have this now because it's going to happen within a year or two. I don't think it will. I don't think...I know that Senator Larson's amendment is not needed at this point in time. It's not appropriate at this point in time. And I would, once again, I would have supported LB989, Senator Wishart's bill, with AM2612. But if that's not a possibility, then I would support the recommit to committee. Thank you, Mr. President. [LB989]

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PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Friesen, you're recognized. You may either speak to the motion or close on your motion. [LB989]

SENATOR FRIESEN: I'll speak to the motion. [LB989]

PRESIDENT FOLEY: Very good. Continue. [LB989]

SENATOR FRIESEN: So some of the information here as being thrown out is not quite true. The federal laws do not preempt state laws in numerous areas where we talk about Rules of the Road, insurance, titling, registration, speed limits, and those numerous things. So at some point in time I do believe the federal government will come in and preempt all of our laws with autonomous vehicles because you obviously want a vehicle that can travel from state to state or else it doesn't do you much good if you're going to live in Omaha or somewhere close to a border. So at some point in time we're going to have to match our laws on a federal level so that these vehicles can travel back and forth. But right now, there's only very few models of Level 3 vehicles available, so all of the vehicles that Senator Blood brought out there, none of those, I think, or very few of those that are autonomous vehicles. There's very few models that are for sale to the public that you would call a Level 3 autonomous vehicle. So again, we're talking about a small number of vehicles. But when you look at the crash statistics and miles driven, autonomous vehicles do have quite a few crashes per mile driven. Now, that's not to say that the autonomous vehicle was at fault. I'm saying that their crash ratio is pretty high for the very few vehicles that are out there. But we've got issues that I think we need to address. And if in the end, if you want to pass this bill forward, go ahead. I'm just stating that there are issues here. And when those issues come up before us next year and if someone has died or been injured in an accident, and we're going to try to fix those things then, it makes it more difficult. I'm just saying that I think we're ready for a pilot program here. I think the committee amendment that we worked on with the city of Lincoln and Senator Wishart, who was all in agreement, was good. We don't need to change that. And when we did change that, that's when I stepped up and said I cannot support the bill any longer. We have strayed completely away from where the committee amendment went. So when we talk about vehicle insurance, I question whether if you get a Level 4 vehicle that is in the state and is being tested, doesn't insurance companies sell a vehicle...sell insurance for a vehicle that is not approved by the vehicle Highway Safety Administration? Or do they exempt them? These are issues we've not talked about. If a vehicle has not passed those standards, then it necessarily might not be covered by insurance unless they have a special policy. We have not talked about that. We don't know if they're going to be required to have a special policy. We don't know who is at fault even in a Level 3, much less a Level 4 or 5. Is the vehicle manufacturer at fault if a component fails and it runs into a crowd? We don't know how we're going to deal with those situations and whose liability is at fault. So you could get a testing company that comes in here and forms an LLC, gets a Level 4 car. The insurance requirements on those vehicles are 25/50/25, so you'd have minimal health insurance coverage or accident coverage if someone is

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injured. There's no requirements here. There's no level of insurance they're required to have, other than the minimum, to meet our current Rules of the Road. Those are issues to me. If we're going to run a test program, I'm not willing to put the public at risk without compensation if something goes wrong. And those are questions that are unanswered. And when we open it up to operation all across the state,... [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR FRIESEN: ...we are creating, I think, an issue that we're not ready to deal with yet. I'm ready to have that conversation. That's where the committee amendment, that's why we met with all of those individuals to try and work on language that I thought I was comfortable with. I was willing to open it up to the other parts of the state. I wanted it to be a good program. I'd like to see go forward. But we have now opened it up to too many issues that I can no longer support it. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Clements. [LB989]

SENATOR CLEMENTS: Thank you, Mr. President. I also was interested in supporting the basic bill, but the amendment from Senator Larson expanded it beyond my comfort level as well. And when I looked at the bill first of all, as an insurance agent, I did look to see how much liability insurance was going to be required, and I saw that it was \$5 million. And like Senator Friesen said, we don't want somebody in one of these vehicles with just \$25,000 or \$50,000 worth of coverage. I looked at the Federal Highway Administration statistics. I thought Senator Chambers the other day made a really good point. There are 263,600,000 U.S. automobiles right now, an estimate. And Senator Larson said there were about 5,750 deaths in a year. And that's 45,800 vehicles before you have one pedestrian death. I don't think we've had 45,000 autonomous vehicles tested yet and we've already had one autonomous vehicle pedestrian death. So I believe that more testing is required, and that a limited basis, like the original bill, is the proper way to do it. And I support the recommit motion. Thank you, Mister...well, wait a minute. Would Senator Friesen care for the rest of my time? [LB989]

PRESIDENT FOLEY: Thank you, Senator Clements. Senator Friesen, 3:20. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Thank you, Senator Clements. Is Senator Wishart available for questions? [LB989]

PRESIDENT FOLEY: Senator Wishart, are you on the floor for a question, please? [LB989]

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SENATOR FRIESEN: Senator Larson, would you yield for...would he yield for a question? [LB989]

PRESIDENT FOLEY: Senator Larson, are you available for a question? [LB989]

SENATOR LARSON: Sure. [LB989]

SENATOR FRIESEN: So, Senator Larson, when you're looking at the insurance requirements from your standpoint, what is the minimum amount of insurance or what would they be required to have to operate in the state? [LB989]

SENATOR LARSON: I'd have to look at the committee amendment again. I'm looking for it in front of my...can you point me directly where you're looking? [LB989]

SENATOR FRIESEN: I don't think it's addressed in there at all. [LB989]

SENATOR LARSON: Okay. Well, in terms of minimum amount of insurance, if it's not addressed, then the insurance companies specifically would determine how much insurance or the individual owners. I see Senator Wishart is back. But I understand that you have concerns or at least are attempting to find concerns, it sounds like, Senator Friesen, is what this sounds more like, but I don't think I have concerns. The insurance industries... [LB989]

SENATOR FRIESEN: Okay. Thank you, Senator Larson. [LB989]

SENATOR LARSON: ...they haven't had any concerns and... [LB989]

SENATOR FRIESEN: Thank you, Senator Larson. So I guess that's the problem we're having is it's not a well-written amendment. It does not address some issues that I think need addressing. Senator Wishart, would you yield to a question? [LB989]

PRESIDENT FOLEY: Senator Wishart, would you yield, please? [LB989]

SENATOR WISHART: Yes, I will. [LB989]

SENATOR FRIESEN: Do you know for sure that the insurance industry would license...or would insure a vehicle that has not passed the National Highway Safety Administration's board? [LB989]

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SENATOR WISHART: Say that one more time. [LB989]

SENATOR FRIESEN: Do you know if the insurance industry would automatically issue insurance to a vehicle that has not passed the National Highway Safety Administration's test? [LB989]

SENATOR WISHART: I do not believe they would. [LB989]

SENATOR FRIESEN: So would they be required to have a special policy? [LB989]

SENATOR WISHART: So the way that our bill is written, a vehicle would be required to have, that's again allowed on the road, would be required to have the same amount of insurance that they would if it were a vehicle that somebody was driving. [LB989]

SENATOR FRIESEN: So then you're saying it would have the minimum amount of insurance. [LB989]

SENATOR WISHART: Yes. [LB989]

SENATOR FRIESEN: And so, but again, would an insurance company be willing to honor a policy on a vehicle that has not passed the National Highway Safety Standards board? [LB989]

SENATOR WISHART: We have heard...we have heard no problem from the insurance agents with our amendment. [LB989]

SENATOR FRIESEN: There have been some questions from the insurance industry now, I think,... [LB989]

SENATOR WISHART: Okay. [LB989]

SENATOR FRIESEN: ...that they've seen the amendment and I'm...that's why I'm asking. It's more for Level 4 and 5 vehicles. I'm just curious if the insurance industry would recognize that they have not passed the safety standards and would they be willing to let their insurance cover them. [LB989]

SENATOR WISHART: There are currently vehicles of Level 4 on the road right now that are insured in other states. [LB989]

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SENATOR FRIESEN: Do you know that they're insured by a regular insurance policy or were they granted an exemption? [LB989]

SENATOR WISHART: They were not granted an exemption. [LB989]

SENATOR FRIESEN: Thank you, Senator Wishart. These are still the numerous questions I have. [LB989]

PRESIDENT FOLEY: Time, Senator. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Bostelman. [LB989]

SENATOR BOSTELMAN: Thank you, Mr. President. I'm going back to what we talked about again on Friday, I believe it was when this came up, some of the areas that are of concern or general policy areas that are still being looked at, at the national level as well as the state level. And one thing the national federal government has said that the states will be the ones who set the licensing, the insurance, the financial responsibilities, that will be done...and titling, that will be done at the state level, not at the federal level. So state will have the say-so on that. Some of the areas, as we're talking about, continue to talk about, these aren't just areas of unknown. I read from the NHSTA, I think it was, some of the policy guidances being considered is the automatic...automated vehicle classifications, which I think they've now kind of, we have the five. That's been identified. Testing of automated vehicles: What exactly does that mean? Where are they going to be tested at? LB989, the original bill, actually spoke to the testing of automated vehicles and how we do it in this state. Vehicle registration: Right now we cannot register a 4 or a 5 Level automated vehicle in the state because it's not recognized at the federal level. And according to what I read off the Web site was it's 2025, seven years out, potentially, before they're going to be ready to do that. Vehicle titling and branding, financial responsibility, federal motor vehicle safety standards, driver roles. Who's responsible for that vehicle? Is it the programmer? Is it the connectivity? Is it the...is it a satellite connection? Is it a cellphone connection? Who has that connectivity if something may or may not function properly? And especially in this state, since we talk about broadband and small cell deployment in the state, we're lacking in both, that's concern. Driver's license requirements for testing: Who is it right now? Is it just someone who has a driver's license and goes through a course maybe with a company, can now sit behind that vehicle, in that Level 3 and operate that vehicle? I'm not for sure we've got that identified. Driver's license requirements for deployment, driver's license testing requirements, I'm sure the state does not have that completed yet, don't know what that looks like, because that is the state's responsibility. So here again, we don't know what that is.

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Training for consumers, training for examiners, driver's education instructors and driver schools, endorsements and restrictions, crash incident reporting, who's going to handle it? How is that going to be handled? Use in criminal activity, distracted driving, establishment of legal responsibility for enforcement actions, how does--and I don't know--a fully automated vehicle, how does it know if it's...if there's a Patrol car behind it wanting it to pull over? I'm not for sure what that would look like. First responder safety; response to emergency vehicles; manual traffic controls; and out-of-ordinary road conditions; access to electronic data for investigation, that was one thing that I read a couple articles on as I researched this, is that the automakers, those who are responsible for those vehicles, that's proprietary and that's not information that's being released. So that's a concern as well as to cause of these accidents, these incidents may come up, and how that may be brought back into the industry at whole to ensure that we're updating the software so that these similar incidents don't happen again. Vehicle identification, conforming to Rules of the Road, commercial motor vehicles, transportation network companies, data privacy and security,... [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR BOSTELMAN: ...cybersecurity,... [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR BOSTELMAN: ...infrastructure. Thank you, Mr. President. Imported/exported vehicles, upfitters, platooning, tort claim liability and others. And as we spoke, I want to go again, as we go back, as we're looking to do this, we go back to the National Highway Traffic Safety Administration. It says we're not ready for this. The federal government is not ready for this and the states aren't going to be ready for this at least until 2025 or after. So once again, LB989 in it's original form, with the committee amendment, AM2612, is a prudent way to move forward. Opening up our state to areas that the federal government hasn't even identified and what those needs are and how that should be structured, let alone our state, that's still being worked on and that's taking it two steps too far for the safety of our roads, for the safety of our citizens as they operate their vehicles, walk down the streets or on the sidewalks or ride their bicycles... [LB989]

PRESIDENT FOLEY: Time, Senator. [LB989]

SENATOR BOSTELMAN: ...or motorcycles. [LB989]

PRESIDENT FOLEY: Time, Senator. [LB989]

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SENATOR BOSTELMAN: Thank you, Mr. President. [LB989]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Friesen, you're recognized to close on your recommit motion. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Again, please look at the bill. Let's see if the safety standards that we're exempting here are worth the risk of trying to be first in the autonomous vehicle race. That's my only question. Look at the risks involved. We had a program that was set out to expand. It could have easily been changed over the next year. It would have given a soft start. It would have looked at some of the issues over the summer. We could have addressed them in a responsible way. And now I feel we're putting the safety of individuals at risk in order to be first. This isn't something that this body usually does, but every now and then we get a little carried away with our passion. And again, I like to look at the facts, and the facts would say we start a little slower, we are more careful, we make sure these vehicles are safe. They have not been tested in the more winter climates like we have. This is something that needs to be addressed. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Members, you've heard the debate on the motion to recommit the bill to committee. The question before the body is whether or not to adopt that motion. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB989]

CLERK: 14 ayes, 16 nays, Mr. President, on the motion to recommit the bill. [LB989]

PRESIDENT FOLEY: The recommit motion is not adopted. Mr. Clerk. [LB989]

CLERK: Mr. President, the first amendment to the committee amendments that I have is Senator Friesen. Senator, I have AM2828 that you filed with me last week. [LB989]

SENATOR FRIESEN: We wish to withdraw that amendment. [LB989]

PRESIDENT FOLEY: Amendment is withdrawn. [LB989]

CLERK: Senator, I then have, the next amendment I have is from you, sir, AM2881. (Legislative Journal pages 1489-1491.) [LB989]

SENATOR FRIESEN: Yes, that would be correct. [LB989]

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PRESIDENT FOLEY: Senator Friesen, you're recognized to open on AM2881. [LB989]

SENATOR FRIESEN: Mr. President, members, this amendment would strike the provision of the Larson amendment which was adopted on General File and that would allow driverless vehicle transportation networks to transport goods. We've discussed the issue of transportation of people in our previous conversations about this legislation. However, I have major concerns about opening up our state law to the transportation networks of driverless commercial vehicles to allow transport of commodities on our streets and highways. This is a very important amendment, and we make changes in two sections of the bill that strike the words "or goods" from the previous relating to on-demand driverless capable vehicle networks. There's also a provision fixing the certification date of January 1, 2018, as the date vehicles are in compliance with applicable federal motor vehicle safety standards. This replaces the effective date of the act language of the original amendment. I urge your adoption of this simple but important amendment. And so what this does is takes, basically, semis, trucks, delivery vehicles from delivering goods with autonomous vehicles. And so this is also another issue that was in the amendment that opened this up to commercial vehicles operating, 80,000-pound commercial trucks to be able to operate on our interstate systems that have not been approved, again, to operate except that we offer them an exemption. This would take away the ability to transport goods and leave it to just transporting people. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Debate is now open on the amendment. Senator Wishart. [LB989]

SENATOR WISHART: Thank you, Mr. President, I rise in opposition to AM2881. I just want to clarify that currently what he was talking about in terms of platooning with the trucking industry, that is already an issue that is not approved by the federal government and we are likely a long ways out from that technology. But again, I don't know why, and my argument still stands the same, I don't know why we would take out language, regulatory language that we would put in place for the commercial use of deliverless vehicles, and then be silent in our state in terms of a regulatory framework for that. So again, I rise in opposition to AM2881. Thank you. [LB989]

PRESIDENT FOLEY: Thank you, Senator Wishart. Is there any further discussion on the amendment? Senator Friesen. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. When we talk about delivery vehicles, it is possible under here we have granted exemptions to fully autonomous delivery vehicles. They have not met any safety standards. They could be tested here and they could be delivering goods without them being fully approved. Isn't that the process we went through, we just open this up? We are allowing it to happen, not under a test program, not under a pilot

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program. They are able to come in here and test vehicles that have not met the highway vehicle safety standards, and we're going to allow them to deliver goods if they want to test that process here. It opens it up to a whole new commercial end and puts a lot more people, I think, at risk. The same issues come forward there. Do you have to meet...what kind of standards do you have to meet for a driverless truck? We have got into this argument with railroad crews and the unions. They're requiring people, for safety issues, to be in a train that cannot leave the tracks. We are going to put trucks on the road who do not have a driver in them and can leave the tracks. This is a serious issue. I do think that we need to be careful with what we allow to just run on our roads. And I think as this technology comes forward, the federal government will preempt us again, I agree, but at the moment, I don't think we just open this up to allow any vehicle, whether it's delivery of goods or other things. The risk is again too great. The same issues apply. There will just be more miles driven, more potential for accidents, and not knowing how we deal with them. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Erdman. [LB989]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. I was wondering if Senator Friesen would yield to a question. [LB989]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB989]

SENATOR FRIESEN: Yes, I would. [LB989]

SENATOR ERDMAN: Thank you, Senator Friesen. Senator Friesen, I just had an opportunity to open up AM2881, haven't had a chance to read through the whole bill or the amendment. Does that amendment then become the bill? [LB989]

SENATOR FRIESEN: No. It's just an addition and it corrects language in the, the committee amendment that was changed by the Larson amendment. So all we're doing is taking out the words, you know, being able to haul goods. [LB989]

SENATOR ERDMAN: Okay. So you're on the Transportation, Telecommunications Committee and you're the Chairman. Is that correct? [LB989]

SENATOR FRIESEN: That's correct. [LB989]

SENATOR ERDMAN: So what happens if we don't do anything? What if we don't pass this bill? What happens? [LB989]

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SENATOR FRIESEN: Well, I mean, the comment is made that we're silent on these issues, but we're not. We can be silent, but every vehicle that traverses our roads has to meet our Rules of the Road, and our Rules of the Road would not allow an autonomous vehicle currently. It wouldn't happen. So even though we're silent, they cannot operate on our roads. [LB989]

SENATOR ERDMAN: So the comment was made several times that we need to get Nebraska in the lead on technology, and in fact we're moving Nebraska into a...an abyss where we have no idea what the regulations are going to be from the federal government. Is that correct? [LB989]

SENATOR FRIESEN: Yes. We have no way of knowing what the federal government will eventually pass as far as regulations. But we're going to have to standardize a majority of this with...through federal regulations so that we can have interstate commerce. [LB989]

SENATOR ERDMAN: I would guess that what happens is when the federal regulations are adopted and the safety issues have been dealt with, that the federal government will then inform us on what our regulations should be like. Would you agree? [LB989]

SENATOR FRIESEN: I would. I would agree. [LB989]

SENATOR ERDMAN: So I am in favor of Senator Friesen's amendment here, and I'm not in favor of putting these vehicles on the road for any test pilot project that may expose us in Nebraska to some kind of liability of a driverless vehicle. I think we got plenty of time. I'm not worried that they're going to leave us out. If they develop these vehicles and the technology and they solve all the safety issues, they'll surely let us share in that. And so I'm going to vote in favor of AM2881 and I ask you to do the same. Thank you. [LB989]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Hilkemann. [LB989]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. I'm wondering if Senator Wishart would take a question from me. [LB989]

PRESIDENT FOLEY: Senator Wishart, would you yield, please? [LB989]

SENATOR WISHART: Yes, I will. [LB989]

SENATOR HILKEMANN: I'm asking some questions for my favorite group of people that I like to hang around with, other than state senators, and that's bicyclists. And the bicyclists are a little

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concerned about this bill, and I get their concern. Their concern is that we ought to slow down on this. But I know that we've had last year...in 2012 there were 744 bicyclists killed by vehicles hitting them on the road. What assurances can we give to the cycling community that...so my question is, are we going to have fewer people killed with autonomous vehicles than we have...right now, it's...we're fortunate here in Nebraska, we don't have that high of a number, Florida being the highest state with it. But is this going to help or hurt cyclists? [LB989]

SENATOR WISHART: Thank you, Senator Hilkemann, for asking this question. This is going to help cyclists. Again, I want to remind everybody that 90 percent of traffic accidents and fatalities is due to human error, and autonomous vehicle technology has the capability of eliminating almost all of that. And I also want to remind everybody that human beings, we have already made the decision to stop paying attention to the road. If you drive out today, look at all the people who are texting while they're driving. They...we have already made a decision to stop paying attention. And so we need to move forward with the technology like driverless car system that's going to save lives by eliminating human error. [LB989]

SENATOR HILKEMANN: Now, Senator, I also appreciated some of things that Senator Friesen said here. How are we going to monitor this program? In other words, I just, again, I want to keep our roads as safe as we possibly can. But what Senator Friesen is saying, that this...we're not going to know which trucks are, what so forth are automated by this...would this...when we expanded this bill last time? Is that at all a concern to you? [LB989]

SENATOR WISHART: Thank you for the question, Senator Hilkemann. So again, we have a regulatory framework in place. And I want to remind everybody that right now we're silent in our laws. So right now we don't monitor what vehicles are autonomous or not on the road. And what we're doing is we're putting in place a regulatory framework with the committee amendment and then my bill that requires any vehicle that be on the road be capable of following the Rules of the Road and meet the federal requirements, safety requirements for motor vehicles. So what we're saying is we are requiring a vehicle that would be allowed on the road in this state to at least be as safe as a human driver, and I would argue it will be safer than a human driver. [LB989]

SENATOR HILKEMANN: Thank you, Senator, for answering those questions for me. Yeah, I'm really...I really understand the concern that the cyclists have brought to me on this and to several others that are concerned about the biking. But that's my real question. We have people getting...we have...we had an unfortunate incident here where an older lady ran over a man on a bicycle here just in a neighboring county a year ago. He was on a tricycle type of bike. She was never...she was never charged. And the county attorney at that point...and I've challenged him about that. He said the person shouldn't have been on that contraption. It happened to be a tricycle bike rather than a regular bike. [LB989]

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PRESIDENT FOLEY: One minute. [LB989]

SENATOR HILKEMANN: As bikers, we have the right to the road and I'm always encouraging bikers that if you don't have a good shoulder on a decent road or a well-traveled road, you need to be in that...that's not a good road for us to be riding on now. There are certainly a lot of roads that that excludes, but we have the responsibility as bikers as well. So I hope that this is monitored well enough that cyclists are safe and down the line cyclists are going to be safer because of autonomous vehicles. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senators Hilkemann and Wishart. Senator Bostelman. [LB989]

SENATOR BOSTELMAN: Thank you, Mr. President. I guess a couple of comments from the discussions that are being had. As far as the state remaining silent on this issue, these vehicles can't operate...Level 4 and Level 5 can't operate in the state at all right now, period. They're not allowed. Federal law does not allow them to operate. The state law does not allow them to operate in the state at all. If there's an exception to that, it may be for 30 days. Right now, Level 4 and Level 5 do not operate. And according to the National Highway Safety Transportation Administration, it's going to be at least 2025 before they feel they're going to be ready to be operating on our roadways. Also, if you want to look for your time, I was just doing some simple searches here. The Federal Register, Volume 81, Number 185, September 23, 2016, notices on page 65705, specifically talks about the National Highway Safety Transportation Administration Enforcement Guidance Bulletin safety-related defects and automated safety technologies. It's several pages long there. I think the thing that I draw from this is that there is a concern that we do properly and appropriately set policy, set standards for vehicles that come out. When the time is ready, as we have heard from Director Lahm and others that that's being worked on at the national level and the state level, actively. So we are actively as a state looking at this and working on autonomous...fully autonomous vehicles, Level 4 and Level 5, which are not allowed to operate on the road of this state. It is not that we're silent, they're just not allowed. They're not allowed to be on our roads, you can't register them, you can't title them. They're not allowed to be on our roads. So until we get near a point where the federal government in cooperation with our state as they work on these policies, know exactly what we need to be putting in statute ahead of the time of those automated vehicles in five or six years. If it's less, then that's fine, but right now it's totally premature for us to be looking at this and be working on these things, because everybody from the federal government to our state government, the experts in this area are telling us that they're not allowed on our roadways. So with that, again, it's the safety that I'm concerned about, about those who travel our roadways, our county roads, our highway roads, our interstates. We talked about raising speed limits and that was huge issue for raising speed limits in the state, huge issue. And now we're talking about having vehicles operate on our highways, our interstates, without anyone being able to control a vehicle whatsoever. We need to do this

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with a test program. There's a process set up in AM2612 that's a very good process. And we take that process and we work through that process, we learn from it, and then when we set our...the policies for the state, we're going to be able to do it in a much better prepared, eyes wide open, as I would look at it way to properly protect and properly provide guidance as to the training, the workmanship, the technology that needs to go into these vehicles. Working with the car automotive industries to ensure that we do it the right way, in a timely manner, when they're ready to bring these vehicles out. Until that time, I just think we're moving too far, too fast. But the testing process which we have in place here is prudent, is what we need to do in AM2612. AM2881, I'd be support of that. But here again I do believe that we need to take a hard look... [LB989]

SENATOR LINDSTROM: One minute. [LB989]

SENATOR BOSTELMAN: ...at opening up the entire state for Level 4 and Level 5 without a testing program, without the oversight that our state has talked about, that Senator Friesen has talked extensively with those agencies that would be involved with this to ensure a safe deployment, a safe use, interaction within our communities and on our roadways is done in a way that protects as best as we can and provides the financial means of support and the liabilities as far as insurance. If incidents or accidents happen, again, it's a prudent opportunity for us, a prudent way that we need to move forward in the years to come if fully autonomous vehicles are here, if we have broadband to support that, if we have a small cell type technology or other technology to support that, that day should come, but it's not here now. Thank you. [LB989]

PRESIDENT FOLEY: Time, Senator. [LB989]

SENATOR BOSTELMAN: Thank you, Mr. President. [LB989]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Krist. [LB989]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues and Nebraska. I'd like Senator Friesen, if he would yield to a question, please. [LB989]

PRESIDENT FOLEY: Senator Friesen, would you yield, please?? [LB989]

SENATOR FRIESEN: Yes, I would. [LB989]

SENATOR KRIST: So as we get closer, I think I was the last person in the queue. As we get closer to actually voting on this, what essentially does AM2881 do? [LB989]

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SENATOR FRIESEN: All AM2881 does is remove the ability for them to transfer goods. You could still have an Uber vehicle pick up passengers. Fully autonomous vehicles do that, but they could not deliver goods, freight, things like that. It just takes out that word and then changes a date when the operative thing starts. I don't think that's not an issue. I think taking out the delivery of goods is an issue. [LB989]

SENATOR KRIST: And AM2612, which was your committee amendment, was amended by the Larson committee and essentially it creates a statewide capability for test programs. Is that correct? [LB989]

SENATOR FRIESEN: It's not a test program. It just opens up for them the ability to operate it, completely gutted the Transportation Committee amendment. [LB989]

SENATOR KRIST: Okay. And the original bill, how we originally arrived at this place, was a very simple thing to allow Lincoln to test autonomous vehicles within a pilot project or a very narrow test program. Is that correct? [LB989]

SENATOR FRIESEN: Yes. It was a very narrow, well-defined test program to test autonomous vehicles. [LB989]

SENATOR KRIST: So let me ask you from your perspective, because you've probably spent as much time if not more than any of the people who have dabbled with this, including and probably to some extent Senator Wishart, how are you voting on this? [LB989]

SENATOR FRIESEN: Well, I don't like to the whole bill now that the Transportation Committee amendment has been gutted, but I'm supportive of AM2881. It helps to make it a better bill. There's still numerous issues I have with the bill. And, yes, we spent a lot of time with the city of Lincoln, my staff spent a lot of time trying to come up with a committee amendment, only to watch it be gutted when they knew all along they wanted to change it. [LB989]

SENATOR KRIST: Okay. This is General File. There will be Select File and Final Reading as long as we have enough time in the next three days to do what we need to do. I will follow Senator Friesen's lead and vote for AM2881, AM2612, and LB989, and get on with the business at hand. Thank you, Senator Friesen, for your courtesy. Thank you, Mr. President. [LB989]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Friesen, you're recognized. You may either speak to the amendment or close on the amendment, your choice. [LB989]

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SENATOR FRIESEN: I would close on the amendment. [LB989]

PRESIDENT FOLEY: Please proceed. [LB989]

SENATOR FRIESEN: So, again, to make it very clear, this doesn't make a major change to the bill, but it does take out the word "goods." Right now you would be able to transfer people and goods. This removes the word "goods." They would not be able to make autonomous vehicle delivery of freight. You would not be able to probably operate semi trucks, fully loaded trucks, at least. I suppose as long as those trucks were just doing testing they could still run on the roads, but they would not be hauling freight, they would not be weighing 80,000-pound. So what this language does is just pulls the words "and goods" out of the language so that they can still do all the other things they wanted to do but does not allow them to haul freight. So again, with the language that's currently in the bill, this is no longer what we'd call a test program, because there's no reporting requirements out there. No one will report how many disengagements of the system happened. No one needs to report any of the failures that happened unless they happen to be an accident. So we will not know if the technology is working safely or not unless someone is injured or there's an accident. We will not know how many disengagements of the system happened where the vehicle had to pull off the road to the stop. And so, therefore, it still...the whole bill still looks like it's taken away the test portion of it and just opened it up to running. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Members, you heard the debate on AM2881. The question before the body is whether or not we want to adopt the amendment. Those in favor vote aye; those opposed vote nay. A roll call vote has been requested in reverse order. Mr. Clerk. 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. [LB989]

CLERK: 30 ayes, 1 nay to place the house under call. [LB989]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desks and check in. The house is under call. Senator Thibodeau, could you check in? Senator Hughes, could you check in? All members are now present. The question before the body is the adoption of AM2881. A roll call vote in reverse order has been requested. Mr. Clerk. [LB989]

CLERK: (Roll call vote taken, Legislative Journal page 1491-1492.) 20 ayes, 26 nays, Mr. President. [LB989]

PRESIDENT FOLEY: AM2881 is not adopted. I raise the call. Mr. Clerk. [LB989]

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CLERK: Mr. President, the...Senator Friesen, I have AM2879, Senator, with a note that you would like to withdraw and substitute as an alternative AM2892. [LB989]

PRESIDENT FOLEY: Objection has been heard. [LB989]

SENATOR FRIESEN: I'd like a ruling on this. I would like to substitute. I'd like to vote on it. [LB989]

PRESIDENT FOLEY: Senator Friesen, you'll need to make a motion to substitute. [LB989]

SENATOR FRIESEN: I make a motion to substitute. [LB989]

CLERK: Mr. President, just so everybody is clear, Senator Friesen would like to substitute AM2879 for AM2787. [LB989]

PRESIDENT FOLEY: Senator Friesen, you're recognized to open on your motion to substitute. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Since we had such a nice discussion the other day on technology and being on the leading edge of technology, what this would do is bring small cell technology here so that these Level 5 cars can operate. Vehicles these days that are fully autonomous need small cell technology in order to traverse our city streets safely, and the importance of having small cell technology in our communities is of utmost importance as far as safety, travel, and being able to call 911, have access to broadband, and for these vehicles to navigate our streets. They are very heavy users of data. I talked a little bit the other day of how many bits per second were generated by a vehicle traveling in fully autonomous mode. The load that it would put on our system is high. So for these vehicles to be able to operate here, the small cell technology that would be brought on in a quicker mode would allow these vehicles to safely traverse the cities. The whole idea behind these autonomous vehicles is to have access to high-speed broadband, wireless, so they can make these decisions. When we talked about the autonomous vehicle technology, we were talking about vehicles being able to talk to the stoplights. So a stoplight would be able to let the car know as it approaches that it's getting prepared to turn yellow. An autonomous vehicle would be prepared to stop and we would no longer have vehicles running yellow lights. They would stop. So with this small cell technology, these vehicles will be capable of talking to each other. Down the road this technology will allow vehicles to vehicle communications. They talk about being able to basically see around corners. When a vehicle comes to a blind intersection, it will be able to communicate with the other vehicle coming from the blind intersection and they will know

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they're there. They won't have to see each other. Right now you still have to...all the sensors we have on those vehicles they still have to see that vehicle coming through a blind intersection. With small cell technology and autonomous vehicles, these vehicles will be able to talk to each other, they will know they're there. This technology is also coming and it's on the cutting edge. And we've talked a lot about being on the cutting edge of technology. Here's your opportunity. I think this discussion fits hand in hand with how this bill proceeds forward. I think they fit together really well. These are issues that address safety, they address how these vehicles will operate, and I think it does put us truly at the leading edge of technology. So, I think this fits really well together with the current bill. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Debate is now open on the motion. Senator Wishart. [LB989]

SENATOR WISHART: Thank you, Mr. President. I rise in strong opposition to this motion. I rise to challenge the germaneness of this amendment. I'm a little caught off guard because I did not anticipate a motion to substitute. I am not here to challenge the merits of Senator Friesen's bill. I do find it interesting that now we're talking about cutting edge technology in support of that. But I do not believe that this amendment, regardless of its merit, has any germaneness ability to be put on my bill. And just in terms of process, I have a lot of pieces of legislation. My medical marijuana bill last year that I really strongly cared about, we had a debate on the floor. I didn't get enough votes for it to pass. I didn't try to hijack somebody else's priority bill to put that on there. Senator Friesen, will you yield to a question? [LB989]

PRESIDENT FOLEY: Senator Friesen, will you yield, please? [LB989]

SENATOR FRIESEN: Yes, I would. [LB989]

SENATOR WISHART: Senator Friesen, do you feel that throughout this entire time I have at least been very open with you about where I stood with my bill, the fact I supported your committee amendment, but that I also supported Senator Larson's and was going to give him a vote and support his? [LB989]

SENATOR FRIESEN: You...I guess I don't feel you indicated you supported Larson's. You worked hard. Why did we spend so many hours working if I would have known that you did not want the amendment? We could have gone through this...saved this whole process. We spent a lot of hours meeting with city officials and everything else trying get the bill right. We worked on that numerous drafts. And I don't recall you mentioning to me that you were going to ditch the committee amendment. I knew Senator Larson was going to try something. I did not know that you would support it. [LB989]

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SENATOR WISHART: Senator Friesen, maybe I wasn't loud enough, but I remember time and time again--and I guess in the future I'll just have to be even louder with my voice like I am right now--time and time again that I said that while I supported that committee amendment, Senator Larson was going to amend an amendment on to the bill that I also really supported, because to me it made Nebraska the most contemporary state in this technology. And, Senator Friesen, do you feel that like this is fair, what you're doing right now. [LB989]

SENATOR FRIESEN: We do a lot of things that I don't know if I consider fair. I think it's a good discussion to have because they fit together well. [LB989]

SENATOR WISHART: Well, colleagues, I rise in strong opposition to this, based off of germaneness but also based of just procedure. Senator Friesen's bill had a chance. And I'm not arguing the merits of it, but it had a chance to be debated for three hours. And if he's trying to amend it onto here, obviously maybe he didn't feel like he had enough votes to get it back up. But to amend it onto somebody else's priority bill, which would obviously then sink my priority bill, I think is unfair. And with that, I strongly oppose this motion. [LB989]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Schumacher. [LB989]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This could be one powerful piece of legislation. As far as the dangers of the autonomous vehicles, those things are ten years off before you have an autonomous run. We probably will see these Level 3 things, which are just in simple language, the horse knows the way to carry the sleigh. The horse will follow a known path and if it loses...gets lost, it will turn the reins back over to the person in the sleigh. Not a big scary thing. You couple this with the small cell technology, the Level 4, which is apparently kind of an imaginary track within a town or defined campus that the vehicles can follow and those are within technical range of the next year, two or three years, and reasonably, I think, low-speed vehicles. And we suddenly are on the edge of doing something. Now, what stands in our way from taking an extraordinarily progressive step? Two entities. The first entity is the cities. They want money. They want to be able to rent out their poles for extravagant rates and do a little back scratching with the cable companies that they've done contracts with. Unless you buy them off, we all know they probably have got enough steam to stop anything. So, buy them off. How do we buy them off? Right now, the majority of the Universal Service Fund, which raises \$30 million to \$40 million a year, comes from the city's of Omaha and Lincoln, the first places likely where the small cell technology would come from. Give them three bucks a head on population out of the Universal Service Fund, put it over to those cities if they go along with the small cell antenna placement, and they may not be nearly as eager to bring this bill down. That leaves us with one opposing party. That opposing party is the 40 little telephone company fiefdoms that now get 100 percent of the Universal Service Fund, less some allocation

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there for schools and low-income people of some minor percentage. So they get \$2 million less roughly if you gave them the \$2 million. Those phone companies are dinosaurs that are dying anyway and that are impeding telephone communications in Nebraska by standing in the way of so much that could be done because they want to drag out broadband deployment in many, many cases. And they want to drag it out because if you ever got the job done you wouldn't have a cause for getting your \$30 million or \$40 million a year, and also, they're protecting their fiefdoms from the large carriers, your AT&T and your Verizon, your cellular carriers where we know the telecommunication is going to go. But if we wanted to act as a Legislature, if we wanted to grab the future by the horns, then this would be a powerful bill. Undoubtedly the regulation of the trucks and the regulation of the Level 5 stuff that would be coming along in 7 to 15 years, there would be other bills that have to tweak that and add those regulations. But we are on the cusp of something very, very powerful. But I'll just bet you, in line with our true traditions... [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR SCHUMACHER: ...of bowing to the lobby, bowing to those who make the campaign contributions, who can make the most noise in the back, we will do nothing and this bill will go down. Thank you. [LB989]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Lowe. [LB989]

SENATOR LOWE: Thank you, Lieutenant Governor. Well, things are changing around here. It was real quiet in here as we were discussing the autonomous vehicles and now that we're discussing small cell, there's a big buzz in this room. We were talking about small cell last week and those that were voting against it are all of a sudden voting for autonomous vehicles. You need small cell to run autonomous vehicles properly. It's been like...this afternoon and late this morning, it was like we were taking a chapter out of Popular Mechanics or Popular Science. We're going to be able to do this in a couple of years, maybe ten years down the road but yet we don't have the technology to run it. By deploying these small cells and eventually 5G network, that is the key to running these vehicles. Until that time we will not be able to run the Level 4 or Level 5 vehicles on our roads. The Level 3 where you have a driver behind the wheel paying attention, well, that's something we can run today, as Senator Blood has stated. But in order for this to work properly, we need small cell technology dispersed across our state and through our cities. If Senator Friesen would care to have a little time, I'd like to yield the rest of my time to Senator Friesen. [LB989]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Friesen, 3:15 if you care to use it. [LB989]

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SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. If we want to stick to the motion at hand, the motion to substitute actually it...the bills are currently really close to the same, but the one bill fixes part of the pole attachment process that we reached with NPPD in the one bill and so it fixes that and I'm substituting that into a bill where it wasn't done quite correctly. So, again, to stick to the issues here, we're substituting one amendment for another that does basically the same thing, but it's fixing part of the pole attach agreement. So that's currently what we're looking to accomplish is to put the correct version of the amendment in place so that we don't get a wrong amendment up there first. Basically, that's where we're at. So thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Smith, you're recognized. [LB989]

SENATOR SMITH: Thank you, Mr. President, and I'm going to ask Senator Wishart not to go too far, I'm going to engage her in just a moment. But I'm going to rise in opposition to the substitute motion. I don't want to rehash the discussions we had on small cell. We had a lengthy, lengthy conversation on small cell and the...Senator Lowe's and Senator Friesen's bill that they brought. And I think the three primary concerns that were expressed on the floor of the Legislature in this small cell discussion was safety, public safety with the locations of these small cell devices on power poles and streetlight poles and such. I know that Senator Kuehn had even brought up at one point that linemen are quite competent to work around these devices on power poles, but other technicians that are not from the public power industry or the utility industry that are messing around on these devices on these poles, I think that is quite problematic. We also talked about the small cell technology overstepping local authority, having free reign on accessing rights-of-way without any controls whatsoever. And we talked about creating an unfair advantage with other communication...other types of communication industry. This creates...basically, it creates unfair competitive advantage for the wireless industry. It results in subsidizing the wireless industry with taxpayer dollars, and it's just flat-out wrong. But, basically, this has, in my opinion, has nothing to do with autonomous vehicles and if Senator Wishart would yield, please. [LB989]

SENATOR WISHART: Yes, I will. [LB989]

SENATOR SMITH: Senator Wishart, do the autonomous vehicles require...do they use wireless industry? [LB989]

SENATOR WISHART: No, they do not require 5G. [LB989]

SENATOR SMITH: All right. So I think it's in that point that this makes no sense why we're connecting a small cell wireless bill with this discussion on how we're going to go as a state with

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embracing autonomous vehicle technology. It just has nothing to do with it. I understand that was in the opening of this, but I don't see it and I do stand opposed to this substitution. I'd yield the remaining time to Senator Wishart if she would like it. [LB989]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Wishart, 2:15, if you'd care to use it. [LB989]

SENATOR WISHART: Thank you, Mr. President. Again, colleagues, I rise in strong opposition to the motion to substitute and I want to get more into the germaneness problem with this amendment. Again, I want to be clear. This has nothing to do with the merit of Senator Friesen's bill. It has to do with the fact that this amendment is not germane to my bill. And I want to...I put together some language so I can be clear because I knew I would be pretty frustrated at this point in the day so I'm going to read so I can manage my frustration. I am, again, not here challenging the merits of Senator Friesen's proposal, which appears to be a reiteration of the small cell bill that this body has already heard about. As Rule 7, Section 3(d) states, "Germane amendments relate only to details of the specific subject of the bill and must be in a natural and logical sequence to the subject matter of the original proposal." I'm challenging the fact that this subject matter is substantially different. The amendment deals with wireless technology and pole attachments and my priority bill deals with motor vehicles and Rules of the Road. And, again,... [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR WISHART: ...with what Senator Schumacher has said, I would be very pleased to see this legislative body come together on Senator Friesen's bill and work to find a compromise on that bill that would bring everyone together. I would love to see that happen, but that needs to happen under Senator Friesen's bill. To hijack my bill, very well knowing, that this issue has not been compromised on, and this would take my bill down to me is completely inappropriate. And so I stand in strong opposition to this motion to substitute. [LB989]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Wishart, you're actually next in the queue. She waives that opportunity. Senator Friesen, you're next in the queue. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Again, the germaneness can be talked about in a different motion that will have to come probably, but this is a substitution language where we did reach agreement on the pole attachments and the safety issues that Senator Smith brought forward. So those issues have now been addressed. We've reached an agreement with NPPD and the bill that I want to substitute in has that correct language that addresses those pole attachment agreements. So, the safety issue has been taken care of in that

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bill and that's what the substitution would allow, is we could address it in that manner. Some of the other things that were brought up, I mean, if we want to talk about subsidizing an industry are we saying that because we don't tax someone we're giving them a subsidy? So I'm all...I thought we were all for lowering our tax obligations and that's what this bill does is, in the end, the autonomous vehicles and what the small cell bill does, they work together because they will need download and upload speeds in order to keep maps constantly updated as you put in road detours and those types of things. Even though 5G technology is not here yet, 4G technology can still carry that same data up and down and still keep those maps and everything up to date when you do have detours and those types of things. I think it's been shown that autonomous vehicles do have a lot of problems navigating detours and things like that, so I would think that this would speed up that process. And, again, when we don't allow someone to tax someone exorbitantly is that a subsidy? It's a good question. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Hughes. [LB989]

SENATOR HUGHES: Thank you, Mr. President. Good afternoon, colleagues. I kind of like this bill now. I like the small cell bill. The autonomous vehicle, I guess I was willing to work with that to put Nebraska on the cutting edge of that technology. I think we're a very good state, we're flat, wide-open spaces, I think, as a testing ground for autonomous vehicles. But the way I envision the future not on autonomous vehicles, it's not just the sensors sensing the paint on the road or obstacles out front, but I also envision GPS being used and Internet and all of those technologies that are available to us. In agriculture we have GPS, which is a wonderful thing. And being integrated into our vehicles, I think, is a key part of the autonomous portion of where we are going. There is a lot of data that is needed and the 5G that is coming eventually along with autonomous vehicles coming eventually, I think the more we can put these things together and bring the parties to the table, that's part of what we do in this body, and sometimes it's not pretty. Sometimes we have to be a little strong handed, heavy handed, but that's how we get things done is making the opposing sides come together with the incentive of making the right thing happen. With that, Mr. President, I would yield the balance of my time to Senator Friesen, if he would like. [LB989]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Friesen, three minutes if you care to use it. [LB989]

SENATOR FRIESEN: Thank you, Senator Hughes. So, again, one of the problems we had and what this is trying to correct, it's trying to put the correct language in for an amendment I had that fixes the language dealing with pole attachments and safety issues. So by allowing the substitution, you're at least allowing the correct language in there that was agreed to by the power industry as far as pole attachments. We can still have another argument about whether it's

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germane, I'm good with that. But the bill before us...or the motion before us is a motion to substitute, and all it does is correct the language that's currently in the amendment that would be first in line and it corrects that language so it allows pole attachment agreements to happen between NPPD and OPPD, and that was an agreement we finally reached after we've had our three hours of debate and I could never get a vote, basically, on the bill. So now with those pole attachment agreements in place, I thought this was an opportune time to at least have an up or down vote on whether or not we want to adapt small cell technology in this state and how we may speed up that process so when these autonomous vehicles come forward that are Level 5 they're able to talk to each other. This installation isn't going to happen overnight. This is going to take time. We've talked about this, about how the capital to put this all in place is going to take numerous years the way it is. And so in order to speed up this process we have to speed up small cell installation. We need to encourage capital investment in the state, and that will facilitate bringing in fully autonomous Level 5 vehicles down the road. I've read about the technology where it talks about vehicles being able to talk to each other going down the road. They will know in advance that they're going to make a lane change. They talk to each other. They make room for each other. That's all done through wireless technology. So with that, thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Smith. [LB989]

SENATOR SMITH: Thank you, Mr. President. I wanted to clarify something that Senator Friesen mentioned on the floor in response to comments that I made where I noted some of the concerns, public safety concerns, impact on public utilities in our state because of the language in the small cell wireless amendment that he's proposing to substitute. And Senator Friesen mentioned that they've negotiated that piece away, and they've amended that out. Well, again, I think I've said before, they kind of took their little penknife out and they made certain carve outs, but they failed to really fully address the concerns with power poles and public safety. I do know they carved out I think the REAs. I think they carved out some of the NPPD, but they didn't carve out the municipal distribution systems like LES. So they did not fully take care of these concerns that I've expressed in the past with this amendment. Regardless, it shouldn't be on this autonomous vehicle bill, but the amendment itself--which reflects very much and lines up very much like LB389 which was a small cell wireless bill--it just doesn't address the concerns that were brought up in floor debate and floor discussion on LB389. I wanted to go back to the original hearing and some of the folks that were in opposition, some of the organizations, institutions that were in opposition: the Nebraska Telecommunications Association, the Nebraska Cable Communications Association, Northeast Nebraska Public Power District, Nebraska Rural Electric Association before they got their little carve out, the Nebraska Power Association, the Nebraska Municipal Power Pool was in opposition, the city of Omaha, the city of Lincoln, the city of Fremont. Some of these have distribution systems of their own. The United Cities of Sarpy, which include Papillion, La Vista, Gretna, Springfield, and Bellevue were

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in opposition. Sarpy County Board of Commissioners were in opposition. The League of Municipalities and Nebraska Association of County Officials, NACO, was in opposition. So there was a lot of concern that was expressed during the hearing, and that's why we did not get much movement on LB389 when it was on the floor being discussed. And I certainly oppose it being amended into this autonomous vehicle bill. This bill is complicated enough. We don't need to further weigh it down. LB389 as it was introduced, and this amendment is likewise, strips local zoning authority and control. The bill mandates a one-size-fits-all approach giving a private industry nearly carte blanche ability to deploy small cell technology in public rights-of-way. Cities would lose the ability to regulate public rights-of-way, including in unique areas such as Capitol environment, environmental districts, the Hay Market, the Old Market, and other historic districts across the state. It takes away a city's ability to consider public health and safety with respect to the use of public right-of-way. And that's just dealing with the cities and that's just the beginning of the concerns I have with what the small cell technology does. Small cells are not necessarily small. They can be very large. They can be...they can break a line of sight with drivers as they approach intersections. And then you get into the fairness issue when you deal with... [LB989 LB389]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR SMITH: ...other areas...other types of communication companies, other than wireless technology companies, that have necessary and certain franchise fees. And this industry just gets around that and gives them an unfair advantage in competing in those marketplaces. So, again, this just isn't the place for this. If Senator Friesen has the necessary votes, I'm more than willing and interested in having further discussion and debate of the small cell issue, but just not on this bill. Thank you, Mr. President. [LB989]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Kuehn. [LB989]

SENATOR KUEHN: Thank you, Mr. President. And thank you, colleagues. I stand in support of the motion to substitute. I think it's great that we're talking again about incorporating these two technologies. There's a phrase that you don't want to get the cart before the horse, and has been stated several times in this case we don't want to get the car before the network. So while there may be questions statutorily and some have raised the issue regarding germaneness, I think it's highly appropriate that we're talking about ensuring that the network capacity and the ability of the network is present before we give carte blanche to the autonomous vehicles and their ability to move in a relatively unrestrained manner throughout our state. A couple of things I just want to go back to because we keep forgetting about the facts of this bill, so one of the things that Senator Smith brought up was the issue that the REAs got a carve out. Well, the REAs got a carve out because the small cell bill does not apply to the rural electrics. There will not be small

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cells in any of the communities that were represented in the counties when I was on Southern Public Power District's board. It's not what the small cell technology is. There is not...in any of our rural electric public power districts, there is not in even the best Carhenge festival, whatever kind of public community gathering you can imagine, there simply is not the density of people and the density of traffic that would require a small cell. Again, our communities in greater Nebraska, our smaller communities, are being leveraged and misinformed about how the small cell technology would be utilized and deployed and where it is necessary. It is necessary in high-density areas where there's an exceptional degree of traffic which has congested a normal cell tower. Minden will never have a small cell. The 2,500 people that live there can all jump on their phones at the same time and there's more than an adequate network capacity. So the REAs and the rural electrics are not getting a carve out because they're going to be able to deploy small cell without being subject to this bill. They're getting a carve out because the small cell technology and their requirements simply don't apply to them. And again, we have to go back to the facts of the bill, go back to the facts of the technology and what actually is being put forward and the realism of the circumstances. This is a metropolitan, high-congestion traffic issue, which means that the municipals, specifically, Lincoln, Omaha, when the State Fair is happening in Grand Island is one of the unique exceptions of when you'd have that kind of density, are really the only times that this would apply. The health and safety issue is also a bit of a red herring. Senator Smith makes it seem like just random technicians are going to be scaling these poles and coming in contact with live wires, and that defies reality. It defies who is going to have access, who is going to be maintaining and working on these structures. We're talking about trained individuals. We're talking about individuals who are maintaining a degree of safety and professionalism. It's not just anyone who's going to be climbing up as if there's live wires or some sort of issue associated with health and safety. If that poses a true health and safety risk, I look forward to Senator Smith's position on the next couple of days on a few other bills and his concern for the health and safety in some extreme circumstances. [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR KUEHN: This is a really important discussion to have to ensure that if we are going to talk about the type of deployment, which was approved when Senator Larson's amendment was adopted into LB989, making sure that the infrastructure is there and prepared to accommodate it in a safe manner. If we don't have the network, if we do not have the capabilities, then LB989 becomes in and of itself a public safety concern. So I would hope and think that Senator Wishart would encourage and support establishing the parameters for an effective deployment of the network capable to make her vision of autonomous vehicles in the state of Nebraska a reality. They go hand in hand. This is an appropriate time to discuss them and look at how we move them both forward together and cooperatively. Thank you, Mr. President. [LB989]

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PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Larson. [LB989]

SENATOR LARSON: Thank you, Mr. President. Well, I'm one...I'm sure there's a few of us that support both or did support Senator Friesen's small cells and Senator Wishart's LB989. However, I won't support the motion to substitute on the simple fact that I agree with Senator Wishart in that it is not germane. I've dealt with the germaneness fight once this year. I've dealt with many in my eight years in this body, and though I don't disagree with Senator Kuehn's analysis, the small cells will help automated vehicles and hopefully future Legislatures, without me, can move on small cell technology. I think Senator Friesen will probably be back next year. Maybe he can push that over the finish line or drive it across the finish line next year, but this isn't the place. Small cells would have made Nebraska a leader in that type of technology, and it's something that we do need in the future. Now, I heard from both sides they're going to do it anyway, carve out, what not. Like I said, I supported I think it was LB389. I would have voted for it. I support LB989 as well. And in the end it's just not germane. It doesn't flow logically in the simple sense that just because one could say that automated vehicles would work better with this, therefore it's germane. That is not a logical flow. Like I said, I had a very similar argument of flow and logic on my other germaneness ruling this year. That was not germane either. So, I will oppose the motion to substitute because I don't really want to get in another germaneness fight, but, Senator Friesen, when I'm...hopefully, I'm not watching at home next year because I won't have much to do. But I sure hope as I read in the papers next year you managed to push whatever bill number small cells is across the finish line, but today is not the day. Thank you, Mr. President. [LB989 LB389]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Friesen, you're recognized to close on your motion to substitute. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Again, what this motion does is substitute one draft that is very similar to the next, and the only fix in that draft is it talks about a correction in the ability for pole attachments between NPPD and OPPD and their ability to reach a negotiation with small cell companies. This is an agreement that we were looking for earlier when I had the small cell bill before you and we couldn't reach an agreement that seemed like everyone was putting it off, putting it off, and then trying to push it to the end to where they knew we couldn't get it through, and then they would come to us with an agreement. So it's been a stalling tactic on their part. Yes, I'm not very happy about that. We've been working on this for two years, too. This was also someone else's priority bill. But, again, the language in here, what it does is correct a small piece in the pole attachment agreement that we've reached with NPPD and OPPD regarding poles, and I think this is one more step in getting the small cell technology into the communities. And, again, part of the argument has been that some rural electrics were carved out. Yes, like Senator Kuehn says, that small cell technology will not be in those small communities. It will not be in the country. It doesn't fit there. That 5G technology will be

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inserted into the current cell towers that we have. They don't need small cell technology, because small cell technology is meant for these very urban, concentrated areas, and you can take around Memorial Stadium and those things. That's where it's meant to be. And so to get that expansion started now so that we're ready a few years from now when that 5G technology comes and the fully autonomous vehicles and delivery trucks come that we have that network built. This doesn't happen overnight. This is going to be around a billion dollar investment in this state. That's not going to be done in one year. We need to get that process started. That's what this does. This was just one small piece of correcting the language in that bill. And so with that, I urge you to allow the substitution and then we can have a discussion on the germaneness. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Members, you've heard the debate on the motion to substitute AM2892 for AM2879. The question before the body is the adoption of the motion; 25 votes required. 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. [LB989]

CLERK: 19 ayes, 1 nay to place the house under call. [LB989]

PRESIDENT FOLEY: The house is under call. Senators, return to your desk, please. Check in. The house is under call. Senator Friesen previously asked for roll call and regular. Senators, please return to your desk and check in. The house is under call. Senator Wayne and Senator Chambers, please return to the floor and check in. All members are now present. The question before the body is the motion to substitute AM2892 for AM2879. Senator Friesen has requested roll call vote in regular order. Twenty-five votes required. Mr. Clerk. [LB989]

CLERK: (Roll call vote taken, Legislative Journal pages 1492-1493.) 12 ayes, 33 nays on the motion to substitute. [LB989]

PRESIDENT FOLEY: The motion is not successful. I raise the call. Members, because the motion was not successful we're back on AM2879 offered by Senator Friesen. Mr. Clerk, I understand there's a motion at the desk with respect to that amendment. [LB989]

CLERK: There is, Mr. President. AM2879 is before us. Pursuant to that, Senator Friesen would move to suspend Rule 7, Section 3(d), the germaneness rule to allow consideration of AM2879. [LB989]

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PRESIDENT FOLEY: Out of order. Senator Friesen, you're recognized to move on your motion to suspend the rule of germaneness. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So here now we're talking about the germaneness of the issue. And so now we look at the small cell technology verses autonomous vehicles and how they fit together in the bigger picture. Without this technology and the wireless interconnection that we're going to have going forward with autonomous vehicles, we cannot have what we call Level 5 operation here, so when we want to have the latest and the greatest technology that we've talked about, we have talked about being on the cutting edge of everything. We've talked about the cutting edge of fully autonomous vehicles beginning to roam our streets without even running them through a test or a pilot program to test whether they're ready. We want to be on the cutting edge. Then let's be on the cutting edge with the technology that helps them operate. The city of Lincoln here recently, they want to run a pilot program here with autonomous vehicles that transfer passengers in a...this started out in a very confined route from near the Capitol here to Memorial Stadium, and it was defined and it was very well regulated and so in the end we wanted to combine some efforts with Senator Larson and allow any city in the state to run a pilot program or a test project. So we went through the committee amendment and created the ability to have this statewide. And from there Senator Larson has brought in the operation of fully autonomous vehicles anywhere in the state with no regulations, no controls, no talk about how we're going to insure them, what other conditions might need to be met. We're not going to talk about that, we're just going to open it up. These vehicles, when you read about future technology and what's coming, these vehicles are all going to talk to each other. If we want the latest and the greatest high-tech, we could be the first city in the nation to have the 5G with fully autonomous vehicles. The possibility exists. We're talking about a billion dollar investment and they're not going to ask for tax credits, they're not going to ask for any exceptions. They just want to invest the money in the state because they thought we could take this advanced technology and put it to good use. Lincoln is known as the Silicon Prairie--high technology, high speed Internet. This is a perfect fit for this community to put autonomous vehicles to work. Autonomous Uber, no drivers needed. You can't be rude to them, they can't be rude to you. You call them up with the phone, you summon a vehicle, it comes and picks you up in your neighborhood and takes you wherever you need to go. The city of Lincoln wouldn't collect the revenue from the parking garages, but currently, they're able to tax the wireless industry to make up that difference, I'm sure. It's going to disrupt everything we know as far as the automobile world, repair shops. Do you think the average nondealer repair shop is going to be able to touch one of these fully autonomous vehicles? No way. Only the manufacturer will have their representative working on these vehicles. The risk would be too great to let someone mess with that software. The right to repair, forget it, it's not going to happen. This is high tech. Each company will be responsible for their own cars. Look at the disruption in the parts industry that we run on, the repair shops, the insurance industry. Insurance rates should drop like a rock. We are going to touch so many segments of our society and we don't even get a chance to study

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it. You can have pizza delivery with no one to tip but the Uber car. Maybe you'll give it a little charge of electricity to get it back home. That will be the tip. Down the road when we talk about the wireless technology, the small cell technology may be gone. Maybe we'll all be guided through satellite, but in the end the two are very compatible. They cannot have one without the other. They need high-speed access. All the calculations that happen in that autonomous vehicle would overload most computers--the data it collects. Can you imagine if you had an Uber car that was fully autonomous roaming the city, can you imagine with all the sensors and cameras on it, what kind of data it could collect if the police wanted to look at that. Who has access to that data? What's it worth? Can I sell that data? Can the police use that data to make sure that they locate a person of interest, because there's just going to be tremendous amounts of data collected. Those cameras and those sensors are going to keep track of everything that happens with that car. If there's so much as a fender bender happens, there's going to be tremendous amounts of data that get uploaded to make sure that they can place the blame in the correct spot and that autonomous vehicle will not be held responsible. Can you imagine what happens when an officer wants to impound a car or whatever, collect the data that it's seen. Maybe it was involved in a crime of some sort. Look at all the data that would be available to those officers. All the pictures, all the video, whatever is stored, for ever how long is going to be accessible to someone. Advertisers could sell data as you drive by their store. They could text out a special, a sale, red-tag special as you drive by. This technology is going to change a lot of things. And, yeah, we want to be on the cutting edge of it so that we want no regulations at all. I'm all for getting rid of regulations, but I don't want to do it when I'm imperiling the public safety. And if we can show that we can run a test pilot program in this city, I would love to see this technology here. When it was first proposed I was 100 percent in favor of it. I thought it would be awesome to be able to jump on an Uber shuttle or whatever it's going to be called and ride over to Memorial Stadium, so I didn't have to walk there on football Saturday. It would be awesome. And I think it would be something we could be very proud of. But I cannot support the total "unregulation" start-up of something like this. And so to me the germaneness of it is you cannot have one without the other. If there was no wireless ability to hook up here, a lot of things could not connect and it would not happen. These two technologies fit hand in hand. So I would argue that with the correction that we could have had we are so close to reaching agreement on small cell technology that this is the next best thing. This would assure, at least, that the newest technology could be started here immediately. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Debate is now open on the motion. Senator Wishart. [LB989]

SENATOR WISHART: Thank you, Mr. President. I rise in opposition to the motion to suspend the germaneness rule and, again, I feel like this motion kind of sums up the fact that if we have to suspend the rules for germaneness, then this must not be a germane amendment to my bill. And, again, I will go through why this amendment is not germane. As Rule 7, Section 3 states,

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"Germane amendments relate only to details of the specific subject of the bill and must be a natural and logical sequence to the subject matter of the original proposal." I'm challenging the fact that these subject matters are substantially different, and I don't think we should start suspending the rules on germaneness when it is very clear that this bill is not germane. The amendment deals with wireless technology and pole attachments, and my priority bill deals with motor vehicles and the Rules of the Road. Those certainly do not open the same statute areas. I anticipate that Senator Friesen and proponents will argue, and they have, will have argued that 5G is essential to driverless technology. That is simply not the case. There is autonomous vehicle technology six million miles already driven in the United States plus of autonomous vehicles being used in many states where there is no 5G technology. The potential of this technology assisting driverless vehicles doesn't make it germane. And, frankly, those that are pushing in opposition to LB989 with the committee amendment, and then are saying we need to be tech friendly and have small cells, they should be glad that this...that we're having a first step in terms of technological advancement. Maybe in the years future they'll be able to work to find a compromise on small cells moving forward next year. Putting this amendment on my bill would be the equivalent of putting it on an amendment that deals with tires, gas, ethanol, environmental issues, saying that that would be germane. So I would respectfully ask all of my colleagues to vote in opposition to the suspension of the germaneness rule. Thank you. [LB989]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Smith. [LB989]

SENATOR SMITH: Thank you, Mr. President. I rise in opposition to the motion from Senator Friesen to suspend the germaneness rule. These are two very distinct and different subject matters. They deal with different areas of statute. LB989 deals with a particular type of motor vehicle and is a transportation issue. AM2879 deals with wireless pole attachments and is a telecommunications issue. The language in LB989 speaks to issues that are covered under Chapter 60, the Rules of the Road, proof of financial responsibility, and the implementation of the bill by the Department of Motor Vehicles. AM2879 is about the deployment of small cell wireless facilities in public rights-of-way. Related statutes are generally covered under Chapter 86 of our statutes. Additionally, the wireless providers involved in advancing this technology are regulated by the Public Service Commission, not the Department of Motor Vehicles--very distinct. Proponents of this amendment may also argue that AM2879 is germane because of 5G...that 5G is essential to driverless vehicle technology. I touched on that earlier in my opposition to the amendment. This is a false argument, one, because there are already driverless vehicles operating in other states and 5G technology is not here yet. Two, as we discussed on LB389, we are able to move on small cell agreements without legislation as Lincoln, Omaha, and other cities are proving. AM2879 is not germane and serves only to derail LB989, and that is why I rise in opposition to this motion to suspend the germaneness rule. Thank you, Mr. President. [LB989 LB389]

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PRESIDENT FOLEY: Thank you, Senator Smith. Senator Friesen. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So, again, let's talk about small cell technology and how that can benefit the autonomous vehicle industry. When you look at that...and they do fit together. The technology that they're going to need as we advance down the road, and everyone here, ever since I brought up the small cell technology, it seems like the same people happen to be on both sides of this issue. So I'm confused. I thought we wanted to be on the cutting edge of everything. We wanted to be leaders in the industry, leaders of the country in adapting all of these technologies, all of the above. And so to me these two do fit together. We've all been saying the same things, only we say them on different bills. We want to be leaders in technology, whether it's autonomous vehicles or small cells. Can you imagine what this place would be like with the small cell technology and 5G in it and autonomous vehicles? Get rid of the parking garages, put in condos and apartment complexes or businesses. You could make this city grow. You could grow this city. You could...look at all the parking garages that could be taken down. The industry would sell half as many vehicles. No one would need to own a vehicle. Any time you needed to plan a trip, you get on your cell phone, you hit the app, you order up a vehicle to show up at 1:45 to take you to the airport. Autonomous vehicle pulls up, picks you up, takes you to the airport and goes about doing its business. You don't need to own the car. You don't care about the car. You go on your trip. No parking fees. No driver's licenses. Get rid of the driver's licenses. We don't need ID anymore. The officer can't stop your car and ask you to show your driver's license and your insurance. You don't care, you're sitting in the backseat. Think of the disruption that's going to happen in our communities. It's going to be a breakthrough. You know, when I'm 90-some years old and my kids don't want to see me on my large pickup, they're going to be thankful that I'm in an autonomous vehicle. Everybody's going to be a lot safer. We have people in town who I'd love to see in an autonomous vehicle. Part of the testimony here in Lincoln when we were talking the question was, is an autonomous vehicle going to fit in to the city of Lincoln? I think they're going to impede traffic, because it's going to refuse to break the speed limit. It's going to refuse to run a yellow light and it's going to stop traffic behind it and cause congestion. But we'll deal with that because we'll have small cell technology that will be able to communicate with other vehicles and they'll know ahead of time that they need to change routes. The interaction is going to be amazing. And when you look at the investment that's going to come with this, to be in the cutting edge of technology on the Internet of things, it's going to be unbelievable. And the amount of data we're going to have to process is going to be many times greater than what we have to deal with now. These two do fit hand in hand. If you would have too many autonomous vehicles running and they overload the bandwidth of our current system, they could not download the latest information on detours, road closures, whether or not that light is beginning to turn yellow or not. [LB989]

PRESIDENT FOLEY: One minute. [LB989]

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SENATOR FRIESEN: That technology has been talked about in this city. They would know ahead of time that that light has so many seconds before it turns yellow. There would never be any slammed on brakes or skid marks. It'd just be those people in the other vehicle that don't have the autonomous capacity will run into the back of these autonomous vehicles. The technology is coming whether we like it or not. Let's embrace both technologies. They fit together. These two are very germane. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Wishart. She waives the opportunity. Senator Kuehn. [LB989]

SENATOR KUEHN: Thank you, Mr. President, thank you, colleagues. I stand in support of Senator Friesen's motion to suspend the germaneness rule. I think given the coordination of these two policy initiatives and the importance of both of them advancing together that it is an appropriate opportunity for us to look at the germaneness issue and include both of them as we advance them as one package. I do reject, however, Senator Smith's claim that germaneness is not an issue based purely on the different sections of statute, only based on his own committee amendment to LB947 which you'll note is a big chunk in Section 77 and then has a series of cash transfers in Section 84, which are two completely different sections of statute, one dealing with tax policy, the other dealing with cash transfers, so we already have set precedents--Senator Smith, himself--with looking at widely disparate sections of statute included in the same amendment, included in the same piece of legislation for our consideration. So if our question in regard to the germaneness rule is to ensure that things unrelated in nature are not considered together, I think as we've been discussing consistently, as we discussed last week when we first dealt with the small cell bill and then moved on LB389 and then moved on to the autonomous vehicles bill, that they do go hand in hand. And while they are separated in different regions of statute, both of them were referred to the same committee of jurisdiction. So both of them were transportation and telecom issues, both of them deal with the deployment of advanced wireless technology, and both of them are in many ways interdependent upon each other for their advancement. So I think it's a rare opportunity in which we should consider suspending our rules, but in this particular case, I think it makes sense. It makes sense from a policy perspective. It certainly makes sense from a policy procedural perspective given where we are in the legislative session, and gives us an opportunity to really consider these policy issues together and think about...Senator Schumacher proposed this idea last week, and I think it's one well worth considering. We have an opportunity to meld two together, build the coalition necessary for compromise to move both policy initiatives forward and result in moving Nebraska forward to the leader of the pack in adopting wireless technology, both in its infrastructure as well as its practical deployment. Thank you, Mr. President. [LB989 LB947 LB389]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Schumacher. [LB989]

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SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I'm not sure why we're even suspending the germaneness rule or trying to because this is incredibly germane. This has the potential for being the powerhouse bill of the time that I've been in the Legislature and moving this state into a prime position to take on the future. Both of these concepts deal with the removal of bureaucracy as an impediment to the movement of commerce. In one case the commerce is data, it's the Internet of things. In the other case it's things and people. But they're the same thing in the same spirit. And what I find so incredibly interesting about this is that our cities, who are normally trying to push us forward, are being reactionary in respect to this technology and the marriage of these technologies and the leverage of the power of one to enhance the other. That's a shame. Why are they doing it? Over a few hundred thousand dollars a year in pole attachment fees. Oh, my goodness. They can still regulate their rights-of-way. A few hundred thousand dollars a year is buying off the major opposition to this tremendous technological movement that we have on the board today. The amount of economic spinoff has got to be any number of times that. The downside to this, virtually nothing. And if we don't dip into the NUSF to pay off the cities, probably the little phone companies will just go back into their...under their rocks. We have an opportunity here that is unquestionably futuristic. The danger, there's no danger. No company's going to put this Level 5 stuff--and that's the fully autonomous stuff--on the road until they've got the federal permits and until many years go by and in those many years of going by the Legislature can respond accordingly. We have an opportunity to say, yes, to the future today. Maybe the politics and maybe the procedures won't allow us even to get a vote on the bill, and that will be a shame. And the responsibility for keeping us tied to the past will lie with the most unlikely of entities, our major cities. And the reason, a few hundred thousand dollars a year in pole attachment fees. If Senator Friesen feels we have to suspend the germaneness rule, suspend it. Add his amendment. Move the LB989 forward, and suddenly we might actually draw a smidgen of attention from people who say, maybe something can happen in Nebraska besides spinning in the mud. Thank you. [LB989]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Lowe. [LB989]

SENATOR LOWE: Thank you, Lieutenant Governor. This is very germane. They both deal with each other. They both deal with the rate of speed that information can be downloaded and uploaded into the system. The faster that is done, the safer these vehicles are--bottom line. Let's make these vehicles, these autonomous vehicles, as safe as possible as soon as possible. Now, Senator Schumacher made a point that we're years off from the Level 5, and he's probably right by what I've been reading on the Internet in the meantime as I've been waiting. People from all over the world are still waiting on Level 5. But if I was one of those persons that believed that the Russians are hacking into our voting systems and people are hacking into systems, they better be watching out with these autonomous vehicles. Think of all those points of data that can come from those sensors and the cameras on these vehicles, on us as private citizens. They'll know what we're doing. They'll know where we're traveling. They'll know what we're wearing.

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They will know who we are and what we're doing at all times in these vehicles. They will be able to track us. The companies will be able to follow us. Bubble gum factories will now know where to go because it's where they take the kids. There is a possibility of selling the data or of hacking the data and knowing what is going to be going on with these vehicles. I am for the autonomous vehicles, but we need to put the fuel in first before we can have the autonomous vehicles. This is not like inventing the car before gasoline because the car could not run. These cars can run without the speed of 5G and using the small cell, but they don't run as well. They do not run as well without the small cell. And as far as big, "lunky," small cell fixtures, they're getting smaller every day. Technology is allowing them to get smaller. They will not put a big box up on a pole if the pole can't support it. That would be foolish because when the pole falls they have to put a brand new one up. That will cost money. And they are looking at advancing nearly a billion dollars into our state in the next several years if we allow this to go through, a billion dollars. That's good money in most people's minds. Matter of fact, a lot of people can't count that many zeros. Let's make this germaneness germane. Let's get Senator Friesen's AM2879 attached onto LB989 and make this a good bill. Let's pass this through. Thank you, Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Kolowski. Senator Kolowski? [LB989]

SENATOR KOLOWSKI: Call the question. [LB989]

PRESIDENT FOLEY: Question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. 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. Thank you. [LB989]

CLERK: 21 ayes, 2 nays to place the house under call. [LB989]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Senator Groene, if you could check in. Senator Chambers, if you could check in. Senators Hughes, Kolterman, Howard, Hilgers, Morfeld, Vargas, Brewer, please return to the floor and check in. The house is under call. Senator Howard. All unexcused members are now present. There's been a request for a roll call vote in reverse order on the question of whether or not to cease debate. [LB989]

CLERK: (Roll call vote taken, Legislative Journal pages 1493-1494.) 34 ayes, 12 nays to cease debate. [LB989]

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PRESIDENT FOLEY: Debate does cease. We're still under call. Senator Friesen, you're recognized to close on your motion to suspend the germaneness rule. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. When we talk about autonomous vehicle technology and the small cell technology, to me they fit hand in glove. If we do not prepare our cities with small cell technology, they will not be able to run the autonomous Level 5 vehicles. The future of the technology is going to demand tremendous amounts of data and when you look at the technology of the autonomous vehicles, the sensors, the cameras, and all of that stuff, all of that data is going to be collected, there's vehicles are going to start talking to each other. And so in order to be on the cutting edge of the industry which we have all unanimously talked about in this debate, everyone wants to be on the cutting edge of technology. The city of Lincoln could be on that cutting edge of technology with small cell technology in place, and Level 5 vehicles eventually coming. That's...they work hand in glove. They fit together. And it takes time and it takes investment for that technology to come here. So in order to be prepared for that Level 5 autonomous vehicle, we need to have small cell technology in place. So, these two do fit together. They're high tech. And this whole industry is going to be disrupted by what we do. When you look at everything in a bigger picture and down the road as this technology becomes more and more commonplace, we're not going to need driver's licenses. We won't need parking garages. We won't need repair shops other than the dealer repair shop because they will not allow you to touch that vehicle, because you probably won't own it. There could be half the vehicles owned in this city. You wouldn't need garages on your house. You wouldn't need parking garages. You can tear them down, put up housing. With that housing, you need small cell technology, high speed Internet, wireless. We are going to disrupt an entire industry and we are not thinking ahead far enough to make sure that we're ready for it. We have not developed our laws, our insurance industry, our rules of the road, and yet now we're going to exempt them and allow them to operate autonomously, without a test program, without higher insurance levels. We're going to have autonomous taxi drivers...or taxi cars, Uber, Lyft, everything could be totally driverless. You summon it with your phone, it comes and picks you up and drops you off at work and continues to work the rest of the day. No more gas stations. We're all electric vehicles here. The future. The green future. I can see it now. On football Saturday, streets won't be plugged with vehicles, they'll be flowing smoothly. Pedestrians will be riding to the stadium in autonomous shuttles. We won't have all the congestion down there by the stadium. Everybody will have access to Wi-Fi, high speed. This is going to be awesome. I could actually just stand outside the stadium and watch it on my phone. That way I wouldn't have to sit in those narrow seats. Wouldn't have to buy the ticket. [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR FRIESEN: This is the cutting edge of both technologies. This is leading the country if we send these two out together. We're ready. The only thing we're talking about and it all boils

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down is to money and how much cities can charge to let this small cell technology out there. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Members, you heard the debate on the motion to suspend the germaneness rule as it related to AM2879. The question before the body is the adoption of the motion; 30 votes required. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB989]

CLERK: 10 ayes, 29 nays, Mr. President. [LB989]

PRESIDENT FOLEY: The motion is not adopted. I raise the call. [LB989]

CLERK: Mr. President, the next amendment I have to the bill, Senator Smith offers AM2890. I have a note that Senator Smith would like to withdraw and substitute as an alternative AM2899. (Legislative Journal pages 1494-1497.) [LB989]

PRESIDENT FOLEY: An objection has been heard. [LB989]

CLERK: Senator Smith would move to allow for the substitution of AM2899. [LB989]

PRESIDENT FOLEY: Senator Smith, you're recognized to open on your motion. [LB989]

SENATOR SMITH: Thank you, Mr. President, and pretty basic. I brought my original amendment to accommodate some of the concerns that the railroads had with safety of autonomous vehicles around railroad crossings. And at that time we were looking at simply to make certain that we simply required safety considerations of autonomous vehicles relative to railroad crossings and then to require the consultation with the railroad companies when seeking any exemption of vehicle operations at railroad crossings. And that was my original bill. But there were some additional changes that we felt should be included in addition to those in order to make this bill better and certainly better relative to safety concerns and liability concerns. So the substituted amendment would include those items that I mentioned relative to railroad safety, and then would also make certain to note that the state is not required to modify highways to accommodate autonomous vehicles and that there would be a protection of municipal, state, and county governments with regard to highway defects. So if there were highway defects, that would be the responsibility, the burden would be back on the autonomous vehicle, not on the local governments or the state government. And that's the intent here, is to make certain that if this bill continues to advance, which it appears that it's going to, we want to make certain that we have the best bill possible. And I would appreciate allowing this substitution to take place so that

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if this bill does move forward, we have these items in place for the well-being of the state of Nebraska. Thank you, Mr. President. [LB989]

PRESIDENT FOLEY: Thank you Senator Smith. Debate is now open on the motion to substitute AM2899 for AM2890. Senator Friesen, you're recognized. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Suddenly we're talking about some safety issues. So now we're going to carve out the railroads? I thought there were no safety issues to be dealt with. Everything was good to go. We had autonomous vehicles rolling, we didn't have the small cell technology to make them safer and that didn't seem to matter. But now suddenly there's an industry that wants to be carved out. They want to be held harmless if something happens. Maybe that autonomous vehicle can't see railroad tracks. Maybe it can't read the railroad sign. Sure wouldn't want to hold the railroads responsible for that. But it's okay if somebody is walking across the crosswalk and they get mowed down. That's not a problem. We don't need any more rules and regulations to burden us with anything there. But when the railroad industry comes and talks about safety issues, suddenly we can find an amendment. We need to fix it. I'm all for making a bill better. Let's talk about insurance rates. Let's talk about how they're going to operate under our Rules of the Road. Let's talk about insurance issues that are not being addressed. But we'll carve out a piece for the railroads to make sure that they're not harmed. If these autonomous vehicles are as good as they say, I'm sure they could detect a railroad. So why do we need a bill dealing with this? There were no safety issues. We did not hear about any safety issues up until now. There were no problems. Suddenly things pop up. Now, suddenly, we're going to be carving out something for the railroads to hold them harmless. Who's next? When we have a street that's closed, is the city held harmless if the Uber ride in the car doesn't see that the road is closed and it charges through the barricades and mows down 20 people? We don't care. We're not willing to put them under a test program to see if they can function in our climate, on our roads that are snow covered or ice covered. It's not a safety issue to us then. Why should this be a safety issue to us now? Let's continue to carve out little things. Let's carve out school areas so they can't drive next to a school. More and more children are killed each year getting on and off a school bus. Let's carve out an area next to them so we can't have autonomous vehicles within two blocks of a school. That would be foolish. We want to send our kids to school in an autonomous vehicle. That way we don't have to take them to school in the morning. So if there's safety issues, why are we talking about the railroad and safety issues with the railroad when there's no safety issues with crosswalks, bicycle lanes, bike paths. Those don't seem to need a carve out. So, again, I urge you to look at the bill, read the bill, see what we're doing. I know you promised a vote, but think of the safety of the citizens. Think of the kids walking to school and whether or not they'll be safe. Let's test these vehicles first, let's get reports on how good they are,... [LB989]

PRESIDENT FOLEY: One minute. [LB989]

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SENATOR FRIESEN: ...let's see how many times they disengage from the autonomous mode and see what the reasons are for that disengagement. Let's study this. Let's do a one-year pilot program. Let's do the LR over summer. We can still be on the cutting edge of technology before small cell technology will be deployed anywhere in the state. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Wishart. [LB989]

SENATOR WISHART: Thank you, Mr. President. Colleagues, I want to be very clear, I strongly support Senator Smith's motion to substitute AM2899 for AM2890. And I have been a part of working closely with the railroads, with the Policy Research Office, and with the automotive industry and also with insurance to carefully draft this amendment to address any of the concerns they have so we can move forward with a clean copy when we get to Select File. So I want to walk you through then, because I know this has been an interesting battle today and maybe somewhat confusing. I'd like to say that my training wheels have obviously come off at this point. So, again, colleagues, strongly support the motion to substitute. What this does is it allows an amendment that has some issues that the Policy Research Office wanted us to address in terms of liability. It also has some issues in terms of making sure that we are always...the statute is always staying current with what is happening at the federal level, and then it incorporates AM2890, which was Senator Smith's original amendment that he filed, which was an issue that the railroads had in terms of public safety. So, again, I support the motion to substitute AM2899 for AM2890. And then I also strongly support the committee amendment. If you remember, we worked on that and introduced...Senator Larson introduced an amendment that transformed the committee amendment, so I strongly support the committee amendment. And then I would encourage this body to move forward voting on LB989. So, once again, I support the motion to substitute, I support the committee amendment, and I support LB989 with all of those above. Thank you. [LB989]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Smith. He waives the opportunity. Senator Bostelman. [LB989]

SENATOR BOSTELMAN: Thank you, Lieutenant Governor. Now we're talking about safety issues here a little bit so I pulled up a couple of articles on-line that were talking about mapping. This is a February 2018 article, "Driverless cars: mapping the trouble ahead." It reads: Competition between companies is putting a brake on the highly complex 3D maps autonomous vehicles need to function. When a self-driving car looks at the world there are many things it sees. It has radars that measure distance to the next car, it has cameras that take color images of the street, and it's LiDAR sensors send out laser pulses that gauge the surroundings. For any robot-driven car, one of the most important components of the journey is not just what it sees,

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but what it knows beforehand about the area it is traveling through. The robot needs a map, but not just any map. These cars need a three-dimensional representation of the environment around them, one that is updated continuously and is accurate down to the centimeter. As it cruises through the streets a self-driving car collects more than a terabyte of data a day, enough to fill 1,400 CDs. With that much detailed information coming from the car's many sensors, however, it is uneconomic to send it through a network like the Internet. Instead, companies have to physically move the data from one hard drive to another, a process sometimes called the "sneakernet" because engineers joke that the hard drives move at a pace of their own footwear. The data collection is part of a great race of amassed knowledge about the physical world that can be used to train the new generation of cars. Researchers hope that eventually the base layer of information will have applications, not just for transport and logistics, but also for the development of augmented reality technology becoming like assimilation of the real world that can be used by any robot, drone, or car. It further goes on to talk about the amount of cost to that in there. Now I want to skip over to an MIT document about uncertain roads. With such technology already on the road and prototypes like BMW's in the works, it's tempting to imagine that total automation can't be a far away. In reality, making the leap from the kind of autonomy that Mercedes Benz S Class to the kind in BMW's prototype will take time. And the dream of total automation could prove surprisingly illusive. For one thing, many of the sensors and computers found in BMW's car and in other prototypes are too expensive to be deployed widely. And achieving more complete automation will probably mean using more advanced, more expensive sensors and computers. The spinning laser instrument, or LiDAR, seen on the roof of Google's cars, for instance, provides the best 3D image of the surrounding world, accurate, down to centimeters but sells for around \$80,000. Such instruments will also need to be miniaturized and redesigned adding more cost since few car designers would slap the existing ones on top of a sleek new model. It goes on to talk about, costs will be just one factor, though. While several U.S. states have passed laws permitting autonomous cars to be tested on the roads, the National Highway Safety Traffic Administration has yet to devise regulations for testing and certifying the safety and reliability of autonomous features. Two major international treaties, the Vienna Convention on Road Traffic and the Geneva Convention on Road Traffic may need to be changed for cars to be used in Europe and the United States, as both documents state that a driver must be in full control of a vehicle at all times. Most daunting, however, are the remaining computer science and artificial intelligence challenges. Automated driving will at first be limited to relatively simple situations... [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR BOSTELMAN: ...thank you, Mr. President...mainly highway driving because the technology still can't respond to uncertainties posed by oncoming traffic, rotaries, and pedestrians. And drivers will also almost certainly be expected to assume some sort of supervisory role requiring them to be ready to retake control as soon as the system gets outside

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its comfort zone. Now we're talking about safety considerations with railroads. What about school crossings? What about our pedestrian crossings? What about our bicycle routes that we have in the city of Lincoln and other cities? The relationship between human and robot driving could be surprisingly fraught. The problem as I discovered during my BMW test drive is that it is all too easy to lose focus and difficult to get it back. The difficulty in reengaging distracted drivers is an issue... [LB989]

PRESIDENT FOLEY: Time, Senator. [LB989]

SENATOR BOSTELMAN: Thank you, Mr. President. [LB989]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Friesen, you're recognized. [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Would Senator Wishart yield to a question? [LB989]

PRESIDENT FOLEY: Senator Wishart, will you yield, please? [LB989]

SENATOR WISHART: Yes, I will. [LB989]

SENATOR FRIESEN: So when did the railroad bring this issue to you to discuss? [LB989]

SENATOR WISHART: So I heard from the railroad about I believe three days ago. [LB989]

SENATOR FRIESEN: And this was the first time that they brought forward an amendment to fix the problem? [LB989]

SENATOR WISHART: Yeah, this was the first time I'd heard from them. [LB989]

SENATOR FRIESEN: Could you explain exactly what this does as far as change their liability or what is the issue that they wanted to address? [LB989]

SENATOR WISHART: No. So it would require the department to consult with railroads operating in the state before authorizing use of autonomous vehicles at railroad crossings. And you can find that in Section 3. [LB989]

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SENATOR FRIESEN: So they would have to ask permission from the DMV before they cross a railroad. [LB989]

SENATOR WISHART: They would need to consult with the DMV before autonomous vehicles will be having railroad crossings. [LB989]

SENATOR FRIESEN: So if, for instance, the Lincoln test or the program that you want to run, if it crossed railroad tracks, you would now have to consult with the DMV in order to cross that railroad track? [LB989]

SENATOR WISHART: Yes. [LB989]

SENATOR FRIESEN: Each time that you cross it? [LB989]

SENATOR WISHART: So I'll have to look at that really quickly, but I believe it is just an initial consultation. But I'll look at that and get back to you. [LB989]

SENATOR FRIESEN: So there's not really permission or anything else, it's just consultation just to say, I want to cross your road tracks. And they'll say, yeah, go ahead. [LB989]

SENATOR WISHART: It would require consultation. [LB989]

SENATOR FRIESEN: Okay. So if a person was driving through the state in a Level 3 vehicle, would they be required to consult before they're allowed to cross railroad tracks? [LB989]

SENATOR WISHART: Senator Friesen, let me get back to you on that one, on the Level 3, specifically. [LB989]

SENATOR FRIESEN: Thank you. Thank you, Senator Wishart. Again, these are carve outs that we could have. Should autonomous vehicles be required to consult with the school district before they cross a school crossing zone? Why is it that they have to consult with the railroad to cross a railroad track? There's an issue here. There's something wrong. Something is not quite up and the railroads don't want them crossing their tracks. You can have a consultation. That doesn't mean anything. That doesn't mean you can or you can't. If they're going to require you to consult with them before they cross the tracks, what good is an autonomous vehicle? To me there's something up here that just doesn't quite fit the mold. If there's a safety issue, let's talk about it. But to just come up and consult about crossing a railroad track, who are they concerned about?

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The train? I don't think any of these vehicles are going to hurt the train. I think they're concerned that the train will hit the vehicle. So they must have some issues crossing railroad tracks. Let's talk about the issue at hand. Let's talk about the safety. Why is it that railroads suddenly feel the need to have this built into their rules? They didn't require this when it was just a committee amendment without the Larson amendment attached. They seemed to be comfortable with our amendment. But suddenly now they're concerned about an autonomous vehicle crossing railroads tracks. That strikes me as being very peculiar. Thank you, Mr. Lieutenant Governor. [LB989]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Smith. [LB989]

SENATOR SMITH: Thank you, Mr. President. And I know we're going to be going to cloture here shortly, and I think Senator Wishart has done a good job of explaining the bill and the amendments that are pending. Again, my intent with this bill--and it's a friendly amendment--is to address some of the safety issues, specifically around railroads, railroad crossings. So when the cloture vote comes, I would appreciate support of the motion to substitute AM2899 for AM2890 so we can get that moved up, and support that motion, and then to support the underlying amendment, and then LB989. Again, as Senator Wishart stated, this is a friendly amendment. It does address some of the concerns that we had from the railroads and I appreciate Senator Wishart working with me to get this amendment into the underlying bill. Thank you, Mr. President. Thank you, colleagues. [LB989]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Brasch. [LB989]

SENATOR BRASCH: Thank you, Mr. President. And good afternoon, colleagues and those watching today. I have not stood up to speak on this today, but as I'm doing a little side reading, if the Americanism bill should happen to get on the agenda tonight I may not get an opportunity to speak. But this is very pertinent here on vehicles that are controlled by 5G, by technology, because if you would, before this evening even, get a chance to read the Impremis article on "How to Meet the Strategic Challenge Posed by China." It talks about America and that America's greatest danger is not a lack of strength, but complacency. And it goes into a little bit of their strategic plan of dominance and that is through technology. China now controls 70 percent of the world market in telecommunications, that their telecommunications company is the biggest in the world, and it hardly existed a dozen years ago and it makes a campus that makes Stanford look like a swamp. Seventy percent of our technology, and we rely on satellites for Internet, our infrastructure, and technologies. And I did read several years ago that North Korea was targeting our satellites. So, now we're in one of these autonomous vehicles and a government decides to target one of the satellites, and all of these autonomous vehicles, they're not running. And I believe it's very important on the railroad tracks that we're not sitting in our

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autonomous vehicle on a railroad track. So I do think that America needs to invest in American technologies. Their government subsidizes technology and heavy industry in China. They believe that they can have world dominance and control through heavy industry and through technology. And years ago, not that long ago, in 1999, we had about 25 percent of the world market in technology. And America...well, they have...China has 25 percent, excuse me. But America used to have 20 percent and now we're down to 7 percent. So not only everything you open up has a label of made in China, now we're looking at what you have made in China, and I'm not sure where the vehicles are going to be made, but the same chips of concern to us that run a lot of our military aircraft are also made in China. So, when you're so sure that this is the path moving forward to the future, it says that America has to take a leap of faith in our ingenuity and our science. And I quote, we can meet the strategic challenge of China... [LB989]

PRESIDENT FOLEY: One minute. [LB989]

SENATOR BRASCH: ...but we have to do it in the American way. But we're not teaching our students the American way. Thank you, Mr. President. Thank you, colleagues. [LB989]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Friesen, for what purpose do you rise? [LB989]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I'd wish to withdraw my motion to object. [LB989]

PRESIDENT FOLEY: The objection is withdrawn, therefore the amendment is substituted. Mr. Clerk, you have a motion at the desk. [LB989]

CLERK: I do, Mr. President. Senator Wishart would move to invoke cloture. [LB989]

PRESIDENT FOLEY: It's the ruling of the Chair there has been a full and fair debate afforded to LB989. Senator Wishart. [LB989]

SENATOR WISHART: Call of the house, roll call vote in reverse order. [LB989]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB989]

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CLERK: 23 ayes, 2 nays, Mr. President. [LB989]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desks and check in. The house is under call. Senator Morfeld, would you check in? Senator Morfeld, if you could check in. Thank you. Senator Linehan, check in, please. Senator Hilkemann, if you could return to the Chamber. The house is under call. Waiting for Senator Hilkemann. All unexcused members are now present. The question before the body is whether or not to invoke cloture. There's been a request for a roll call vote in reverse order. Mr. Clerk. [LB989]

CLERK: (Roll call vote taken, Legislative Journal page 1497-1498.) 37 ayes, 8 nays, Mr. President, to invoke cloture. [LB989]

PRESIDENT FOLEY: The motion is successful, which brings us to next vote on AM2899. Those in favor of the amendment vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB989]

CLERK: 33 ayes, 9 nays, Mr. President, on the adoption of Senator Smith's amendment. [LB989]

PRESIDENT FOLEY: AM2899 is adopted. Our next vote is with respect to the committee amendments, AM2612. Those in favor vote aye, those opposed vote nay. Have you all voted? Record, please. [LB989]

CLERK: 32 ayes, 10 nays, Mr. President, on the committee amendments. [LB989]

PRESIDENT FOLEY: The committee amendments are adopted. The next question is the advance of the bill, LB989 to E&R Initial. Those in favor vote aye; those opposed vote nay. A roll call vote has been requested. Mr. Clerk. [LB989]

CLERK: (Roll call vote taken, Legislative Journal page 1498.) 33 ayes, 13 nays, Mr. President, on the advancement. [LB989]

PRESIDENT FOLEY: LB989 advances. We're still under call. Speaker Scheer, you're recognized. [LB989]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. The next items on General File, LB640, LB947, LB1103, we will pass over and move on to LB791. [LB791]

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PRESIDENT FOLEY: Thank you, Mr. Speaker. I raise the call. Moving on with the agenda, General File, 2018, committee priority bill. Mr. Clerk.

CLERK: Mr. President. LB791, a bill by Senator Ebke at the request of the Governor. (Read title.) Senator Ebke presented her bill to the Legislature on April 4, Mr. President. At that time, committee amendments were offered. Committee amendments was offered by the Business and Labor Committee. When the issue was left, Senator Albrecht had pending AM2729. Senator, I have a note that you wish to withdraw AM2729 and offer as a substitute AM2880. [LB791]

PRESIDENT FOLEY: Without objection, so ordered. [LB791]

CLERK: Senator Ebke, AM2880. (Legislative Journal page 1474.) [LB791]

PRESIDENT FOLEY: Senator Ebke, before we open on that amendment, why don't you take a moment just to refresh us on where we are on the bill. [LB791]

SENATOR EBKE: Sure. Thank you, Mr. President. Colleagues, when I first introduced this bill on General File I described a middle ground that was found on the proposals that were introduced in LB791 and LB792. I mentioned that the State Troopers Association of Nebraska was satisfied with the elements specifically applying to its members and that this middle ground was set out in the committee amendment and Senator Albrecht's amendment. I also predicted that there would need to be another conversation on concerns raised by the Fraternal Order of Police. Since that previous floor debate there have been a number of meetings and conversations held in order to work through remaining concerns, especially those brought to us by the representatives of the Fraternal Order of Police and on behalf of local police departments. I'm pleased to report those conversations have been productive and that I believe we have found at least a way to address these local concerns while still improving transparency and accountability. And, Mr. President, I would be happy to start on AM2880. [LB791 LB792]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Albrecht, would you like a moment to refresh us on the committee amendment? [LB791]

SENATOR ALBRECHT: Sure. Actually, this committee amendment, some of the changes that took place were records regarding circumstances of the officers. It was at ten years, we've moved it down to five. We're narrowing the records of conduct that must be kept. Instead of requiring every incident of misconduct, discipline, or complaints to be kept we are now only requiring the law enforcement agencies to keep records on conduct which would get the law enforcement officer's certification taken away. And finally, the committee amendment is giving the Crime

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Commission subpoena power for all law enforcement agencies and we are amending that to apply only to the Nebraska State Patrol. The Crime Commission is currently...has several cases regarding the State Patrol that they cannot get information on and this provision with the amendment would at least let the Crime Commission get started on this. [LB791]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Ebke, you're recognized to open on AM2880. [LB791]

SENATOR EBKE: Thank you, Mr. President. AM2880 includes previously agreed upon elements from the committee and the Albrecht amendments. Additionally, it includes several changes that should make this proposal less burdensome for our local law enforcement. The amendment would shorten the required records for retention period for local departments from ten to five years. It eliminates confusing, seemingly repetitive language, it clarifies just what records should be retained by those local agencies, narrowing the requirements to only those records that have to do with officer conduct that could result in revocation or suspension of an officer's law enforcement certification. The amendment also creates a clearer time line for hiring agencies, former employers, and the due diligence this bill would require for hiring decisions. Finally, this amendment would narrow the scope of the subpoena power being granted to the Crime Commission to only apply to State Patrol. This will hopefully allow complaints involving our troopers to be quickly evaluated without placing any undue new administrative burden on our smaller local agencies. Importantly, if we can pass these reforms agreed upon by all, the stakeholders, the Governor's Office has agreed that they would not come back next session to seek follow-up legislation relating to the State Patrol. I think it is in everyone's interest for us to act to fix the problems that we see and then to put this issue to bed. I believe that it would be beneficial for the public and beneficial for the officers who serve them if we take action now that will restore Nebraska's confidence in our public institutions. Colleagues, once again, neither the Governor, the State Troopers Association, nor the Fraternal Order of Police, got everything on their shopping lists, but they have agreed that they can live with this compromise. The bill still retains important reforms that will improve accountability and transparency for those enforcing our laws. I think it does so in a way that also respects local agencies and their limited resources and that treats our officers fairly as they work to serve us. I would ask that you vote green on AM2880, green on AM2708 and green on LB791. Thank you, Mr. President. [LB791]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Ebke. Moving to the queue, waiting to speak: Senator Krist, Hansen, Quick, and others. Senator Krist, you're recognized. [LB791]

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SENATOR KRIST: Thank you, Mr. President. Good afternoon, late afternoon, to my colleagues and to the folks listening out there in Nebraskaland. Sometimes I have an instinct and I draw back from it. In this case I should have followed through with my instinct and divided the question on LB791 when we had the chance during the last debate. We did not object--those of us that are objecting to a part of this bill--we decided not to object to substitute the amendment, because in playing fair I believe that Senator Ebke's amendment is something that several of the unions are interested in having happen to hold them harmless. So now we're going to have an educational debate on the potential of what might happen in the state of Nebraska and the precedent that we're setting. First of all, when I talked to Senator Albrecht and her legal staff a few days ago, I was assured that the only reason that these two were combined coming out of Business and Labor was a germane issue. Well, it's on the floor now. No one challenged the germaneness of these two completely different, completely different subject matter. One has to do with transparency, the other has to do...and the empowerment of the Crime Commission to do a better job to ensure that our police officers and State Patrol are...have an accountability process and that the Crime Commission has subpoena power in order to enforce some of those issues when those questions are brought to them. The other is a blatant disregard--and I'm hoping that Senator McDonnell is within earshot, I know Senator Quick is and there are others of us that understand the collective bargaining process, some to a lesser degree than others--but folks, we are eroding a critical part of the union process to collective bargain. Now, arguments against that process here on the floor might be, oh, this is only affecting the State Patrol. Well, I have said from the very beginning of this debate, going back to the confirmation process on the new colonel in State Patrol, get out of his way and let him do his job. Don't put additional collective bargaining issues in statute that, by the way, folks, it doesn't mean anything, because we're not changing the Collective Bargaining Act, we're changing statutes that can be circumvented. But I said it earlier and I'll say it again, just to repeat my position. The Supreme Court is hearing or has heard arguments where corrections officers want to peel off from the state union collective bargaining process and go out on their own. And here we are, setting an example of how we at state government are going to have a collective bargaining process that we are going to control. We're going to control you. Now, I have no satisfaction, no assurances, that Mr. Jason Jackson and Governor Pete Ricketts are not going to do the same thing to any other union that's in the state union collective bargaining process. I don't trust that that's not going to happen. You can tell me that's not their agenda. Lauren Kintner can tell me it's not their agenda. I don't trust that it's not going to happen. Further, what we have done out in the lobby is divided the union interests. No, this doesn't affect the FLCO,... [LB791]

SPEAKER SCHEER: One minute. [LB791]

SENATOR KRIST: ...it doesn't affect the Order of Police. It doesn't affect them right now. But as we move down the road, mark my words, we do not need to affect the collective bargaining process in this bill. If we're going go three hours on this, I'm prepared to do that. But I think all

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Senator Albrecht needs to do is allow Senator Hansen's amendment to be put in, strike Section 3, and she'll have my vote. Get rid of collective bargaining in this bill or we'll go three hours, one way or the other. Thank you, Mr. President. [LB791]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Hansen, you're recognized. [LB791]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon still, colleagues. I rise with the same concerns on LB791 that I had on the first round of debate, largely the collective bargaining parts. I've had many conversations with many of the stakeholders, both senators, interest groups, lobby, the whole PRO, the kind of the whole range of issues of people involved in this bill and made my positions very clear. I think there's some very good things in this bill. I think there's some very good things in this bill, but the limitations on collective bargaining are not something I can support, and that's been a consistent position of mine. When we first heard this bill and we first talked about it in committee about potentially merging LB791 and LB792 and I had the opportunity to hear both bills, one in Business and Labor, one in Judiciary, I let my hesitations and opposition to the limitation on collective bargaining be known then. I let it know when we had the Executive Session in Business and Labor that I was going to...could not support coming out of committee. I did not. And I was going to bring an amendment to the floor to try and address that. I'm open to conversations on how to best address the transparency and accountability that we all want without putting it as a limitation on collective bargaining. I think there's a way to get there. We haven't necessarily found it yet by complete agreement of the parties, but I'm optimistic we're going to go forward. And that's kind of one of the difficulties we were in kind of throughout this whole process is a lot of the good and a lot of the things that seems to be consensus and there's some technical fixes and some other things that Senator Ebke's AM2880...and I would like to thank Senator Ebke and all the parties for working on those issues and continuing to work on those issues. Those are kind of issues around my concern and not necessarily my concern. So I've spent a considerable amount of time, including today and past weeks talking to fellow stakeholders, as I've said, and just really reaffirm it's my concern with the collective bargaining part, putting a limitation on collective bargaining. I thought it was really fitting when Speaker Scheer mentioned the bank vault last week when he was talking about the tax negotiations. He mentioned all the senators who had to be put in the bank vault. Well, colleagues, as I understand the story, the bank vault negotiations were on the CIR and the State Employee Collective Bargaining Act. These sections we're amending and the objections are here, too, in LB791. The last time and the only time in 30 years we substantially amended this act it took the Speaker locking a group of senators into a bank vault in order to hammer out a compromise. That is the stakes we are dealing here when we are dealing with collective bargaining with state employees, with the State Employees Collective Bargaining Act. That's where I'm coming from. I'd be interested to hear more debate. I talked with many other senators and I think we're doing some good things in terms of the certification, beefing up the Crime Commission, beefing up sexual harassment and sexual assault policies for the state of Nebraska

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for all state employees. I think we've got a lot of good elements in the bill and I'm optimistic that we can move forward, but at the same time I'm not where I can support this bill yet with the collective bargaining provision. Thank you, Mr. President. [LB791 LB792]

SPEAKER SCHEER: Thank you, Senator Hansen. Senator Quick, you're recognized. [LB791]

SENATOR QUICK: Thank you, Mr. President. And I'd like to thank Senator Hansen for his all his hard work on this. At this time, I can't support LB791 myself, because of the issue of collective bargaining that's still in the bill. Some of the things for me as when I was a union leader that we looked at were things like mandatory subject to bargaining, past practice, and issues like that. I think one of the things that could have happened through this whole process is that they, as they bargained to create this, the amendments and the bill itself, they could have actually sat down at the table and did what is called an MOU, which is a memorandum of understanding, and got exactly the same thing that they needed to do through that process without going through the process of creating a legislation that would affect collective bargaining for the State Patrol and any other union to come along. I do have serious concerns myself on the fact that along the way that this could affect other unions down the road with opening that door with the collective bargaining. Within the collective bargaining, the mandatory subject to bargaining themselves are, wages and benefits in terms and conditions of employment. These subjects are over which the parties must bargain if a proposal is made by either party. This does not mean that the parties have to reach an agreement on such proposals but, rather, they have to engage in the process of bargaining in good faith over the subject. And I'm afraid that's one of the things that we're going to lose with this process, is that we already have the law within the state to regulate how the process works and I'm afraid that we're going to lose part of that process for other unions down the road. I also see...and with that, then you create a past practice. So, right now, if we agree to bring this legislation forward, it's going to create a past practice so that going down the road they could look back at this case and say, this is why we can do what we want to do here, and then it makes it a lot easier for that process to go forward. I'll just read one of the definitions on past practice, and it is a prohibitive practice for any public...well, this is actually within the state law and it says it is prohibited practice for any public employer, public employee, public employee organization or collective bargaining agent to refuse to negotiate in good faith with respect to mandatory topics of bargaining. And I think if we go down this road, we're going to create that practice where we'll make it easier to slip away from those...from that, and...let's see. I think that's all I have at this time, Mr. Speaker. Thank you. [LB791]

SPEAKER SCHEER: Thank you, Senator Quick. Senator Chambers, you're recognized. [LB791]

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SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask Senator Ebke a question if she would answer. [LB791]

SPEAKER SCHEER: Senator Ebke, would you please yield? [LB791]

SENATOR EBKE: Yes. [LB791]

SENATOR CHAMBERS: Senator Ebke, while you were speaking--I pay close attention to what you say--you had indicated that among others the police unions had gotten...was it what they wanted on their wish list or their Christmas list? How was that phrased? [LB791]

SENATOR EBKE: I think I said they didn't...well, what did I say? I said they didn't all get what they wanted, basically. Their shopping list. [LB791]

SENATOR CHAMBERS: They didn't get all they... [LB791]

SENATOR EBKE: They didn't all get everything that they wanted on their shopping list. [LB791]

SENATOR CHAMBERS: On their shopping list. One of the...I can tell you one of the things they didn't get on their shopping list that they had their fingers and their tails crossed hoping they would get. Would you like to know what that it is? [LB791]

SENATOR EBKE: I would love to know. [LB791]

SENATOR CHAMBERS: An indictment against Ernie Chambers for anything. Thank you, Mr. President. [LB791]

SPEAKER SCHEER: Thank you, Senator Chambers and Senator Ebke. Senator Albrecht, you're welcome to speak. [LB791]

SENATOR ALBRECHT: Thank you, Speaker. I just wanted to visit just a little bit about some of the comments that I have heard most recently here tonight, and I would like to perhaps ask those in question of the collective bargaining words being in this bill, if you would like to go out behind the glass and speak to anyone from the Nebraska State Patrol, they are in full agreement. They never asked for that to be out. So I guess I don't see any major heartburn over it being in there. I'd also like to read a letter from the Nebraska Sheriffs' Association and this was before,

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before we decided to sit down and talk to some of the other groups. This was dated April 3, 2018. The Nebraska Sheriffs' Association is composed of sheriffs, deputies, and other law enforcement officers throughout the state of Nebraska. The NSA, which is the Nebraska Sheriffs' Association, is the oldest professional law enforcement organization in Nebraska. The purpose of this letter is to clarify that the NSA's position with respect to LB792. LB792 is presently proposed to be amended into LB791, a Business and Labor Committee priority bill. The NSA, the Nebraska Sheriffs' Association, supports LB792 inasmuch as it seeks to prevent law enforcement officers who have engaged in serious misconduct from obtaining employment as a law enforcement officer in another jurisdiction without a review of the officer's background and law enforcement certification. In general, LB792 accomplishes this goal by: requiring law enforcement agencies to maintain records of officer misconduct, disciplinary actions, and complaints that can constitute incompetence; neglect of duty; incapacity; felony or misdemeanor violations, or violations of officers' oath, ethics or duties. Also requiring law enforcement agencies to report and provide records to the Nebraska Crime Commission on law enforcement and criminal justice when any other officer is terminated or resigns in lieu of termination as a result of the conduct described above. And next, prohibiting law enforcement agencies from hiring any law enforcement officer prior to receiving and reviewing misconduct, disciplinary action, and complaint information from a law enforcement agency that previously employed the officer. And number (4), granting subpoena power to the Nebraska Crime Commission on law enforcement and criminal justice to obtain records from any law enforcement agency related to the officer's certification. Again, this is before we went into negotiations, if you will, with the other union parties. Again, we are changing the time that they asked from ten years to five years regarding circumstances on why the officer left. We are narrowing the records of conduct and we're keeping records of conduct which could get the law enforcement officer's certification taken away. And finally, they asked that it just be the Nebraska State Patrol that the Crime Commission's subpoena power would affect, not the other agencies. So I appreciate the information and the support from the Sheriffs' Association and I just ask you to strongly consider AM2880 and the previous amendment and the bill, LB791. Thank you. [LB791 LB792]

SPEAKER SCHEER: Thank you, Senator Albrecht. Senator Quick, you're recognized. [LB791]

SENATOR QUICK: Thank you, Mr. President. Again, I do oppose LB791 the way it's written right now and I do think there are a lot of very good parts to this bill. There are...like Senator Howard's amendment on the sexual abuse and sexual assault parts of that legislation, I think that's very good. I think we need to address those areas. I think some of the agreements reached between some of the parties would remain in the bill. It's just basically the part that removes the collective bargaining rights through that process. And that's what I really have the objection to. And I know Senator Hansen has been working on an amendment and talking to Senator Ebke about some of that. It would take out the collective bargaining piece, but it would leave the rest of that language within the bill. I know that he's also working on a piece that would force some

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of those for reporting would go directly to the Crime Commission and I think that's where it belongs. It doesn't belong in the collective bargaining piece. So I've talked a lot about the importance of the collective bargaining and I know last time that we talked about this I talked about just cause and some of those issues. That's why it's important to keep that intact for all of our...actually our union employees across the state, including the State Patrol. And maybe not for the issues that are in this bill that would be affected, because those things that we're trying to address could be done by the Crime Commission, but to keep those collective bargaining rights as part of their...separate from this, separate from the bill. When I talked about just cause--and I'll just do a reminder on this on why it's important--it's probably one of the main reasons that workers have joined unions is to gain protection against unfair and unjust discipline that employers hand out. Stewards must be ready to handle all sorts of discipline cases, from warnings to suspensions to firings. Stewards must be ready to deal with situations of gross discrimination by the boss on who gets disciplined, to dealing with union members who sometimes seem to go out of their way to get themselves fired or get themselves in trouble. Our main contractual weapon is oftentimes summed up in one short sentence: Employees shall be disciplined or discharged only for just cause. In some contracts, the words used are the "proper cause" or "fair cause." The importance of that sentence like this is that it binds the employer to imposing discipline not just for any reason, but for the reason has to be "just reason." Many arbitrators have gone so far as to hold employers to a "just cause" standard whether the contracts use the words or not. And I feel like that's one of the important reasons that we have that, have those rights within our collective bargaining agreements. Like I say, they're mandatory subject to bargaining and we hold them dear and we try to negotiate in good faith on those issues. I know one of the things that was brought up the last time that this bill had come up was the fact that unions represent employees who may be...who get in trouble. [LB791]

SPEAKER SCHEER: One minute. [LB791]

SENATOR QUICK: Well, we're actually called to a higher standard. As a union, we are expected to represent that employee. Whether we agree with what he did or not, we're actually required to represent him or her, and actually it would be...we can be sued for not representing that employee to the fullest extent, even if we don't agree with what they did. But we are held to that level and we try to live up to that as best we can. And even in a right to work state, we are supposed to represent and do represent those who don't pay dues as well. So even when they get in trouble, up to a certain point until it's time to hire an attorney, then we represent them in grievances and with discipline as well. With that, thank you, Mr. President. [LB791]

SPEAKER SCHEER: Thank you, Senator Quick. Senator Hansen, you're recognized. [LB791]

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SENATOR HANSEN: Thank you, Mr. President. Sorry for the delay, colleagues. So it's been interesting to kind of hear some of the debate in favor of the bill. There are multiple sections now amended in the committee amendment that we're doing some partially technical updates, partially negotiated updates in Senator Ebke's AM2880. But AM2708 has, I think by my count, five substantive sections, six substantive sections. When you hear a supporter of the bill talk about it, they talk about the really good things in Section 1, which deals with reporting of discipline and reporting of discipline to the Crime Commission for law enforcement. They talk about Section 2, which applies when one law enforcement officer transfers from an agency to another agency and the disclosure that has to happen there. And they skip over Section 3. And then they start talking about Section 4, which has the Nebraska Crime Commission law enforcement, granting them subpoena power over Nebraska State Patrol to making sure they have access of all records. And then they talk about Section 5, which is a new power given to the Department of Administrative Services to empower state employees who make reports of sexual harassment and giving them some investigatory powers. And then (Section) 6 is kind of a technical nonabrogation clause. I bring that up because there's a lot of things that have been talked about that Senator Ebke, Senator Albrecht in their opening and their floor speeches, that those are very good components of the bill I support. It's this component of the bill, Section 3, the limitation on collective bargaining that I struggle with. I'm also struggling throughout all of my conversations to see the need for it there. I've made some progress. So as I said on the first time on the mike, I've had a number of conversations with senators, with senators' staff, with PRO, with law enforcement groups, with union groups trying to kind of get to the bottom of this. And I think there is a little bit, maybe just some disclosure requirement that we're struggling with and it may be the key thing. But for the most part, in the discussion kind of Section 3, despite being the opposition of myself and the opposition that I've had since the hearing, and it was actually a big focal point in the hearing of LB791 because a lot of the substance of the committee amendment AM2708 was LB792 or some new language. I think Section 5 was kind of created out of completely new language that I believe Senator Howard worked on following the hearing. And so that's where I'm struggling. There seems to be this hesitation or retraction to change Section 3 of the bill, to change the collective bargaining statutes of the bill and at various times they've been diminished where, oh, we don't need my amendment because that's not a very important section, but also not going to accept my amendment. Or other times you would think it's the crux of the entire bill and the whole point why we're here and everything in (Section) 1 or (Section) 2 is fluff. And I've been struggling throughout this process to figure out who exactly feels what way and why they're supporting the relative provisions. I will remind you, I know Senator Quick discussed about it in his first time on the mike, if you look at the current section of the Section 3 that it amends--this is what I get for not having a paper copy--if you look at the current Section 3 the section amends it is a series of kind of technical definitions for the State Employee Collective Bargaining Act, including some duties of the state negotiator, as well as some... [LB791 LB792]

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SPEAKER SCHEER: One minute. [LB791]

SENATOR HANSEN: ...thank you, Mr. President...some other things. That does not talk about any one union, does not talk about any one bargaining unit. And now we are going to, out of our way, to put a very long list of limitations on just the Nebraska State Patrol in the middle of the section. If by no other reason, I think some of my amendment should be adopted as a friendly amendment just for simple bill drafting purposes and cleaning this up and moving it to a more appropriate section. With that, thank you, Mr. President. [LB791]

SPEAKER SCHEER: Thank you, Senator Hansen. Senator Ebke, you're recognized. [LB791]

SENATOR EBKE: Thank you, Mr. President. I thought that I would take just a couple minutes at this point to outline in more detail what's going on with AM2880 and what exactly it does. Be clear, colleagues, it does continue to allow collective bargaining of all internal affairs and provisions for the State Patrol member disciplinary procedures, except for the following circumstances: The colonel cannot be precluded from disclosing the status or outcome of an internal affairs investigation or Patrol staff discipline to the Legislature, Crime Commission, NEOC, or Police Standards Advisory Council. The colonel cannot be precluded from considering prior disciplinary action against Patrol staff that occurred within the last ten years solely when imposing progressive discipline. The colonel cannot be limited to two years when determining to initiate and investigate or discipline Patrol staff. The colonel cannot be required to release reports, internal investigation materials to Patrol staff who are the subject of an internal investigation for an allegation that could lead to a Class I misdemeanor or a felony criminal charge. The staff shall continue to be entitled to know the nature of the complaint underlying any investigation of them. The colonel or his investigators cannot be precluded from reviewing past discipline or misconduct of Patrol staff who are under internal investigation and the Crime Commission cannot be restricted from obtaining internal investigation reports or materials. Colleagues, this is an important piece of legislation and it's important to throw this into the whole mix because we want our State Patrol to be our premiere law enforcement agency in the state. They are the premiere law enforcement agency in the state. And it's important for us to have a level of confidence that those who are doing things wrongfully are being appropriately dealt with. It's also important to have a level of transparency in the process. I would note that the State Patrol union has agreed to these...to this. They are the only ones that are subject or a party to this agreement. So I understand the fear that other unions who are outside of the public sector union category are nervous. But I think it's also important to understand and we'll talk about this later. I think when Senator McDonnell comes back in we'll have a little conversation about this and what the role of the unions are in this whole process and who should...at what point do negotiations become done not in good faith when the unions decide...when other unions decide to impose their will on negotiations that were made in good faith with members of the legislative

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branch. So with that, I will pop back into the queue for a later time. Thank you, Mr. President. [LB791]

SPEAKER SCHEER: Thank you, Senator Ebke. Senator Krist, you're recognized. [LB791]

SENATOR KRIST: Thank you, Mr. President. Good evening now, colleagues, and good evening, Nebraska. I have absolutely loved and supported Senator Ebke in her leadership role. She's done a wonderful job as the Chair of Judiciary and she speaks eloquently about what is important in this matter. However, I believe that Senator Hansen's amendment which will follow will eliminate the reference to collective bargaining and has just as much, if not more, accountability transparency through a reporting process directly from the colonel or DAS. I just believe honestly in my heart of hearts that we cannot chip away at the collective bargaining process. And anyone who's out there listening who is truly dependent upon being spoken for and being protected from as a union member, as Senator Quick has so eloquently displayed to us today, understands what I'm talking about and understands the block on the erosion of people who would like to control the collective bargaining process and chip away at its efficiency, effectiveness. So I will vote for AM2880 and AM2708, if amended ultimately by Senator Hansen's amendment, which will be coming up. I will support LB791 and I will not support it without the removal of the collective bargaining references that are there. It makes no sense. Again, I'm so sorry I didn't divide the question early on in this process. I think it would have gotten us to a quicker end, but that is my intention tonight. Thank you, Mr. President. [LB791]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Chambers, you're recognized. [LB791]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature, there's been and probably is now very, very bad blood between me and the police, wherever they are. They have a sign on the side of their cars that says, protect and serve. They don't protect black people. They don't serve black people. They hound, harass, occupy, and kill black people. I meant it when I said that white people may...I'm paraphrasing. They may fear ISIS. ISIS is far away. The police are our ISIS. They're the ones who will kill us. And then their unions protect them. This bill has gone through a lot of changes. There was a scene in A Man for All Seasons about Thomas More where the duke who played a prominent role came to Cardinal Wolsey, who was on his death bed. Wolsey said, had I served my God half as well as I've served my king, he would not leave me to die in this place. The duke looked at him and in a very cold voice said, you're lucky to die here. If your king had his way, you would die in the tower. If I had had my way, these police would be screaming like a pig with his nose under the gate. This bill is diluted. It's mild. And these people who talk about collective bargaining and the unions don't know what they're talking about. Not all unions are created equal. Not all unions function the same way. Not all unions can terrorize and control in the way police unions have done. They protect murderers.

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They can see a murder being committed by a cop and they won't do anything. Then they don't want me to even criticize them. They must be out of their mind. Not everybody is afraid of the police. I had written a treatise on law enforcement, as I called it. When two Lincoln police had quit after being found guilty of the use of excessive force in an internal affairs investigation, one was hired by the Lancaster County Sheriff's Office, the other hired by the State Patrol. I had written a letter and pointed out in this treatise to the man who is now the U.S. Attorney for Nebraska, that Kelly fellow, that what you're doing when you let these rogue cops get away with this violence and they go to another agency and the cops know that these guys have committed violence, you are going to create a culture of violence in that unit and the one who went to the Patrol may have infected them because what I saw when that Patrol trooper took the butt of that rifle and snuck up on a drunk man and hit him with the butt of a rifle, I had never seen or heard of a state trooper doing that. They know the violence of cops is tolerated. It's approved. They get away with it and then white people think we who suffer it shouldn't say anything. Then they whine like Senator Hansen because the cops are worried about this and then Senator Quick, about the unions. Their lives are not at stake. What would they do if their lives were at stake? All of this whining, this bleating like sheep, b-l-e-a-t-i-n-g, not b-l-e-e-d-i-n-g. And I predicted way back then that when people see these cops murder people and get away with it, the cops themselves are going to become the targets. They are going to say that justice has to be taken into their own hands. Now cops are being shot. They're being ambushed,... [LB791]

SPEAKER SCHEER: One minute. [LB791]

SENATOR CHAMBERS: ...but not in the same numbers or to the same extent that they are killing civilians. If all of the angry civilians would turn their weapons on the police, you'd see a change. You'd see a change. But as long as the police know they can bully the Legislature, they can fool senators, why should they change? They're sadists. They enjoy inflicting pain on people who can't fight back. Do I mean every cop? Absolutely not. If the majority of them were like what I'm talking about, you couldn't have a police force. But the ones who are bad are horrible. And the ones who are supposedly good, protect, shield, and cover and hide them behind their blue wall of silence and it is contemptible and it is wrong. [LB791]

SPEAKER SCHEER: Time, Senator. Thank you, Senator Chambers. Senator Quick, you're recognized and this is your third time at the mike. [LB791]

SENATOR QUICK: Thank you, Mr. President. And again, I rise in opposition to LB791 as it is now with the collective bargaining piece in there. And I, too, want to thank Senator Ebke for her work on this as well. I know they've done a lot of negotiating and working together to try to come to an agreement. Like I said before, I think we could have done a lot of this by going through the union, could have sat down at the table with the state and did an MOU to reach the

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same type of agreement without bringing collective bargaining into the state law. I know one of the things for us or even just our local union or for unions within AFL-CIO or unions across the country, we always had this saying that an injury to one is an injury to all. So if something is legislated or something is...if something comes out that we feel is going to hurt the way we do things across the board, then if it's going to affect one group or one person or one unit, then we took it upon ourselves to say we will fight that battle to try to make sure we can help to prevent it from happening to someone else. And so that's what I'm basically doing today because I feel like having the collective bargaining piece in there would be an injury to all. I know that the FOP and the State Patrol have reached their agreement to get something for themselves, which is fine. But I'm worried about what can happen down the road by opening that door to what can happen with collective bargaining. And I know we have had assurances that it won't happen and I apologize that I have a little bit of mistrust, but sometimes that's been the way it's gone for us. We've always just tried to be...bargain in good faith with people. We've done it with employers. I know our local in Grand Island, we had 20 contracts so we had to bargain, you know, maybe not every year, but 20 times within a three-year period. So that was a lot of bargaining that we did. And not always was there bargaining in good faith that happened. And so that kind of gets instilled in you that you can't always believe or trust and that's sad that you can't always believe or trust what is going on around you. I know when I talked about the labor negotiations and some of the prohibitive practices and I had read one of them and I think just in essence, to use some time I'm going to read some of the other prohibited practices within our state statute. And so number (2) on the list was: it's a prohibitive practice for any public employer or public employers to negotiate. And then it has the list of (a), (b), (c) and on down the line. And (a) is interfere with, restrain, or coerce employees in the exercise of rights granted by the Industrial Relations Act; (b) is dominate or interfere in administration of any public employee organization; (c) is encourage or discourage membership in any public employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment; (d) discharge or discriminate... [LB791]

SPEAKER SCHEER: One minute. [LB791]

SENATOR QUICK: ...against a public employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under the Industrial Relations Act or because the public employee has formed, joined, or chosen to be represented by a public employee organization; (e) has refused to negotiate collectively with representatives of a collective bargaining agent as required by the Industrial Relations Act; (f) deny the rights of accompanying certification or recognition granted by the Industrial Relations Act and refuse to participate in good faith in any impasse procedures for public employees as set forth in the Industrial Relations Act. Number (3), it is a prohibited practice for any public employee, public employee organization, or bargaining unit or for any representative or collective bargaining agent to (a)... [LB791]

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SPEAKER SCHEER: Time, Senator. [LB791]

SENATOR QUICK: Thank you, Mr. President. [LB791]

SPEAKER SCHEER: Thank you, Senator Quick. Senator Chambers, you're recognized and this...Senator Chambers, this is your third time at the mike. [LB791]

SENATOR CHAMBERS: Thank you, Mr. President. People are probably saying, thank goodness, thank whatever gods there be. I am his surrogate. Don't mess with me, because I may tell the big man that I don't like the way I'm being disrespected down here. Then suddenly, wham, these lights may go out and my voice will cry, die you must. A woman will scream, a shot will ring out, and somebody will bite the dust. Here's what I want to say to Senator Quick and Senator Hansen. They cannot see the forest for the trees. They say sit down at the table and negotiate. What happened here? You've got a Legislature which had a bill. It wasn't as strong as I wanted it to be even at best. But the FOP thought it was too strong, the Lincoln cops, some people in the State Patrol. And what happened? Somehow all of them--I don't know if they all came together at the same time--all of them contributed to the pot. All of their opposition went away. All of them are now all right with the bill and we've got people on the floor who supposedly speak for them who are saying, I'm against it. Well, be against it. But learn what's happening and understand reality. I should think that people who claim to know so much about unions would understand what hard bargaining is. And when you've reached the best you can get from this hard bargaining and everybody is now going along with what is presented, what more can you get? What better could you get? You know why I stayed out of it? I am not one who when it comes to the police would be the one to negotiate when they're trying to get an easier way of it. I told Senator Albrecht, I told the staff members, I watched how hard all of them worked and I would not do or say anything to disturb whatever they came back with. You don't always get all you want. Some people don't get anything that they want. In this situation, everybody must have got something that they want because we have a bill that achieves some of the results that we knew in the beginning were necessary to be achieved. The opposition was calmed down. Where there had been contention, there came at least unanimity and we have a bill without outside opposition. And what do we have? The Lilliputians, the Lilliputians shaking their fists at Gulliver saying, by god, Gulliver, if I was bigger, you'd be in trouble. And Gulliver say, you're lucky I don't take my foot and smash you and grind you into the ground. You are about to mess up something that we worked hard to get. This is a difficult place for a sane man to be. I am sane. In the book 1984, one of the profoundest passages said, there was truth and there was untruth, and if you clung to the truth even against the whole world, you were not mad. I watch what happens here. [LB791]

SPEAKER SCHEER: One minute. [LB791]

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SENATOR CHAMBERS: I bear it as long as I can. I watch people who genuinely work hard and they cannot work miracles, but they can bring about more than anybody may have expected, more than realistically speaking anybody perhaps could even have hoped for. This is a highly charged political matter. We are in the last days of the session when people's feelings, their nerves are worn to a frazzle. Yet all of that was overcome and you have before you now what we've been talking about. I hope that intelligent people will prevail and this matter will go forth in the form that it's being presented. And I am very pleased and satisfied with the work that has been done. [LB791]

SPEAKER SCHEER: Time, Senator. [LB791]

SENATOR CHAMBERS: Thank you, Mr. President. [LB791]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator McDonnell, you're recognized. [LB791]

SENATOR McDONNELL: Thank you, Mr. President. In my experience, this happens with negotiations. You have a situation where both sides come in to the negotiating table and they have different ideas. They have different concerns. And then they work, then they start trying to compromise. The process is far from perfect. When I spoke on this last week, I was adamant about trying to have the process, follow the process where both sides would come to the table. I believe what had been worked on in the bill that both sides could agree upon if they were sitting at the collective bargaining table, in some fashion. Now you have a number of people that I believe Senator Hansen's heart is definitely in the right place, he's trying to make improvements. Senator Krist wants to make improvements. Senator Quick wants to make improvements. And that is part of the process. But the people that sat...that are directly affected by this bill, the state, Fraternal Order of Police, they are now supportive. The state troopers are now neutral. The Omaha Police Union and the Lincoln Police Union are now supportive. Are they in love with this bill? No. I never signed a collective bargaining agreement or was part of a team that was ever in love with the whole package. That's why it's collective bargaining. It's a give-and-take process. But there is things that have to be addressed that I know in conversations with the troopers and law enforcement in general that they want to address. Now, ideally maybe this should have been and I believe, in my opinion, it should have been done with the memorandum of understanding, as Senator Quick mentioned earlier. It wasn't. This process hasn't been perfect. But as we all know, the process in this Legislature isn't perfect. I believe we are the best state government in the country, but we're far from perfect. What we have here is a situation to where the people that are going to be directly impacted with their collective bargaining agreements have said, we were opposed to this two months ago. We were opposed to it last week; during that process there's been discussions. Now, as of today, at least with the state troopers, they're neutral. With the

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Fraternal Order of Police, they're in favor; the Omaha Police Union, they're in favor; and the Lincoln Police Union, they're in favor now. That's part of the process. That is part of the process. I think there's ways to improve on this. I think if we all sat here and we brought all the subject matter experts in, we would make improvements. But also there is a deadline on things. We know we have three days left here. Now at this point we have to make the decision. Has there been enough changes, enough compromise to where we can move on or do we want to say hey, go back to the collective bargaining table. You work on it with another MOU, you possibly sit there at the table, you disagree. You possibly file on the CIR and then we're sitting here next year talking about it. That's what we have to make the decision. But the people that have come to me said, we have respected the process. You asked us to work on it last week. We did. There are some now that are neutral. There are some that are now supportive that were in opposition last week. Thank you, Mr. President. [LB791]

SPEAKER SCHEER: Thank you, Senator McDonnell. Senator Hansen, you're recognized and this is your third time at the mike. [LB791]

SENATOR HANSEN: Thank you, Mr. President. And good afternoon again, colleagues, or I suppose we've transitioned into good evening. This has been an interesting process in terms of the negotiations here and I want to just kind of comment earlier kind of talked about alluded to parties jumping into the negotiations late. I want to say one of the...I just want to bring that up. I bring that up because there's not necessarily a group I'm advocating for here on the microphone who asked me to do this, who geared me up to do this. This is something I took away from the hearing and have remained at since the hearing. Yes, there are people behind the glass who would agree and, no, they're not necessarily directly advocated for by this bill. Sometimes when we have these issues and we have these bills and issues on the floor, we're beginning a fight for another day. I am very concerned with changing of collective bargaining. Just period, carte blanche, like that's a concern, that's going to make the hair on the back of my neck stand up, I'm going to be paying attention. And we have to make sure that whenever we do it we take it kind of seriously and with the gravity that it needs. You know, I might not be able to prevail. I might not be able to convince enough of my colleagues to go along with me and that's fine, but I know at the end of the day I can rest better knowing that I have at least laid the groundwork for the next time, when it's the next union, when it's the next collective bargaining group that we're going to start putting limitations on them. I've at least laid the groundwork and I will know I'll be consistent in my reservations and potentially opposition to that. And that's why this is kind of such an issue for me and why it kind of comes up and comes up and comes up and I can't just let it go. I also want to really reaffirm that throughout this process, I know--and I mean it sincerely--I know Senator Ebke, committee staff, Senator Albrecht, committee staff, all sorts of different people worked a lot on what ultimately resulted in the Ebke amendment, AM2880. I know there is a lot of time and work and energy and effort in there and it kind of is bemusing to me to have kind of my opposition to the underlying bill criticized because when I took...I was asked early on

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to take initial draft of possibly an amendment back when this bill was still in committee. And there were things I put in there that ended up being much stricter and held police to a much higher standard than AM2880 and the AM2708 would have done. There were things I was willing to do and I was willing to do it because I put the priority in different places, because I put the priority on taking the pressure off collective bargaining, to taking the precedent off collective bargaining. I had been willing to go and had not necessarily worried about some of the other discipline reporting requirements, were able to keep those, in my mind, stricter. So this isn't necessarily, you know, underlying opposition to the bill or the issues or to the effort going in, but it's also not surprise opposition. Anybody who was on the Business and Labor Committee can know how much I talked with them, worked it up. We had at least a couple of Exec Sessions where we talked about it. I talked with many of them on the floor before and after, under the balcony before and after, to try and gauge and kind of my continual hesitation with changing collective bargaining. And, yes, the only collective bargaining unit, the only collective bargaining union that is affected by this bill has gotten to the point where they are neutral. Well, Senator Chambers put it out, that's kind of a hard bargain. There were a lot of other things they decided they were more worried about than collective bargaining, so they let collective bargaining go... [LB791]

SENATOR WILLIAMS PRESIDING

SENATOR WILLIAMS: One minute. [LB791]

SENATOR HANSEN: ...is what it seems to me, as an outside observer who wasn't necessarily in the room when that happened. But I don't think there's anybody here who can look with a straight face and see putting restrictions on collective bargaining, putting restrictions on what can and cannot be bargained for is good precedent. It might be what we decide based on some scandals in the State Patrol is needed. It might be we've run out of time. It's day 57 and we have a lot of better ideas to put transparency in the bill, but I have yet to have somebody who has come up and said yes, this is good precedent. Yes, I think putting limitations in collective bargaining is something we should make a common standard in the state of Nebraska when we need to solve problems. And that's the fundamental essence of my hesitation and opposition. Thank you, Mr. President. [LB791]

SENATOR WILLIAMS: Thank you, Senator Hansen. Senator Pansing Brooks, you're recognized. [LB791]

SENATOR PANSING BROOKS: Thank you, Mr. President. I'm just rising to say that this is a really difficult issue. I don't like this issue. I want to support the fine men and women in the unions. And my concern is, any time there is any kind of limitation put on collective bargaining,

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it really worries me that the next time it could be something else. And it is a slippery slope and it is highly concerning to me. And I know there are many that would like to limit it as much as possible, so I will give the rest of my time to Senator Quick. [LB791]

SENATOR WILLIAMS: Thank you, Senator Pansing Brooks. Senator Quick, you're recognized. [LB791]

SENATOR QUICK: Thank you, Mr. President. And thank you, Senator Pansing Brooks. One of the things I do want to say first is in listening to Senator Chambers and Senator McDonnell talk and they are correct, we don't always get everything that we want when we sit down and we bargain. And I can tell you that from my experience, that is very, very true. You don't get everything that you want. The problem here lies with the fact that as we put this in the language, they won't get...I don't believe they're going to get to negotiate for that again. So that's where I have the issue is that from this point on, that part will be removed from their contract and I'm not sure they can get that back in there. So I know there's a good...there are some good reasons to look into some of the things that have happened over the past for the State Patrol. Like I say, I just wish we could do it without taking out the collective bargaining piece and I think that would put a lot of us at ease if we could do that. I know nobody wants to hear this, but I'm going to go back to reading about some of the labor negotiation prohibitive practices that are in the state law currently. And I think I ended with...in (3), which is a prohibitive practice for any public employee, public employee organization, or bargaining unit or for any representative or collective bargaining agent to: (a) interfere with, restrain, coerce, or harass any public employee with respect to any of the public employees' rights granted by the Industrial Relations Act; (b) interfere with, restrain, or coerce a public employee with respect to rights granted by the Industrial Relations Act or with respect to selecting a representative for purposes of negotiating collectively on the adjustment of grievances; (c) refuse to bargain collectively with a public employer as required by Industrial Relations Act; and (d) refuse to participate in good faith in any impasse procedures for public employees as set forth in Industrial Relations Act. Then number (4) The expressing of any view, argument, or opinion or the dissemination thereof whether in written, printed, graphic, or visual form is not evidence of any unfair labor practices under any of the provisions under the Industrial Relations Act if such expression contains no threat of reprisal or force or promise of benefit. And those are all under the state of Nebraska Section 48-824, Labor negotiations; prohibited practices. [LB791]

SENATOR WILLIAMS: One minute. [LB791]

SENATOR QUICK: Thank you, Mr. President. Again, I want to thank everybody that's worked on this and hope that they will vote to not end cloture. That would be my choosing, and also the vote against LB791 as it is written. I do want to thank Senator Hansen again for all of his work,

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Senator Ebke for her work on this bill. I know Senator Albrecht put in time on it and Senator Krist worked extremely hard on this as well. And with that, Mr. President, I yield the rest of my time. Thank you. [LB791]

SENATOR WILLIAMS: Thank you, Senator Quick. Senator Kolowski, you're recognized. [LB791]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I stand with a great deal of questions about this particular bill and many of those things have been mentioned by those who have spoken thus far. I have a great deal of consternation over the collective bargaining erosion, if I can use that term. When this kind of situation takes place, it's never something that you add back into a contract. It's always what else will be missing from the contract the next time around? My own situation is one where my younger brother was a 20-year member of the Illinois State Troopers. In his career of 20 years, he had many different opportunities and served in a variety of capacities in northern Illinois, as well as in the training of new troopers as they came into the organization. I have great admiration for our troopers that are here and the work that they do with the Legislature and know very well what they go through as far as training and retraining and adjusting to new technologies and different things over time in their preparation for protecting the public. I have great admiration for what they do and how they do that. I have great concerns over this bill and the changes that will be made in collective bargaining that would lessen the things that are important to them. I know from our own experiences here in Nebraska, the State Patrol has gone through some changes in the last couple of years, trying to find themselves in certain situations right now that are important to restabilize the direction of the organization and also put on the very best connections with the law enforcement officers throughout the state and from the federal level as well. I wish them well in all they're doing and I stand with a great deal of concern over the direction of this particular bill and what that may do. I'd like to yield the rest of my time to Senator Chambers if he'd take that. [LB791]

SENATOR WILLIAMS: Thank you, Senator Kolowski. Senator Chambers, you're yielded 2:30. [LB791]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Kolowski. Members of the Legislature, probably nobody on this floor could condemn unions more than I can, with just cause. Those of you who speak for these unions didn't have unions working to keep you out. Steamfitters, electricians, carpenters, stonemasons, cement finishers, painters, all of them kept black people out. We couldn't get work because of the white racist unions, but there would be nobody on this floor who would give a stronger defense of and protections for unions than me if an attempt was made by the state to undercut them. I'm able to do something you all can't. I can look beyond all of the hurts, all of the slights, all of the lynchings, the bombing, the burnings, the

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murders, the rapes of our women and see a bigger picture when it comes to people who may not have been a part of any of those things. But they are the descendants, so I watch them. I'm not antiunion, but I'm antipolice misconduct. [LB791]

SENATOR WILLIAMS: One minute. [LB791]

SENATOR CHAMBERS: I think there ought to be self-closing handcuffs so every time a cop did something that was wrong, the cuffs would sense it and they would snap on his wrists or her wrist, as the case may be. I'm going to bring a picture down here that will give a lot of you great pleasure. It's me with my hands cuffed behind my back being put into the Omaha Police paddy wagon. You all will like that. They knew that I hadn't done anything wrong. I was not convicted of anything, but they did what they could do and that was to inconvenience me and do it in front of all the people who had gathered. But they didn't realize it made me a hero because I, one black man, was standing against all these cowardly white people and they had their guns, their shotguns, their dogs. And one black man put them in fear. I'm better than all of them. You think I'd talk like this if I was afraid of a cop? [LB791]

SENATOR WILLIAMS: Time, Senator. [LB791]

SENATOR CHAMBERS: Thank you. [LB791]

SENATOR WILLIAMS: Thank you, Senator Chambers and Senator Kolowski. Mr. Clerk, you have a motion on the desk. [LB791]

CLERK: Mr. President, I do. I have a priority motion. Senator Ebke would move to invoke cloture pursuant to Rule 7, Section 10. [LB791]

SENATOR WILLIAMS: It is the ruling of the Chair that there has been full and fair debate. Senator Ebke, for what purpose do you rise? [LB791]

SENATOR EBKE: Mr. President, I'd like a call of the house and a roll call vote. [LB791]

SENATOR WILLIAMS: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record. [LB791]

CLERK: 27 ayes, 1 nay to place the house under call. [LB791]

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SENATOR WILLIAMS: 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 Harr, please check in. Everyone is here. Members, the first vote is the motion to invoke cloture. There has been a request for a roll call vote in regular order. Mr. Clerk. [LB791]

CLERK: (Roll call vote taken, Legislative Journal page 1499.) 34 ayes, 3 nays, Mr. President, to invoke cloture. [LB791]

SENATOR WILLIAMS: The motion to invoke cloture is adopted. Members, the next vote is on the adoption of AM2880. All those in favor vote aye; those opposed vote nay. Record. [LB791]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of Senator Ebke's amendment. [LB791]

SENATOR WILLIAMS: The motion is adopted. Members, the next vote is on AM2708, from the Business and Labor Committee. All in favor vote aye; those opposed vote nay. Have all voted? Record. [LB791]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB791]

SENATOR WILLIAMS: The amendment is adopted. Members, the next vote is to advance LB791 to E&R Initial. All those in favor vote aye; opposed vote nay. Have all voted? Record. [LB791]

CLERK: 35 ayes, 0 nays on the advancement of the bill. [LB791]

SENATOR WILLIAMS: The bill is advanced. Clerk for announcements. Raise the call. Excuse me, we do have an A bill. [LB791]

CLERK: Mr. President. LB791A is a bill by Senator Ebke. (Read title.) Senator Ebke would move to indefinitely postpone the bill, Mr. President. [LB791A]

SENATOR WILLIAMS: Senator Ebke, you're recognized to open on your motion. [LB791A]

SENATOR EBKE: Thank you, Mr. President. This will be quick. AM2880 got rid of the fiscal note and so we no longer need the A bill. [LB791A]

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SENATOR WILLIAMS: Thank you, Senator Ebke. Members, the motion before the body is to indefinitely postpone LB791A. All those in favor vote aye; opposed vote nay. Have all voted? Record, Mr. Clerk. [LB791A]

CLERK: 40 ayes, 0 nays, Mr. President, on the motion to indefinitely postpone the bill. [LB791A]

SENATOR WILLIAMS: The motion is adopted. Mr. Clerk. [LB791A]

CLERK: Mr. President, a few items. Enrollment and Review reports LB994, LB994A, LB1081, LB1081A, and LB1089 as correctly engrossed. New Resolutions: Senator McDonnell, LR487; that will be laid over. Amendments to be printed: Senator Friesen to LB989; Senator Harr to LB947; Senator Blood, LB989; Senator Harr, LB1089; Senator Hansen to LB791. [LB994 LB994A LB1081 LB1081A LB1089 LR487 LB989 LB947 LB791]

Mr. President, Senator Groene would move to recess the body until 6:30 p.m.

SENATOR WILLIAMS: Members, we have a motion to recess the body till 6:30. All those in favor say aye. Opposed. Motion carried. We are in recess till 6:30.

RECESS

SENATOR WILLIAMS PRESIDING

SENATOR WILLIAMS: Members, we are beginning our evening session, if you would check in, please. Members, if you would please find your way to the Chamber and check in, we would like to begin the evening session. Members, recess is over. Would you please return to the Chamber and check in so we can begin our evening debate. Record, Mr. Clerk.

CLERK: I have a quorum present.

SENATOR WILLIAMS: Thank you. We will return to General File debate. Mr. Clerk.

CLERK: Mr. President, LB948 is a bill by Senator Murante at the request of the Governor. (Read title.) Senator Murante presented his bill, Mr. President, on March 20. At that time, the Government, Military and Veterans Affairs Committee amendments were offered. I have pending

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an amendment to those committee amendments by Senator Harr. (AM2473, Legislative Journal page 1048.) [LB948]

SENATOR WILLIAMS: Thank you, Mr. Clerk. Senator Murante, would you please take a few minutes and update us on where we are on LB948. [LB948]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening. LB948 is the product of an executive order issued by Governor Ricketts last year. It contains a number of regulations which are redundant and unnecessary because the statute which authorizes them is sufficiently prescriptive. But when the law was enacted, it mandated that the state agency responsible for the rules and regulations had to adopt and promulgate rules. In some instances no rules were adopted at all because they just followed the law; in other instances the rules were copied verbatim. In any event, the rules are totally unnecessary. What this bill does is permits the state agencies and changes the "shalls" to "mays" so that the state agencies have the authority to do away with those unnecessary and duplicative rules. I do have in front of me a rather large binder with a CliffsNotes version which contain both the rules and regulations that are impacted by this bill and the state statutes. I can go through them and read through each one and discuss why they are and go through and read them both off to demonstrate that they are identical and serves no public policy purpose for the rules to exist. I'm open to that. I'm also open to anyone coming to me and saying that there is a section of this bill which is not sufficiently prescriptive and that rules and regulations are necessary. If something needs to be taken out, I'm happy to take that into consideration, but at this point no one has offered any such specifics. So I'm happy to work with anyone on this. I suspect that Senator Harr will belabor the point and we will talk about this for an extended period of time, and that's fine, but I do think that we have an obligation to create public policy that makes sense and adopting and promulgating rules simply for the purpose of copying and pasting state statute serves no public interest; it doesn't benefit the public in any way; it's a waste of time; it's a waste of money; and we should correct the errors of the original legislation. Again, I'm happy to go through everything with anyone and we'll see where the discussion takes us. Thank you, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Murante. Senator Harr, would you please bring us up to date on your amendment that you have filed on this. [LB948]

SENATOR HARR: Thank you, Mr. President. And thank you...well, I'll get to that. This is a Seinfeld bill, folks. This is a bill about nothing. There's no fiscal savings on it. There's not one iota of change. All we're doing is moving from "may" to "shall" where there's duplicativeness. This doesn't do anything. And I waive. [LB948]

SENATOR WILLIAMS: Thank you, Senator Harr. Senator Murante, you're recognized. [LB948]

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SENATOR MURANTE: Thank you, Mr. President. Just to illustrate the point, I'd like to go through a few of these items and explain why this is important, so we'll just go section by section. Section 1 of this bill deals with the Department of Transportation. Let me read to you the state statute that is impacted by this. Section 3-158: "Any person who in the ordinary course of his or her business rents an aircraft to another person shall deliver to the renter a written notice stating the nature and extent of insurance coverage provided, if any, for the renter against loss of or damage to the hull of the aircraft or liability arising out of the ownership, maintenance, or use of the aircraft. The notice shall contain the name of the person giving the notice and shall be in the form prescribed by rule or regulation which the division shall adopt and promulgate." After the Legislature passed that law, the Department of...at that time, the Department of Aeronautics came up with the following rule and regulation: "Any person who in the ordinary course of his/her business rents an aircraft to another person shall deliver, prior to the use of subject aircraft, to the renter a written notice stating the nature and extent of insurance provided, if any, for the renter against loss of or damage to the hull of the aircraft or liability arising out of the ownership, maintenance, or use of the aircraft. This notice shall contain the name of the person giving the notice, a statement of insurance coverage, if any, which covers the renter as an additional insured for liability; a statement of coverage, if any, of any passengers," and so on and so forth. I could keep going all night long. What you're going to see is a rule that is verbatim the statute. It serves no public policy purpose for that rule to exist. So why are we doing it? I think we know why we're here this evening, and it has nothing to do with public policy. And some may say it does nothing. I say eliminating a rule that...and regulation that is verbatim what a statute says actually does accomplish something. First of all, it's sensible. I would like somebody to make a defense. And if your argument seriously is for every law that we pass there ought to be a rule and regulation, then why isn't it in all of our bills? What is the inherent need to establish a rule and regulation for a law that is sufficiently prescriptive? If we in Section 3-158 pass a law that says exactly what the Department of Transportation needs to do, what is the purpose of making the Department of Transportation adopt and promulgate a rule? This is just going through and eliminating those unnecessary and duplicative procedures. My initial reaction was just to go through this one by one and illustrate the absurdity of the floor discussion that we are going to have today. If you really want these rules and regulations to be in place, I'd love to hear a defense of them. And if you think it's appropriate to do it in these instances, then why aren't they in all of your bills? Why don't we just, as a matter of pro forma, demand that state agencies adopt and promulgate rules, regardless of whether they're necessary or not, because not a single person has made an argument that any of these rules or regulations actually have any sort of public benefit. Perhaps we're wasting our time. I would submit to Senator Harr we would be wasting a lot less time if you would withdraw your motions and we could get to an up-or-down vote on the bill. But we'll be here talking about it, and that's fine. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

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SENATOR MURANTE: So I think I'm not going to belabor that point. I could just read through every single one of these items section by section and go through the complete redundancy that is contained within our rules and regulations. Doing away with this makes sense and it does so without causing any danger, jeopardy, or peril to the people of the state of Nebraska. It just eliminates duplicative language in our rules and regulations, which I think is the right thing to do. Thank you, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Murante. Senator Harr, you may be recognized. [LB948]

SENATOR HARR: Thank you, and thank you for recognizing me, Mr. President. So Senator Murante and I are in total agreement. This bill has nothing to do with public policy. This bill has a fiscal note of zero--zero, folks. Why is that? Because, as I stated earlier, this is a bill about nothing. This is Seinfeld at its greatest. Last July our Governor sat down and he aimed to cut red tape and said there are some 7.5 million words in state regulation and he ordered a review and a review we had. And when I asked for a review of HHS, I was told it would cost a whole bunch of money, but now we are able to do this for free. So we reviewed them. And did we look at the rules and regs and say, this is a good one, this is a bad one, this is outdated, we've changed the way we do things? No. No, we looked at words. We said, hey, what is a restrictive word, and we got to change those restrictive words, not whether it was good or whether it was bad, but whether it was duplicative. And so we looked for restrictive words. And then the only place were going to review or get rid of them are where they are duplicative. Rules and the regs and the state statute are identical, so we're going to eliminate those and we're going to eliminate red tape and we are going to declare a victory, except, folks, nothing changes. I am serious about regulatory reform. And I think we need to review our rules and regulations. But this has absolutely no substance, not one iota. Nothing will change, other than we set a dangerous precedent saying it's okay to have regs that say "may" instead of "shall," but nothing, absolutely nothing changes. You heard Senator Murante read duplicative language. So we pass this bill and guess what happens? Nothing. Again, this is a bill about nothing. So I thought, where in the world would they come up with this? And my next time on the mike I'll talk about the Mercatus Center, George Mason University, and what their policy brief says about Nebraska and then what they say, a step-by-step guide to using Mercatus tools to reduce state regulation levels. But I'm going to talk for a second about the fiscal. Time? How much time do I have left? [LB948]

SENATOR WILLIAMS: 1:40. [LB948]

SENATOR HARR: Thank you. I'm going to talk actually first about the committee statement and the statement of intent. Thirty-four pages, he's going to go through each one of them, and I'm glad he is because when I looked at the committee statement and the statement of intent, well,

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they're kind of like the bill. One is one page and one is two pages and it gets rid of a whole bunch of rules and regs but doesn't say why we're getting rid of them or the reason for it. So now we're having a chance to talk about that, so I'm glad I have some time on the mike, but...and we'll go through those because I think we'll have plenty of time, but let's look at the fiscal note. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR HARR: Thank you. And we'll have plenty of time to go over that. So the first one is the Nebraska Department of Revenue estimate savings, no fiscal impact; Department of Environmental Quality estimate, no fiscal impact; Department of Motor Vehicles estimate, no fiscal impact; Secretary of State, no fiscal impact; Department of Banking and Finance, no fiscal impact; Attorney General's Office, no fiscal impact. And those were the agencies that were touched on, folks. There are...well, I can go through actually. There are more. I apologize. And what you'll find, if we're passing this to save money, it's not doing it. [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

SENATOR HARR: Department of Health and Human Services, no fiscal impact... [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

SENATOR HARR: Thank you. [LB948]

SENATOR WILLIAMS: Thank you, Senator Harr. Senator Krist, you shall be recognized. [LB948]

SENATOR KRIST: I am so recognized, Mr. President, thank you. And good evening, Nebraska. I'll state for the obvious the things that I talked about the last time that this meritless bill came before us. Anytime someone starts to interfere with the rules of the administrative agencies, I get concerned because I still have several bills that I have passed...helped to pass, introduced, and some of you signed on to those bills, one of them going back to 2015. That bill, in particular, was one where we would reinstate CMS qualification and certification for prisoners upon release to make sure that they could, upon release, continue to get the drugs that they need, like insulin, like psychotropic drugs. Two thousand and fifteen--2015--still haven't been implemented totally--at all, as a matter of fact--and those are our administrative procedures that need to be implemented and the rules, the adoption of promulgation of rules and regulations. I read for you on page 642, 84-901.01: "Adoption and promulgation of rules and regulations; time; failure to

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adopt and promulgate; explanation; contents; hearing by standing committee of the Legislature; effect of legislative changes." Item (1), page 642: "When legislation is enacted requiring the adoption and promulgation of rules and regulations by an agency, such agency shall adopt and promulgate such rules and regulations within one year after the public hearing required under subsection (2) of section 84-907." So what Senator Murante would argue is a redundancy in terms of promulgating the rule. Let me try to take you through this process again just simply. There's no one in the Chamber paying attention, but those folks at home, I'm sure, are. When we bring a piece of legislation forward and vote with 25 votes to bring it forward, or more, that doesn't mean that those items, that content is going to go into effect. In fact, the requirement is for that agency to promulgate rules and regulations, and there is a definitive way of going about that. Now, if Senator Murante wants to throw out the book and make sure the agencies do not go through the process of doing a public hearing and requiring that those items that we have put into legislation do not...are not enacted, then--once again, I think this bill was submitted on behalf of the Governor--then he is thumbing his nose at the process. I will go into great detail about the timing on this and I have asked Senator Riepe on the mike to have a hearing to examine why that particular bill, and I'll put it in writing for you before I leave to make sure that we can do that, before I leave the legislative process, because once it gets past a certain point the committee chairman of jurisdiction has an obligation, a legal obligation to find out why. But the Governor, pursuant to Section 84-901, and I quote: Any agency that does not adopt or promulgate such rules and regulations as required by this section shall submit an explanation to the Executive Board of the Legislative Council and the standing committee of the Legislature which has subject matter jurisdiction over the issue involved in this legislation, stating the reasons why it has not been adopted. Now there might be reasons why it has not been adopted. It might very well be that there is a problem that we didn't foresee within the committee process. But, folks, that's what this is all about. And when you bypass the process and say why would we ever promulgate rules and regulations... [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR KRIST: ...when it's already in statute: because it's called for in statute to follow the process. So if Senator Murante wants to read it one by one for the rest of the night, I'd be happy to stand here with him and do it. But the bottom line is that this bill, this bill should not have seen the light of day, should be put back into the drawer from which it came, and you should not support the relinquishing of what the statute, the state officers' statute tell them, or us, to do. Thank you, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Krist. Senator Harr, you're recognized and you may continue. [LB948]

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SENATOR HARR: Thank you, and I shall. So I'm looking at Department of Insurance: zero impact. Finally, Department of Environmental Quality, they say, "Cost savings may be realized from (the) regulatory actions to minimize necessary regulations." So, "may," there we go, but then you go to the fiscal impact of repealed language: no fiscal impact. So we did this because the Governor wanted to find savings and he said there's 7.5 million words in state regulation. Folks, out of those 7.5 million words, we are going to eliminate less than 500. Well played, sir, well played. We will change the world together, Senator Murante, you and I. This bill, again, nothing; everything we're getting rid of will not have one impact on the world at large, other than the Governor gets to stand up and say, I reduced unnecessary and burdensome rules and regs, except he hasn't eliminated them. They'll still be there. It's just they'll be in law instead of rules and regs. They're still there. We haven't changed the world. We haven't changed one diaper, folks. This is still as dirty as it was before, if you thought it was bad. So let's go to the Mercatus on Policy, "A Step-by-Step Guide to using Mercatus Tools to Reduce State Regulation Levels," written by Mr. James Broughel, April of 2017, a mere three months before we decided to take this on. Says: For states wishing to cut excessive 'red tape,' that is, to reduce unnecessary regulatory burdens, designing a process to accomplish this goal can be a daunting task. This guide offers state policymakers a fair, simple, and straightforward process for achieving this objective using tools developed by us. Although the process outlined here is not the only path to reducing regulatory burdens, it has some advantages, including relative simplicity, cost-effectiveness, transparency. Number 1: Define the regulatory burden. Regulatory burden can be measured in a number of ways. For example, it can be measured in terms of the number of pages in the state administrative code, the number of final rules published by agencies, or paperwork, compliance, or social costs that rules impose on the public. There are merits and drawbacks to each of these approaches. Because resources tend to be limited, this guide recommends using relatively simple metrics: the total count of restrictive words found in state administrative codes, restrictive words including legal obligation and prohibitions on the public. And then we go to the Governor in his press release by Ms. Martha Stoddard--who I believe is...nope, she's not here--from the World-Herald. And again, in the article it says we found in our state regulatory more than 100,000 restrictive words in Nebraska's regulations. Those include such words as "shall," "must," "may not," and "required"--lo and behold, the same as in this study. I mean, matter of fact, they even quote James Broughel. "Step 2: Establish a Baseline." [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR HARR: Before a state decides how much regulatory (sic) it wants to cut, it must first know how much regulation it has and decide whether the amount seems excessive--seems, not is, seems excessive. If the regulatory (sic) is defined as the number of restrictive words appearing in state administrative code, then a baseline, or initial starting point, can be established... Well, we established a baseline. So there are seven steps, I believe, and we'll come back to those. But mind you, folks, we're going to spend more money printing out this study than the study actually saves

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in money. So I'll hit my light. I think I'll get another chance. We'll see where we are. Thank you.
[LB948]

SENATOR WILLIAMS: Thank you, Senator Harr. Senator Krist, you're recognized, and you shall continue. [LB948]

SENATOR KRIST: Thank you, Mr. President. I just want to put this on the record and then maybe put a motion in, priority motion to adjourn, because by my count there are 15 people in this Chamber. "When legislation is enacted requiring the adoption and promulgation of rules and regulations by an agency, such agency shall adopt and promulgate such rules and regulations within one year after the public hearing required under subsection (2) of section 84-907. Such time shall not include the time necessary for submission of the rules and regulations to the Attorney General pursuant to section 84-905.01 or submission of the rules and regulations to the Governor pursuant to section 84-908. Any agency which does not adopt and promulgate such rules and regulations as required by this section shall...submit an explanation to the Executive Board of the Legislative Council and the standing committee of the Legislature which has subject matter jurisdiction over the issue involved in the legislation, stating the reasons why it has not" been adopted, such rules and regulations, "as required by this section," and "date by which the agency expects to adopt such rules and regulations, and any suggested statutory changes that may enable the agency to adopt such rules and regulations." Senator Murante argued earlier today that we should follow the constitution, follow the rules of the constitution, follow the rules in the statute. Well, we're not following this rule. In fact, this piece of legislation tells us to ignore the option of establishing rules and promulgating rules and regulations. If such agency does not adopt and promulgate such rules and regulations "within three years after the operative or effective date of such enacting legislation, the standing committee of the Legislature which has subject matter jurisdiction over the matters included in the legislation shall hold a public hearing to determine the reason that such rules and regulations have not been enacted." Notice here it does not say that an individual senator would bring it to the attention of the all-knowing, all-hearing chairman of that committee. Rather, the chairman of the committee has a responsibility to have a hearing to say why that particular bill that has passed out of his or her committee has not been enacted. "The changes made to the Administrative Procedure Act by Laws 2011, LB617, shall not affect the validity or effectiveness of a rule or regulation adopted prior to May 25, 2011." In other words, what we did before is not interrupted by anything that we would do after the fact, and particularly be affected by LB617 that we passed in 2011--and I voted for that law. "The changes made to this section by Laws 2013, LB242, shall apply to legislation enacted before, on, or after September 6, 2013." So those rules continue to stay in place to promulgate and regulate the rules that are set aside by statute changes as we know them. So then it goes on to talk, in 84-901.02, Repealed. Laws 1986; and then in 84-902, "Agency; rules and regulations; certified copies filed with Secretary of State...open to public inspection." So what we're doing here is deciding that this statute is no longer valid, we don't have to

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promulgate rules and regulations and, if we do and there are statutory events that take the place of a rule or regulation, that we should simply just discount them or we should go back and change them to saying where they thought...where they thought it was necessary to say that we shall, now we're going to change it at this point and say, well, just kidding, you may. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR KRIST: I don't think I can say anything more clearly than I have said so far. There is a process in place whereby legislation is passed, and we are allowed--actually, we are required--to promulgate rules and regulations in order to enact and help to enable the piece of legislation that's there. I would argue that rather than changing "shalls" to "mays," we should leave them in place because it is a history of where we came from in terms of establishing the legislation, and then actually putting together rules and regulations and promulgating them. Thank you. [LB948]

SENATOR WILLIAMS: Thank you, Senator Krist. (Visitors introduced.) Senator Kolowski, you're recognized. [LB948]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I would like to yield my time to Senator Harr, please. [LB948]

SENATOR WILLIAMS: Senator Harr, you're yielded 4:50. [LB948]

SENATOR HARR: Thank you, and I shall use them. So number three...we left off with number 1--let's go back to the Mercatus study--define the regulatory burden. Two: "Establish a Baseline." Three: Set a Target Goal, Regulation (sic--Reduction) Goal, and a Deadline. "After establishing a baseline, the governor, state legislature, or some other body will set a goal for how much the code should be reduced. This will be largely a political decision..." I said this before, folks, on the first time. "This will largely be a political decision"--not my words, their words--doesn't that tell you everything? What we're doing here is political, right? "Step 4: Create an Oversight Mechanism... The commission should also focus on communication with the public to ensure the benefits of regulatory reform, such as smarter and more efficient government..." Folks, we're not more efficient and we aren't any smarter. We're doing the exact same thing. We're just doing it differently. "Step 5: Establish a Process to Review the Code and Get Buy-In from Regulators." Input from the public can be beneficial in this task. "Public feedback can also result in unexpected reform ideas that fall outside the scope of reformers' original plans." We never had public buy-in. We never had public hearings on any of this. So maybe we didn't follow the Mercatus. Sixth: "Institutionalize a Regulatory Budget." Well, that's what we have Senator Stinner's in Appropriations for. So here we are, folks. We went through this song and dance. You know what I never heard? The word "better." I never heard a word saying how to get better, more

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responsive regulations, how to make sure that the more you save money for the businesses, the individuals affected, how do you streamline to make sure that they are tightly...the regulation is tied to the underlying purpose of the bill. There was no quantitative analysis...qualitative analysis. This was all quantitative. Let's pick a word and let's decide we don't like that word and we shall eliminate that word and we may replace it with something else or we may not. Who knows? Right? But what we do know is that we are taking the power from this branch telling the Governor, you shall make, and the agencies, you shall make rules and regulations, and, instead, saying, well, you may, you may not. Hey, you know what? If the statute is okay and you think that really gets across what needs to happen, don't worry about it. If we disagree with you, well, maybe we'll pass a new law, maybe we won't. If we really want regulatory reform, folks, let's do regulatory reform. Let's have the agencies sit down with us and say, okay, what are you trying to do with this law, how can we do it more efficiently, how can we do it faster, better, cheaper? That's what America is built on. There's nothing in this bill that makes the rules and regs cheaper, faster, better, more efficient--nothing. This is all show. And I hope and I pray that, gosh darn it, we do something substantive, because I do... [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR HARR: ...I do think we have too many rules and regs out and there, and I do think we can eliminate some of our rules and regs, but that's not our job, folks. That's the Governor's job. He oversees rules and regs. It's his job to review them. It's his job to say, hey, we're not doing it right. That's not our job. And so he's trying to say, hey, guys, why don't you give us some power, we'll pretend like I did something, that I eliminated rules and regs when, in fact, I have done nothing, I have not changed one thing, I have not saved one dollar. No, folks, this is Seinfeld. This is Seinfeld at its best, so Curb Your Enthusiasm for this bill--Jamison caught that. This is not a good bill. I see Senator Hansen caught that now too. [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

SENATOR HARR: Thank you. [LB948]

SENATOR WILLIAMS: Senator Harr, you're next in the queue and you may continue. [LB948]

SENATOR HARR: Is this...is anyone in the queue after me? [LB948]

SENATOR WILLIAMS: And this is your third time and, yes, there are several in the queue: Murante, Pansing Brooks, and Senator Chambers. [LB948]

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SENATOR HARR: Okay. Well, I was hoping to close. Well, I'll tell you this. I think I've said what I think I need to say about this underlying bill at this point. When I close I'll actually talk about AM2473 after...well, I'll leave it at that and just say, folks, I appreciate what the Governor is trying to do, I appreciate what Senator Murante--Murantay (phonetically), Murantee (phonetically), Santee (phonetically)? I don't know--what the senator, the fine senator from Big Fred's, is trying to say. And I want to thank Senator Thibodeau for prioritizing it so we can have a talk about rules and regulations and who actually carries the burden of making sure that our rules and regs are proper and that they carry out the intent of the Legislature in the least restrictive manner. And that's not our job. We can help, we can advise, but ultimately, at the end of the day, that is up to the Governor and his administrative offices to carry out and to eliminate rules and regs and/or to rewrite them, because, if you look...and I do like these guys from Mercatus because they did a snapshot of Nebraska regulation in 2017, top ten regulators in the state of Nebraska in 2017. Department of Health and Human Services, DHHS, the agency that Senator Riepe oversees with his committee, has 37,592. How many do we eliminate with this bill? None, not one. We give them the authority. If there's some duplicative language, they may get rid of it. But do we eliminate 1 of those 37,592? No, sir, no, ma'am, we do not. Department of Environmental Quality: 8,565. For argument's sake, let's say that the one change in the rule and regs in here eliminates it. Then we'd only have 8,564. That, my friends, that's something to campaign on. Department of Education: 6,588. Again, how much of a change is this? Department of Revenue: 6,165. Folks, we are changing the world because we're going eliminate, I think, three from the Department of Revenue. Department of Ag: 3,442 rules and regs. Oh, shoot! We didn't touch them. Department of Insurance: 3,191. I think they get elimination of one, maybe two--changing the world, folks. The Governor can do more on his own and should be doing more on his own. Department of Motor Vehicles: 2,773 rules and regs. Law enforcement and criminal justice: 2,629. Do we have too many rules and regs? You bet we do. Is it our job in the Legislature to address rules and regs? No. We can set the process. Maybe we should look at the APA. That would be a more effective way. Public Service Commission: 2,393. What are we doing, folks? Department of Roads: 2,377 rules and regs. I think we addressed. This is data, it's Department of Roads, right? We're not Department of Transportation. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR HARR: Thank you. And so what do we do? We do something with a plane, so, again, not eliminating one, just making sure that this is not duplicative with state statute. Quickly, if Senator Murante would yield to one question? [LB948]

SENATOR WILLIAMS: Senator Murante, would you yield? [LB948]

SENATOR MURANTE: Sure. [LB948]

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SENATOR HARR: How many sections are in this bill? I think it's 34. [LB948]

SENATOR MURANTE: Thirty...yeah, that's about right, um-hum. [LB948]

SENATOR HARR: All right, so 34, folks, I read to you all of those and we're going to eliminate 34 regs? Congratulations. You've earned your \$12,000. You have done something spectacular. This is a great bill. I stand back. Seeing all these rules and regs, my God, 15,000, and we are going to get 34. Good job. Good job. Thank you. [LB948]

SENATOR WILLIAMS: Thank you, Senator Harr and Senator Murante. Senator Murante, you're recognized. [LB948]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening, I won't be speaking very often this evening, but I will rise to just correct one thing. First of all, I'll correct myself that the green copy of the bill has 40 sections, Senator Harr, and the amendment adds an additional 3, so perhaps that does move mountains for you. But we're all the way up to 43. And second...but the second that needed to be addressed, I believe, is the concept that putting into statute language that says an agency may adopt and promulgate rules, it was purported that that is somehow unusual or that we don't do it very often or that we're breaking new ground here. If you Google, or if you go onto the legislative Web site and type in the quotes "may adopt or promulgate rules," there are literally hundreds of examples in state law where this is already being done. And in point of fact, we did it earlier today with Senator Wishart's bill dealing with autonomous vehicles. So if that bill goes on to Final Reading, which I suspect that it will, and is enacted into law, then we will have added another example where we are giving a state agency the authority but not the mandate to adopt and promulgate rules. It is contained literally hundreds of times in state law. What we are doing here is saying, just as in the hundreds of instances that currently exist in state law, these are duplicative, the statutes are sufficiently prescriptive and, accordingly, those rules are redundant. Thank you, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Murante. Senator Chambers, you're recognized. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, sometimes it embarrasses me, a black man who had nothing to do with writing white people's constitution, has to refer to white people's constitution to let white people see what their duty is under their white person's constitution. And the white man I'm talking about is the Governor. Now Senator Murante earlier--Senator Murrantay (phonetically)--earlier today was talking about how the Legislature must follow the constitution--must--and if the constitution says that aliens should not

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be counted for the purpose of determining population for reconfiguring legislative districts, the Legislature has to do that. I'd like to ask Senator Murante a question. [LB948]

SENATOR WILLIAMS: Senator Murante, would you yield? [LB948]

SENATOR MURANTE: Sure. [LB948]

SENATOR CHAMBERS: Now, Senator Murante, I know the answer to this question, but I want it on the record. Is the Governor required by the constitution to obey a constitutional directive delivered specifically to the Governor? [LB948]

SENATOR MURANTE: Barring some sort of case law which would render that constitutional provision unconstitutional, I don't...yes, I believe the answer is yes. [LB948]

SENATOR CHAMBERS: Thank you, and that's all I will ask you. Now I should turn to the Constitution of the State of Nebraska, Article IV-6, "The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed..." The Governor is in charge of executive department agencies. When a law is passed and mandates that one of these agencies under the Governor's care, supervision, and control shall write rules and regulations, that is the law. The Governor has an obligation to see that that law is faithfully enforced. But he ignores it and allows his department heads to ignore it. And here's Senator Murante, after lecturing the Legislature this morning on how the constitution must be followed, doesn't think the Governor has to follow this. Maybe Senator Murante doesn't read the constitution like I do, and he is unaware that there's an explicit, unequivocal directive to the Governor that the Governor shall see that the laws are faithfully executed. Now, if that is indeed what the constitution says, and it's on page 22 of this little paperback constitution you have in your rulebook, but as Article IV-6, the Governor "shall take care that the laws be faithfully executed..." If the law says that rules and regulations... [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR CHAMBERS: ...shall be written, he is to see that that law is executed. But instead, he yawns, ignores it, and then says, well, I know what I'll do, I'll change the law. And Senator Murante, the lecturer, telling us what must be done in order that certain ethnic groups can be deprived of the right to have representation based on their numbers in the population, he will indicate that must be done because what must be carried out in Nebraska is discrimination based on race, national origin, or ethnicity. Senator Murante, being of Italiano derivation, may feel that he's got to take it out on other nonwhite groups. [LB948]

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SENATOR WILLIAMS: Time, Senator. Senator Chambers, you're next in the queue. You are recognized to continue. [LB948]

SENATOR CHAMBERS: I knew that so I just exhaled. I was so sure that I would be next that I waited to exhale until I was recognized. Either the constitution means something or it doesn't. This provision has never been declared unconstitutional, so why is Senator Murante here telling us change the law? Because the Governor is not going to do his job. I saw a movie a long time ago with Paul Newman--it was called The Life and Times of Judge Roy Bean--and he ordained himself a judge and took over this little town, and he believed in swift justice, whether he was right or not. Somebody would be charged with horse stealing? Hang him. Then later on: Judge, he didn't do it. Well, we all make mistakes. As time went on, that little town was in the path of progress. So a young guy played by Roddy McDowall...my memory is so bad. I'm 80 years old, but I remember some things. And he came to the saloon of Judge Roy Bean where the judge held court, and Roddy McDowall was explaining to Judge Roy Bean why progress is coming and the law says that when land is in the path of progress then that land can be taken for a public purpose. Judge Roy Bean said, I ain't never heard of such a thing as that. Rodney McDowall said, are those law books, Judge? And Judge said, they sure are. He said, well, may I have access to your law books and show you what I'm talking about? Judge said, help yourself. So Roddy McDowall went and got the law book, opened it, and showed it to Judge Roy Bean. Judge Roy Bean said, um-hum, it says just what you said it said. Then, like Governor--see, I told you I forget things--Governor...what's his name? [LB948]

SENATOR CLEMENTS: Ricketts. [LB948]

SENATOR CHAMBERS: Oh, governor "Crickets" said, here's what Roddy McDowall did. He showed it to Judge Roy Bean. Judge Roy Bean took that book, he tore that page out, balled it up and said, bad law. He repealed the law in that fashion. That's what Governor Ricketts is asking the Legislature to do, and he's got his employee...not his employee, his messenger, water carrier, to come over here and tell us that these agencies decide that they don't have to write rules and regulations because in their judgment the Legislature exercised bad judgment when they said that these rules and regulations should be written, so they're going to ignore what the Legislature wrote. The law is the law. These white people are violating white people's law and white people's constitution because a white Governor told them they could, and a would-be white man brought it to the Legislature and said, you all ought to change the law because the Governor is not going to do his job, he's not going to carry out his oath to uphold the constitution and laws of this state. Now, for violating his oath, he can be impeached. Would this Legislature impeach the Governor? Absolutely not. Absolutely not. I sponsored two resolutions of impeachment, one against Governor...former Attorney General Paul Douglas. The Legislature impeached him. Four of the seven judges voted for conviction,... [LB948]

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SENATOR WILLIAMS: One minute. [LB948]

SENATOR CHAMBERS: ...but the constitution requires a supermajority, so Paul Douglas kept his job even though the Legislature impeached, four of the seven judges said he should be convicted. There was a regent named Hergert. He wound up going to federal prison or getting probation for some bank fraud, but I sponsored the resolution that led to his impeachment and the Supreme Court convicted him. He can never hold another public office. Here's a black man trying to get white men to obey white people's law and constitution. So what is going on around here? Can you see why I say the things that I say? This bill ought not be passed. The Governor should do his job as ordered by the constitution. It's not going to cost that much money to write a rule and regulation, even if they decide that the language of the law is sufficient. They were told to do it... [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Chambers. Senator Pansing Brooks, you're recognized. [LB948]

SENATOR PANSING BROOKS: Thank you, Mr. President. Well, I'm pleased to have this bit of information that I received from Senator Harr from the Mercatus Center at George Mason University, and it's entitled, "A Snapshot of Nebraska Regulation in 2017." I asked him for a copy of it because it is his last few days, and I will be able to then bring this up as this comes before us again and again. The Mercatus Center's, it says, "A Snapshot of Nebraska Regulation," and it talks about 100,627 restrictions, 7.5 million words, and 10 weeks to read. And the article goes on to talk about the top ten regulators in Nebraska, and the total number is 75,175. It includes over 37,000 from the Department of Health and Human Services, 8,500-plus from the Department of Environmental Quality. Department of Ed is 6,500-plus. The Department of Revenue is almost 6,200. Department of Ag is 3,400-plus. The Department of Insurance is 31...almost 3,200. The Department of Motor Vehicles is 2,700, almost 2,800. The law enforcement and criminal justice regulations are 2,600, a little over that, and the Public Service Commission is almost 2,400, and the Department of roads is almost 2,400. So when I look at that, and as some people have done the numbers on that, that equals that if you count the number of "shalls" that should be turned to "may," we're dealing with 0.000572 percent of the actual regulations that we have. And you know, that's not a lot, but, again...and I'll rise, and I'm rising just like we did before. We're taking the teeth out of statutes. We have passed laws, our predecessors have passed laws, and what little teeth we can give other than in the criminal laws is by saying that such-and-such agency "shall," and not such-and-such agency "may" if they

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want or "may" if it fits them or "may" if it sort of seems appropriate on the specific day, but "shall." And so you take out the teeth and what are you left with? Gumming our regulations to death. So we can attempt to just gum our rules and gum through the way that we want to move forward as a state, or we can let the executive branch have some teeth and actually say this shall happen. And I think it's just, to me, surprising to have this kind of legislation come forward on very important issues. And I understand Senator Murante is trying to take down the number of regulations. But really, when we're talking about the statistic is 0.000572, how much is this really doing other than saying what the agency shall or might or maybe if they feel like it or if it's a certain day and it's sunny out, they might do it or they might not. In fact, we could just... [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR PANSING BROOKS: ...we could just get rid of all the agencies and just decide, well, you know, that things might or might not happen, it's not really our business as a Legislature, it doesn't matter what the previous Legislatures thought and wanted to have happen and thought through, through hearings. All of these "shalls" occurred through testimony and hearings and three rounds of bills. These aren't just little whims that previous Legislatures put into our statutes. These were words that were carefully understood and thought through and that is what's going on. And to change the "shall" to "might" is...it's against everything that the previous Legislatures stood for. So I stand...I hope that we will not get to the point where we are passing this bill. I'm sorry because I think Senator Murante had... [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

SENATOR PANSING BROOKS: ...some good thoughts. Thank you, Senator, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Pansing Brooks. Senator Chambers, you're recognized, and this is your third time to speak. [LB948]

SENATOR CHAMBERS: Thank you, and I will offer some motions so that I can speak. This is a good time, a good occasion to do a little talking about civics. Now, Senator Brasch has a bill that's one of the most atrociously written bills that I've ever seen. I've got...I'm filing 12 amendments on it, and they deal primarily with grammar, syntax, surplusage. Let me give you an example. Where would you find a school board other than presiding over a school district? In their bill they say a "school board of a school district." If you say a "school board," that says it all. I don't think the people who are supporting Senator Brasch's bill, and those who voted to pull it out of the committee, even read it. I know the senators who voted for it did not read it or they

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don't understand English or they don't understand grammar or they don't care about English when it comes to grammar and syntax. It's preposterous, and I'll tell you why, and I'm going to tie it to this that we're talking about in terms of the Governor not doing his job and sending somebody over here to get us to pass a law to undo the laws that the Legislatures before us passed directing the Governor, then the Governor refused to follow the constitution. That bill of Senator Brasch deals with education, deals with matters of education, and the writing of it does not exemplify that of an educated person. So if you had a high school student reading that bill and that student was told this was written by the senators who write the laws that govern the schools which you attend, and the child would say, well, this is not written the way it should be, and that child would be right. A "school board of a school district," that's just one of the atrocities. They use the word "youth," y-o-u-t-h. They say "the youth," "our youth," "youth," and there's such a thing as parallelism. If you're going to make a statement or a comment, then everywhere in your writing that you make that statement or the comment it should parallel the way you did it before. So I'm dealing with my first 12 amendments only on page 2. I couldn't get to the other pages, and I didn't start on page 1 because, I said, nothing could be worse than what's on page 1, so I'll go to what's probably worse, and now I'm not sure, so I've got to go back and read that. Now, are we to understand that the Governor does not understand English? And he goes along with Trump about being against these DACA children. They're better educated than he is. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR CHAMBERS: They get good grades in the schools that they attend, and yet that man, who is supposed to be the example, does not obey the constitutional order placed on him. That's how white people do, yet, ironically, more black people are in prison than white people. They say black people disobey more laws, but if you go down to that kangaroo court in Douglas County, you'll see when white children have been charged with something they're allowed to go home with their parents; black children are sent to that youth detention facility, even when they have parents accompanying them. That's racism. You all won't call it what it is. I call your Governor a law violator, a breaker of the constitution. [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Chambers. Senator Brasch, you're recognized. [LB948]

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SENATOR BRASCH: Thank you, Mr. Speaker. And I do want to thank Senator Chambers for mentioning the bill, LB1069, this evening, because when it does come to the floor I understand there's only one hour to speak on it and it will be passed over at that point and having the chance to just have a little dialogue at this point, you know, I do welcome it. A couple comments, I did appreciate Senator Chambers' 1995 rendition of "America" that he handed out on the floor this morning and, reading it over, he's quite the author. And I'm not quite sure that I would equate that to what he has there, but when it comes to this bill, most of it was written by the Department of Education. And many of us, myself specifically, have not had the opportunity or the training that Senator Chambers has in precision of writing and statutes, which I'm sure he started with day one. He's in year 40 now and I don't think anyone can even come close to that great talent. My experience and my English comes from being raised by two blue-collar, very broken English immigrants from the Ukraine, and they spoke mostly from the heart, not from statutes. So when I do have an opportunity to introduce my bill and speak on it, which time, again, will be fleeting and very brief because I know it will not come to a vote, as it is mentioned, I will take an opportunity to respond. But again, because it's in on this bill and mention was made of it and I have not had a chance to thank Senator Chambers yet for his early morning reading material, which first thing in the morning I think is probably not for rated "G" audiences, but that's my message tonight is, again, there will be very little dialogue during the bill should it come to the floor tonight. I was told it may or it may not. Thank you, Mr. Speaker. Thank you, colleagues. [LB948 LB1069]

SENATOR WILLIAMS: Thank you, Senator Brasch. Senator Harr, you're recognized to close on AM2473. [LB948]

SENATOR HARR: Thank you, Mr. President. I think we've had full and thorough debate on that amendment to Section 5 and 6 of the underlying bill which, as we all may recall, deals with elections and regulation regarding our elections, and so obviously that's very important. It's in this area, ironically, that I am happy that this bill does nothing, because I always worry when I see Senator Murante and election law, I get a little nervous. But, folks, vote for this, don't vote for it, your world will be no different tomorrow than it was today because this bill does nothing. This amendment, to the best of my knowledge, does nothing. We eliminate duplicative language. I know Senator Schumacher and I were talking. Wouldn't the better approach be to maybe draft a law that says, hey, when the law is sufficiently descriptive and there is no need for rules and regs, there is no need for rules and regs and you may cite to that descriptive language, and you would get rid of more rules and regs and you would discourage more rules and regs. It would probably be a more effective way of making Nebraska great again. With that, I would ask for your support on my AM2473 that, much like the underlying AM1931 and the bill, LB948, does nothing. Thank you. [LB948]

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SENATOR WILLIAMS: Thank you, Senator Harr. You've heard the closing. The question is, shall the amendment to the committee amendment to LB948 be adopted? All those in favor vote aye; opposed vote nay. Senator Harr, you're recognized. [LB948]

SENATOR HARR: I would request a call of the house. [LB948]

SENATOR WILLIAMS: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record. [LB948]

CLERK: 27 ayes, 3 nays to place the house under call. [LB948]

SENATOR WILLIAMS: 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. The unauthorized personnel please leave the floor. The house is under call. Senator Bolz, please check in. Senator Brewer, the house is under call. Would you please return to the Chamber? Members, the question before the body is adoption of AM2473. There has been a request for a roll call vote in reverse order. Mr. Clerk. [LB948]

CLERK: (Roll call vote taken, Legislative Journal page 1504.) 5 ayes, 33 nays. [LB948]

SENATOR WILLIAMS: The amendment fails. Mr. Clerk for a motion. [LB948]

CLERK: Mr. President, Senator Chambers would move to recommit the bill to committee. [LB948]

SENATOR WILLIAMS: Senator Chambers, you're recognized to open on your motion. [LB948]

SENATOR CHAMBERS: Thank you. Members of the Legislature, Mr. Chairman, on this floor, as fantastic as it seemed to me at the time... [LB948]

SENATOR WILLIAMS: Excuse me, Senator Chambers. Raise the call, please. I'm sorry. Go ahead, Mr. Chambers. [LB948]

SENATOR CHAMBERS: It seemed fantastic to me at the time, but some of my colleagues praised Senator Murante for running an efficient committee and gave some other complimentary remarks. I think he did not know at the time he took this bill for the Governor, that his committee

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heard the bill, none of them realized that the Governor had been violating the constitution. They didn't realize that the Governor is in charge of all of the executive departments. They didn't realize that he can appoint the heads of these executive departments. Some positions require confirmation by the Legislature, but others may not. It is his duty under the constitution which he swore to uphold. I don't think Senator Murante or members of the Government Committee knew that the Governor had to take an oath, and they didn't know that that oath imposes the duty on the one taking it to discharge the duties of that office to the best of his or her ability. And no matter how incompetent the Governor may be, he, I don't think, could make a credible denial that would be accepted that he was not aware that he had to obey the constitution or live up to his oath. He knowingly violates his oath. Rather than straightening up and flying right, he told Senator Murante, get in here, and Senator Murante obediently complied. And he told Senator Murante to trot this bill on over to the Legislature because I don't feel like obeying the constitution and I'm not going to obey it anyway, so I want you to get a bill that will legalize what I'm doing. Well, Senator Murante may be beholden to the Governor and his servant, but Senator Murante would tell the Governor, well, Governor, a statute cannot relieve you of your duty to carry out a constitutional dictate. And the Governor said, well, that's the constitution; see this comic book I got here? And he held up a paper version of the constitution, and Senator Murante recognized it because when he occasionally looks in the rulebook he'll see this little comic book version of the constitution. Well, the Governor said, this is what I think of the constitution, and he ripped it to shreds, threw the shreds at Senator Murante and said, trot that bill over to the Legislature like I told you to do. And Senator Murante said, well, you don't obey the constitution, Governor. The Governor said, but you are going to obey me. And Senator Murante said, yes, master, your will is my command. And he trotted over here, had this bill drafted. His committee obediently advanced it, not realizing that the Governor has been violating the constitution and he has no intent to obey the constitution. So they sent the bill out here, and here we are now dealing with it. And once again I have to do some trash cleanup, clean up the mess of the ones who, when I was little, I was told are my betters, b-e-t-t-e-r-s, white people are better than black people, white people are smarter than black people, they're genetically superior to black people. And now I see the Governor, the top white guy in this state, violating the constitution, and you all are going to go along with him. Now, here's what one of the Governor's people came and told the Governor. Governor, you shouldn't have torn up that constitution because Senator Murante may tell somebody. And the Governor was going to protest and the flunky said, but wait, Governor, let me explain this to you so the next time you send one of these fools on a fool's errand they will understand. Tell the fool next time that the law that I want put on the books is not going to excuse me from carrying out my duty under the constitution, which I'm not going to do anyway. I want you to go over there--and this is what the guy's telling the Governor to tell Murante next time--I want you to go over there and nullify those laws that place the responsibility on me to carry out; then, if there's no law on the books, I cannot violate the law by not faithfully discharging my duty to see that it's carried out. Governor said, oh! And he slapped himself on the forehead. He had to take close aim because, since he hasn't got any hair, he doesn't know where

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his scalp ends and his forehead begins, so he just kind of covered the top of his head and down across his face and caught the forehead in there somewhere. And they went through this charade, and now Senator Murante brings what the Governor sent him to bring to us to say that the Governor will not willingly violate the constitution, but he'll violate it, so I want you people in the Legislature to pass a law so that those other laws you passed, which he would be required under the law to enforce, to take away the requirement that his agencies do this. That's what I want you to do, Murante. I don't know if he calls him "Senator" or "John" or "big shot" after his pizza parlor, but here Murante trots in here and gives it to us. And obediently the Legislature will do it, at least a percentage of the Legislature. I have a list at home of all the senators that the Governor officially and formally purchased with that little bit of a campaign contribution--so cheaply bought, so cheaply bought. Is the shame to be felt because you were bought or because you were bought so cheaply? Which is it, or is it both of them? But you have no shame. And that's the contempt the Governor shows. And how many of you have noticed that now that the Governor's dirty work has been done, "Pinata" Foley is not up there sitting in the chair all day, is he? He was here to put his thumb on the scale, and you all accepted it. I'd like to see one of you go over there in the Governor's Office when you're not invited and just sit down, make yourself at home. You know you're not going to do that. He'd throw you out, but he wouldn't have to because you wouldn't dare do it. But you let somebody come in here and look in your face and insult you by his very presence, and you're too weak to say or do anything about it, then you'll get offended at me when I tell the truth. Show me that I'm lying about what the constitution says. You wouldn't even know where to find it. In fact, you don't even know whether what I claim to read is actually in the constitution. That's how you fool white people. Don't say it yourself. Mention the name of somebody they know, or ought to know, and say so-and-so said such-and-such,... [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR CHAMBERS: ...and you make it up in the same way Trump admitted that he made up this BS that he fed Trudeau, from Canada, about there being a trade surplus in behalf of Canada. That's an outright lie, Trump admitted when he said he didn't know it was so, but then he stuck to it even when he knew it was a lie. That's the way you all do: unnecessary falsehoods. It's unnecessary that the Governor behave in the way that he does. He could tell his agency heads, do what the law says, that's all you have to do, it's not yours to reason why, the Legislature gave the order, you carry it out. Thank you, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Chambers. Senator Chambers, you're recognized to continue. [LB948]

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SENATOR CHAMBERS: Thank you. What is a constitution? It's called the organic law of the state or of a country. It is like a foundation, a firm foundation. A house built on a weak foundation cannot stand, for when the rains come and the winds blow the house will go. That's a paraphrase of the "Bible." If you have a firm foundation, so the first thing you try to do is put in place a good constitution. You don't put all of the details into it. Those are filled in by legislatures. And in the case of a state like Nebraska, the people are allowed to put their silliness into the constitution by circulating petitions and obtaining enough votes. But at any rate, the laws are like ladders that are standing on the constitution. When the constitution speaks, those who have taken an oath or given an affirmation that they will uphold it are bound by that oath. Honor should be sufficient, but honor is not, especially in a place like this. So I would wonder why Senator Murante would bring a bill like this. I don't know that he was aware that the Governor has an explicit duty imposed on him to see that the laws are faithfully executed. What does faithful mean? It can mean loyal to something or other, that you deliver on your promise; if you're married, it means you hook your life up to one wagon and you pull it the rest of your life, for better or for worse. There are people--do you all realize it?--who call themselves Christians and they say one man should be married to one woman, but that ain't necessarily so if you go by what these preachers say. You all may know something about multiplication. Four times four will equal 16. A woman is not allowed in any society that I'm aware of to have more than one husband, but if she did that would be polyandry. If a man has more than one wife, it's polygamy, "poly" for more than one or many or several. When that preacher is joining these two people in what they call holy wedlock, that word "lock" is emphasized because it's like being in prison--when those doors clang and that lock clicks, you're there for life, supposedly. But here's what the preacher says, and the men understand this and they kind of nod and wink when it happens. So here's what the preacher says. How many wives can a man have? He says that in his mind. I'd like to ask Senator Briese a question. [LB948]

SENATOR WILLIAMS: Senator Briese, would you yield? [LB948]

SENATOR BRIESE: Yes, I will. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR CHAMBERS: Senator Briese, have you been following my discussion? [LB948]

SENATOR BRIESE: I hate to admit it, but I haven't really been paying close attention, no. [LB948]

SENATOR CHAMBERS: Are you aware that when that so-called Christian vow giving and taking occurs, that it allows a man to have 16 wives? [LB948]

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SENATOR BRIESE: I wasn't aware of that. [LB948]

SENATOR CHAMBERS: You weren't? [LB948]

SENATOR BRIESE: No. [LB948]

SENATOR CHAMBERS: You want to make a little wager? [LB948]

SENATOR BRIESE: No, not at all. [LB948]

SENATOR CHAMBERS: All right. Do you know how to multiply? [LB948]

SENATOR BRIESE: Yes, I do. [LB948]

SENATOR CHAMBERS: Do you know how to add? [LB948]

SENATOR BRIESE: Yes. [LB948]

SENATOR CHAMBERS: All right. We're going to do some addition. How much is four plus four,... [LB948]

SENATOR BRIESE: Okay. [LB948]

SENATOR CHAMBERS: ...plus four more,... [LB948]

SENATOR BRIESE: Okay. [LB948]

SENATOR CHAMBERS: ...plus four more? [LB948]

SENATOR BRIESE: Okay. [LB948]

SENATOR CHAMBERS: What did you say? [LB948]

SENATOR BRIESE: I said, "okay." [LB948]

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SENATOR CHAMBERS: Okay? I want you to tell me the answer. This is not a wager. [LB948]

SENATOR BRIESE: 16. [LB948]

SENATOR CHAMBERS: All right. Now here is what the preacher says. [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

SENATOR CHAMBERS: No, that's not what he said, but I'll tell it next time. (Laugh) [LB948]

SENATOR WILLIAMS: Thank you, Senator Chambers and Senator Briese. Senator Harr, you're recognized. [LB948]

SENATOR HARR: Thank you. Well, I kind of fit in Senator Chambers' camp of not sure why we're wasting time on our last day on this. I guess there always has to be the last helicopter out of Saigon and this seems to be that helicopter that we're trying to get through because today is the last day we can do General File, and then tomorrow is the last day we can do Select File, and then the following day is the last day we can do Final Read, if we want to override a Governor's pocket veto. And then the last day is, ironically, the last day, the sixtieth day, and we can pass bills those days, but I think Senator Kolterman will be too busy celebrating the fact that I will be on my last day to really be able to vote, he'll be so giddy, because today I have four days left, really three legislative days and a couple hours, so I just want to make sure I get all my time in. Folks, I've talked about this bill and I've gone around and I've asked people, well, where are you on this? Well, I'm for it. Well, why? I don't know, but you know what, it gets rid of regs. Sure, it gets rid of regs. Doesn't change any way anyone acts; does not change behavior. If we are serious about controlling our rules and regs, and if we're serious about efficiencies in government and we're serious about how do we make sure that the Governor doesn't continue to grow our rules and regs, then you got to talk to Senator Ebke because she had a bill on that. Then we got to talk why aren't we doing something like streamlining how we do our APA, Administrative Procedures Act, because the Administrative Procedures Act is so burdensome that I had a--I don't know if he's a director or commissioner, I never know--tell me when they want to change a rule or reg, a lot of times, they will just introduce new law. Why? Because it's a heck of a lot easier. And maybe we'll have some time tonight and I'll pass out the process that we go through with our Administrative Procedures Act and how we say we got to make it difficult so we don't grow our administrative procedures, or our rules and regs. But what we've done in essence is we've made it impossible to eliminate unnecessary or burdensome rules and regs because the process is so difficult. Yes, rules and regs are supposed to be more reactionary than law. That's the purpose for rules and regs. And, yes, rules and regs are supposed to be more fungible and have more detail. That's what they do. They provide some meat to the bone--some would say to

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the chicken if you're a fan of regulatory law. This, folks, doesn't do anything. Again, that fatted chicken out there is just as fat tomorrow as it is today after we pass this. Senator Chambers is right to recommit this. He's right to say, what are we doing? If we want to do something, let's do something of substance. Let's not wait until we pass some... [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR HARR: ...gimmick bill, and that's what this is, is a gimmick that is based on elimination of quantitative words not qualitative words, that is based on a word count that gets rid of maybe a thousand words out of 7.5 million--again, nothing. And there isn't one rule or reg that is eliminated...oh, I think there is one--I apologize--out of HHS, one. Good for them! They now have 37,000--some odd number minus 1, and that what we want to do. So I want to congratulate our Governor on his hard work in finding that elimination of that one reg that was duplicative. So, again, will not make a change, why are we wasting our time on this, folks? This is ridiculous. Thank you. [LB948]

SENATOR WILLIAMS: Time, Senator. Thank you, Senator Harr. Senator Chambers, you're recognized and this is your third time. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. I would like to ask Senator Briese a question or two if he would respond. [LB948]

SENATOR WILLIAMS: Senator Briese, would you yield? [LB948]

SENATOR BRIESE: Sure. [LB948]

SENATOR CHAMBERS: Senator Briese, this is not a trick question and it's not a wager. How much is four times four? [LB948]

SENATOR BRIESE: Okay. [LB948]

SENATOR CHAMBERS: How much is it? [LB948]

SENATOR BRIESE: 16. [LB948]

SENATOR CHAMBERS: Thank you. That's all I'm asking you. [LB948]

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SENATOR BRIESE: Okay. [LB948]

SENATOR CHAMBERS: And here is what that preacher says. When he's telling the man, you can have "four" better, "four" worse, "four" rich, "four" poor, four times four is 16. In the Christian ceremony, he's told he can have 16 wives. People don't pay attention to what these guys are saying and they know you don't pay attention. It doesn't mean anything anyway. Now I had a gentleman who listens to me when I speak on the floor of the Legislature. I had said that whoever wrote the "Bibble" doesn't know how to count because the "Bibble" says Jesus would be three days and three nights in the heart of the earth. Then I said, crucified...if the story is true. Even if it's not, the fable, the yarn goes like this. Friday, killed, that can be one day. Friday night is one night. Saturday is two days; Saturday night, two nights. Gets up Sunday morning, that's three days. Where is the third night? That formula was false. So the gentleman called me to tell me that he had heard me correct somebody with reference to their math, so he wanted to correct me, not in a mean way, just being helpful. He said Jesus...he said that I was mistaken by what I had said. I said, well, okay, you've improved my education, thank you. But he's a man who will check. So he called me back. He said, Senator, you were right. I said, what do you mean? Then he went to the place in Matthew where Jesus himself said the son of man shall be three days and three nights in the heart of the earth. And you know what threw him off? The Apostles' Creed, whatever that is, said that Jesus rose on the third day; it didn't say anything about the third night he was supposed to be there. So he exemplified, this gentleman, what the "Bibble" said. They teach for doctrines the commandments of men. Men told him that because the men who wrote it don't read the Bible either. I read it, just like I read things written by Homer and all those other mythologists. But we're talking about something a little more concrete this evening. Senator Harr doesn't like this bill and he rightly points out that it doesn't do much. I don't like the bill, but it gives me a chance to point out how your Governor does not obey the constitution and you all do not turn a hair, makes you no difference, but then if kids are caught, MIP, they're supposed to be punished--kids--but not the Governor. Shouldn't they be able to take the Governor for their example? Where is the example if not in the Governor's Office? He won't obey the constitution. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR CHAMBERS: And you all go along with him. Conservatives, so called, one of these times I'm going to have some of these so-called conservatives define the word for me and tell me what it is that these conservatives are supposed to conserve. They hear things and they repeat those things like a parrot. And next time I'm recognized, I'm going to tell you all one of the oldest jokes that was ever told, and you've all probably heard it. How much time do I have, Mr. President? [LB948]

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SENATOR WILLIAMS: Twenty seconds, Senator Chambers. [LB948]

SENATOR CHAMBERS: Thank you very much. [LB948]

SENATOR WILLIAMS: And this is your third time. [LB948]

SENATOR CHAMBERS: That was my third time, or this time? [LB948]

SENATOR WILLIAMS: This time is your third time. [LB948]

SENATOR CHAMBERS: Thank you very much. That was almost you... [LB948]

SENATOR WILLIAMS: And now it is time. [LB948]

SENATOR CHAMBERS: Say it again? [LB948]

SENATOR WILLIAMS: And now it is time. [LB948]

SENATOR CHAMBERS: It was almost like you'll be... [LB948]

SENATOR WILLIAMS: Thank you, Senator Chambers. Senator Harr, you're recognized. [LB948]

SENATOR CHAMBERS: (Laugh) (Microphone malfunction)...could speak. [LB948]

SENATOR HARR: Thank you, Mr. President. And back to why Seinfeld is now off the air: because it was a show about nothing. So I see the top ten industries targeted by Nebraska state regulation in 2017. Ambulatory healthcare services, 5,135--5,135, folks--and they reviewed those rules and regs, and do you know how many they said to get rid of in Senator Murante's bill? None--5,135 and they couldn't find one. Nursing and residential care facilities, 4,595, second most regulated, guess how many they found? None. Chemical manufacturing, 3,843: 1, I've been told, 1. Thank you. Senator Murante, job well done. Food manufacturing--oh, wait, wait, wait, wait--3,425. Hospitals: none. None. Folks, do we have a problem here, or have we created a problem for a press conference done by the Governor last July and he had to show a result? He stood up and said we have 7,500,000 words in our rules and regs and we have this restrictive language and we got to get rid of it. Do you know what he never stood up and did? Had a press conference and said, after reviewing this, which I had every agency do, I determined

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that I, through the APA, the Administrative Procedures Act, found a way to eliminate a whole bunch of rules and regs. No. No, he...because he couldn't, to my knowledge. If he did, he didn't do a press conference on it. Instead, he found his loyal friend, Senator Murante, and he said, Senator Murante, will you introduce this bill that gets rid of 1,000 words out of 7.5 (million) and it does real and substantial change but without doing anything? And he said, well, sure, yeah, I will. And then we found another senator to prioritize it because Senator Murante didn't want to waste a priority on this. He had three. How many did he use on this? None. And so we get up here and we find out that this is a political tool given to us by the Mercatus Center and that the answer is...how many do you get rid of? It's a political question. They don't even attempt to say, you should do an analysis to see if you're making a qualitative change, are your rules and regs designed to further the purpose of the bill, underlying law, in a way that is least restrictive-- which is what I think a rule and a reg should be--doesn't do that, doesn't even attempt to do that. No, we're going to study it in the number of words and then we're going to declare a victory and say problem solved, red tape no more. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR HARR: Folks, the red tape is still there. Food manufacturing still will have 2,594 rules and regs; animal production and aquaculture, 2,304. Transportation equipment manufacturing will still have 1,915; crop production, 1,578; professional scientific and technical services, 1,207; telecommunication, 1,192. Now these numbers may be wrong because, folks, these were from 2017. I bet you we have more. So we've eliminated 43. How many has the Governor added in the last year? How many has the Governor eliminated in the last year? How has he made our rules and regs more receptive to the people? That's what you advertise on, that's what you run for reelection on, not about, well, there was this duplicative language and I got rid of the duplicative language. It doesn't change anything. Thank you. [LB948]

SENATOR WILLIAMS: Time, Senator. Thank you, Senator Harr. Senator Krist, you're recognized. [LB948]

SENATOR KRIST: Thank you, Mr. President. I'd like to yield my time to Senator Chambers because I want to hear the oldest joke in history. [LB948]

SENATOR WILLIAMS: Thank you, Senator Krist. Senator Chambers, you're yielded 4:50. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. There was a magician way back in the days of ancient Egypt, when ancient Egypt was a toddling infant, and this magician would do tricks, make things disappear, make them reappear. But the parrot knew how the magician did every

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trick, every one of them. So when the magician would misdirect people's attention with the left hand, he'd make the item, which was now in his right hand, go up his sleeve and the parrot would say, it's up his sleeve, it's up his sleeve! And that's where it would be. No matter how clever the trick, the parrot always gave it away. So the magician decided to take the parrot for an ocean cruise and maybe they could discuss this and the importance of the parrot not telling the jokes...I meant the tricks, giving them away. So while they were going across the ocean, about midway, too far for the magician to swim to shore, too far for the parrot to get back to shore by flying, and a large wave came up in the middle of the night, and the parrot was asleep, and it shattered the ship. And the magician managed to catch a large beam and was holding on to it and the parrot was in the water, wet, so the magician reached out and pulled the parrot aboard and they were being tossed about by the waves. And so you're going to know why this is the oldest joke that was in the world and you never heard it. The parrot kept waiting and waiting and waiting, and he was getting hungrier and hungrier and weaker and weaker. And just when he was about to let go and sink under the waves, he said to the magician, okay, I give up. And the magician said, what do you mean? He said, I don't know where the ship is, make it reappear. You see why that's the oldest joke that ever was? You don't even get it, do you? They don't get it. The parrot thought the magician made the ship disappear, like he had made the other objects, and he wanted to keep it out of sight until the parrot acknowledged that he didn't know where it was, then he would make the ship reappear and they would be safe, but the magician couldn't make it reappear because he hadn't made it disappear. Whenever you have to explain a joke, it's not very good, or your audience isn't very bright, or it's late on one of the latter days of the legislative session. This is one of those situations where the Speaker is going to have to make a decision. I don't know whether he wants to go beyond 10:00 or not, but I can certainly do that. Senator Brasch said that her bill would be given an hour. If that's true, if both of those things are true, then at 9:00 this bill goes away. Since I have 12 amendments already, Senator Brasch's bill is not going to go anywhere except away. So we can stay here and you all can listen to me go through the grammatical problems that I find with this bill,... [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR CHAMBERS: ...or you can throw in the towel, but it's all the same to me. One reason I really would like to stay and do some work on Senator Brasch's bill, she said language was given or contributed by people in the Education Department. It might go to show that, like George Bernard Shaw, parents are the very ones who ought not have children, educationists are the very ones who should not oversee education. They might know how to teach, but they don't master the subject that they are teaching. Schools, colleges, universities of teaching are not doing a good job because they will teach how to teach, but the ones who are going to be teachers don't master the subject. [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Chambers and Senator Krist. Senator Schumacher, you're recognized. [LB948]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. What bothers me about this particular bill is that somebody has set up an artificial standard and, in an effort to reduce the hassle of regulations, has set up a word count, apparently, and tried to rank the states according to a word count and, supposedly, the fewer words you have in your regulations the better place you are to do business and the more productive you are and the sooner you'll be great again. Well, those kind of contests are subject to all kinds of manipulation and really never deal with the problem. We've seen this game in the area of taxation where you can have various agencies and various foundations and various Web polls set up to say who's the top of this stack and this kind of tax and that kind of tax and this kind of tax, and you can shuffle that deck around to make yourself look good or bad just simply by the way you shuffle the deck. And everybody wants to be the best of the best, and so a lot of distortion occurs in policy, not because a tax is good or bad or needed or regressive or progressive, but because we want to be at the top of the pack in this category, or closer to the top of the pack, or see ourselves improving from the three-quarters of the way down to the halfway down. And the various associations and advocacy groups want to be able to take information to their constituents and their due payers and say, look, we got you moved up three notches on the ladder, we're doing a job, send in your dues because we need to redo our agency headquarters. We are now in this contest, apparently, and it's a bad idea to get involved in that. We shuffle the deck. Did anybody count the number of paragraphs or the number of sentences? Maybe if we just used a different standard, our ranking would be different; or the number of sentences that start with the word "the" and end with an exclamation point, maybe that's how we rank ourselves. I don't think it's a good idea to get into this contest. And one idea that has been talked about a little bit, and I think it's too late in the session to start playing with it, but it may very well be unnecessary for an administrative agency, in promulgating a regulation, to have to ditto in the statute before it starts its work of filling in the meat on the bones with regulatory language and some of the finer points of the legislation. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR SCHUMACHER: And it would...may be entirely possible that a proper approach to this would be simply to say, in promulgating a regulation, the agency does not have to parrot back the language of the statute when it begins to add the regulatory meat to the statutory skeleton, and that might eliminate some words, I suspect, as long as they cite to the statutes the way a business or a regulated party knows where to find the underlying statute. So that might be

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something to consider, but I'm really, really reluctant to get into another race to the bottom with word count, sentence counts, exclamation counts, and that kind of artificial thing that has no substantive meaning to anybody in the real world. Thank you, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Schumacher. Senator Harr, you're recognized and this is at least your third time. [LB948]

SENATOR HARR: Thank you. Well, fortunately, I'll get a couple more chances on the mike tonight, so sit down, enjoy your popcorn. And tomorrow and tomorrow and tomorrow, tomorrow, if we get through this tonight, folks, we'll have another two hours. And I don't know about you, but I got tickets to Willie Nelson tomorrow, and I'm going to let this override my tickets to Willie Nelson, and I don't know how many more chances I'm going to get to see the guy, so...but that's how important I think this bill about nothing is. I look outside the glass and, if this bill did something and it really eliminated rules and regs or if it really had an effect on businesses, that glass back there and all their fat-cat lobbyists would be out there pushing and saying we really need this. And all the department heads, if this were important, the Governor would have them out there pushing and lobbying for this, and there are only a handful out there. And I went out there and I said, so where are you guys on this bill? And their answer is nothing good happens after 8:00 and we're just keeping our eye out to make sure nothing crazy happens on the last day of General File. No one is working this bill, because why? Because the Governor knows it, it's a bill about nothing; the lobbyists know it's a bill about nothing; the senators, checked out, know it's a bill about nothing. Senator Schumacher struck on a point I hadn't thought about, which is why do we in the Legislature give so much power to these third-party groups that rank us, who want something simplistic--as they said, the Mercatus--that people can easily understand a word, quantitate...and the number we have of them, quantitative, "shall," "shall not," "must not," "must," and they say, based on that, your regs are good or bad. I look at...there are other foundations--some of them are even taxed foundations--who rank us and they look at the effective rate and the marginal rate...oh, wait, no, they don't. They only look at our marginal rate. They don't look at our effective rate. And they say it does this or it does that and we're good or we're bad and then when we say, well, what about our effective rate, they say, well, that's too complicated for us to figure out. Well, what about this industry? No. And you go to them and you say, why don't you tell us what good tax policy is? And you know what they say? We don't know what's good for Nebraska, because the economy of Nebraska is different than the economy of Florida, different than California, New York, Illinois, South Dakota, North Dakota, South Carolina. I can go through all 50 states--Alabama, Alaska, Arizona, Arkansas. There's a song to that degree. And it's the same way with our rules and regs. How do you determine whether our rules and regs are good? You got to take the time to read them, you got to take the time to study them, and you got to know what the industries are out there, what their needs are, and whether this is addressing the needs of our environment, our society, our individuals, and the businesses, so that they can do their job in the least restrictive while still protecting... [LB948]

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SENATOR WILLIAMS: One minute. [LB948]

SENATOR HARR: Thank you ...the people of this great state. And that's hard work, but that's the work of government. That's the work we were elected to do. It's the work we elected our Governor to do. It's not to use this Web-based program that they have that goes through and reads and looks for certain words and then says whether you have excessive red tape based on what you decide is excessive or not excessive, and then that you are not a red state...or a red-tape state by coming up with a political answer. That's what they want you to do. They want you to be--well, I'll say it nicely--maybe less educated than you should be. They want you to use their state reg data. That's... [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

SENATOR HARR: Thank you. [LB948]

SENATOR WILLIAMS: Thank you, Senator Harr. Senator Pansing Brooks, you're recognized. [LB948]

SENATOR PANSING BROOKS: Thank you, Mr. President. I am rising just because, you know, we have our gadgets, and it's so interesting to hear from the press first that the Nebraska senators are weighing a special session on property tax relief. I did wander through most of the people that are sitting here in this body tonight. No one knew about it. So there's a movement underway, I guess, to try to get the senators...they need at least 10 to request Secretary of State to poll all 49 to get the support for a special session to try to reach an agreement on tax reform. So it's just...it's all such fun. We're having a great time, Nebraska. And we're here tonight late working on some of these issues that are critical to our state. And as a reminder that the bar is high if we are going to have a special session, there will be 33 of the 49 would be required to summon us back into a special session. Of course, that will cost the taxpayers money. There have been many efforts to try to work together. Senator Briese and Senator Friesen brought together a bill that did have some support from both sides of the aisle, but that was summarily dismissed and now they aren't even talking to those of us on one side of the aisle. So I just find this whole thing quite ironic, pretty crazy, because literally, as has been proven today, nothing will go forward until there is some bipartisan attempt to reach across the aisle. And so we have the exact same situation and now all of a sudden people are trying to bring us back in because we couldn't get it done in the last waning days of the Legislature, which we knew. But clearly, early on, Senator Briese and Senator Friesen did understand that a coalition was necessary, that not everybody could get his or her own way and there had to be some sort of compromise. But again, people chose to move on, not care about the fact that we did need to get a compromise about property tax reduction, that we did need various parts and that we needed, nope, instead, to cut income taxes, cut corporate

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taxes, and to heck with the low-income people in this state. Just as a little reminder, because I know some of the conservatives were against any increase to the earned income tax credit, yesterday Paul Ryan made an announcement that the earned income tax credit needs to be raised in our country. So the fact that that was seen as some liberal initiative that is trying to undermine the state, you better look straight at Congress and the most conservative people in Congress to understand what the earned income tax does. And again, I'm telling you now that this does not happen without some sort of agreement working across the aisle in a bipartisan effort. I would ask you to talk to Senator Briese, and he had an alignment with Senator Friesen. It's my understanding Senator Friesen jumped ship and went to the issue...to the point that would then cut income taxes, cut corporate taxes. We all know that the corporations got a huge Christmas present this past Christmas with the federal changes in our tax laws, and that's why all of the...many of the corporations, some even in Nebraska,... [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR PANSING BROOKS: ...started giving \$1,000 to every employee because of the windfall that they would receive. There is no hue and cry for corporate tax reduction, so...and the other aggravating part is this plan is intended to use the Cash Reserve. We're going to go after more of our Cash Reserve or our rainy-day fund. So again, I guess some people are planning on a special session. Let me be clear: There needs to be a broad bipartisan plan. It doesn't work to just go off in your little huddle and without including others. Thank you so much, Mr. President. [LB948]

SENATOR WILLIAMS: Thank you, Senator Pansing Brooks. No one in the queue, Senator Chambers, you're recognized to close on your recommit to committee motion. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. And I know that it's going to be voted down, so I'm going to go through the Chambers routine that other people have tried to steal. I will ask for a call of the house, a roll call vote. I will be not voting. I will then offer a motion to reconsider, and that should take us at least until 9:00. And then I don't know what happens to this bill. That's why I told you the joke about the parrot and the magician. This bill will disappear. Or will it? And if it disappears, where will it go? Where do butterflies go when it rains? I wrote a poem about it. And I...some nuns had written to me, so I just indicated that I write little rhymes for therapy, and she was surprised that somebody with a reputation that she heard I had could write something like that. But I could be Jack the Ripper of today and still write rhymes. Oscar Wilde was put on trial and charged with pornography. He had written this book that those bluenoses thought that he shouldn't write. People like the Governor play like he's a righteous man. He's as crooked and wrong as he could be. So Oscar Wilde, when he was testifying, he had pointed out that a book can tell a story, but the book and the story do not reflect what the man or

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the woman who wrote it is. A person could write a book about a murder without being a murderer. Oscar Wilde was smarter than everybody in that courtroom, and that's the way it often is. But you, regardless of how intelligent you are, are really, practically speaking, no more intelligent than the audience you're speaking to. If you are using words they don't understand, they discard all of that and they take offense at it. There was some idiot running for presidency and he condemned Barack Obama as an elitist. He said, now here is this Obama who thinks everybody should have a college education, how elitist can you be? So it's elitist to want everybody to have an opportunity to get a college education? It was a dumbbell who said that, but he was a member of the "Repelican" Party and he had a high office, just like that "Repelican" who is the President now. Every day, if you watch the news, you'll see something crazy that he says. He has got to find something to put the spotlight on himself. I heard this evening, during that break that the Speaker allows us to have at 6:00, that the FBI raided the office of Clint...I mean Trump's lawyer. It's Trump's...Trump's lawyer's name is Cohen, C-o-h-e-n. And when they had this panel, some lawyers were on it and one of them said the only thing worse than having your own office raided is to have the office of your lawyer raided. That's where everything is. And now Trump is making noises as though he might fire Special Counsel Mueller. And if he does, some of the "Repelicans" had said that that could well be the beginning of the end of his presidency. He is gonna drag a lot of these "Repelicans" down with him and, just like those in Congress, there are people running around here trying to make sense out of the nonsense that Trump talks... [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR CHAMBERS: ...and they look even worse than him. People know that Trump is demented. And when people who are not themselves demented try to make sense out of what he saying, they look even worse than Trump. There is a certain illogical logic about everything he does. You know it's not going to be true, first of all. It's not going to make sense, second of all. And when he says something that makes sense, then people ask who wrote it. He said, and it was the most brilliant statement he thought he made, that he--and you all have seen this statement--he is a stable genius; and, he said, I'm pretty smart, I went to college, I went to an Ivy League school, I'm pretty smart. And he doesn't even speak...oh, but he speaks American. I would ask Senator Riepe...oh, he's not here. I would ask Senator Briese... [LB948]

SENATOR WILLIAMS: Time, Senator. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. I will ask for a call of the house and a roll call vote. [LB948]

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SENATOR WILLIAMS: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor say...excuse me, vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB948]

CLERK: 28 ayes, 3 nays, Mr. President, to place the house under call. [LB948]

SENATOR WILLIAMS: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Brewer, McDonnell, and Wayne, please come to the Chamber and check in. Senator Chambers, please check in. Everyone is here. Members, the vote is to recommit the bill to committee. All those in favor vote aye; those opposed vote nay. Senator Chambers, did you request a roll call vote? [LB948]

SENATOR CHAMBERS: Doesn't matter. (Laughter) [LB948]

SENATOR WILLIAMS: We'll do a board vote. All those in favor of the recommit motion vote aye; opposed vote nay. Have all voted? Record, Mr. Clerk. [LB948]

CLERK: 7 ayes, 32 nays, Mr. President, on the motion to recommit. [LB948]

SENATOR WILLIAMS: The motion is not adopted. Returning to debate, raise the call. Senator Harr, you're recognized. [LB948]

SENATOR HARR: Is there a motion? I thought he was going to do... [LB948]

CLERK: We're putting them in the system since you've been recognized, Senator, so... [LB948]

SENATOR HARR: Oh, thank you. I see Senator Kolterman is here. Senator Kolterman, would you yield to a question? [LB948]

SENATOR WILLIAMS: Senator Kolterman, would you yield? [LB948]

SENATOR KOLTERMAN: Yes, I will. [LB948]

SENATOR HARR: So earlier today I asked you a question, how many days I have left. How many days do I have left now? [LB948]

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SENATOR KOLTERMAN: Actually, three. [LB948]

SENATOR HARR: Three. It feels like I've been here longer than a day, from earlier today. Thank you. Senator Kolterman, you sold insurance, did you not? [LB948]

SENATOR KOLTERMAN: I tried to. [LB948]

SENATOR HARR: Okay. And did you find the rules and regs by the Department of Insurance helpful, hurtful, overly or underly burdensome? [LB948]

SENATOR KOLTERMAN: They were very fair. [LB948]

SENATOR HARR: Very fair. Thank you. There you go, folks. Senator Friesen, would you yield to a question? [LB948]

SENATOR WILLIAMS: Senator Friesen, would you yield? [LB948]

SENATOR FRIESEN: Must I? [LB948]

SENATOR HARR: No, you don't have to. But would you, please? [LB948]

SENATOR FRIESEN: Yes, I would. [LB948]

SENATOR HARR: Thank you. You are a farmer, is that correct? [LB948]

SENATOR FRIESEN: When I'm not here. [LB948]

SENATOR HARR: Okay. Thanks. And how many years did you farm? [LB948]

SENATOR FRIESEN: Forty-two years. [LB948]

SENATOR HARR: Okay. And did you find the rules and regs in the state of Nebraska through the DEQ, Department of Economic...or Environmental Quality overly, underly, or just-right burdensome or just right? [LB948]

SENATOR FRIESEN: Overly burdensome. [LB948]

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SENATOR HARR: Thank you. Senator Thibodeau, would you yield to a question? [LB948]

SENATOR WILLIAMS: Senator Thibodeau, for a question? [LB948]

SENATOR THIBODEAU: Yes, I will yield to a question. [LB948]

SENATOR HARR: Thank you. Senator Thibodeau, you have a day-care center. Is that correct? [LB948]

SENATOR THIBODEAU: I have an early childhood development center, Senator Harr. [LB948]

SENATOR HARR: That is...yeah, and that's what I send my kid to. It's kind of like when I say I'm going to baby-sit my own kid. I apologize. And do you think we have too many regulations, too few regulations, underly burdensome or overly burdensome, as they apply to your business? [LB948]

SENATOR THIBODEAU: Well, my business is one that does require some regulation, but I would say there are quite a few regulations that do not make sense and are overly burdensome. [LB948]

SENATOR HARR: Thank you. There you go, folks. Two out of three said overly burdensome, and yet this bill does nothing. Why are we wasting our time on this? Let's do something substantive; let's do something substantial; let's actually look at what laws apply that hurt as applies to DEQ, and then let's look at those rules and regs that apply to DEQ and let's hold those committees or that DEQ accountable and say, hey, this is the hard work. Natural Resources, who didn't even meet the allotted number of days, could have better used that time to review the rules and regs that applies to our farmers. Education, we have two legal counsels, I believe. They could use that time to review our rules and regs. Department of Education and HHS could use that time to review our rules and regs to see do they do what we ask or do they not, are they as...the least obtrusive as possible. This bill doesn't do that, folks. [LB948]

SENATOR WILLIAMS: One minute. [LB948]

SENATOR HARR: We are still in the same place we were before, spinning our wheels, but now we get to pat ourselves on the back and say, job well done, you changed the number of times we say, "shall." Good job. Take the summer off, relax, play some golf; maybe, if you're lucky, you have some fields to plant. But, folks, this doesn't do anything. This is so frustrating. Why we're

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wasting our time on this? Political show. And that's all this is: political show. Thank you.
[LB948]

SENATOR WILLIAMS: Thank you, Senator Harr. Mr. Clerk, you have a motion on the desk?
[LB948]

CLERK: Mr. President, Senator Murante would move to invoke cloture. [LB948]

SENATOR WILLIAMS: It is the ruling of the Chair there has been full and fair debate. Senator Murante, for what reason do you rise? [LB948]

SENATOR MURANTE: Mr. President, I'd like to request a call of the house and a roll call vote in regular order. [LB948]

SENATOR WILLIAMS: There has been a request to place the house under call. All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB948]

CLERK: 24 ayes, 2 nays to place the house under call. [LB948]

SENATOR WILLIAMS: 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 Chambers, would you check in, please. Senator Clements, would you check in, please. Senator Brasch, would you check in, please. We're all here. Members, the first vote is the motion to invoke cloture. There has been a request for a roll call vote in regular order. Mr. Clerk. [LB948]

CLERK: (Roll call vote taken, Legislative Journal page 1505.) 33 ayes, 4 nays, Mr. President, to invoke cloture. [LB948]

SENATOR WILLIAMS: The motion to invoke cloture is adopted. Members, the next vote will be to vote on the amendment from the Government Committee, AM1931. All those in favor vote yes; all those opposed vote nay. Have all voted? Record, Mr. Clerk. [LB948]

CLERK: 33 ayes, 5 nays on the adoption of committee amendments. [LB948]

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SENATOR WILLIAMS: The amendment is adopted. Members, we will now vote on advancement of LB948 to E&R for engrossing. For all those in favor, vote aye; opposed vote nay. Have all voted? Record, Mr. Clerk. [LB948]

CLERK: 32 ayes, 5 nays, Mr. President, on the advancement of the bill. [LB948]

SENATOR WILLIAMS: The bill is advanced. Senator Speaker, Senator Scheer...excuse me. Mr. Speaker, you are recognized. [LB948]

SPEAKER SCHEER: It's 9:00, you can call me whatever you want. Colleagues, we will pass right now on AM1069 and move back to the Select File to try to finish that up. So we will move back to LB731 and try to catch the remainder if finished. Thank you.

SENATOR LINDSTROM PRESIDING

SENATOR LINDSTROM: Thank you, Mr. Speaker. Raise the call. Mr. Clerk, LB731. [LB731]

CLERK: Mr. President, if I may, right before that, Enrollment and Review reports LB989 to Select File and motion...an amendment, I should say, to be printed to LB998. (Legislative Journal 1505-1508.) [LB989 LB998]

Mr. President, Senator Wishart, LB731, I have Enrollment and Review amendments, first of all. (ER166, Legislative Journal 1349.) [LB731]

SENATOR LINDSTROM: Senator Wishart for a motion. [LB731]

SENATOR WISHART: Thank you, Mr. President. I move the adoption of the E&R Amendments to LB731. [LB731]

SENATOR LINDSTROM: You heard the motion, all those in favor say aye. All those opposed say nay. They are adopted. [LB731]

CLERK: Senator Erdman, AM2830, I have a note you wish to withdraw, Senator. [LB731]

SENATOR ERDMAN: That is correct. [LB731]

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CLERK: Mr. President, Senator Riepe would move to amend with AM2864. (Legislative Journal pages 1508-1509.) [LB731]

SENATOR LINDSTROM: Senator Riepe, you're welcome to open on AM2864. [LB731]

SENATOR RIEPE: Thank you, Mr. President and colleagues. This is a friendly and should be a quick cleanup amendment to the committee amendment, AM2864. A couple of drafting issues were identified by legislative drafting regarding the mobile cosmetology male technology and barber sections and this fixes those concerns. The Barber Board asked for other cleanup language. And finally, on LB788, my opioid continuing education bill, the Nebraska Medical Association asks for flexibility in the types of continuing education that would qualify for continuing education. So I added the phrase: "but is not limited to." I ask for your green vote on AM2864 and a green vote on LB731, Senator Williams' bill and the Health and Human Services Committee priority bill. Thank you, Mr. President and colleagues. [LB731 LB788]

SENATOR LINDSTROM: Thank you Senator Riepe. Seeing no one else in the queue, Senator Riepe, you're welcome to close. Senator Riepe waives closing. The question before us is the adoption of AM2864. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB731]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Riepe's amendment. [LB731]

SENATOR LINDSTROM: The amendment is adopted. [LB731]

CLERK: I have nothing further on the bill. [LB731]

SENATOR LINDSTROM: Senator Wishart. [LB731]

SENATOR WISHART: Mr. President, I move to advance LB731 to E&R for engrossing. [LB731]

SENATOR LINDSTROM: You've heard the motion. All those in favor say aye. All those opposed say nay. The motion is adopted. Mr. Clerk. [LB731]

CLERK: LB731A: Senator, I have no amendments to the bill. [LB731A]

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SENATOR LINDSTROM: Senator Wishart. [LB731A]

SENATOR WISHART: Mr. President, I move to advance LB731A to E&R for engrossing. [LB731A]

SENATOR LINDSTROM: You have heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB731A]

CLERK: Senator, LB807--E&R amendments first of all. (ER169, Legislative Journal page 1393.) [LB807]

SENATOR LINDSTROM: Senator Wishart for a motion. [LB807]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB807. [LB807]

SENATOR LINDSTROM: You've heard the motion. All those in favor say aye. All those opposed say nay. The motion is adopted. [LB807]

CLERK: Senator Harr would move to amend with AM2831. (Legislative Journal 1420.) [LB807]

SENATOR LINDSTROM: Senator Harr, you're welcome to open on AM2831. [LB807]

SENATOR HARR: Thank you, Mr. President. AM2831 creates two cash funds, the Willa Cather National Statutory Hall Cash Fund to be administered by the Nebraska Historical Society; and the Chief Standing Bear National Statutory Hall Fund to be administered by the Nebraska Commission on Indian Affairs. This allows the respective Cather and Standing Bear statue projects the authority to spend money, but, again, no state dollars will be spent. LB807 still requires private dollars to support the statue projects. AM2831 also requires that the respective projects be completed no later than June 30, 2023. Finally, AM2831 adds emergency clause to make it easier to raise the necessary funds. Thank you. [LB807]

SENATOR LINDSTROM: Thank you, Senator Harr. Seeing no one in the queue, Senator Harr, you are welcome to close. Senator Harr waives closing. The question before us is the adoption of AM2831. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB807]

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CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB807]

SENATOR LINDSTROM: The amendment is adopted. [LB807]

CLERK: I have nothing further on the bill, Senator. [LB807]

SENATOR LINDSTROM: Senator Wishart for a motion. [LB807]

SENATOR WISHART: Mr. President, I move to advance LB807 to E&R for engrossing. [LB807]

SENATOR LINDSTROM: You have heard the motion, all those in favor say...all those in favor say aye. All those opposed say nay. The bill advances. Mr. Clerk. [LB807]

CLERK: LB807A: no E&Rs; Senator Harr would move to amend with AM2834. (Legislative Journal page 1424.) [LB807A]

SENATOR LINDSTROM: Senator Harr, you are welcome to open on AM2834. [LB807A]

SENATOR HARR: Thank you. This just is the A note that does what I described on the underlying LB807; it's enabling legislation. Thank you. [LB807A]

SENATOR LINDSTROM: Thank you, Senator Harr. Seeing no one in the queue, Senator Harr, you're welcome to close. Senator Harr waives closing. The question before us is the adoption of AM2834. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB807A]

CLERK: 29 ayes, 0 nays on the adoption of the amendment. [LB807A]

SENATOR LINDSTROM: The amendment is adopted. [LB807A]

CLERK: I have nothing further on the bill. [LB807A]

SENATOR LINDSTROM: Senator Wishart. [LB807A]

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SENATOR WISHART: Mr. President, I move to advance LB807A to E&R for engrossing. [LB807A]

SENATOR LINDSTROM: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill advances. Mr. Clerk. [LB807A]

CLERK: LB670: Senator, I have E&R amendments first of all. (ER173, Legislative Journal page 1425.) [LB670]

SENATOR LINDSTROM: Senator Wishart for a motion. [LB670]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB670. [LB670]

SENATOR LINDSTROM: The motion is for the adoption of Enrollment and Review amendment. All those in favor say aye. All those opposed say nay. They're adopted. [LB670]

CLERK: Senator Ebke would move to amend with AM2822. (Legislative Journal page 1431.) [LB670]

SENATOR LINDSTROM: Senator Ebke, you're welcome to open on amendment AM2822. [LB670]

SENATOR EBKE: Thank you, Mr. President. AM2822 is a cleanup amendment offered to remove LB708 from the committee's juvenile law priority legislation package. As I mentioned during my opening, when the bill was presented on General File, Senator Bolz's LB708 has been advanced via the Speaker's consent calendar and now sits on Final Reading. Accordingly, I offer this amendment to remove LB708 from the Judiciary Committee's juvenile law package to ensure that we do not unnecessarily pass the bill in two ways. The amendment also makes a small adjustment to the effective date of the legislation to address an issue with the operative dates of the different provisions impacted when Senator Vargas' amendment was adopted on General File. I ask for your green vote on AM2822 to LB670. [LB708 LB670]

SENATOR LINDSTROM: Thank you, Senator Ebke. Seeing no one in the queue, Senator Ebke, you're welcome to close. Senator Ebke waives closing. The question before us is the adoption of AM2822. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB670]

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CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Ebke's amendment. [LB670]

SENATOR LINDSTROM: Amendment is adopted. [LB670]

CLERK: Senator Vargas would move to amend with AM2874. (Legislative Journal page 1510.) [LB670]

SENATOR LINDSTROM: Senator Vargas, you're welcome to open on AM2874. [LB670]

SENATOR VARGAS: Colleagues, AM2874 is LB1112, which is introduced to create a clearer definition for the purposes of detention for juveniles. I'll give a brief background on this; we introduced this because of the negative effects for juvenile detention on both kids and communities. There were several reports in 2008 and 2014 from the Juvenile Policy Institute that show juvenile detention worsens behavioral health problems and leads to one of the most significant factors of increasing recidivism. In addition, this has a negative impact on future educational outcomes in the labor market. Unnecessary detention costs the state an average of \$347.55 per youth, an annual cost of \$126,000 for just an annual cost. There are alternatives to detention, this includes: electronic monitoring, partnerships between probation, probation officers, judges, and mental health and substance abuse treatment facilities. This amendment ensures that youth would only be placed in detention if it's necessary for their own community's safety under various and specific circumstances. It updates state statutes, bring them in line with national best practices. In addition, the amendment will save the state money, better support communities, and most importantly help children access the services they need, and avoid continued interaction with the system. This is a slightly different, on General File, the Judiciary Committee changed some minor technical issues that we brought forward so we addressed them. One, we put in the definition of disproportionate minority contact as a reference to a federal statute, and the removal of some unnecessary references to youth rehabilitation treatment centers. LB1112 had no opposition at the committee hearing, has no fiscal impact and was supported 7-0 out of Judiciary Committee. I would like to thank, again, Chair Ebke, Senator Krist, and all the underlying individuals for this amendment on LB670. I'd also like to thank all the Judiciary Committee who unanimously passed this in support of the bill. I'd also like to thank Lancaster Board of Commissioners and the Nebraska Association of County Officials, NACO, Voices for Children; Juvenile Detention Alternatives--JDAI, Christine Henningsen, CEDARS, and the Juvenile Justice Institute, and ACLU. With that, I urge your green vote and thank you very much. [LB670 LB1112]

SENATOR LINDSTROM: Thank you, Senator Vargas. We'll now open the floor to debate. Senator Friesen, you're recognized. [LB670]

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SENATOR FRIESEN: Thank you, Mr. President. I did receive an e-mail from one of my county attorneys that talks about some of the components of this amendment. And it mentions that even like there were some circumstances in Douglas County in 2015 where there were two murders committed by 12-year-olds. And I'm curious if this would make it so that they could not detain these, because it makes it sound, from the language that I see at least, that unless their circumstances...I just got some questions on how they deal with something like this. Would Senator Vargas yield to a question? [LB670]

SENATOR LINDSTROM: Senator Vargas, would you yield to a question? [LB670]

SENATOR VARGAS: In this updated statute, there are certain definitions for changing what are the exceptions for detaining a juvenile. One of them would be included, which is for the safety of the community. So we have updated a couple of those. This is an exception to that. I don't believe that this actually applies that specific instance. That was something that was actually brought up in committee. [LB670]

SENATOR FRIESEN: Okay, so there was...there are some other instances here where you could possibly have like they were talking about a 16-year-old who is pregnant, with her boyfriend, still using meth, and there's no way that they can hold that 16-year-old under these laws, is that true or is that...how would you address an issue like that where someone possibly needs to be detained for their own safety, not really for the safety of the public? [LB670]

SENATOR VARGAS: So there needs to be some proof to a judge that it is within the best interest of the safety of the community. In instances where the only instance it might be, let's say, a drug, there are alternatives to that. So it's trying to make sure we're not just incarcerating a child...or a youth just because of a potential drug charge. But there would have to be some other mitigating circumstances that were included, so the safety of the community would have to be taken into account. [LB670]

SENATOR FRIESEN: I mean here in this case, I don't think the safety of the community was a problem, it was more of the protection of that person, and yet the way it sounded they could not detain that person and hold them because they were not a risk to the community, more of a risk to themselves. So they...I guess the language, the way it looks here, was a little bit too broad or what they thought. So I'm just...my questions go to that, I guess, and if you could address them and I'll read it further. But it looks like there's maybe some problems there where you're not trying to protect the community so much as the person that you're dealing with. [LB670]

SENATOR VARGAS: Yeah, in those instances we're trying to do everything we can to protect...to make sure that we're not spending unnecessary money; and then also, the only reason

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to detain a child wouldn't be just because of that one reason. In addition, I believe, yeah, the county officials came in neutral on this. [LB670]

SENATOR FRIESEN: Thank you, Senator Vargas. I'll be reading this a little bit closer and not knowing much about the bill. I do look like there's some language here with youth that run away a lot, there maybe needs to be some changes done to it to take into consideration that. But I'll visit with Senator Vargas off the mike and see if there are any other issues. Thank you, Mr. President. [LB670]

SENATOR LINDSTROM: Thank you, Senators Friesen and Vargas. Seeing no one else in the queue, Senator Vargas, you're welcome to close. Senator Vargas waives closing. The question before us is the adoption of AM2874. All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB670]

CLERK: 25 ayes, 3 nays, Mr. President, on the adoption of Senator Vargas' amendment. [LB670]

SENATOR LINDSTROM: The amendment is adopted. Senator Wishart. [LB670]

SENATOR WISHART: Mr. President, I move to advance LB670 to E&R for engrossing. [LB670]

SENATOR LINDSTROM: The question before us is the advancement of LB670 to E&R for engrossing. All those in favor say aye. Those opposed say nay. The bill does advance. Mr. Clerk. [LB670]

CLERK: Senator, I have E&Rs first of all on LB1120. (ER172, Legislative Journal page 1425.) [LB1120]

SENATOR LINDSTROM: Senator Wishart for a motion. [LB1120]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB1120. [LB1120]

SENATOR LINDSTROM: The question is the adoption of E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB1120]

CLERK: Senator Larson, AM2126, a note you want to withdraw, Senator. [LB1120]

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SENATOR LARSON: Yes. [LB1120]

CLERK: Mr. President, Senator Thibodeau would move to amend with AM2835. (Legislative Journal page 1428.) [LB1120]

SENATOR LINDSTROM: Senator Thibodeau, you're welcome to open on AM2835. [LB1120]

SENATOR THIBODEAU: Thank you, Mr. President; good evening, colleagues. AM2835 addresses the concerns expressing General File floor debate regarding the bottle clubs and how they would be enforced. So with the creation of a bottle club license, we wanted to make sure that all the provisions within the Liquor Control Act and the commission's rules and regulations apply. So we did this in three ways. Number one, this amendment clearly defines bottle clubs and makes sure they are subject to the same rules and regulations as other licenses. The amendment adds a bottle club to the type of business that is required to obtain a liquor license under state Statute 53-186.01. And it adds the term "bottle club" to the statutes in the appropriate locations. So I would like to thank everybody who worked so hard on this bill: Senator Larson, who worked with me; Senator Pansing Brooks, Senator Geist. I would also like to thank Senator Larson's legal counsel, as well as the Liquor Commission for their support in drafting this amendment. And I would appreciate your green vote. Thank you. [LB1120]

SENATOR LINDSTROM: Thank you, Senator Thibodeau. Seeing no one else in the queue, Senator Thibodeau, you're welcome to close. Senator Thibodeau waives closing. The question before us is the adoption of AM2835. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB1120]

CLERK: 34 ayes, 0 nays on adoption of Senator Thibodeau's amendment. [LB1120]

SENATOR LINDSTROM: The amendment is adopted. [LB1120]

CLERK: I have nothing further. [LB1120]

SENATOR LINDSTROM: Senator Wishart. [LB1120]

SENATOR WISHART: Mr. President, I move to advance LB1120 to E&R for engrossing. [LB1120]

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SENATOR LINDSTROM: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill does advance. We'll now move to LB873. [LB1120 LB873]

CLERK: E&R amendments, first of all, Senator. (ER170, Legislative Journal page 1425.) [LB873]

SENATOR LINDSTROM: Senator Wishart for a motion. [LB873]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB873. [LB873]

SENATOR LINDSTROM: The question is the adoption of the E&R amendments to LB873. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB873]

CLERK: Senator Wayne would move to amend AM2827. (Legislative Journal page 1428.) [LB873]

SENATOR LINDSTROM: Senator Wayne, you're welcome to open on AM2827. [LB873]

SENATOR WAYNE: Thank you Mr. President and members of the Legislature. The committee amendment, AM2065 is a technical amendment that was recommended by Bill Drafting, could have been an E&R amendment, but we thought it was better just to make sure that it harmonizes several sections of a statute with the changes to LB873. A green copy of LB873, among other technical changes, outright repeals several sections of the statute which establishes cities of the Primary Class Development Fund and cities of the Metropolitan Class Development Fund, both of these funds terminated July 8, 2017, and AM2827 strikes additional references to these funds that were missed in the green copy. In addition, AM2827 harmonizes the section of the statute that provides Senator Morfeld's LB756 which was added to the bill on General File. I would ask you to vote green on AM2867. [LB873 LB756]

SENATOR LINDSTROM: Thank you, Senator Wayne. Returning to debate, Senator Hilgers, you're recognized. [LB873]

SENATOR HILGERS: Thank you, Mr. President. Good evening, colleagues. I rise in continuing opposition to LB873. I don't take a particular position on the AM that Senator Wayne just opened on, but given we're on Select File and this is typically done by a voice vote, I wanted to make sure we put a few things on the record and I will be asking for a record vote on the underlying bill when we get to that point. We've had a little bit of debate on LB873 thus far, but

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not quite enough in my view. I'm not focusing on every single one of the bills that were added into LB873. If you recall, this was a committee Christmas tree omnibus bill, but in particular to the land bank expansion that was added to LB873 through Senator Quick's bill that he had introduced. The primary basis of my objection is that we... the Legislature, before I was here, a couple of years ago, created a pilot program, this land bank in Omaha, that has had some good recent results, but also is a pilot. And it is not necessarily true that the way the land banks are structured that it will always and everywhere be a good thing. What we would purport to do in LB873 is to take what is a limited...what so far is a pilot with a limited number of data points and expand that statewide with no real restrictions. And so one of the things I wanted to do was read into the record a few of the powers that land banks have. I think we've sort of spoken about them in concept, in general. But I think it's important to understand exactly what a land bank can do and who makes up the land bank and what kind of accountability those individuals have. So here are just a few of the powers that are from...this is already in current statute for Omaha but would be expanded. So a land bank can sue and be sued in its own name and can plead in civil actions. It can borrow money from private lenders, from municipalities, from the state, it can borrow money from the federal government as may be necessary for the operation of its work. It can issue negotiable revenue bonds and notes. It can procure insurance from the state or federal government for the payments of any debts. It can enter into contracts and, interestingly, not just any contracts...and it says, instruments necessary, incidental, or inconvenient, but it also can enter into interlocal agreements, including--and this is new language under the statute--joint administration of multiple land banks, which I take to mean multiple land banks can work together now and sort of combine their authorities and powers together under some interlocal agreements. They can enter into other contracts necessary to perform the function of the land bank. They can provide foreclosure prevention counseling. They can invest the money of the land bank at the discretion of the board and instrument, obligations, securities or whatever they might determine to be proper by that particular board. They can design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate real property. They can charge fees and collect fees for the services that they provide. They can collect rents and leasehold payments for use of the land bank. They can enter into other partnerships, joint ventures, and other collaborative relationships in addition to those that I previously described. And they can also do all things that are necessary or convenient to achieve the objectives and the purposes of the land bank. Do all other things necessary or convenient, not necessary and convenient, necessary or convenient to achieve the objectives and purposes of the land bank or other laws that relate to those purposes. Those are among the powers colleagues. I think those are broad. They can run as a private entity, they can purchase property, they can charge rents on those properties, they can borrow money to purchase those properties, not just from the state, they can go into private indebtedness, they can borrow from the federal government. Again, these are unelected, directly unaccountable board members. And this catch-all, which is incredibly broad with no limiting principle as far as I can tell, anything that is convenient to achieve the objectives of the land bank... [LB873]

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SENATOR LINDSTROM: One minute. [LB873]

SENATOR HILGERS: ...thank you, Mr. President...I think that's incredibly broad power. Again, it might be true that in some circumstances, or maybe in many cases or most, there are good stewards and good management of these land banks. But I think it's premature and rash for us to expand this statewide based on a couple years of success with this particular project. I'm going to hit my light again here in a minute, but again, I'd urge you to vote red on LB873 and I'll probably vote green on this particular amendment. Thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Hilgers. Senator Erdman, you're recognized. [LB873]

SENATOR ERDMAN: Thank you, Mr. President, and good evening. Senator Hilgers did a fine job of explaining exactly what land banks can do. One of the things that I see in the bill, I believe they can own up to 7 percent of the land or parcels in your community. So a land bank buys a property, they reconstruct it, improve it, they sell the property. When they sell the property then the person who buys the property will pay the normal property tax but the land bank gets 50 percent of the property tax for five years. So if you are a private investor and you buy a property and fix it up and resell it, the person who buys the property pays the property tax to the county, the city, the school. Doesn't happen with a land bank. So, it's a property tax abatement program again, and we have plenty of those. Some of these people that serve on these land bank boards are appointed by the mayor or city council. And as Senator Hilgers adequately pointed out, there are no elected officials on these land bank boards. As he said, this is a very broad spectrum with a lot of power to do a lot of things. And they get into collaboration with each other, three or four of them, to do whatever they need to do because they're allowed by this statute, by this law to do about whatever they want. This land bank probably will not affect my district a whole lot. But sometimes it's necessary when you see things that look peculiar that will be strange for people that don't live in your district to stand up and say something. And so this evening I stand up to bring to your attention, for those of you who live in the urban areas where this will have an effect, that you pay attention and you're aware of what you're voting for when you vote for the land bank. Senator Hilgers pointed out quite adequately that the pilot project hasn't been in place very long. I believe it had a rocky start, I think it's better now, but I think a year or two is not enough information gathered to find out that we should make it available across the state. What we do here is we make a pilot project and even sometimes we say it is supposed to have a sunset, which never happens. And we talk about we like local control and we say all these cliches that we want on the record, but this land bank and LB873 need not pass and I will not be voting for LB873. Thank you. [LB873]

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SENATOR LINDSTROM: Thank you, Senator Erdman. Seeing no one else in the queue, Senator Wayne waives closing. The question is the adoption of AM2827. All those in favor vote aye; all those opposed vote nay. Have you all voted? There's been a request to place the house under call. Record, Mr. Clerk. [LB873]

CLERK: 26 ayes, 0 nays. [LB873]

SENATOR LINDSTROM: The amendment is adopted. Returning to debate. Senator Hilgers, you're recognized. [LB873]

SENATOR HILGERS: Thank you. Thank you, Mr. President. Again, good evening, colleagues. As I mentioned before, I didn't have any particular objection with the amendment that we just adopted, so I did not hit my light again. I just wanted to have the focus of this debate on the underlying bill. I think Senator Erdman made some excellent points about the long-term ramifications of the land bank. And I want to focus a little bit on who makes up the particular...the membership of the board of the land bank, because...I think an important principle when we're dealing with taxpayer dollars, when we are having entities that are able to undertake indebtedness, they're able to purchase properties, they're able to engage in what otherwise would be private enterprise, you would think that in those instances...first, in my view, that's typically not the right function of government. But if they are engaged in those areas, especially if they're able to take on debt, there ought to be accountability measures. And the most direct way that public officials can be accountable to the citizens is through elections. In the case of a land bank, there's not a direct accountability mechanism. And now I'm reading, again, from the statutes. The statute is in place and now we're expanding it from a pilot all the way statewide and those...the members of the land bank are all appointed by the mayor of the municipality that created the land bank and then they're confirmed by two-thirds vote of the governing...so the governing body under the leadership of the mayor, but in cooperation and conjunction with the governing body, say the city council, choose the members of the land bank. But those land bank members, they're not voted upon by any individuals in the community. They are just appointed by someone who is elected, but they're not accountable to the people in their particular community directly. The other thing that I couldn't find--maybe Senator Wayne would be able to correct me if I missed it, which is possible--I looked throughout the statute. I couldn't find any removal mechanism for any of these particular individuals who happen to be on the board. If they...there's not even a removal mechanism if for cause that's included within the land bank. There might be some other provision of law that I'm not aware of that might apply here, but it seems to me that one of the things...if you're not going to have land bank board members be accountable directly to the people, they ought to be accountable to the people who appointed them. Under the provisions of the current land bank legislation that will be expanded under LB873, there's no mechanism by which the governing body or the mayor can remove those individuals. I think now, on the one hand, you have a board that's unelected that has significant

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powers, in my view. I've listed many of them the last time on the mike, with no direct accountability measures to the people of the particular jurisdiction in which the land bank is operating. I think that is a recipe for bad things to happen. Right? If we talk about power and lack of accountability, that general mix doesn't always turn out right. Sometimes it does. Sometimes it absolutely does. And sometimes these land banks, I would imagine in some communities, they may work really, really well. But I don't think we ought to be judging our legislation and our votes based on what might work in the best case. I think we need to look at the entire totality of what might occur on the legislation that we pass, especially when what we're doing is expanding it into a realm in which we really don't have a lot of data whether or not it might work as well as we think it will. Omaha is different from a lot of communities in our state for a lot of reasons. One reason is, is they're a lot larger and they have access to a lot more resources than maybe some other communities do. In particular, resources for talent, resources for individuals who might lead these land banks, and potentially more accountability measures through public media and the like. So I think taking the Omaha experience, even expanding it to another state that's comparable to Omaha is one thing, but we're taking the Omaha experience based on a couple of years, where, by the way, it's not as if they hired just one executive director and everything ran smoothly, I think they're on their second. [LB873]

SENATOR LINDSTROM: One minute. [LB873]

SENATOR HILGERS: Thank you, Mr. President. And to take it and expand it statewide, I think is premature. And I think it behooves us to look at exactly what it is that the land bank statute did before this expansion, as has been advocated and put before us today, and those powers are pretty significant and I think we ought to think carefully about whether or not we want to expand them across the state. Mr. President, is there anyone else in the queue? [LB873]

SENATOR LINDSTROM: Yes, there is. [LB873]

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

SENATOR LINDSTROM: Thank you, Senator Hilgers. Senator Bostelman, you're recognized. Senator Bostelman waives. Senator Groene, you're recognized. [LB873]

SENATOR GROENE: Thank you, Mr. President. In the press lately there's been about the JPAs, joint public agencies and the city of Lincoln and the Lincoln Public Schools is going to start another joint public agency. This is the same thing. This body keeps adding these things for local governments to get around the people, get around elections, that they can tax, go to debt and get around levy limits to do public projects without any accountability. I wonder if anybody even knows when a joint public agency in Lancaster County meets. The fair grounds is one, I know

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that. The parking lots around the civic...the basketball arena, Pinnacle, that was done by that. I was amazed when I read in...Nancy Hicks, I've known her for a while, she does good work as a reporter. On a \$165,000 house the people of Lincoln are already paying \$108 in taxes on that without any directly voted-on representation. Yes, they vote on them to be on the school board or to the city council, but not to this. Lincoln Public Schools has amassed a lot of wealth lately with growth. They're number one. They're the most favored by the way the system is set up, huge valuation increases, but yet they can't afford to hire a police officer? A security guard for their schools? They need to create another agency with the city? And it's going to add \$16.50 to the tax bill? This is another gimmick to get around the process, to get around the process of electing individuals to represent you, to have one united tax rate for each entity, for the school and for the county and for the city. I've heard some bad uses of JPAs. Schools are being built between ESUs and school districts without a direct vote of the people. We got to put a stop to this, folks. This is another one of them straws I've talked about on the back of the property taxpayer. We just keep adding and adding a little bit here and a little bit there. The cost. Because somebody has a good idea. What a good idea is if you have an old lot, somebody comes along and buys the old house, fixes it up and turns it into a rental or tears it down. That's called a free market system. We're going too far folks. We are...this is all...this would be another addition to other parts of the state of another taxing entity, add more to the property tax burden. I agree with Senator Hilgers, he's investigated this, I've listened to him. And then when I tied the two together with the JPAs, this is basically a JPA by one entity. Off in the corner over here, another little niche for property tax to be used, another little sideboard to individuals, as Senator Hilgers said, to borrow money... [LB873]

SENATOR LINDSTROM: One minute. [LB873]

SENATOR GROENE: ...to make decisions about how it affects the community, to interfere in the free market real estate industry. Folks, this isn't the free market that this country is based on. Good intentions are good intentions, but you know what they say about the road of good intentions, where it ends up. Anyway, most of the bill that came out of the committee from Urban Affairs was fine, but there were things thrown in there that needed better debate than it's getting. It's just too big of a Christmas tree and this is one that needs to be pulled out. Thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Groene. Senator Erdman, you're recognized. [LB873]

SENATOR ERDMAN: Thank you, Mr. President. As I was considering this bill and when it came out it's 249 pages. And I appreciate the cheat sheet that Senator Wayne sent to us so we could review and understand what exactly all the bills were. But 249 pages, where I think we

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missed it, where I missed it was, when this was on General File we should have divided the question and we should have dropped out the land banks. This is an amazing bill, 249 pages reminds me of something they passed in D.C. once and they said, we got to pass it so we'll know what's in it. This is very cumbersome, very hard to understand, and it's too bad that we didn't drop out the land bank bill, part of it, because that may cost the whole bill. I'm kind of surprised when they put the pilot project in place in Omaha that it didn't have a sunset. Maybe it's one of those times when they said, we don't intend to sunset it anyway, and they told the truth and they just let it go on. We're not ready, the rest of the state is not ready for this. It hasn't been proven yet. And I have a real problem with having the opportunity for these land banks to do about whatever they want to do as far as developing property and competing against those who buy properties and fix them up as part of their portfolio. That's wrong. It's wrong because you can't compete with the government when you don't have to pay any taxes. And so I believe it would have been expedient for us to divide the question. It's too late now. So we just have to kill the whole bill and move on. And the next time when they bring nine or ten bills, we have to be a little more diligent in discussing what those bills all involve before we get to this stage of the game. But I'm voting red on LB873 and I would ask you to do the same. Thank you. [LB873]

SENATOR LINDSTROM: Thank you, Senator Erdman. Senator Hilgers, you're recognized. [LB873]

SENATOR HILGERS: Thank you, Mr. President. Good evening, again, colleagues. Let's talk about a couple of ways that this particular law, if expanded across the state, might go wrong. So let's talk about one way. One way might be conflict of interest. One of the things I looked at when I looked at the initial provision that is currently in statute as it relates to the pilot project is the conflict of interest provision. Is there one? There is one and it is in Chapter 19, Section 5215. And it talks about, no member of the board shall acquire any direct or indirect interest in any real property. But that's it. Then the board has to promulgate some rules to effectuate that particular provision. Well, couple of problems with that, colleagues. One is it's a fairly narrow definition of conflict of interest. It's defined as whether or not you have a direct or indirect benefit in the actual real estate itself. I can imagine a whole host of scenarios in which a board member may not have a direct interest in the particular property but might be unduly influenced by someone who wishes to sell the property. And think about it. When you're talking about some of these properties that might be a fairly illiquid market in this instance and you're looking for a willing seller and you now...that seller is now not using their own money, right? They're not using their own personal money, which is a moral hazard when you're spending someone else's money. So now that individual is helping dictate taking on indebtedness on behalf of the land bank to buy that particular property. I could think of all sorts of ways that the seller of that property could unduly influence the member...the board member on the land bank itself, that are nowhere near covered in this conflict of interest provision. The second problem is there's no teeth to it. All it says is you shall not. It doesn't say that the particular contract could be rescinded. It doesn't say

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that the person could lose their ability to sit on the board. It doesn't say that there would be any punishment whatsoever. All it says is, don't do it. That's all it says, don't do this one little thing, but if you do, well, you can't be removed by the vote of the people, you can't be removed by the mayor, you can't be removed by the city council. So just don't do it. And if you do it, don't do it again. And if you do it again, well, just don't do it, please. I don't think that's a very robust conflict of interest provision, colleagues. And I think when we spread this around the state, I think there's multiple opportunities for abuse of that particular provision. I think that should give us significant pause. Another area that I think where this could be ultimately be problematic, is that there's no limit whatsoever as to the amount of property the particular land bank could own. Now, there are certain sort of descriptive limits on what property they can purchase, I don't mean to suggest that they could buy any house anywhere or any property anywhere under any circumstances, but certainly there's no cap. It's not limited to a certain amount of real property. It's not limited in any real meaningful way in my view. So what's stopping this particular land bank from becoming one of the largest owners of real property in a particular municipality. Again, you're talking about individuals who are on the board who are spending someone else's money with no accountability to the people who are purchasing property with no real limit. What could go wrong? I think a whole lot of things could go wrong. And if there's no cap on the amount of property that the particular land bank could buy, you very well could see an instance where they're the market mover. All of a sudden they're the one scooping up all of the properties, working on redevelopment plans, figuring out how to redevelop parts of the city, not as a private developer, not one who's subject to market dynamics. [LB873]

SENATOR LINDSTROM: One minute. [LB873]

SENATOR HILGERS: Not even as a municipality, one that's subject to the accountability of voters, but as an unelected, unaccountable board who could snap up a whole lot of property and redevelop it with no real restrictions as far as I can tell. Will that happen every time? Probably not. Will it happen most of the time? I don't know. Much of the time? Unclear. But I think it would be a mistake to assume that it wouldn't happen. And I think the risk of it happening is significant. Mr. President, who else is in the queue right now? [LB873]

SENATOR LINDSTROM: Senator, there's two others. [LB873]

SENATOR HILGERS: Okay, thank you. How much time do I have? [LB873]

SENATOR LINDSTROM: Sixteen seconds. [LB873]

SENATOR HILGERS: Thank you, Mr. President. I urge you to vote red on LB873. [LB873]

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SENATOR LINDSTROM: Thank you, Senator Hilgers. Mr. Clerk. [LB873]

ASSISTANT CLERK: Mr. President, Senator Erdman would move to amend the bill. (FA159, Legislative Journal page 1510.) [LB873]

SENATOR LINDSTROM: Senator Erdman, you're welcome to open on your amendment. [LB873]

SENATOR ERDMAN: Thank you, Mr. President. I move to strike Sections 334-336 on the amendment. That removes the land bank from the bill. I believe that Senator Wayne has issues that he wants to have passed with the rest of the bill and this would give him an opportunity to move forward without the land bank being involved. The other issue that he would have if we continue with the land bank in there is, it's an opportunity for maybe the whole bill to fail. We have been discussing this land bank thing, we've talked about it before, Senator Geist had made an amendment earlier and I thought maybe that was going to pass, but it did not. So we missed our opportunity at that time on General File to remove the land bank. So it is my intention here to strike that section, the section that is in the land bank to remove that from LB873. And I would ask you to vote green on FA159. Thank you. [LB873]

SENATOR LINDSTROM: Thank you, Senator Erdman. Those in the queue are Senators Brasch, Harr, Hilgers, Wayne, and Geist. Senator Brasch, you're recognized. [LB873]

SENATOR BRASCH: Thank you, Mr. President. And good evening, colleagues. I do hope we make it to midnight tonight. I'm ready. To speak on this bill first, I am in opposition to the bill. I do believe that it is problematic because land banks are governed by nonelected boards. And they can buy any properties, not just the bad properties. Land banks can hold property as long as they want, and that can be a long time. It creates another subdivision, but again a nonelected board. Land bank is the largest landowner in St. Louis and they cannot even afford to mow their properties. There's many reasons why this is a bad bill. Back to another discussion, I'm going to jump around just a little bit. Earlier, I was in the middle of preparing for a bill that won't happen tonight, but there was discussion about earned income tax credits. The Governor recommended increasing the earned income tax credit last year. So where were you then? It all looks good after the fact. And for those who are wondering what happen to the Americanism bill, it did get passed over. There's a slim chance to none that we will yet see it tonight. But one thing I did want to end with on that subject, because I think it's so true, especially here and now, it's a quote from Albert Einstein. And he was speaking on the mastery of our Founding Fathers and the importance of their writing. I quote Albert Einstein: There are only a few enlightened people with a lucid mind and style with good taste in a century. What has been preserved of their work belongs among the most precious possessions of mankind. We owe it to a few writers of

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antiquity that the people in the Middle Ages could slowly extricate themselves from the superstitions and ignorance that had darkened life for more than half of a millennium. Nothing is more needed to overcome the modernist's snobbishness. So if the shoe fits folks, thank you. Thank you, Mr. President, and thank you, colleagues. [LB873]

SENATOR LINDSTROM: Thank you, Senator Brasch. Senator Harr, you are recognized. [LB873]

SENATOR HARR: Thank you, Mr. President. So I've heard a lot of demagoguery out here. I've heard a lot of talk about what may happen, what could happen, and I'm not sure what's going on. And we need to watch this. And, my god, if we aren't careful, land banks are going to take over the world and they're going to make Donald Trump our President, or some other developer. I can't believe anything that crazy would happen, but that's what I'm hearing. Folks, read the bill. Two hundred forty-nine pages is not that much to read and that's not the whole part on land bank. You can't have--a land bank can't own more than 7 percent of an area, of a city, a municipality. I hear, well, they have these meetings, these public meetings and there's public notice on it, but nobody knows. Well, whose fault is that? At some point we have to say that we are responsible for the actions of government, that we have to look it up. It's crazy. I went on this thing called the World Wide Web and you would be amazed what is on that thing, absolutely amazed. And they have this application called Google. I don't know if you've ever heard of this thing, it's called Googling. You Google something and it points something out for you. So I said, well, Mr. Google, what is the Omaha land bank? And it gave me an answer within less than a second, even tells me how quickly he found his answer. And on there, lo and behold, I found all the minutes to all the meetings and I found an account sheet on there that told me everything I wanted to know, their net operating revenue, their expenditures, their cost of goods sold, their revenue, their gross profits. I mean this is crazy. I don't know if anyone knows about this. I look outside the building and I see it says something about the preservation of our state is the watchfulness of its citizens. I'm paraphrasing. Folks, all the concerns we have, you're not the first. And they're valid. But they've been addressed before. They're in the bill, they're available. If you don't trust the board, go to the board meetings, call them out. Senator Hilgers is a graduate of Creighton Prep, as am I, and I work with an organization called Gesu and they use the land bank and see the importance of the land bank as far as building homes in areas of high poverty that otherwise you couldn't bring the parcels together or it would be too difficult. We work with the city of Omaha. There used to be a Land Reutilization Commission and they were replaced by the land bank, because the land bank does what the Land Reutilization Commission did, only better. This is a good bill. I understand that there are certain individuals outside the glass who have their concerns and I wish they would come and sit down and talk to people from the land bank, because it's not as scary as people think it is. It's a nonprofit. It's a 501(c)(3). If it starts getting out of control, there are controls. They are reliant on contributions from large donors. Those donors have oversight. Conflict of interest, my gosh, there's never been a problem. People would say us being here in

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inherently have conflict of interests by what we do, our actions, because hopefully we're making the state better and by making the state better we're making it better for ourselves and our children. [LB873]

SENATOR LINDSTROM: One minute. [LB873]

SENATOR HARR: And if we do that, well, I think that's a good thing, but it could be argued it's a conflict because I'm looking out for the best interests for myself and my children. How far do you want to take conflict of interest? The land bank does good work. There are already safeguards built into it, both formal and informal. It is a balance. I don't know about St. Louis. That might be true, but maybe they aren't as supportive of a community as we are in this great state of Nebraska. Thank you. [LB873]

SENATOR LINDSTROM: Thank you, Senator Harr. Senator Hilgers, you're recognized. [LB873]

SENATOR HILGERS: Thank you, Mr. President. I think Senator Harr's points are exactly right and help reinforce exactly the concerns I've made. He referenced things like, well, you can go and look at what the land bank is doing. Not an argument that has been made. It is certainly not my contention that there isn't some transparency. I'm not suggesting that they're not subject to the Open Meetings Act, but what I'm saying is that there's no accountability. You can go to the meeting and you can look at them sternly and you can complain and you can say things, but at the end of the day if they ignore the citizens, what can you do? You can't recall them. They're not elected, unlike Senator Harr. If Senator Harr or myself or someone else in this body, or any other elected position has a conflict, there's an accountability mechanism. One is through a public election. Two, by the way, often in many cases, there's some sort of...there's either a recall or an expulsion or some sort of censure mechanism that doesn't exist in the land bank. So I don't think saying that there is some transparency sort of resolves the concerns that I articulated. Senator Harr has also said that, well, it has worked well over the last couple of years, which, again, is not my contention. I think a couple years of data in Omaha is not the same thing as unlimited usage across the state. As I was looking at the statute in more detail, the more I looked at it the more problems that I see in some of the language. And I'll point to another one. The statute as it currently is drafted exempts from taxation the land bank. It's not just the sale of the land bank...the proceeds of real property. But here's what the statute says: The land bank's income and operations are exempt from all taxation by state or any political subdivision. Operations are exempt? Well, what are those operations? I quoted some of the things that the land bank can do. It can design, it can develop, it can construct, demolish, reconstruct. If it's designing or developing...if it's acting in the shoes of a developer, it's operation. Not just its income, its operations. What does that mean? Does that include salaries that it pays? Does it not have to pay

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any particular tax to the state? Is it exempt now from sales tax? I think that when you combine the exemption, which is incredibly broad, with the things that will allow the land bank to derive revenue and generate revenue and income, which is incredibly broad, what you've done is created a gigantic loophole and a gigantic opportunity for the land bank, in my view, to operate as a private entity without any of the burdens of taxation. We have spoken a lot this session about the idea that we ought not to provide competitive advantages to entities, whether they are public or private through taxation or regulation. We've spoken a lot about that with public entree into the telecommunications market in the Transportation and Telecommunications Committee. I think here you are allowing a land bank through the very broad scope of services and powers it has, and the very broad exemption of income and income on operations, whatever that means, to operate in a way that's competitive with the private marketplace with a significant private advantage. I don't think it's enough to say that the open meetings are open. There's no accountability measure. I don't think these are things that they ought to be doing. Now, Senator Erdman has put forward an amendment, FA159, that strips out this language from the bill. I wholeheartedly support that floor amendment. I urge you all to vote for it. And I imagine if that floor amendment passes, that LB873 and the remaining bills--I believe there are seven or eight--will continue on to Final Reading pretty quickly. So I'd encourage everyone to vote for it. [LB873]

SENATOR LINDSTROM: One minute. [LB873]

SENATOR HILGERS: Thank you, Mr. President. If it doesn't pass, we might still be talking about LB873 for a little while longer yet, I'm not sure. But I would urge you all to vote for the floor amendment. I think there are significant issues here that I think we will be sowing seeds that we'll reap down the road and I think we have rued the day that we did that. Thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Hilgers. Senator Wayne, you are recognized. [LB873]

SENATOR WAYNE: Thank you, Mr. President. It's one thing to be against the bill and it's another thing on Select to not have a conversation with the bill introducer. I guess I just operate differently. I guess my colleagues should know that I would never oppose your bill and get up and speak on it without telling you first, because I know you've worked hard to get here and I think you deserve at least that minimum of respect. The second thing I will tell you is, it's easy. When I was on the school board and even down here, when you get threats at your house, it's easy to say, no. It's easy to always be a no vote. But it's work to pass a bill. It's work to move the state forward. Instead of continuing to say no in this body, let's figure out how to help cities and municipalities do better. It's easy to say I don't like this bill. But what's harder to do and what we

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should all be trying to do as we knocked on at least 15,000 to 20,000 doors--at least I did in my case--is to say how to make the bill better. I offered getting rid of bond indebtedness for everybody outside Douglas County. Fell on deaf ears. I said, let's sit down and talk about how to make it better. Fell on deaf ears. But one thing I did know is that for two years of Urban Affairs Chair I had multiple people come into this hearing rooms and say we have a vacant abandoned property issue, not just in Omaha, Nebraska. Senator Briese brought a bill every year. But in small town Nebraska, where they're struggling to find how to deal with the nuisance and the problems caused by abandoned property. So we offer a solution. You don't like it, but you don't tell me how to fix it. You don't tell me how to make it better. It's easy to say, I'm afraid. Well, Senator Hilgers, we have a Supreme Court in America who has been found of corruption. We have judges that have been found of corruption. I don't hear you saying, abandon our judicial system. You voted multiple times to confirm people who have billions of dollars in state budgets and agencies in this body. They're unelected, but yet you voted for it. But we're afraid of an unelected body who can only buy properties that have been off the payrolls. Let me repeat that. They are off the payrolls. You aren't collecting property taxes on it. And, in fact, what we found in Omaha where the land bank has bought properties and resold it at a higher market value, property taxes and the value of your homes go up because they're back on the market. It's no longer dilapidated. So it's easy to find the negative in something, but work is when you come up and say, how do we make it better? And at what point, whether it's taxes, whether it's judicial system, whether it's juvenile, whether it's dilapidated houses in North Platte and Grand Island that need to be fixed, at what point are we going to come up with solutions? We can be scared all the time of government taking over or doing something else. Well, when that happen, Senator Hilgers, I'll be a cosponsor of your bill to get rid of the land bank. But we have a problem, not just in Omaha, but throughout this state of properties that are abandoned. Investors...when Senator Schumacher's bill was up about changing the buy down, investors not in our state who are buying liens on property that have tax delinquencies... [LB873]

SENATOR LINDSTROM: One minute. [LB873]

SENATOR WAYNE: ...who never set foot in the state. And when you drive by them, there's broken windows. There are elements of crime happening because it is an abandoned house and we are offering one solution. So it's easy to say no. But then come up with a solution to help those neighborhoods. Come up with a solution to help economic development in that neighborhood. Let's not be fearful of the unknown. Embrace it. Let's make it better. And if something happens in Grand Island where it's being abused, let's cosponsor a bill and fix it. It's time to move forward so Urban Affairs doesn't keep having to hear about dilapidated houses throughout this state. That's what this bill is about. So we need to keep the land bank in this bill and we need to move this forward to give the tools to our local governments who are duly elected--and yes, they appoint somebody--to make their neighborhoods better. I can't believe

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we're having this discussion asking so much about it when we have a mechanism to fix it later on. [LB873]

SENATOR LINDSTROM: Time, Senator. [LB873]

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

SENATOR LINDSTROM: Thank you, Senator Wayne. Senator Geist, you're recognized. [LB873]

SENATOR GEIST: Thank you, Mr. President. And actually, I appreciate your speech, Senator Wayne. And I will tell you I have been up front with you since day one, that I was against this and I do support FA159. I support this because in some cities and some towns they're not ready for this. And I support Senator Hilgers' description, the concerns that he has. I brought those concerns to this floor, to this body day one. And so I stand in support of FA159. However, I will say I do support--with a green light-- LB873, so just this portion. And, Senator Wayne, I'd be happy to work with you in the interim on economic development and what we can do that's just a little different than this. Maybe we can tweak it somehow, but I would stand against the bill as it's written. Thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Geist. Senator Blood, you are recognized. [LB873]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, well, Senator Wayne certainly woke a lot of people up, those few that are still left on the floor, and he said a lot of what I wanted to say. Coming from a municipal background, I can tell you that cities like Bellevue, Omaha, Grand Island, we have older infrastructure. And there aren't a lot of tools in our tool box to do anything about it. LB840 pretty much all that is left as far as what people can and can't offer to make their cities and their infrastructure better. While being told that some of us were snobs, we were also told that St. Louis had a horrible experience when it came to land banking. Well, I looked for communities that had similar language in the bill that Senator Wayne is presenting and I found a lot of success stories--Genesee County in Flint, Michigan; Dallas, Texas; Cleveland, Philadelphia, Atlanta. You can go out of the United States--Delhi, India; Bogota, Colombia; this is not a new concept. This reminds me of the debate we had the first time on autonomous vehicles. It was like people thought maybe we had a glass globe over Nebraska and everything was very different than every other state that was already proving the tests had been successful, in other countries things have been successful. But we wanted to talk about all the really negative things that we thought that maybe could happen. But the facts shows differently. And to say that your town doesn't want to do it, that's fine, then don't do it. We're not

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forcing anybody to do a land bank. This is another option in their tool box. I just want to hear educated responses to land banking on the floor, not personal opinions, not finding one negative, because there are so many positives. And I can tell you, if you were to talk to the city leaders in municipalities like Bellevue, Grand Island; I'm guessing, Senator Lowe, Kearney. If you talk to the people who have these issues when it comes to infrastructure and have few tools, who didn't jump on the LB840 bandwagon soon enough...and I can tell you, before I got on the city council, Bellevue had not done it, and shame on them and that's why they're trying to catch up right now. But the point is, there's a lot more success stories nationally than there are unsuccessful stories. We're not reinventing the wheel. We're not just doing it in the United States, it's all over the world. It's all over the world because it's been very successful. Listen to these cities-- Philadelphia, these are cities that really needed...had issues with urban housing and needed help. Dallas, Texas; Cleveland. They go to land banking for a reason, because they want to lift people up, they want to create affordable housing, they want to regenerate a neighborhood. This is not a bad bill. I don't support Senator Erdman's motion. Ultimately, I will support it if it's the only way to get the rest of the bill through, but good grief, I really hope you're doing your research because the theories I'm hearing on land banking are just wrong. Thank you, Mr. President.
[LB873]

SENATOR LINDSTROM: Thank you, Senator Blood. Senator Quick, you are recognized.
[LB873]

SENATOR QUICK: Thank you, Mr. President. Listening to what's been said and I can tell you that Grand Island wants to do this, they want to create a land bank. I think the city of Hastings wants to, the city of Kearney. They would all like to see a land bank. And I believe that working together I think they would probably create a regional land bank to help even some of the communities around. I know it's been really successful in Omaha. It's helped with a lot of the properties that they have a real issue trying to...with the dilapidated properties, the run-down properties, the tax delinquent properties, and they have ways to remedy all those issues. I have printed up some information on land banks and I found this one from the National Association of Attorneys General, and I'm just going to read a little bit of the article, because it talks about how it's helped in other communities and some of the problems they've had with vacant properties. Vacant, abandoned, and tax delinquent properties are often grouped together as problem properties because they destabilize neighborhood, create fire and safety hazards, drive down property values, and drain local tax dollars. The U.S. Fire Administration reports that from 2010 to 2012 an estimated 25,000 vacant residential building fires were reported annually in the U.S. These fires resulted in an estimated 60 deaths, 225 injuries, and \$777 million in property tax and property loss each year. Abandoned properties also are known to attract crime. A study done in Pittsburgh showed that the rate of violent crime within 250 feet of a recently vacated property is 19 percent higher than the rate of an area between 250 and 350 feet from the property. Furthermore, the longer the property has been vacant, the greater the effect that it has on crime

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rates. A report done in Austin found that 34 percent of vacant properties studied were used for illegal activities. This number increased to 83 percent if properties were unsecured. Not only do these crimes pose a public safety concern, but they also drain police department resources and cost taxpayer dollar. Now I'm going to say that I know in Grand Island we have properties and I can guarantee you that there are people living in those properties that shouldn't be there. And I think it's probably happening in a lot of communities across the state, but we just choose to ignore it. And I think that on some of these cases there could be or...I can't say factually that there's illegal activity going on. I know in the bigger, larger cities there are, and I can guarantee you probably in Nebraska it's happening as well. We've found meth labs in different places. We've found drug dealers. I know we have several of them in Grand Island; we have a drug problem there. And my guess is, it's easy for them to use some of these properties that no one lives in. I know that there's been some talk about some of these issues with transparency. I can tell you that talking with one of the board members who sits on the Omaha land bank, it was amazing to listen to him talk about what they've done with some of these properties that no one else wants to deal with. The city doesn't know what to do with them. There are so many of them they don't know how to deal with them. And so when the land banks came in, it helped them to be able to redevelop those properties and increase the values in those neighborhoods of the homes that surround them. And increase the value of that property itself. [LB873]

SENATOR LINDSTROM: One minute. [LB873]

SENATOR QUICK: And I know that that could benefit some of the properties we have in Grand Island. I know the city has them. And what happens with the land bank, they acquire that property, they demolish it, actually the secure it first, clean it and secure it and make sure it's safe. And then from that point if they decide they need to demolish that property, they will take care of that. If they need to clear title for a developer, they'll do that. It saves taxpayers money and actually helps raise the values of homes that surround that, plus the property itself. I know we voted on this pretty much a similar amendment when we were on General File. And I would hope we could get to this vote so we can vote down the floor amendment and get to LB873. Thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Quick. Senator Hilgers, you are recognized. [LB873]

SENATOR HILGERS: Thank you, Mr. President. I want to respond briefly to some of the comments that have been made. Senator Wayne, I don't disagree that there might be a problem. Certainly don't disagree that Urban Affairs has worked hard to try to identify a solution. I just happen to disagree with the particular solution in its current form. If we're not here on the floor analyzing the legislation and the solutions that are put forward to us from the committees, what

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is it that we're doing? Now, what I have identified are some concerns based on the facts of the statute. I've identified what I believe to be a significantly weak conflict of interest provision that has no teeth to it. I've identified the fact that there's no accountability measures. I've identified the fact that there is no cap on a number of...there's is no limit on the amount of property that this particular entity could purchase. I've identified the fact that there's an incredibly broad scope of authority and powers that this particular board...that they could enter into and that though their operations--whatever it is that that means--are not...cannot be taxed by the local or state authorities, providing potentially a competitive advantage to a public entity over a private entity. And over all that, I've identified the fact that there is no accountability measure for these particular board members. Now, you might disagree with me and say, hey, it's worked in Omaha for two or three years, therefore, it's going to work everywhere. Hilgers, what are you talking about? You might. But what I have yet to hear is any direct rebuttal to any of those facts. What I have heard is, well, you come up with a solution. Fair. I don't have the precise solution to this particular problem. Fair. And if you want to vote for this bill because I don't have the solution, fair enough. I have heard that it's not transparent or that it is transparent. Also fair. Also not something I've argued. I'm not arguing that it's not transparent. I'm not arguing that there isn't...that they're not subject to open meeting laws. That's not part of my argument. I'm saying there is no accountability, there's no true accountability. I've heard that it's worked in some places around the country, around the world, or in Omaha. All fair. All not what I'm arguing. It is certainly true and I would not contest that this type of structure has worked. But the question before us is, in my view, is not whether it has worked, but whether it is more likely than not to work across the state in municipalities and villages that look nothing like Omaha, that have nothing of the meaty environment of Omaha, that have nothing of the scope of population and the depth of talent as Omaha. To compare those two things I think is a mistake. So I'm going to vote green on FA159. I hope you do, too. I'm willing, as always, to discuss these various arguments. I'm willing to grapple with flaws in my logic, with mistakes in my assumptions, with information that I haven't considered. What I've laid forward three to four to five various arguments of what I believe are, by the way, not pie in the sky, how could that have ever happen, unaccountable, unelected individuals abusing the public trust, but things that hundreds of years of human history should tell us happen. People abuse the authority with which they are given. That's why we have a cannibal system of government. These aren't things that are just sort of I'm just, sort of, I'm just...aliens landing on the Earth, and things that just would never occur. These things happen, they happen all the time. I'm willing to reconsider all the arguments I've made, but those are the ones on which I'm standing. If I'm incorrect in any of those, I'll listen. But the arguments that I've heard so far are either red herrings... [LB873]

SENATOR LINDSTROM: One minute. [LB873]

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SENATOR HILGERS: ...thank you, Mr. President...don't grapple directly with the points that I'm making or that I'm mostly concerned about. So I hope this floor amendment passes. And if it does, I will vote green on LB873. And with that, thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Hilgers. Seeing no one else in the queue, Senator Erdman, you're welcome to close on your floor amendment. [LB873]

SENATOR ERDMAN: Thank you, Mr. President. We all listened when Senator Wayne gave his rousing comments about don't say no. Senator, that was a good job. But the problem is I have a different opinion and I don't like the bill. So even though you did a rousing job of trying to convince me not to say no, I'm going to say no. I listened to Senator Harr. I thought it was very amusing that Senator Harr was very soft spoken and very considerate. Sometimes this evening he hasn't been that way. So without any further time, because we have other things to do, I ask you to vote for FA159, remove the land bank from this bill. I would vote green on LB873 if you vote green on FA159. Thank you for the discussion. [LB873]

SENATOR LINDSTROM: Thank you, Senator Erdman. The question before us is the...there's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB873]

CLERK: 23 ayes, 3 nays to place the house under call. [LB873]

SENATOR LINDSTROM: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Friesen, the house is under call. All members are accounted for. There's been a request for a roll call vote. [LB873]

CLERK: (Roll call vote taken, Legislative Journal pages 1510-1511.) 10 ayes, 14 nays on the amendment. [LB873]

SENATOR LINDSTROM: The amendment is not adopted. I raise the call. Returning to debate. Senator Chambers, you are recognized. [LB873]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, that was a good vote that you just took. I didn't get involved in the discussion because I was hoping that the statements that had been made in favor of the land bank would carry the day which they apparently did. But a lot of the rural people--and I consider Lincoln rural when I listen to Senator

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Geist and Senator Hilgers and some of the others on the fringe areas--because something doesn't happen right in your backyard or across the street, you don't think it's worthy of any consideration. There are larger areas in Nebraska than Lincoln. Maybe Lincoln is the second largest, but it's like a hick town in a whole lot of ways, even the layout of the streets, the traffic signals. It's like something you have in a country, jerkwater place. When there are serious problems with deterioration...you all don't know what a slumlord is. These are people who buy up a lot of property, they let it deteriorate, they don't put any money into it. They know there are a lot of very poor people, and they rent it to them at an exorbitant rate for what they're getting. And they don't provide, these landlords, slumlords, any upkeep whatsoever. And when the place is condemned, they don't tear it down. They let the city do it if it's going to be torn down. And it is an eyesore. It is an attractive nuisance. Some of you all are going to have to try to broaden your scope a little bit. Everything I say on this floor applies to many of the white people in this Legislature. It doesn't happen to them, it doesn't happen. If it doesn't happen to them, they don't care. But when they bring one of their hoity-toity, highfalutin, bluenosed, upturned nose something, then they want everybody to fall down and go for it. If that's the way the game is going to be played, I know how to play it, and I can play it. So if that's what you want, you'll get it, all of you. Not just the Lincolnites. I don't know why Senator Erdman put that up there. I've listened to some of the things he's said about property taxes. I'm sick of some of these farmers. Let me tell you something, they vote against minimum wage, but farmers want the taxpayers to guarantee them a minimum wage. Parity, subsidies, crop insurance, all kinds of handouts and benefits. Well, now the worm is turning and China is going to make it happen, thanks to the assistance of your President. And I told you all what he was going to do to you and now he's doing it and finally you all are seeing that he doesn't care about you. At least the farmers in Iowa are squeaking and squawking now, because it's hitting them where they hurt. Now, I don't know whether this is true or not, but I understand they grow hogs out in the area where Grand Island is. Well, they can turn them into pets because one of the biggest markets on the planet is going to start going tit-for-tat with your President. China has its fingers in so many countries, so much investment. Countries owe China so much debt that China can call the shots in terms of what happens in those countries. They have a lot of investments in this country in New York. When I was there not too long ago, I was talking to the guy who was driving me around and I was asking him, do the Chinese have any investments in real estate here? And he laughed. He said, you see that big old building over there? I said, well, now, you've got a bigger one than that, the Empire State Building. He said, I'm not talking about that. He said, what they do, because they have so much money,... [LB873]

SENATOR LINDSTROM: One minute. [LB873]

SENATOR CHAMBERS: ...they're not going to put it in the bank, because the bank insures it only up to a certain amount, so they invest in property. And they might be one of the biggest landlords in New York. If China called in all the debt that America has to China in every type of

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investment China has, they could sink your economy in this country. You all don't pay attention to anything because it's not happening on your street. It's not happening in your particular affluent neighborhood. You need to wake up, people say smell the coffee. China is going to win this so-called war of tariffs if John Bolton allows the world to stand. He's going to sic your President out there to do something crazy, and your President is so demented he'll do it. And what does that have to do with what you all are talking about here tonight? You don't care about anything unless it affects you personally. [LB873]

SENATOR LINDSTROM: Time, Senator. [LB873]

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

SENATOR LINDSTROM: Thank you, Senator Chambers. Senator Blood, you're recognized. [LB873]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, sleepy all, I just am so puzzled by all of this because land banks are a pretty awesome tool for development. I enthusiastically supported Senator Briese's bill when it came to vacant properties because Senator Briese is an intelligent guy, and I'm kind of surprised he's not supporting the land bank portion of this bill. I look at communities that have aging infrastructure and I don't know if a lot of you understand what happens to these properties that start going by the wayside. You can say, well, municipalities they can go ahead and put a lien on these properties and ultimately the property owner is going to pay that lien. Is that what you really think that happens, because if that's so we can start with a fairy tale that says, once upon a time. That's not what happens. What happens is these bad landowners continue to not pay their taxes, continue to let the property go in disarray, and guess who ultimately pays for it. The taxpayers. I hear a lot of talk about how we're protecting the taxpayers when it comes to how this bill is written, but I think you have a lot bigger concern. What happens if bills like this don't pass. So who does the snow removal on these properties? The city. And who pays for the work that the city does? The taxpayers. And who goes in and boards up those windows? Well, the city. Who pays for that staff? The taxpayers. What happens when the meth heads get into those buildings or the--excuse me my terminology--the crack whores that are doing...practice within those facilities, which we had happen in Bellevue? What do you think is going to happen to the land value around that? What happens if the crack pipe is left burning and the house catches on fire? Who is paying for the fire department? The taxpayers. Who's paying for the police department that comes to try to get those people out of the house or the building over and over again? The taxpayers. Want to talk about transparency? Let's be transparent about how much the taxpayers are having to pay for these dilapidated properties, because I think they'd be really angry if they knew the true costs. It's outrageous. And it isn't something that's simple to get removed in your community. There's a lot

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of hoops that a community has to go through in order to even get permission to tear down a property like that, no matter how big the risk is to public safety. And there are a lot of risks. I can tell you stories about rats. I can tell you stories about possums. I can tell you stories about other wild animals that end up having babies in these buildings. And just what do you think happens to the neighbors that live next to these buildings? You think they're having a good time? What about these houses because the houses and the buildings where the water bursts? That happens so much in these older buildings. And then it freezes. And then it unfreezes. And then there's black mold. And then you create more health problems for the neighbors. I don't think you understand the true cost to taxpayers. You are raving on and on about transparency and how this bill is written, but it's very similar to many of these communities where we talked about the successful programs. I think we can do better, and I really, really encourage this body, over the summer, to really look at the true costs to municipalities when it comes to these types of properties. We don't need more discussions about economic development. We need discussions about older infrastructure and what we can do to help municipalities. And again, this is optional. We are not forcing any community to do this, but they should have the ability to have one more tool in their toolbox,... [LB873]

SENATOR LINDSTROM: One minute. [LB873]

SENATOR BLOOD: ...because I guarantee, if taxpayers truly knew the cost when it comes to these buildings, they would be really angry. And I'd encourage them to start calling their senators and let them know how angry they are. Thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Blood. Senator Williams, you're recognized. [LB873]

SENATOR WILLIAMS: Thank you, Mr. President, and good evening, colleagues. We've had a lot of discussion tonight on some things that are really important for many of our communities, and especially some of our rural communities. And I really appreciate Senator Hilgers when we started this discussion tonight talking about the things that a land bank can do. And I want to say, thank you. Thank you, land bank, because you can help my community. You can help the communities in my legislative district take care of abandoned properties that they have been trying to deal with for years. We've had a lot of discussion tonight about the situation of being elected or appointed. I had the opportunity to serve as the head of the Redevelopment Authority in Gothenburg for nearly 20 years. I was appointed to that position by the mayor of our community, along with every other board member on the Community Redevelopment Authority, which has very similar responsibilities as the land bank. Those kind of things of holding property, selling property, taking care of things, and for those of you that think this competes with the private sector, if the private sector was taking care of this, we would not even be having

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this discussion tonight. Okay? If the private sector could fix this, we wouldn't be here tonight. Sara Howard asked me if I would quickly wrap this discussion up so we could move on to a vote, so I will. But believe me, we need to say yes to some things. We are way too used to saying no in this body. The situation in Omaha has been positive. It has been good, and the situations that we have across our rural areas are critical. Tomorrow we're going to talk about rural housing and what we can do to fix that problem. And I'm telling you what we are looking at tonight is part of the solution also, so I would encourage you to move forward with LB873 and let's move on. Thank you, Mr. President. [LB873]

SENATOR LINDSTROM: Thank you, Senator Williams. Senator Larson, you're recognized. Senator Larson waives the opportunity. Senator Pansing Brooks, you are recognized. [LB873]

SENATOR PANSING BROOKS: Question. [LB873]

SENATOR LINDSTROM: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB873]

CLERK: 28 ayes, 2 nays, to cease debate, Mr. President. [LB873]

SENATOR LINDSTROM: Debate does cease. Senator Hilgers, for what purpose do you rise? Machine vote? Senator Wayne, you are recognized to close on the advancement of LB873. Senator Wayne waives closing. There has been a request for a machine vote. The question before us is the advancement of LB873 to E&R for engrossing. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB873]

CLERK: 29 ayes, 6 nays, Mr. President, on the advancement of the bill. [LB873]

SENATOR LINDSTROM: The bill does advance. We'll now move to LB953. [LB873 LB953]

CLERK: LB953. I have E&R amendments, Senator, first of all. (ER176, Legislative Journal page 1457.) [LB953]

SENATOR LINDSTROM: Senator Wishart. [LB953]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB953. [LB953]

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SENATOR LINDSTROM: The question is the adoption of the E&R amendments to LB953. All those in favor say aye. All those opposed say nay. The E&R amendments are adopted. [LB953]

CLERK: Senator Schumacher would move to amend AM2885. (Legislative Journal page 1511.) [LB953]

SENATOR SCHUMACHER: Senator Schumacher, you're welcome to open on AM2885. [LB953]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I'll try to be brief. On General File it appeared that one of the parties or one of the interests left out was the interest of Medicare. This is about...the bill is about an application before the Workman's Compensation Court for approval of a lump sum settlement. In order to address that issue, I worked with Senator Albrecht and this amendment was a result. And searched the language that says the application shall also include a statement that the parties have considered the interest of Medicare and have taken reasonable steps to protect the interest of Medicare. As point of clarification, that portion of the amendment providing protection for the interest of Medicare is designed to comport with the federal laws and regulations. The amendment is not designed to impact the usual procedure utilized by employees and employers in addressing unpaid medical bills or the manner in which the disputed nature of the medical bills is determined. I think this addresses the issue that I saw in General File, and I thank Senator Albrecht for working with me on this. Thank you. [LB953]

SENATOR LINDSTROM: Thank you, Senator Schumacher. Seeing no one else in the queue, Senator Schumacher, you are welcome to close on your amendment. Senator Schumacher waives closing. The question before us is the adoption of AM2885. All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB953]

CLERK: 33 ayes, 0 nays on the amendment. [LB953]

SENATOR LINDSTROM: The amendment is adopted. [LB953]

CLERK: I have nothing further. [LB953]

SENATOR LINDSTROM: Senator Wishart. [LB953]

SENATOR WISHART: Mr. President, I move to advance LB953 to E&R for engrossing. [LB953]

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SENATOR LINDSTROM: All those in favor say aye. All those opposed say nay. LB953 advances. Mr. Clerk, we will now move to LB1069. [LB953 LB1069]

CLERK: LB1069, a bill by Senator Brasch. (Read title.) Senator Brasch introduced her bill in January, filed a motion to place LB1069 on General File pursuant to Rule 3, Section 30. That motion prevailed. I do have amendments pending to the bill, Mr. President. (AM2382, Legislative Journal page 1153.) [LB1069]

SENATOR LINDSTROM: Senator Brasch, you're welcome to open on LB1069. [LB1069]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues, and good evening. I want to give you a brief overview of the amendment and how we arrived to this point. LB1069 and AM2382 were both developed and refined with the help of many, many citizens and working groups, input from veterans, work by many staff members, along with members and staff with the Department of Education, and the Director of the Department of Education, Commissioner Blomstedt. He testified in favor of the bill during its hearing, though he expressed some difficulty with the original reporting requirement in LB1069. Because of that, the reporting requirement has been removed and appropriate language has been changed in AM2382. Further, there was much discussion about the removal of ethnic groups, the language in there under Section (1)(d). With that we changed it to make the direct committees to the multicultural education standards that were set forth in 79-719 through 79-723 Revised Statutes of Nebraska. To ensure this change was not taken out of context, I introduced an amendment to more clearly articulate the multicultural education curriculum standards to the committee that we incorporated. The multicultural education standards described in 79-719 through 79-723 are much broader than the current statute language that says, quote, unquote, contributions by ethnic groups. So we went further than was asked. It also included an enforcement provision that was not present in the current Americanism law. These changes should also address any concerns about the civic test requirement. The test is only one part of the bill and would only be one part of social studies classes. This test could be given as formative interim, summative assessments, with much discretion given to the classroom teacher. The bill requires the test be given, but it does not require it to be passed in order to graduate. It does not require it to be passed in order to move on to the next grade. It doesn't even require the test to be passed in order to pass the class it is given in. The test is to be used as a diagnostic tool at the beginning of the year and to be scored at the end of the year to demonstrate student progress and learning. Our teachers are remarkable, and I trust they will find creative and innovative ways to use the civics test. So much went into this bill by so many people starting back with the original bill in 1949. And what we tried to do collectively was to remove language that we felt did not inspire patriotism and to move away from the fears that some had said was McCarthyism. It is more important today than ever that we look into how our schools and if our schools are giving our students a sound foundation. I mentioned the FFA breakfast I went to where Farm Bureau mistakenly put me at a

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table with students who were not from my district, but were from Sumner, Gothenburg, and out in the western Nebraska area. I asked them, so who is your senator? These are high school seniors, 18-year-olds or 18 to be. They had no idea who their senator was. I asked them, do you take American history or social studies, because I have a bill. Well, you can take it on-line, and some did take it on-line. And then I had mentioned the naturalization test that we ask of our immigrants to take. And they brightened up saying that, yes, that they had taken the test. But only 2 of the 14 students had passed that test, but they learned a lot of things from the test. And I'm so glad that Senator Chambers mentioned China this evening again. I had mentioned it earlier in the day. It is incredible reading. We think that in our country that we are so secure because of our shores, but we're not. With social media and with individuals not realizing that in America that we stand proud and we live with freedom of speech. We have our rights that were not just given to us, but they were fought for generations ago. And I thought it was so interesting when Senator Blood said that I called people snobs or that's what she heard, but I also said that every century had very highly intelligent people. So for those of you who heard the word intelligent, you're welcome. For those who did not, I'm sorry. But China is inherently unstable because all it holds together is an imperial culture of the tax collector in Beijing. China's communist party is a merciless mediocrity, which is one reason the Chinese have difficulty understanding American politics. If you're in the Chinese leadership, you've made it there by scoring very high on a long series of exams starting at age 12, which means, and I'm quoting this out of an article, which means you haven't met a stupid person since you were in junior high school. China does not have food security. We are very fortunate in our country that we do have food security here. They are truly an economic contender, but they are a contender because their individuals are not incentivized by innovation. They're incentivized by insecurity and fear of their personal safety and whether they see tomorrow or not. And the greatest danger to America is not the lack of strength, but the lack of complacency. We talk about Russia. We talk about collusion. We talk about all kinds of fears and hacking and about technology. It's good to be concerned about it because we are not secure as a country. We are not guaranteed our freedom every day. We are in threat of losing it by multiple countries who wish us harm. Again, this bill was worked so hard on with so many people, so I'm really humbled and I appreciate the freedom and the privilege to stand before you this evening just to tell you about the bill. It got passed over multiple times, and that's what I fear most is happening in our schools. [LB1069]

SENATOR LINDSTROM: One minute. [LB1069]

SENATOR BRASCH: It's just being passed over. I open this to discussion. Not everyone agrees, but guess what? That's our country, our republic, and our democracy. Thank you for your attention this evening. Thank you, Mr. President. And thank you, colleagues. [LB1069]

SENATOR LINDSTROM: Thank you, Senator Brasch. Senator Bolz, you're recognized.
[LB1069]

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SENATOR BOLZ: Thank you, Mr. President. Until just a few minutes ago, I was under the impression that we weren't going to get to this bill today, so I apologize to Senator Brasch because I filed an amendment which I had been holding onto thinking that we weren't going to debate this issue. But I was pleased to hear that Senator Brasch had brought up the idea and the concept of multiculturalism because I think that's precisely what is missing from this piece of legislation. And I defer to the expertise of the Education Committee. I don't know if we get to a vote, and if we get to a vote, whether I support it or not. But ultimately I do think we need to have a conversation about diversity. And so because we won't get to the amendment that I have filed, there are several in front of it, I want to read it to you. It says that students should also be made aware of our nation's history of civil rights, women's rights, workers' rights, rights of individuals with disabilities, and voting rights, as well as how advocacy for those rights led to greater equality and prohibitions of discrimination on the basis of race, color, religion, ancestry, natural origin, gender, sexual orientation, age, or disability. Colleagues, I don't think we can talk about what it means to be an American without recognizing our history of gentrification, our history of oppression and poverty, and how overcoming those barriers and people coming together to develop the Voting Rights Act and the Americans with Disabilities Act and the Equal Pay Act has made America better, has made America great. The Voting Rights Act prohibits discrimination in employment on the basis of race, color, or ethnic origin. The Equal Pay Act ensures that no employer shall discriminate between employees in the same establishment on the basis of sex. The Voting Rights Act says that no voting qualifications or prerequisite for voting or standard practice or procedure shall be imposed or applied by any state or political subdivision to deny or abridge the right of any citizen of the United States to vote on the account of race or color. And so, colleagues, debating a bill about Americanism without debating our history and about the rights that have been fought for by all kinds of people who have overcome oppression is not, to me, a debate about Americanism at all. And so I stand to add my perspective that these things need to be incorporated in any discussion about our youth's education about civic engagement. And I rise to celebrate our history of people who stood up for their rights and won them. And I rise because I think if we don't continue to talk about the need to overcome discrimination with our young people, we are bound to repeat the mistakes of the past and not to make the progress of the future that is needed to overcome some of the issues that still remain ranging from racial tensions in our law enforcement to the need for more equality and fairness in housing and employment for our LGBT community. So, colleagues, I regret that this bill and this debate is so late. And I regret not having the opportunity to file the amendment sooner. But I needed to rise and say my piece on LB1069. Thank you, Mr. President. [LB1069]

SENATOR LINDSTROM: Thank you, Senator Bolz. Mr. Clerk. [LB1069]

CLERK: Senator Brasch would move to amend with AM2382. (Legislative Journal pages 1153.) [LB1069]

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SENATOR LINDSTROM: Senator Brasch, you're welcome to open on AM2382. [LB1069]

SENATOR BRASCH: Thank you, Mr. Speaker. And again, we did make the amendment to add the language. The statutes that were listed in there is far more in-depth than the original bill. And as far...and I do thank you for the comments on what we can do better, what we need to add. There's no reason that a teacher cannot add that to the curriculum, to their social studies. At this point in many schools it's just optional. It is very important to look at our past and to use that to help us know what we can do better. One thing that Senator Chambers has done over my six years in working with him here is he has told me and countless others about the history of black slaves and individuals and the struggles and his today struggles and everything he has been through. I didn't get that in the classroom, but I'm getting it through Senator Chambers. And if it makes me a better person or anyone else there listening, that's successful. That can be done in the classroom. And teachers have the ability to go beyond the book, absolutely. But when they don't even know the book, that's problematic. That is very problematic. And what the amendment does, is it goes into the explanation of that this bill, for one, they are not required to have it for graduation purposes. They are not required to...the reporting is just to their parents. The amendment is very simple. This is not a burden to anyone, but this should be...especially in light of the conversation just a few minutes ago tonight, that we are threatened by other countries. We are. And if you love your liberty, if you love your freedom, then we need to learn more about how it came about today, yesterday, and what we can do tomorrow to be better people. Thank you. And I don't think this will go to a vote this evening, but I do appreciate just having the opportunity to explain that this bill here is meant for the purpose that we could be better moving forward. [LB1069]

SENATOR LINDSTROM: Thank you, Senator Brasch. Mr. Clerk for items. [LB1069]

CLERK: Excuse me, Mr. President. Senator Brasch, you have the first amendment to your amendment AM2902. (Legislative Journal pages 1511-1512.) [LB1069]

SENATOR LINDSTROM: Senator Brasch, you're welcome to open on AM2902. [LB1069]

SENATOR BRASCH: This amendment goes in to add the language about the multicultural and ethnicity. And I won't take any more time because there are others who would like to speak on it and I am interested in hearing what others say, because this is the last chance we have to put the record forward on are we going to move forward and try to have our teachers and our educators bring a baseline foundation that teachers and students can build upon. Thank you. [LB1069]

SENATOR LINDSTROM: Thank you, Senator Brasch. We'll now open it up for discussion. Senator Groene, you're recognized. [LB1069]

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SENATOR GROENE: This bill didn't come out of anywhere. In 2019, the Department of Ed has been assigned the duty to redo the standards of social studies. Senator Krist, Senator Brasch brought similar bills. The Department of Education was seeking some clarification of our present statute 79-724. In 1949, it was originated, it was called the Americanism bill. That has got a bad connotation nowadays, but that isn't what this is about. We are trying to update it from 70-some years ago to modernize it. That's all this bill does. It's not a Republican, a Democrat bill, it's an American bill, it's a civics bill. It adds dates to be celebrated--Martin Luther King Day, American-Indian Day, and a few others. What better day for a teacher to decide to teach the struggles of the African-Americans than surrounding Martin Luther King Day. That wasn't in the original statutes. If we do not update this bill, the Department of Education will have the old 1949 Americanism bill as a guideline. Do we want that? It adds financial literacy, geography, economics, and civics under the definition of civics and social studies. That wasn't in there. It removes the Class III misdemeanor for school personnel who don't obey the law. We took it out...in 1949 the sheriff was in charge of enforcing this law, not the Department of Education. The new statute puts it in the hands of the Department of Education like all other fields of study. It adds multicultural education to the statute's language by adding 79-719 through 79-723. Those are bills that Senator Chambers said he was involved in producing back in the '90s when it was added. We are tying the two together. It's off there by itself now, the multicultural. I don't even know if most schools see it. We'll put it in the civics bill. Senator Bolz, you are correct. If you read 79-719 it doesn't mention women. Doesn't. Doesn't mention those that are handicap. You might want to work with Senator Chambers next year and update 79-719 and then it will automatically update the Americanism bill. But that would be the best place to fix that. It adds that the civics portion of the naturalization examination given by the Immigration Service to new Americans be given to our students in the 8th grade and in the 11th grade in high school. It's a study tool. It's an American test. It's not left or right. It gives guidance, it gives teaching the language of government. The teacher can use it in their assessment of the student. All it says is that they will be given it and the test score will be given to their parents. It's a good bill. Right now we have school districts contracting with nonprofits to teach government. Lincoln Public Schools pays \$168,000 to a nonprofit to come in and give their opinions on what a government is and what citizenship is. Is that what we want or do we want it defined to that public school and to those teachers in the classroom? [LB1069]

SENATOR LINDSTROM: One minute. [LB1069]

SENATOR GROENE: No, this is a good bill. And it won't pass this year because of what...we have a problem in this body and we need to look at the rules, folks. We got a real problem. Major statutes are not being heard. Statutes that need to be passed because of time restrictions. Maybe we don't need an hour and a half lunch so we can go to lobby dinners. We didn't come down here for that. Maybe we need to go to midnight more often. Sixty days and we can't show up to get things passed? Maybe we need to look at the filibuster and make it run eight hours. If you're

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going to do one, do it. But, folks, we need bills like this passed. The Department of Ed is for it, pursued it, wanted the updates. We worked with them, Senator Brasch and I, to take their concerns out of it. This is a good bill. This is a good bill. [LB1069]

SENATOR LINDSTROM: Time, Senator. Thank you, Senator Groene. Senator Clements, you are recognized. [LB1069]

SENATOR CLEMENTS: Thank you, Mr. President. And thank you for this discussion. One thing I saw was the handout we received was the 100 civics questions that are proposed and I read through those to about number 20 and I thought those were excellent. I thought, I'm not going to read anymore, I'm going to try to take it and see how I could do on the rest of them. When I've talked to fourth grade classes, I try to ask them some things about the three branches of government. And so far, I've been pretty much pleased that they've learned the three branches of government here in Nebraska. One thing I see in this bill, though, it talks about the educational system helping them become competent citizens and especially to ensure that the curriculum has economics and financial literacy. As I said before, the banks in my school district are sponsoring a program that starts with grades four, five, and six, understanding money, the ins and outs of financial terms, they learn the difference between needs and wants. Grades six, seven, eight, they help citizens solve financial problems life throws their way by acting as mayor of their town. In 9, 10, 11, and 12, they really get into financial literacy where they work on applying for financial aid, establishing credit, becoming real adults, and equipping them with tools to manage their personal finances, like learning about what makes up your credit score. I think courses like this will prepare students for life better after school. And I support the amendments and the bill. And with that, I'd like to yield the rest of my time to Senator Groene. [LB1069]

SENATOR LINDSTROM: Senator Groene, you're yielded 3:03. [LB1069]

SENATOR GROENE: Thank you, Mr. President and Senator Clements. Just to let the people out there that are still watching, if they have insomnia, these are the folks that over the different bills that cover the same area: LB14 by Senator Krist; and LB1069; and NASB. School boards originally favored the bill. Civics Education Institute, Bryan O'Shea; Cory Epler, Chief Academic Officer from the Nebraska Department of Education; Barry Thomas, Nebraska State Council on Social Studies. He's associate principal at one of the Omaha schools, he's a social studies teacher. They came in and their entire organization agreed with the bill. They like the naturalization test. They thought it was a good tool that they could use. They want this bill passed. The Omaha World-Herald editorial endorsed the bill, LB1069. Just the other day, the editorial in the Lincoln Journal Star gave good reviews on LB1069. Do we have just a few left-leaning individuals who don't believe in the American system that wants to teach something else,

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internationalism or something? I don't understand what they want...why they would be against this. This isn't American pride, this is teaching civics, how to be an American. Senator Chambers mentioned in a little bit he was going to give a civics lesson. Let's start earlier than at the age of 80 and 40 and all the way up to 62 as I am. We need to be doing this in our schools. This is what this bill does. It's not left, right, it's American. What better than all the immigrants we have in this country... [LB1069 LB14]

SENATOR LINDSTROM: One minute. [LB1069]

SENATOR GROENE: ...to...in Lincoln, LPS, all these immigrant kids from immigrant parents, to teach their kids the civics portion of the immigration law so they can go home and tutor their parents. Help their parents learn so they can pass it because they want to be proud Americans. That is a test we want to give all the kids, the basics of civics. How many years does the President serve? How many terms? How many senators do we have? How many congressmen? What's the term of a congressmen? How many Supreme Court judges do we have? What is the Bill of Rights? That's what that test does. What better to start telling our schools to teach financial literacy, economics, geography. Apparently we're not teaching it in our schools, are we? University of Nebraska, they're going to drop the geography plan. [LB1069]

SENATOR LINDSTROM: Time, Senator. Thank you, Senators Groene and Clements. Senator Halloran, you are recognized. [LB1069]

SENATOR HALLORAN: Thank you, Mr. President. That came up pretty quick. It's all about foundational knowledge, I believe. We have...it's not exclusively this that we're going to be saying is taught to our students. But just like in most subjects, math is a good example, if you don't have a good, solid foundation and understanding of math, every level of math becomes more difficult, sometimes impossible. So this is foundational knowledge of our history of the forming of our government, a better understanding of our constitution, better understanding of the three branches, separation of power, what federalism is, what state's rights are. We discussed that a little bit with LB1058. Possibly, if we have students that have a better grasp of that, they'll accept the whole constitution and not just parts of it. We can't expect our students to graduate with less knowledge than new immigrants will have when they're successful at becoming new citizens. I'm afraid that would be an embarrassment. But to Senator Bolz's point, it doesn't have to be just this information we're teaching. Obviously, we expect a broad education including all the issues she mentioned. So it's not exclusively this. It's foundational knowledge. It's the least we can expect. I think it's the least that the students would expect to be taught. With that, I would yield the balance of my time to my good friend, Senator Brasch. [LB1069 LB1058]

SENATOR LINDSTROM: Senator Brasch, you're yielded 3:01. [LB1069]

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SENATOR BRASCH: Thank you, Mr. President. And thank you, Senator Halloran. I really appreciate it. And I am totally surprised to get this on the agenda this evening. I thought it was passed over. So when I had a chance to speak, it was bits and pieces here. And I did not mention that this also removes the Class III misdemeanor penalty for schools who were not having an Americanism committee. There was a penalty that existed from 1949. We're removing that. All we ask is they have three meetings a year, that one of the meetings you allow public testimony, that minutes are kept, just some basic recordkeeping. Very simple. And then the other thing is, I do want to take a minute to thank Secretary Gale. He provided a letter of support. His name was coming out left and right when we discussed the voter ID bill. And now in this letter, if you read it, I gave you a copy, he goes across the state, he's done this for years. He believes this is a good bill and he believes it is needed and valuable. So if you don't trust everyone who has put hours and hours into trying to get a bill that everyone can find common ground with, perhaps it's Secretary Gale's testimony. Then the other is, I was so happy and honored to have Senator McDonnell support this bill on the pull motion. And he said it's a natural for labor unions. He said, they're very patriotic. [LB1069]

SENATOR LINDSTROM: One minute. [LB1069]

SENATOR BRASCH: He said that they also have many veterans that are union members. And so for him to tell me that there are the people out there who provide the labor would think this is a good bill, I appreciate that support. Please just think it over. We're all wanting to go in the same direction. Thank you, Mr. President. Thank you, again, Senator Halloran. [LB1069]

SENATOR LINDSTROM: Thank you, Senators Brasch and Halloran. Senator Erdman, you're recognized. [LB1069]

SENATOR ERDMAN: Thank you, Mr. President. Good evening again. When we had the hearing on LB1069 there were a couple of young people that came in to testify, very well spoken, understood the issue. The young lady that came from Elm Creek was a young lady that came to share with us that they had implemented this, their school board had implemented the immigration test several years ago and it was a requirement for graduation. I remember her comments about what she said it had done for their community and the pride that the community had in the young people learning civics and about government. And it was...the questions that she answered and the way she answered the questions, her parents had to be very proud of that young lady and her ability to speak and answer questions about what we asks her about the civics test and about what she has learned. So Senator Brasch has made several comments this evening about what we are teaching our kids and how we are under attack by things that are putting pressure on our young people to teach them things that aren't what the American way of life is about. I appreciate Senator Brasch taking the time to work through the issues that she's

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worked through. She spent a significant amount of time working on this issue. She's very passionate about what she is speaking about. I understand that. It would be our opportunity to help implement this bill so that we can have young people who understand what government is and how they play a role in civics. So I'd ask you to support the amendments that Senator Brasch has introduced and the bill. Thank you. [LB1069]

SENATOR LINDSTROM: Thank you, Senator Erdman. Senator Morfeld, you're recognized. [LB1069]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise in opposition to the underlying amendment and the underlying bill for a few different reasons. First, I came back tonight a little dressed down because I was teaching a three-hour course in American government at a local college or university, I should say. And I think the importance of teaching civics isn't teaching rote memorization skills, but rather, critical thinking skills, civil discourse skills, skills that create citizens who are able to identify issues, intelligently go about talking to other citizens about those issues and coming up with solutions and critically thinking about potential opportunities and compromise to reach those solutions. My concern with this legislation is that by using an immigration test, we are emphasizing and focusing on the wrong skills and taking valuable time, time that has become more and more limited to essentially one or two courses in the entire course of a high school education. We're taking limited time from those courses to teach kids to memorize for a test, which to me is one of the fundamental issues and problems with our current K-12 education is this emphasis on rote memorization and test taking skills rather than critical thinking skills. Now, Senator Groene listed many different people that came and testified in support of this legislation. I'll be honest with you, colleagues, if Jesus Christ himself came in here and testified in support of this legislation, I would be opposed to it for the reasons that I just told you now. This is a bad bill. It's a well-meaning bill, but it's a bad bill. It's the wrong approach to civics education. I've been teaching civics for several years now and it may not be as long as many of you have been alive, but it's been a good portion of my life. And I've been advocating for civics and civics education for the last ten years, which is probably more time than most of you have been advocating for civics education. And the problems that we have seen is a lack of focus on building those critical thinking and civil discourse skills. Being able to identify issues in their communities, being able to talk to others about it, understanding their power as a citizen to be able to address those issues and to come up with solutions and feel confident enough to take charge of those issues in their community and do something about it. Those are the skills that we should be building. Those are the skills that ignite an interest in young people's minds and understanding what the other facts and figures and structures of government mean and why they're important, not taking an immigration exam that was not meant to measure any of these skills in a high school setting. That's what we need to be focusing on. This bill does not do that. In fact, this bill takes away from that because in the limited time that we have for kids to be able to learn about civics, instead we're going to be focusing on

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memorizing for an exam that wasn't even meant to build civics skills among high school students. It makes no sense. It's feel good legislation to its core. And again, while it's well meaning, it's the wrong approach. [LB1069]

SENATOR LINDSTROM: One minute. [LB1069]

SENATOR MORFELD: And that's why I fundamentally oppose this legislation. Those kids that came in and testified to us, they were well spoken and articulate, not because they memorized some facts for an exam, but because they probably had really good teachers that got them thinking about issues that are important to them and their community and their society, that built critical thinking skills, not because they memorized some exam. This isn't a liberal or a conservative issue. It's simply an issue that's about how do we build good citizens? And I would contend to all of you that we build good citizens by ensuring that people have critical thinking skills and the ability and the confidence to tackle issues in their community and that we entrust young people to do those things, which all too often I hear on this floor a contempt for young people, a contempt for their knowledge, a contempt for their ability to do things. [LB1069]

SENATOR LINDSTROM: Time, Senator. [LB1069]

SENATOR MORFELD: Thank you, Mr. President. [LB1069]

SENATOR LINDSTROM: Thank you, Senator Morfeld. Senator Lowe, you're recognized. [LB1069]

SENATOR LOWE: Thank you, Mr. President. I pulled up an article from 2016 from the Kearney Daily Hub (sic--Kearny Hub). It talks about the three students and it talks about the Elm Creek superintendent. It says Elm Creek superintendent, Dean Tickle, said the school had been trying to make the civics test part of graduation requirements, so they are okay with taking that extra test. But it hadn't had much luck moving until the policy moved forward, until three Elm Creek freshmen stepped up this year, Audrey Worthing, Sydney Hubbard, and Anna Hoffman. I think their names need to be mentioned in this because they're three very brave young women. And they launched an initiative to improve Nebraska's students' knowledge in American civics in November of 2015 as part of their annual FCCLA project. It goes on to tell how that school superintendent is proud of these three women. And I'm very proud of them, too. I'm very proud of Elm Creek and their school system to do this. And they're not even in my district, they're in Senator Kuehn's district. But they had guts to do this. And I do believe we have heard from somebody who teaches at a college or maybe it's a university, he wasn't quite sure. And maybe that's our problem with civics today is the way that it's being taught. It's not being taught the way that most of us remember of why Senator Brewer fought for his country, fought for the rights,

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fought for these people that have to learn this to come into our country legally. They must take the citizenship test. Any why shouldn't our students? Why shouldn't we? I know when we got e-mailed this citizenship test that most of us probably struggled to get through 10 of the first questions, let alone the rest of the 90 that followed. But I did study it because it is important for us to know what we require those to enter our country to learn. We need to know that because we also need to know what it takes to run our country. It is Americanism. It is citizenship and I taught these values back when my sons were in Boy Scouts. I taught the merit badges, Citizenship in the Community, Citizenship in the Country (sic--Citizenship in the Nation), and Citizenship in the World because I believed that our young youth needed to know these. If Senator Groene would like the rest of my time, I'd be pleased to yield it to him. [LB1069]

SENATOR LINDSTROM: Senator Groene, you're yielded 1:34. [LB1069]

SENATOR GROENE: Thank you, Senator Lowe. I'll pick up where I left off. The University of Nebraska in 50,000-some students can't find 11 kids that want to major in geography, geography. I loved geography in my school. You learn about cultures. You understand why certain cultures are the way they are because of the geography and the climate that they...and the lack of oceans and seas and rivers and deserts or whatever, why their cultures were what they were. It influences it. Without geography, you don't understand why we're not such a great people and part of it is, is because of our geography, the natural resources we have that we've reaped. And we should be a little humble about what we have accomplished in this country because we have natural resources other countries don't. We've managed them well, but you don't know that if you don't know geography. The World-Herald made a good point in their editorial, "Taking pride in American heritage needn't mean turning away from parts of our national story in which our country fell short of its principles, spurring struggles for justice. Just a few years after Nebraska adopted its 1949 Americanism legislation, for example, black citizens in Omaha launched a successful boycott of the bus and streetcar system, leading to an end to the racial discrimination in the streetcar company's hiring practices." Could some young... [LB1069]

SENATOR LINDSTROM: Time, Senator. Thank you, Senators Lowe and Groene. Senator Schumacher, you're recognized. [LB1069]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I'm here late tonight because I wanted to be here when Senator Brasch presented her last bill. I know that this bill means a lot to Senator Brasch and I've enjoyed serving with her immensely over the last eight years. However, I'm bothered by the bill by terms of Americanism that really are not defined in the bill, that are apparently up to these committees in local districts to come up with some kind of a curriculum that's somehow approved in general scope at least by the State Board of Education. Would Senator Brasch yield a to a couple of questions? [LB1069]

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SENATOR LINDSTROM: Senator Brasch, would you yield? [LB1069]

SENATOR BRASCH: Yes. And you can take tomorrow off, Senator Schumacher, if you like. [LB1069]

SENATOR SCHUMACHER: Yeah. You know what? She's sneaky, because her and I have had a contest going as to who can have perfect attendance. I missed a snow day in which the only thing on the agenda was to adjourn, so she was one up on me. Then she had to go to a meeting on the Coast, so now I think I might be one up on her. Now, she'll say she was excused, but I think I was excused, too. But at any rate, she'd like me to take off tomorrow. Any rate, Senator Brasch, who actually came up with the language for this bill? [LB1069]

SENATOR BRASCH: It is the Department of Education. That's the original author. That's where it came from. I thought it was Bill Drafters or LAs or something. [LB1069]

SENATOR SCHUMACHER: So they should be somebody that knows what they're talking about. [LB1069]

SENATOR BRASCH: I would hope so, but you never know. [LB1069]

SENATOR SCHUMACHER: Okay. Well, Senator Brasch, on page 4, it talks in terms of specific attention needing to be given to these matters. The benefits and advantages of our form of government and the dangers and fallacies of forms of government that restrict individual freedoms or possess antidemocratic ideals such as, but not limited to, Nazism and communism. Senator Brasch, is communism a form of government or an economic system? [LB1069]

SENATOR BRASCH: I thought it was a form of government and economic system, one in the same. Are they not? [LB1069]

SENATOR SCHUMACHER: No. An economic system is very different from a form of government. Senator Brasch, if this line from Karl Marx is communism: From each according to his ability, to each according to his needs; then is this line Americanism? From each according to her ability and to each according to what she produces. [LB1069]

SENATOR BRASCH: That would be an excellent classroom discussion when studying this subject. [LB1069]

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SENATOR SCHUMACHER: Well, is that Americanism? Would that line be Americanism? We know...we had communism, but I gave you a clue on the first one saying that was Karl Marx. [LB1069]

SENATOR BRASCH: It's in the eye of the beholder. [LB1069]

SENATOR SCHUMACHER: What? [LB1069]

SENATOR BRASCH: It's in the eye of the beholder. Is this a quiz? [LB1069]

SENATOR SCHUMACHER: Well, it does sound like Americanism? [LB1069]

SENATOR BRASCH: It sounds like a quiz. [LB1069]

SENATOR SCHUMACHER: Does it sound like Americanism? [LB1069]

SENATOR BRASCH: Just tell us, Senator. This is your time. I would like you to speak, please. And there's others in the queue, too, that would like to speak. [LB1069]

SENATOR LINDSTROM: One minute. [LB1069]

SENATOR SCHUMACHER: Okay. The second line was from Joseph Stalin. Folks, what is important for our planet today is that we understand how everyone interacts and what means lots of important things to different societies around the world. Not to say this or that, but so the mind is educated to understand what operates and what we've got to get along with all around this planet, because we are riding a tiny blue ball. And so to put a spin on things without defining what we're spinning, basically makes our children and our future less intelligent than what it could be. I think that's the point that Senator Morfeld was trying to make when he talked about civics. We don't need... [LB1069]

SENATOR LINDSTROM: Time. Time, Senator. [LB1069]

SENATOR SCHUMACHER: Thank you. [LB1069]

SENATOR LINDSTROM: Thank you, Senator Schumacher and Brasch. Senator Linehan, you are recognized. [LB1069]

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SENATOR LINEHAN: Thank you, Mr. President. I have a book here that I would like to share with Senator Schumacher. I think he'll enjoy it. It's written about George Kennan who wrote The Long Memo, which I'm sure with his very sophisticated education, he is very familiar with. The term Americanism makes me a little uncomfortable, but here's what I think we have to remember. We have to remember our history, which is also part of this. This was written in 1949 shortly after World War II when this country saved the world from Nazism, along with our allies, one of them being Russia. And then as soon as World War II ended, we found ourselves shortly thereafter in a cold war with Russia. So I think it's a little harsh for us to judge this by today's optics. Especially, people can discount the threat of communism in the '40s, but it was very, very real. And because of some very wise men who were highly educated and knew their history, our country survived and we still today lead the world. And according to Senator Schumacher, and I agree with him wholeheartedly, it's very important that we have educated citizens who not only know their history and know their civics and know financial literacy, but understand the world so we can, Senator Schumacher, engage with the world in a productive and smart manner. To pooh-pooh this bill without realizing what we're trying to correct, if you go to page...the last...I think it's...oh, let me see, page 4 at the top. What we've taken out here...I just...I find this quite humorous, the teaching of American history from approved text books as to make the course interesting, attractive, and develop a love of country. Now, we can wordsmith and say we didn't get it exactly right, and I think Senator Groene and Senator Brasch have been working on this, but I think it's a big improvement over what the language currently says, a very big improvement. And to take some issue, again...I wish Senator Kuehn was here, I'm going to use his cheat sheet he handed out the other day today. You can't get to evaluation and analyzing until you understand facts--if you remember this from the other day, he handed out Bloom's taxonomy--until you understand some facts and basic concepts, you can explain those ideas and concepts and you can use that information in new situations, then you get to the ability to analyze and evaluate. People, it's important to know facts, just as I think Senator Halloran said...alluded to, you don't start in algebra and calculus. You start with times tables and division and the basics. The same with history. You don't start reading about The Long Memo and after World War II you start with some basic facts so you can put it all together. [LB1069]

SENATOR LINDSTROM: One minute. [LB1069]

SENATOR LINEHAN: And with that, I would yield my time to Senator Groene. [LB1069]

SENATOR LINDSTROM: Senator Groene, you're yielded 54 seconds. [LB1069]

SENATOR GROENE: Thank you. We all know this will die at 11:40, but it will not die. Founding fathers or nobody let what is right die. In America, we keep bringing it forward. If the election goes the right direction, I might be Chairman of Education Committee. The makeup of

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the committee might be different. That's civics. This bill will come back. We will tweak it. I will work with Senator Chambers, but we will bring it back, even if I'm not Chairman of Education. I'm going to run for Speaker. No, I'd never do that. But anyway, it will be back. Perhaps one school district won't have 25 percent of the seats on the Education Committee next time. We will fix those type of things. That's civics. It will be back and we have time yet to pass it. [LB1069]

SENATOR LINDSTROM: Time, Senator. Thank you, Senators Linehan and Groene. Senator Brasch, you're recognized. [LB1069]

SENATOR BRASCH: Thank you, Mr. President. And I believe I may be the last person in the queue here because it will time out at 11:40. And I want to add that I don't disagree that we need to know of other countries and forms of government, as Senator Schumacher was saying. I don't disagree with that. However, what this bill is all about is that we don't even understand America, that we're falling behind in that knowledge. We get bits and pieces here and there. And because Senator Chambers has been more than gracious and kind, he has many amendments, I would like to give him the rest of my time. I will yield it to Senator Chambers, I believe his voice deserves to be heard this evening as well. [LB1069]

SENATOR LINDSTROM: Senator Chambers, you're yielded 4:01. [LB1069]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Brasch. And you may regret that you gave me the time. I hate all "isms"--Nazism, Americanism, Zionism. Don't tell me about communism, because that started with the Christian Church. You all don't even know about your religion. They contributed according to what they had. They had all things in common and then they took as they needed. Marx probably stole his famous comment from the Christian Church. There is so much wrong with this bill, with America, I could not begin to say it in the short time that remains. They use the word "doctrine" in this bill. They want to indoctrinate, they want to teach memorization. Doctrine relates to religion, propaganda, being doctrinaire, not thinking at all. I'd like to ask Senator Briese a question and maybe I won't go off into what I feel like. [LB1069]

SENATOR LINDSTROM: Senator Briese, would you yield? [LB1069]

SENATOR CHAMBERS: Senator Briese, have you ever heard of grain... [LB1069]

SENATOR BRIESE: Yes, I'll yield. [LB1069]

SENATOR CHAMBERS: Oh. Have you ever heard of "Grain Arkansas?" [LB1069]

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SENATOR BRIESE: What was that? [LB1069]

SENATOR CHAMBERS: G-r-a-i-n, Arkansas. Have you heard of "Grain Arkansas?" [LB1069]

SENATOR BRIESE: No, I haven't. [LB1069]

SENATOR CHAMBERS: Have you heard of "amber waves?" [LB1069]

SENATOR BRIESE: Yes. [LB1069]

SENATOR CHAMBERS: Who is she? [LB1069]

SENATOR BRIESE: No idea. [LB1069]

SENATOR CHAMBERS: Well, she is from "Grain Arkansas," and they called her "Amber Waves of Grain." [LB1069]

SENATOR BRIESE: I learn something every day, Senator. [LB1069]

SENATOR CHAMBERS: Thank you. And if you learn, oh, beautiful for spacious skies, you'd see what I see in those kind of songs. They don't mean anything to me. They are a mark and a sign of my oppression. When I see people wearing these flags, when I see that flag, it doesn't mean to me what it all means to you all. That flag flew over slavery. When Francis Scott Key wrote that horrendous national anthem, what kind of freedom was he talking about? Are you aware America was a slave country then? He wasn't singing about black people. Why should black athletes stand up for a song that was written when we were slaves? You all are unreasonable. It takes more than any of you all have got to be in a place like this like I've been for 44 years and listen to you, pass wiser legislation than you,... [LB1069]

SENATOR LINDSTROM: One minute. [LB1069]

SENATOR CHAMBERS: ...cannot give in to those things that boil up inside of me. I'm not the one who loaded up a truck and blew up the Murrah Building in Oklahoma City. I didn't go in with an AK-47 or an AR-15. All of these guns that you...you kill each other. You ought to name these mass murderers after...like you do hurricanes. They always happen. I listen to you and I have to pay attention because I have to live among you and I have to survive. But I wish I could tone it all out. I've testified before Congressional committees. That committee that Lyndon

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Johnson put together, that commission, my testimony was talked about all over the country. It was picked out from everybody who went there. [LB1069]

SENATOR LINDSTROM: Time, Senator. [LB1069]

SENATOR CHAMBERS: Thank you. [LB1069]

SENATOR LINDSTROM: Thank you, Senators Brasch and Chambers. Mr. Clerk, for items. [LB1069]

CLERK: Mr. President, I have no items.

Priority motion: Senator Vargas would move to adjourn the body until Tuesday morning, April 10 at 9:00 a.m.

SENATOR LINDSTROM: The motion before us is to adjourn. All those in favor say aye. All those opposed say nay. We are adjourned.