

Transcript Prepared By the Clerk of the Legislature
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Rough Draft

Floor Debate
April 10, 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-eighth day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Pastor Bob Lawrence, Church of Christ, York, Nebraska, a guest today of Senator Watermeier. Please rise.

PASTOR LAWRENCE: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Lawrence. I call to order the fifty-eighth 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.

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

CLERK: I have no corrections.

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

CLERK: Mr. President, Enrollment and Review reports LB791 to Select File with E&R amendments attached. That's all that I have. (Legislative Journal pages 1515-1520.) [LB791]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. (Doctor of the day introduced.) While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR470. Members, we're going to proceed to the agenda. You'll note that in the first block of bills if any amendments are filed on those bills, the bills will drop down and be taken up later in the day. Two of those bills in that block have already had amendments filed. The first one, LB957, and the last one in that block, LB793, they'll be taken up later in the day. So our first bill, Select File, is LB1034. Mr. Clerk. (Legislative Journal page 1520.) [LR470 LB957 LB793 LB1034]

CLERK: LB1034, I have E&R amendments, Senator. (ER175, Legislative Journal page 1453.) [LB1034]

PRESIDENT FOLEY: Senator Wishart. [LB1034]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB1034. [LB1034]

PRESIDENT FOLEY: Members, you 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. [LB1034]

CLERK: Nothing further. [LB1034]

PRESIDENT FOLEY: Senator Wishart. [LB1034]

SENATOR WISHART: Mr. President, I move to advance LB1034 to E&R for engrossing. [LB1034]

PRESIDENT FOLEY: Members, you have heard the motion to advance LB1034 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB1034 advances. Next bill, LB1034A. Mr. Clerk. [LB1034 LB1034A]

CLERK: LB1034A, I have no amendments. [LB1034A]

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PRESIDENT FOLEY: Senator Wishart. [LB1034A]

SENATOR WISHART: Mr. President, I move to advance to E&R engrossing LB1034A.
[LB1034A]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB1034A advances. LB1065, Mr. Clerk. [LB1034A LB1065]

CLERK: I have E&R amendments to LB1065. (ER177, Legislative Journal page 1462.)
[LB1065]

PRESIDENT FOLEY: Senator Wishart. [LB1065]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB1065.
[LB1065]

PRESIDENT FOLEY: Members, you 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. [LB1065]

CLERK: Nothing further, Senator. [LB1065]

PRESIDENT FOLEY: Senator Wishart. [LB1065]

SENATOR WISHART: Mr. President, I move to advance LB1065 to E&R for engrossing.
[LB1065]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB1065 advances. Moving to LB1065A. Mr. Clerk. [LB1065 LB1065A]

CLERK: LB1065A, I do have E&R amendments, Senator. (ER178, Legislative Journal page 1462.) [LB1065A]

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PRESIDENT FOLEY: Senator Wishart. [LB1065A]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB1065A. [LB1065A]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments to LB1065A. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB1065A]

CLERK: Nothing further, Senator. [LB1065A]

PRESIDENT FOLEY: Senator Wishart. [LB1065A]

SENATOR WISHART: Mr. President, I move to advance LB1065A to E&R for engrossing. [LB1065A]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB1065A advances. The remaining bills in this block have amendments filed and will be taken up later in the agenda. In a moment, the pages will be distributing some doughnuts to all members courtesy of Speaker Scheer who is celebrating his daughter Rachel who is now pregnant with another grandchild for the Speaker. Congratulations, Mr. Speaker. I believe our next bill is LB793. Is that correct, Mr. Clerk? [LB1065A LB793]

CLERK: Yes, sir, I believe so. With respect to LB793, Senator, I have E&R amendments, first of all. (ER181, Legislative Journal page 1482.) [LB793]

PRESIDENT FOLEY: Senator Wishart. [LB793]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB793. [LB793]

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PRESIDENT FOLEY: Members, you 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. [LB793]

CLERK: Senator Riepe would move to amend, AM2906. (Legislative Journal page 1521.) [LB793]

PRESIDENT FOLEY: Senator Riepe, you're recognized to open on AM2906. [LB793]

SENATOR RIEPE: Thank you, Mr. President. I am waiting for my comments, so I apologize for that and I need to...given that, I would need to waive to get my details. Sorry, sir. Oh, here we go. [LB793]

PRESIDENT FOLEY: Senator Riepe, you may proceed. [LB793]

SENATOR RIEPE: Mr. President, may I make a return and comment on the amendment? [LB793]

PRESIDENT FOLEY: I'm sorry, Senator Riepe. I didn't catch that. I didn't hear what you said. [LB793]

SENATOR RIEPE: I'm ready to comment on the amendment. [LB793]

PRESIDENT FOLEY: Yes, please proceed. [LB793]

SENATOR RIEPE: Okay. Thank you, Mr. President. I apologize for the confusion. The amendment to LB793 is for clarification to ensure that we do not have nonresidents of the state of Nebraska that would be coming to the state in terms of taking up residency and then, therefore, being entitled to developmentally disabled funds which is fiscally not responsible. And that is AM2871. Sorry for the confusion, sir. [LB793]

PRESIDENT FOLEY: Does that conclude your opening on AM2906? [LB793]

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SENATOR RIEPE: Yes, sir. Thank you, Mr. President. [LB793]

PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now opening on LB793 and the pending amendments. Senator Krist. [LB793]

SENATOR KRIST: Colleagues, this is an amendment that none of us have seen or at least I haven't seen it until just right now. So it may sound simple, but Senator Blood and others who have advocated for those people who have moved into the state for whatever reason, sometimes not their own choice such as our military family members, I think we need to have a conversation about AM2906. As I understand Senator Riepe's opening, there may be a conflict. So, Mr. President, I would like to ask Senator Riepe a couple of questions. [LB793]

PRESIDENT FOLEY: Senator Riepe, would you yield, please? [LB793]

SENATOR RIEPE: Yes, I will. [LB793]

SENATOR KRIST: Senator Riepe, your explanation simply says that people move into the state are not eligible for disabilities. Is there a definite time? Is there a reason why? We have a very mobile population, and if someone comes to the state because their job is created in this state and they have a disabled person, or there are some disability to be measured, it doesn't seem to me that we're attracting families or employees to come in. Can you explain to me the real reason for AM2906? [LB793]

SENATOR RIEPE: Thank you, Senator Krist. I appreciate the opportunity to respond. The military are not affected. That was on a different piece of legislation. And this does not involve people. This is simply...as my understanding in looking at the cleanup pieces here, it relates only to the day care program. So it does not...it does not have implications for people moving to Nebraska for permanent...or for residency if they are here to work. It's with the idea that they would intentionally come here simply for the disabled funds, if you will. [LB793]

SENATOR KRIST: And how do we know if they deliberately are coming here for...to follow their parents or to follow people? That day program that you describe is a critical part of services

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that are provided to people of disability. So the prohibition of them in being involved with those programs disturbs me deeply. I'm not in favor of any more prohibitions, and if it's because we're trying to keep people who are disabled out of the programs that we have, I'm telling you, this will affect whether or not a family actually wants to relocate to Nebraska for other reasons. So I'm telling you that I believe that there are unintended consequences within this amendment and I'm hoping that a few other people will turn on their light and really vet this amendment because I think it has some implications that we haven't thought through yet. Thank you, Senator Riepe, for answering my questions. Folks, take a look at this amendment. And put yourself in the place of a family who is moving into Nebraska for whatever reason and has a Courtney in their life, my daughter, who would be moving from another state and coming here, and we're expecting that we're going to be able to at least compete for those services when we get here. Now put yourself in a position where you're given an opportunity to get a great job and come to the state, or even come to the state and work in agriculture, buy a farm, and your concerned with a family member that gets these services in another state. Take a look at this and tell me if I am an alarmist, if I can be proven wrong, but I think there's an issue with this amendment and I will sit down and read it again very thoroughly, but I'm hoping some of you would also help me vet this amendment. Thank you, Mr. President. [LB793]

PRESIDENT FOLEY: Thank you, Senator Krist. Continuing discussion. Senator Harr. [LB793]

SENATOR HARR: Thank you, Mr. President. Thank you, Senator Krist, for raising some questions. Would Senator Riepe yield to a question? [LB793]

PRESIDENT FOLEY: Senator Riepe, would you yield, please? [LB793]

SENATOR RIEPE: Yes, I will. [LB793]

SENATOR HARR: Thank you, Senator. And I apologize, I didn't get a chance to talk to you earlier, but this amendment was just filed this morning. [LB793]

SENATOR RIEPE: That's correct. [LB793]

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SENATOR HARR: Did you draft this amendment? [LB793]

SENATOR RIEPE: The staff did in concert with the Bill Drafting. [LB793]

SENATOR HARR: Okay, who brought... [LB793]

SENATOR RIEPE: I'm sorry. [LB793]

SENATOR HARR: Who brought this idea of this amendment to you? Was this of your own fruition or was this someone brought the idea to you? [LB793]

SENATOR RIEPE: This idea...this was brought to us by the Department of Health and Human Services and the Division of Developmentally Disabled. It was for clarification. [LB793]

SENATOR HARR: Okay. And I see it has a sunset date on it, is that correct? [LB793]

SENATOR RIEPE: That is correct. [LB793]

SENATOR HARR: Okay. Why do we have a sunset on this? [LB793]

SENATOR RIEPE: Well, you know these things that are constantly developing, I think we've talked more and more as a body about trying to...when we're implementing new changes is to try to give it some time expiration so that if it's not going the way that we expect, then we can modify it. [LB793]

SENATOR HARR: Okay. And does this bill have a fiscal savings? Is that the purpose behind this? [LB793]

SENATOR RIEPE: The intent is on the side that we would have some fiscal saving on the fact that we are the only state in the entire country that has this particular stipulation for entitlements, and we just simply need to hone in on that. [LB793]

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SENATOR HARR: So there would be a fiscal savings? [LB793]

SENATOR RIEPE: There is an offset in this...in the bill also includes some for the American...the ADRC, the nursing home pieces, or not nursing homes, but the nurse...or aged services, and there is an offset there of some. It provided for some \$900,000 of continuation. [LB793]

SENATOR HARR: Okay. So...thank you. I think...I couldn't quite get it, I asked you a yes or no question, is there a political...or a financial savings to this? I didn't get an answer. I got a description. So I'm not sure, but I think the answer is yes, and I think that's the driving factor on this amendment because it was brought at the last second, and I'm still trying to figure out what it does other than I know it prohibits people from receiving services that they otherwise would be entitled to. And there is a savings to the state, but why we need to do this other than savings has not fully been explained to me. And I always say, you can judge a place by how they take care of those who are most vulnerable. So when I was prosecuting, we would always try to take extra steps to watch out for the young and the infirmed and elder abuse and definitely in this situation the developmentally disabled. And I don't see a good policy reason to do this other than it's saving money. I did hear something about we're the only state that does this. I'm hoping he will go into more detail about what we do where we are a kinder, gentler state than everyone else. So, thank you. [LB793]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Bolz. [LB793]

SENATOR BOLZ: Thank you, Mr. President. I am going to do my best to provide my understanding of this amendment and hopefully help the discussion on the floor this morning. This amendment as I read it has three parts. The simplest part is a clarification relating to the Aging and Disability Resource Centers, which simply tries to clarify that if an area agency on aging is not receiving the funding and doesn't participate, then they are not required to create partnerships developed, related to the ADRCs. So the first piece I think is truly clarification. The second piece relates to improving the definition of the services that will be provided to add greater specificity and clarity to make sure that we're matching up the services that are in the statute with the way that we describe the services in the waiver which is our contract with the

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federal government. The third piece seems to be the piece that is receiving the most attention today. And let me walk you through my understanding of it. This section is a fail-safe. It's a trigger mechanism if we are not able to provide services to all of the young people who are transitioning from high school into the adult system under the waiver. So if we don't have enough funds, then this section pings into place. If you all recall, the reason that we are even having this conversation about the entitlement system is because when we renewed our waiver, it was discovered that the previous entitlement system would disqualify us for federal funds. And so in order to make sure that we can leverage federal funds, we need to pull them into the waiver whenever possible. When we initially made that change, we put a date in which the entitlement program would ping back. That was...putting the entitlement program back puts us back in the same corner of not being able to fully leverage state and federal funds. So this is a workaround. It's an alternative where we say if we can't fully fund folks through the waiver, this alternative state funded system will ping into place. So the question becomes, how do we put that into place in a way that is most fair? And to your point, Senator Krist, one of the changes here is that folks who are transitioning from the education system upon attaining 21 years of age on or after July 1, 2019, is a change. It's different than what was in the entitlement statute. What I don't know for sure and perhaps Senator Howard or Senator Riepe or Senator Crawford or someone else who has participated in the hearing, what I'm not certain about is whether or not individuals who are from outside the state may still qualify to be on the waiting list, just not for this separate state program, in which case the policy decision is do we give this fail-safe to Nebraskans first and ask those folks from other states to be on the waiting list, or do we revert back to the language as was previously put into the statute. So, Senator Riepe, would you yield to a question? [LB793]

PRESIDENT FOLEY: Senator Riepe, would you yield, please? [LB793]

SENATOR RIEPE: Yes, I will. [LB793]

SENATOR BOLZ: Senator, I just don't know for certain off the top of my head, are folks who are not...are folks who have moved into the state from out of state eligible to be placed on the waiting list? [LB793]

SENATOR RIEPE: I believe that's the case, yes. [LB793]

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SENATOR BOLZ: Okay. Senator Howard, will you yield to a question? [LB793]

PRESIDENT FOLEY: Senator Howard, would you yield, please? [LB793]

SENATOR HOWARD: Yes, I will. [LB793]

SENATOR BOLZ: Senator, just because we're doing this on the fly, is that your understanding as well? [LB793]

SENATOR HOWARD: Yes, we absolutely cannot discriminate between a disabled person whether or not they are Nebraskan or coming from another state. Under the waiver, you absolutely have to say if you're disabled, you're eligible for the waiver. [LB793]

SENATOR BOLZ: And so this amendment would relate to the separate state program that we are putting into place as a fail-safe, and the way I read this, we would, in fact, be prioritizing Nebraska students first in our state fail-safe program. [LB793]

SENATOR HOWARD: Yes. And if I may, on your time... [LB793]

SENATOR BOLZ: Please. [LB793]

SENATOR HOWARD: We had...what you may remember is that the original program was just for high school students, it was very broad, and then this administration had wanted to interpret it as exclusively for high school students who were Nebraska graduates. And when they did that, the federal government came back to them and said you can't discriminate if an individual is disabled. You can't do that by utilizing waiver and federal funds. And so that was part of the reason why we had to make modifications last year. In this instance because this would be a fully state funded program, they are able to somewhat discriminate towards Nebraska graduates and Nebraska residents. [LB793]

SENATOR BOLZ: I think that is a very helpful clarification, Senator Howard. So I think that is... [LB793]

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PRESIDENT FOLEY: Time, Senators. [LB793]

SENATOR BOLZ: ...the decision in front of us related to the amendment. Thank you, Mr. President. [LB793]

PRESIDENT FOLEY: Thank you, Senator Bolz and others. Senator Crawford. [LB793]

SENATOR CRAWFORD: Good morning, Mr. President. Good morning, colleagues. I'm just processing the amendment as others are as well. And just really one of the key differences is a date difference. And so I just wanted to make sure that we are very clear about what that means and why that date change is in there. And Senator Krist has raised the issue about misimplications in terms of people who are moving into the state. I just want to make sure we have conversation about this and clarify what is behind the date change and what the implications of the date change are. So I wondered if Senator Riepe would yield to a question. [LB793]

PRESIDENT FOLEY: Senator Riepe, would you yield, please? [LB793]

SENATOR RIEPE: Yes, sir. [LB793]

SENATOR CRAWFORD: Yes, Senator Riepe. So on the amendment, one of the key changes that I saw on page one is changing that date from the original date that was in the amendment that we passed just a few days ago now to July 1, 2019. And so talk about...so what is the reason for that date change? [LB793]

SENATOR RIEPE: Well, that was done at the request of the department. [LB793]

SENATOR CRAWFORD: Okay. And why is that a change that the department requested? [LB793]

SENATOR RIEPE: I think that is an issue of correlating with the budgeting process. [LB793]

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SENATOR CRAWFORD: So, who will be excluded in that date change? [LB793]

SENATOR RIEPE: I think that obviously anyone applying. That's the best of my understanding. [LB793]

SENATOR CRAWFORD: Pardon? [LB793]

SENATOR RIEPE: Anyone that would be applying. They need to get their funds in there so that they can make some projections in terms of what their financial needs are going to be. [LB793]

SENATOR CRAWFORD: So the original language that we had in place was language that would allow anyone who had graduated from 1993, and this now language is July 1, 2018. Do you know the status of those who are attaining...transitioning from educational system July 1, 2018? [LB793]

SENATOR RIEPE: I do not. [LB793]

SENATOR CRAWFORD: So I believe that we have heard, seen some evidence that those who are...we are currently covering students who are coming into this transitioning program, and one of the purposes of this program was to make sure that we have a backup if there are students who are not being covered, and also to make sure that we know who those students are. And...I mean, you know, if we are having anyone that is not getting covered and that's part of the reason for this workaround, and to make sure that there is also reporting in place. And so, I'll continue to listen to the conversation here. It looks like one of those implications would be some families perhaps who had graduated earlier and so that was my question to Senator Riepe is whether this has an implications in terms of students who moved into the state who graduated earlier. [LB793]

PRESIDENT FOLEY: One minute. [LB793]

SENATOR CRAWFORD: Senator Riepe. Well, we'll continue this conversation. Thank you, Mr. President. [LB793]

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PRESIDENT FOLEY: Did you conclude, Senator Crawford? [LB793]

SENATOR CRAWFORD: Yes, thank you. [LB793]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Krist. [LB793]

SENATOR KRIST: Thank you, Mr. President. I have talked to the experts and I think if you've listened to Senator Bolz in her description, my concerns are not erased. However, this is one of those programs that we have elected to pay more attention to the waiver process and comply with law, comply with the waiver process in order not to use federal entitlements. And the department has determined, as I understand it, that a clarifying language needs to be added, and that's what this amendment is about. And as I now look at what would we approved on Friday, I want to bring to all of your attention, and to the Clerk's attention, that this is a critical sunset that's being put into place. And if you don't readdress this in 2021, you're going to have issues. So whoever is here in 2021, when the notification of that sunset comes down from the Revisor's Office, I'm hoping that the Health and Human Services Committee makes note, puts a check mark on their calendar that this waiver process could be in jeopardy if this sunset is not readdressed. I am concerned still that in the list of services that we have provided that we are contemplating that someone would move to Nebraska to specifically take advantage of us in this way, because I have witnessed completely the opposite side of that where families have moved to Nebraska for much different reasons as in, mom, will you come back and be with me as a single mom? And that mother has a special needs child and I'm not making this up. This is a case that I have worked with for the last couple of years. And that child was fully serviced, certified, the special needs child was fully serviced and certified in Florida, not a military member, but she moved back to be with family and to work here in Nebraska, and that child is left out of all the services, including day services and goes into a waiting list that this bill will not solve. This amendment will not solve. So, I'm putting a face and a family on each one of these issues, and the face that I see on this one is, and no pun intended and it's not because it's my name, but Little Bobby will not be helped by this, he will be hurt by this. It concerns me. And I think that an 11th hour amendment that clarifies, from the department standpoint something that it thinks it needs to clarify in order to put an exclamation point on the law, is valid, but it's concerning in the 11th hour, very concerning. I'll accept the explanation from Senator Bolz and Senator Howard as

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technically...and from legal counsel, as technically correct. I still am not completely convinced that we have to put this amendment on based upon the redundancy of the language throughout. But once again, my overall concern is, once again we have a sunset that we need to watch very carefully and there's nothing wrong with that. There's nothing wrong with watching a sunset, but pay attention to them when they're put into place, particularly when it comes to services and those who are most vulnerable and cannot advocate for themselves. [LB793]

PRESIDENT FOLEY: One minute. [LB793]

SENATOR KRIST: Thank you, Mr. President. I don't believe that we need to have an extended debate on this issue. I think we brought everything to light. I'm not saying I'm voting for the amendment, but I do think that after a little more dialogue we should feel comfortable making a decision one way or the other. Thank you, Mr. President. [LB793]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Erdman. [LB793]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good morning. I appreciated Senator Bolz explanation of the amendment. I want to speak specifically to the one part that she mentioned, the first part. And what she spoke about the first part was, if an area agency on aging adopts the ADRC, then they shall negotiate with a firm to help them do that. I understand that. My concern last week was with the ADRCs, but more importantly then that, there are eight area agencies on aging, and seven of the eight have established ADRCs. One has not. And the way the bill was written, it would force the one area of agency on aging that is not involved with ADRCs to be involved. And we talk on this floor all the time about local control and sometimes we mean it and sometimes we don't. So what this amendment does, it allows that agency on aging that is not part of the ADRC to continue that way if they choose so. And so that was the amendment in the first part that Senator Bolz spoke about. I listened to Senator Krist talking about the sunset. Senator Krist, I understand what you're saying. I'm not so sure you need to be too concerned about a sunset because as I've been here just a short time, seldom, if ever, does a sunset ever happen. And so, I understand the need to watch it, but if it goes the way all other sunsets have gone in this body, it will continue. And so those who are here will have to watch it,

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but I don't think that is a big concern, Senator, because sunsets do not happen in this body. And I yield the rest of my time to Senator Riepe. [LB793]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Riepe, 2:50, if you care to use it. [LB793]

SENATOR RIEPE: Thank you, Senator Erdman, and I am here to request...last night we went late, I received the amendment just like everyone else early this morning. With that, because there is enough confusion, I don't like that in a bill, I am asking to withdraw the amendment, AM2906. [LB793]

PRESIDENT FOLEY: The amendment is withdrawn. Is there anything further on the bill, Mr. Clerk? [LB793]

CLERK: I have nothing further on the bill, Mr. President. [LB793]

PRESIDENT FOLEY: Senators Harr and Crawford, you still have your lights on. Did you wish to be recognized, Senator Harr? [LB793]

SENATOR HARR: Thank you, Mr. President. I do have one follow-up question for Senator Riepe if he wouldn't mind. [LB793]

PRESIDENT FOLEY: Senator Riepe, would you yield, please? [LB793]

SENATOR RIEPE: Yes, I will. [LB793]

SENATOR HARR: So I've read this underlying bill and we were here late last night, and I was trying to figure out if we passed LB793, will there be new rules and regs as a result of LB793? [LB793]

SENATOR RIEPE: Well, obviously to adjust to the LB793, there will be some modifications. [LB793]

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SENATOR HARR: Thank you. Gosh darn it, guys, here we are. More rules and regs. More rules and regs. We just got...we're getting rid of 43 with Senator Murante and now the very next bill we're adding more. Can't we control ourselves? I just hope Senator Murante...or Senator Riepe, they're good rules and regs because HHS already has the most. Thank you. [LB793]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Kolterman. [LB793]

SENATOR KOLTERMAN: I was wondering if Senator Harr would yield? [LB793]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB793]

SENATOR HARR: Yes. [LB793]

SENATOR KOLTERMAN: Senator Harr, that was a beautiful display of what you have been doing all week. How many days are left? (Laughter) [LB793]

SENATOR HARR: Too many, or just two. [LB793]

SENATOR KOLTERMAN: Two after today. [LB793]

SENATOR HARR: Yes. [LB793]

SENATOR KOLTERMAN: And we're still counting. [LB793]

SENATOR HARR: Thanks. [LB793]

PRESIDENT FOLEY: Thank you, Senators. Senator Wishart, you're recognized for a motion. [LB793]

SENATOR WISHART: Mr. President, I move to advance LB793 to E&R for engrossing. [LB793]

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PRESIDENT FOLEY: Members, you have heard the motion to advance LB793. Those in favor say aye. Those opposed say nay. LB793 advances, which takes us to LB957. [LB793 LB957]

CLERK: I have E&R amendments, first of all to LB957. (ER148, Legislative Journal page 1254.) [LB957]

PRESIDENT FOLEY: Senator Wishart. [LB957]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB957. [LB957]

PRESIDENT FOLEY: Members, you have 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. [LB957]

CLERK: Senator Lowe would move to amend with AM2818. (Legislative Journal pages 1521-1525.) [LB957]

PRESIDENT FOLEY: Is Senator Lowe on the floor? Is there anyone authorized to carry the amendment for Senator Lowe? Senator Howard, you're recognized. [LB957]

SENATOR HOWARD: Thank you, Mr. President. AM2818 to LB957, and just to refresh the body's memory, LB957 is a bill that allows for electronic payment processing for Workers' Compensation claims. AM2818 is just a clarifying amendment and it's...the real meat of it is the word "or" on page three, line 14. This was recommended by Drafters because it was too much for E&R. I would urge the body's adoption of AM2818. Thank you, Mr. President. [LB957]

PRESIDENT FOLEY: Thank you, Senator Howard. Is there any discussion on LB957 and the pending amendment? Seeing none, Senator Howard you're recognized to close on the amendment. She waives closing. The question for the body is the adoption of AM2818. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB957]

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CLERK: 33 ayes, 0 nays on adoption of the amendment. [LB957]

PRESIDENT FOLEY: AM2818 is adopted. Anything further, Mr. Clerk? [LB957]

CLERK: I have nothing further, Mr. President. [LB957]

PRESIDENT FOLEY: Senator Wishart. [LB957]

SENATOR WISHART: Mr. President, I move to advance LB957 to E&R for engrossing.
[LB957]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB957 advances. We'll move to LB729. [LB957 LB729]

CLERK: I have E&R amendments, Senator. (ER168, Legislative Journal page 1366.) [LB729]

PRESIDENT FOLEY: Senator Wishart. [LB729]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB729.
[LB729]

PRESIDENT FOLEY: Members, you 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. [LB729]

CLERK: Mr. President, Senator Wayne would move to amend, AM2778. (Legislative Journal page 1374.) [LB729]

PRESIDENT FOLEY: Senator Wayne, you're recognized to open on AM2778. [LB729]

SENATOR WAYNE: Thank you, colleagues. Thank you, Mr. President. This amendment is a very simple amendment. We just take "in case of adoption and placement" and we move it further up in the sentence because some could have read the previous bill to say it only applies in

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current cases, and so we just wanted to add some clarifying language by moving it up in the sentence instead of at the end of the sentence. So, it's a grammatical change. E&R felt that it was still substantial enough that I should introduce the amendment and with that, I would ask you to vote green. [LB729]

PRESIDENT FOLEY: Thank you, Senator Wayne. Is there any discussion on the amendment? Seeing none, Senator Wayne, you're recognized to close on the amendment. He waives closing. The question for the body is the adoption of AM2778. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB729]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB729]

PRESIDENT FOLEY: AM2778 is adopted. Anything further? [LB729]

CLERK: Nothing further, Mr. President. [LB729]

PRESIDENT FOLEY: Senator Wishart. [LB729]

SENATOR WISHART: Mr. President, I move to advance LB729 to E&R for engrossing. [LB729]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB729 advances. We'll proceed to LB299. [LB729 LB299]

CLERK: I have E&R amendments, first of all, Senator. (ER133, Legislative Journal page 1023.) [LB299]

PRESIDENT FOLEY: Senator Wishart. [LB299]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB299. [LB299]

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PRESIDENT FOLEY: Members, you 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. [LB299]

CLERK: Mr. President, Senator Ebke move to amend with AM2674. (Legislative Journal page 1282.) [LB299]

PRESIDENT FOLEY: Senator Ebke, you're recognized to open on AM2674. [LB299]

SENATOR EBKE: Thank you, Mr. President. AM2674 adjusts and clarifies some language to address some of the concerns that were raised on General File. The essence of the bill remains the same as unanimously passed on General File. I want to thank Senators Howard and Crawford as well as Senators Quick and McDonnell for working with us as we agreed to do. We spent a lot of hours together. And I think we have a better bill in the process. Likewise, I'd like to give a big shout out for Marcia up in the Revisor's Office. I lost track of how many versions of this bill we went through and in the end she sat with five senators, two or three staff members, and walked through this latest version line by line. So with that, I would ask for your green vote on AM2674. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Ebke. Discussion on the amendment. Senator Crawford. [LB299]

SENATOR CRAWFORD: Thank you, Mr. President. And I, too, would like to thank the Drafters and Senator Ebke and her staff and all the other senators who have worked hard on this bill. One of the real key issues that we wanted to make sure that we did with LB299 is to make sure that we protected some existing language that we have for our health occupations in terms of what the least restrictive method of regulation would be. And that's a key part of some of these amendments that are in AM2674. The other component that was important in the amendments was to make sure that we were indicating that when we're considering licensure, when we're considering occupational regulations, that we recognize times when there is a threat of present and substantiated harm. That we wanted to make sure it was not the case that you had to have people or a significant number of people already being harmed if there was a clear way you could recognize and substantiate or provide evidence of a clear threat of present, substantial and

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significant...substantiated and significant harm. And so that was adjusted in different parts of LB299 to make that correction clarification. Another important change in the amendments was to recognize that as the committees are examining these recommendations, that there's some intent language in the bill about what you might do in particular situations. Just to recognize that those are considerations, not requirements and so the bill provides some language that indicates the kinds of recommendations that one might put in place in different kinds of situations of potential harm or information asymmetry. And it's important, and I think important to make the legislative intent as well since this is going to be an issue that the Executive Committee is going to be...the Executive Board is going to have this interim study that those recommendations, those...that discussion in the bill is a consideration for the committee and not any kind of a hard requirement for the committee to say in this case we clearly have to go with this solution. But it's just putting in place language for the committee to consider as an opportunity in each of those situations they might find themselves in. So that's an important other...important change that was part of the language. And again, another important change was really to clarify that this language is for review of those occupations and to recognize that this is...these are some standards that we use as we kind of go back and look at reviewing those standards and that it's not the case that this is some framework, or that it's a process that will be used for moving forward. So we all are going to be working on, making sure that we're...making sound decisions moving forward, but the language in LB299 is applying to those evaluations of existing occupational standards and making sure that we're attentive to checking and see what's happening on those and if people are being excluded or if the licensed is one that is actually being used at all and what those lessons may be for us in terms of our licensure. So, those are some of those changes in AM2674, and again I thank the Drafters and Senator Ebke for her work and Senator Howard for her many hours of work and Senator Quick, Senator McDonnell, other senators who have been engaged in the conversation and staff in terms of trying to make sure that we were providing a framework for evaluating least restrictive occupational regulations, but also making sure we were keeping public safety in mind and making sure that we were recognizing the importance of evaluating those occupations in their own context. And that a simple one size fits all would not necessarily fit in every case, and protecting some of our existing standards and work that we've done in terms of least restrictive standards for those health occupations. Thank you, Mr. President.

[LB299]

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PRESIDENT FOLEY: Thank you, Senator Crawford. (Visitors introduced.) Continuing discussion. Senator Howard. [LB299]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of AM2674, and just as a reminder, this LB299 was a really interesting bill during this session because it brought up the idea that we should be reviewing licenses in a sort of logical and thoughtful way every few years. And so I really do think that with AM2674, LB299 reflects that request and it also helps us with allowing criminals to access licensure in the state of Nebraska. But truthfully, colleagues, I believe that the way LB299 was handled is the way that all of our bills should be handled by creating consensus among individuals who maybe have differing viewpoints but making sure that the language really meets the aims that we can all agree to, which in this case we're ensuring that people with criminal convictions would be able to access licensure, as well as this Legislature who is burdened by term limits would be able to at least have the opportunity to consider the way that licenses were created and the underpinnings of those licenses and their continuation. So, I'd like to really give a couple shout outs to Dick, who worked tirelessly on this from the Judiciary Committee; Senator Quick and Senator McDonnell who brought the union perspective; Senator Crawford and I who ensured that the 407 remains in place and intact and there's still deference to it; and Marcia up in Drafters who did take a lot of time. But really my hat goes off to Senator Ebke who did a heavy lift, was very patient, and really took the time to bring all the parties to the table and make sure that LB299 was the best bill that it could possibly be. And so, I would urge the adoption of AM2674. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Krist. [LB299]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues and Nebraska. Senator Ebke, your constituents should be proud and hopefully when you come back next year you can do the same kind of consensus building. I echo Senator Howard's compliments and accolades because LB299 was handled in a way that very few of us...we remember a day when they were handled more like what you've done. So truly, thank you for what you've done and the leadership that you've shown. And I will vote green on AM2674, LB299, and I pledge my vote for a veto override should that be necessary. Thank you. [LB299]

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PRESIDENT FOLEY: Thank you, Senator Krist. Senator Watermeier. [LB299]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraska. I do have just a few concerns about LB299 and just to set the record straight, I'm a cosponsor with LB299. I've tried to be involved very early on in the process, but I want to remind the body what LB299 looked like when it first came out and when it was first advertised and this hard work, I will recognize Senator Ebke as well. I'm going to ask her a couple of questions here shortly, but we've taken the totally different turn on this bill from when it was originally introduced. It was actually creating a division. What I would have created similar to and working as like a performance audit division, which we were looking at all these licensures, it had around \$250,000 fiscal, if I remember right. So if Senator Ebke would yield for a question. [LB299]

PRESIDENT FOLEY: Senator Ebke, could you yield, please? [LB299]

SENATOR EBKE: Yes. [LB299]

SENATOR WATERMEIER: Senator Ebke, won't you walk me through what the review process is going to look like now today after the changes that we worked so hard to get to that point, kind of talk me through, you know, because I want to make sure the body understand where we're headed with this and have this on intent and record. [LB299]

SENATOR EBKE: Sure. As you mentioned, you know, originally the bill included sort of a separate division. We looked at alternate ways of addressing this. Now the review is going to be 20 percent of the licenses per year that will be farmed out to the various subject matter committees. And it will be done during the interim period. Our start date is July 1, 2019, so we've got a year to figure it out. [LB299]

SENATOR WATERMEIER: And then the process that we're going to do in interim study and Executive Board, just talk the body through that and how we come to that conclusion, I guess from a suggestion that... [LB299]

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SENATOR EBKE: Sure, we talked about this and there's an interim study that's at the Executive Board to try to figure out how to implement this for the staff and otherwise probably come up with a full list, figure out where they would be assigned, and then create some sort of a forum or process for actually giving staff, legal staff and committee staff the ability to have a template to start with. [LB299]

SENATOR WATERMEIER: And then like you had mentioned, there's 20 percent of the licensures are going to go to the standing committees in that jurisdiction, and clearly there's going to be some committees have a lot on their plate and then just help me...talk through the idea of the workload of our legal counsels and how that might happen. Also, I mean, the end result, we don't want it to be just a cursory, an ineffective recommendation that comes. [LB299]

SENATOR EBKE: Sure. Well, I mean, as we envision this, we see this can be...you know, the questionnaires, if you will, can go out to the licensing boards, you know, via committee clerks, via the legislative aides, via the legal staff. I really see this as somewhat akin to what the Government Committee did a few years ago or last year in terms of reviewing the commissions and boards. They sent out questionnaires, they combined those into brief memos, not unlike what we do, what our legal staff does when they review bills, and then, you know, perhaps an interim study is appropriate, or a hearing time is appropriate if any of the particular licenses are flagged as maybe being problematic, needing updates, needing to go away or whatever. And then we would still have bills introduced that would affect that later. So the committees aren't making any decisions, they're making recommendations. [LB299]

SENATOR WATERMEIER: But you do intend this would be substantive changes that will be offered to this hearing process to, you know, to the standing committee. [LB299]

SENATOR EBKE: Sure. I would certainly anticipate that there will be substantive changes over the course of time. You know, I've used on General File, I used Senator Groene's equine massage therapy bill as one of those that if we had been reviewing on a regular basis and we saw, gosh, there are no licenses, and we haven't had any licenses in that area for ten years or 20 years or however, then maybe we would have said long before that it was time to get rid of it. [LB299]

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SENATOR WATERMEIER: Yeah, I think that's a good point and that's why I supported the bill, you know, and still do. I just want to make sure the body understands where we could potentially be at on this if it had gone forward as originally. [LB299]

SENATOR EBKE: And I do think...I do think, Senator Watermeier, that especially in terms of when we've got... [LB299]

PRESIDENT FOLEY: One minute. [LB299]

SENATOR EBKE: ... term limits, it's especially important for members of the body to see on a regular basis what licenses are under its jurisdiction...under the jurisdiction of the various committees. If you ask me which licenses are under the jurisdiction of the Judiciary Committee, I'm not sure I could tell you all of them. [LB299]

SENATOR WATERMEIER: Well, that's a good point, you know, and that's another reason I think, too, back, is I'm going to ask all of us to think about getting together a little bit more in the summer and I'm still going to suggest that we meet a couple of times yet this summer just for that reason and this would be one of them that we could be discussing as well. So with that, I mean, I'll end the questions. Thank you, Senator Ebke. Just remind the body that we are headed into new territory here a little bit. So thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Watermeier and Senator Ebke. Senator Bolz. [LB299]

SENATOR BOLZ: Thank you, Mr. President. This is such a challenging time of year because things kind of come at us fast and furious. Will Senator Ebke yield to a couple of questions, please? [LB299]

PRESIDENT FOLEY: Senator Ebke, would you yield, please? [LB299]

SENATOR EBKE: Yes. [LB299]

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SENATOR BOLZ: Thank you. When we talked about this previously, I had sort of raised some concerns around the least restrictive language. So in Section 14, the language references using the least restrictive regulation which is necessary to protect consumers from undue risk of present, significant and substantiated harms that clearly threaten or endanger the health, safety or welfare of the public when competition alone is not sufficient. And then in the definition section, there's some references to what we should be considering as it relates to least restrictive regulation meeting, market competition, private certification, private civil cause of actions, effective trade practices, etcetera. My concern remains that we're not setting the bar high enough for making sure that we're not just setting regulation in a way that is protecting health and safety, but really doing the best by Nebraskans and the best by Nebraska consumers. So could you tell me a little bit more about how you see the least restrictive language playing out under LB299? [LB299]

SENATOR EBKE: Well, I mean, I think that's a subjective judgment that the committees will make every time that the Legislature will make, you know, what...and I think that it changes over time. Certainly, one of the things that we've been talking about with respect to the autonomous vehicles, health and safety and regulations, you know, everybody judges that individually. So I think that not unlike...not unlike those kinds of issues, we will still have those discussions about when it's really critical to protect health and safety and what that bar is. [LB299]

SENATOR BOLZ: And how do you envision this bill and this process interacting with the experts who really can tell us what is a minimal health and safety regulation being least restrictive versus what is best practice, versus what best protects the consumers. [LB299]

SENATOR EBKE: Well, I think it's important to remember that the way that the bill is currently structured, it provides a review process. Certainly, I would expect that the committees, you know, beyond reaching out to the licensing boards for information, will also reach out and to the extent that they hold hearings, they will have the experts, if you will, come and talk with them as well, just as we do with everything. We don't create licenses out of thin air, we do it with the advice of experts. [LB299]

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SENATOR BOLZ: And under the amendment or under the underlying bill, is that communication with the boards required in anyway? [LB299]

SENATOR EBKE: Putting that into place is one of the things that we're going to be talking about in the interim study that the Executive Board has under its authority now. But the assumption is that in order to review, you have to be in contact with the boards. [LB299]

SENATOR BOLZ: Okay. I appreciate the hard work of everybody on the floor on this piece of legislation. I guess I remain concerned about the bar that we're setting and the language relating to least restrictive. You know, I do think a high safety bar is really important, so I'll continue to listen to the debate on this bill. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Bolz. (Visitors introduced.) Senator Ebke, you're recognized to close on AM2674. She waives closing. 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. [LB299]

CLERK: 42 ayes, 0 nays on the adoption of the amendment. [LB299]

PRESIDENT FOLEY: AM2674 is adopted. Anything further, Mr. Clerk? [LB299]

CLERK: Nothing further. [LB299]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB299]

SENATOR WISHART: Mr. President, I move to advance LB299 to E&R for engrossing. [LB299]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB299 advances. We will proceed to LB845. [LB299 LB845]

CLERK: LB845, I do have E&Rs, Senator. (ER157, Legislative Journal page 1294.) [LB845]

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PRESIDENT FOLEY: Senator Wishart. [LB845]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB845. [LB845]

PRESIDENT FOLEY: Members, you 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. [LB845]

CLERK: Senator Pansing Brooks would move to amend, AM2868. (Legislative Journal page 1482.) [LB845]

PRESIDENT FOLEY: Senator Pansing Brooks, you're recognized to open on AM2868. [LB845]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor, members of the body. AM2868 contains LB1051, a cleanup bill that advanced unanimously out of Judiciary. AM2868 provides courts with procedural guidance for family visitation petition process. It was created last year which established that a caregiver may not arbitrarily deny visitation between an adult resident of a home healthcare facility or residential dwelling and a family member of that resident. The court administrator's office and the Nebraska State Bar Association have asked that these court procedures be provided in statute rather than through rules in order to ensure that cases are handled consistently across the state. AM2868 sets forth procedures relating to the filing of petitions including guidelines for judges to consider when determining whether visitation has been arbitrarily denied. The changes also harmonize the petition process with existing statutes. In closing, I'd like...we would all like to thank Speaker Scheer and Senator Briese for allowing this to go forward. It was supposed to be on consent and we're now placing it on this bill which relates. So, in closing, I ask you to vote green on AM2868. Thank you, Mr. Lieutenant Governor. [LB845 LB1051]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Discussion is now open on AM2868. Senator Briese. [LB845]

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SENATOR BRIESE: Thank you, Mr. President. Good morning, colleagues. I rise in support of AM2868. I consider it a friendly amendment and it's good policy. And in concluding that, I noted that we passed LB122 last year 48-0. This is simply an effort to polish up LB122. It doesn't appear to make much for substantive changes as Senator Pansing Brooks said. It mostly just sets forth, polishes up the procedures and standards relative to that bill. I think it's important for us to do that. I'd urge your support on this amendment. Thank you. [LB845]

PRESIDENT FOLEY: Thank you, Senator Briese. Is there any further discussion on the amendment? Seeing none, Senator Pansing Brooks, you're recognized to close on your amendment. She waives closing. The question for the body is the adoption of AM2868. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB845]

CLERK: 37 ayes, 0 nays on adoption of the amendment. [LB845]

PRESIDENT FOLEY: AM2868 is adopted. Anything further on the bill, Mr. Clerk? [LB845]

CLERK: Nothing further. [LB845]

PRESIDENT FOLEY: Senator Wishart. [LB845]

SENATOR WISHART: Mr. President, I move to advance LB845 to E&R for engrossing. [LB845]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB845 advances. We will proceed to LB998. [LB845 LB998]

CLERK: LB998, I have E&Rs first of all, Senator. (ER149, Legislative Journal page 1254.) [LB998]

PRESIDENT FOLEY: Senator Wishart. [LB998]

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SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB998. [LB998]

PRESIDENT FOLEY: Members, you 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. [LB998]

CLERK: Mr. President, Senator Walz, I have AM2665, with a note you wish to withdraw that. Right? Thank you. [LB998]

PRESIDENT FOLEY: The amendment is withdrawn. [LB998]

CLERK: Senator Walz would move to amend with AM2713. (Legislative Journal page 1366.) [LB998]

PRESIDENT FOLEY: Senator Walz, you're recognized to open on AM2713. [LB998]

SENATOR WALZ: Thank you, Mr. President. When I introduced LB998, it was my intent, first and foremost, to develop a program that would address the growing concern of mental and behavioral health for students in the classroom. The Collaborative School Behavioral and Mental Health Program will give schools the resources to address and prevent future behavioral health problems. I have enjoyed hearing debate from my colleagues about the bill and I've worked to address their concerns. I believe we are at our best as lawmakers when we work together to improve a bill. Today, I am introducing AM2713, which does two things. First, the bill as amended would create a fund, but after talking to the Fiscal Office, we realized that we needed a home for this fund. This amendment would place the fund under the Department of Education which would then release the funds to ESU to administer to the program. It doesn't change anything about the bill other than to place the fund under the Nebraska Department of Education. The ESUs operate under the Department of Education and this is a natural fit for it to be located. The second thing this amendment does is replace some of the language, school districts with school systems. This is a technical change to make sure that all schools within the ESU district can receive services like any other program the ESU provides to their schools. I think the more behavioral and mental health services we can provide the kids, the better this program becomes.

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This would ensure all schools can partake in this program. I encourage you to vote green on AM2713 and advance LB998. Thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Walz. Debate is now open on AM2713. Senator Vargas. [LB998]

SENATOR VARGAS: Thank you, colleagues. I want to thank Senator Walz for allowing me to take a point of personal privilege during her bill. And I've done this in the past on a couple of different resolutions I've introduced and this one is important. We always talk about bringing parts of our identity and parts of culture from our communities, and a couple of weeks ago I had introduced a resolution in support of Cesar Chavez and so this is a different resolution on behalf of Dolores Huerta making it Dolores Huerta Day and this is actually the first time that this has ever happened in the state of Nebraska recognizing Dolores Huerta, so I'm going to read the resolution and I want to thank Senator Walz again. Whereas, Dolores Huerta was born on April 10, 1930 in the mining town of Dawson, New Mexico. Whereas, Dolores Huerta is the daughter of Juan Fernandez, a coal miner and migrant laborer who harvested beets in Nebraska and went on to become a legislator in New Mexico, and Alicia Chavez, a business woman who owned a hotel and restaurant. And Dolores Huerta became interested in civil rights as a young girl after observing her mother welcome low-wage workers and farm worker families into her hotel and participate in community affairs, civic organizations and church. And whereas, Dolores Huerta became involved in school activities in high school and was a dedicated member of the Girl Scouts until the age of 18. And whereas, upon graduating high school, Dolores Huerta went on to earn a provisional teaching credential and after seeing her students come to school hungry and without shoes, left the classroom to help found the Stockton Chapter of the Community Service Organization and fight for economic improvements for Latino workers and families. And whereas, in 1955 Dolores Huerta met Community Service Organization executive director, Cesar Chavez. They went on to co-found the National Farm Workers Association which later expanded nationally to become the United Farm Workers of America, the UFW. And whereas, in 1963 the organizing efforts of Dolores Huerta were successful in securing aid for dependent families and disability insurance for farm workers in California. Whereas, the advocacy efforts of Dolores Huerta led to the enactment of the Agricultural Labor Relations Act of 1975, which granted farm workers in California the right to collectively organize and bargain for better wages and working

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conditions. And whereas, in spite of her personal belief in nonviolence, Dolores Huerta was assaulted while protesting against the police of then presidential candidate George H.W. Bush in San Francisco in 1988. She was beaten with a baton by a police officer who broke her ribs and shattered her spleen which led to the San Francisco Police Department's change it's crowd control and officer discipline policies. And whereas, throughout her life Dolores Huerta has been a strong advocate for equality for women traveling the United States to encourage Latino women to run for office and serving as an honorary co-chair of the historic Women's March in Washington on January 21, 2017. And whereas, in 2012 Dolores Huerta was awarded the Presidential Medal of Freedom, the highest civil award in the United States by President Barack Obama, and portraits and artwork depicting Heurta hang in the National Portrait Gallery in Washington, D.C. And whereas, at the age 87, Dolores Huerta continues her work with the Dolores Huerta Foundation established in 2002 to develop leaders and advocate for the working poor women and children. And whereas, Dolores Huerta is the mother of 11 children, the grandmother of 15 children, and the great-grandmother of seven children, and the most widely acclaimed Mexican-American woman of our time, and has been an unparalleled community organizer and activist for the last 50 years who continues to inspire millions of people across the world. Now, therefore, be it resolved by the members of the One Hundred Fifth Legislature of Nebraska, Second Session, that the Legislature designate April 10, 2018, as Dolores Huerta Day in Nebraska, that Legislature recognizes the accomplishments and service of farm workers in the state and across this country and that the Legislature encourages Nebraskans to participate in community service projects and events to celebrate Dolores Huerta's life and work. Colleagues, thank you for giving me this opportunity to read this and also to educate on some of these amazing leaders in our country and... [LB998]

PRESIDENT FOLEY: One minute. [LB998]

SENATOR VARGAS: ...especially in Mexican-American community. Thank you very, very much. [LB998]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Bolz. [LB998]

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SENATOR BOLZ: Thank you, Mr. President. I just wanted to rise one more time in support of Senator Walz and the good work that she's done on LB998 and I wanted to take the opportunity to share a couple of comments from Connie Duncan who wrote an op-ed in the Lincoln Journal Star on LB998. Connie is a school board member for Lincoln Public Schools. And Connie writes, the well-being of students is essential to ensuring that they learn, graduate, and contribute their gifts to our communities. The opposite also holds true. We all have something to lose if children's needs are not met, whether it is lost potential, lost time in the classroom focusing on academics, the cost of the communities response to a crisis, or even the long-term impact of a young person entering the criminal justice system. She goes one to say that every day our children face social and emotional challenges and our teachers, parents and school staff work to ensure our children get high test scores and learn to be successful members of our communities. She says it will be an important day for Nebraska when LB998 is enacted to support our educators, families and children. So, I support Senator Walz for all the great work that she's done on this bill. I support her amendment and I look forward to that day, just like Connie, when we enact this legislation. Thank you, Mr. President. [LB998]

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

SENATOR GROENE: Thank you, Mr. President. I just want to make clear that I don't believe mental health is part of the mission of education. We have Health and Human Services Department. We constantly hear we don't have enough money for education, but yet we seem to have money to hire psychiatrists and social workers. That is not education, anymore than a cure for cancer is, it's a health issue. When we fund this government, we should keep those two separate. The mission separate. So I'm not going to support LB998. I did out of committee because I wanted this debate on the floor, but I also want it for the record to make sure that when we amended it from the Education Committee, the original language said, if the educational service unit determines that it will continue to participate in the program, the costs shall be borne equally between the education service unit, school district within the educational service unit. We did amend that. Took out "borne equally between" and put "paid by any combination of". I want to make it absolutely clear the meaning of that means, just like we do now with ESUs. If a school district asks for services from an ESU, the ESU can bill them. I want to make it absolutely clear that if you have 20 schools in your district ESU, you cannot divide the cost of

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your program and send a equal bill to them, even if they do not want to use your social worker. That needs to be made very, very clear. It also means very, very clear that we did not start a program and ...because the change in the language says, "paid by any combination of". If the donations don't come in from the private sector, or the private donations, we have now said, by any combination of. If the private is zero, they can have a program and they can start sending a bill to the local school districts. We must think that through. It has a sunset on it. If you believe there's a mental health problem and it isn't behavioral or just a cultural thing, fine. But bring your bills to the HHS Committee, not the Education Committee. This doesn't belong there. Education is not...schools are not mental health facilities, they're not athletic facilities, some think they are, they're educational facilities. And we need to keep that money and tax dollars separate. There's no tax dollars in here unless some issue decides it, when they say borne equally, or split between entities, that they demand the school pay. Now we got tax dollars involved. I just want the record set straight that this thing better be paid for by private money. That is what the hearings said, that's what the Education Committee amendment meant to say, and that's where it should be. Private money, not tax dollars. Thank you. I stand against LB998. Thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Groene. Seeing no further discussion on the amendment, Senator Walz, you're recognized to close on AM2713. [LB998]

SENATOR BOLZ: Thank you, Mr. President. I just want to make a clarification for Senator Groene. It was amended in AM2572 that this program would sunset unless and only if there was private funding available for it to continue. And with that, I would like a green vote on AM2713 and LB998. [LB998]

PRESIDENT FOLEY: Thank you, Senator Walz. Members, you heard the discussion on AM2713. The question for the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB998]

CLERK: 25 ayes, 4 nays to place the house under call. [LB998]

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PRESIDENT FOLEY: Members, please return to your desk and check in. The house is under call. Senator Walz, you had 23 votes. Yes, thank you, when we get to that point, we'll accept call-ins. Mr. Clerk, call-in votes will be accepted. [LB998]

CLERK: Senator Scheer voting yes. Senator Smith voting yes. Senator Krist voting yes. [LB998]

PRESIDENT FOLEY: Record, please. [LB998]

CLERK: 26 ayes, 5 nays on the amendment. [LB998]

PRESIDENT FOLEY: AM2713 is adopted. I raise the call. Is there anything further on the bill, Mr. Clerk? [LB998]

CLERK: Mr. President, Senator Harr, I understand you wish to withdraw FA149. I have nothing further, Mr. President. [LB998]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB998]

SENATOR WISHART: Mr. President, I move to advance LB998 to E&R for engrossing. [LB998]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Machine vote has been requested. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB998]

CLERK: 29 ayes, 8 nays on the advancement of the bill. [LB998]

PRESIDENT FOLEY: LB998 advances. Our next bill is LB449, Mr. Clerk. [LB998 LB449]

CLERK: With respect to LB449, I have E&R amendments, first of all, Senator. [LB449]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB449]

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SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB179. [LB449]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. [LB449]

CLERK: Senator, I'm sorry, LB449. [LB449]

SENATOR WISHART: Excuse me, LB449. [LB449]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments to LB449. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB449]

CLERK: Senator Hughes would move to recommit the bill to committee. [LB449]

PRESIDENT FOLEY: Senator Hughes, you're recognized to open on your motion. [LB449]

SENATOR HUGHES: Good morning, Mr. President, and good morning, colleagues. I thought it was fitting that we spent days and days at the beginning of the session listening about prairie dogs. I thought it was only fitting that we spend a little time at the end of our days discussing prairie dogs. Most of the discussion that we had the other day on...revolved around property rights, private property rights, personal property rights, and that's what this bill is. It is a bill that helps preserve your property rights. If you own land and your neighbor is not controlling their prairie dogs, and they will expand on to your property, there is nothing you can do to prevent that if we repeal LB449. This is a law, and I stated before that has never been used to its full extent, and that's a great law. It puts in place the incentive for neighbors to work together to solve a local issue. When I talked about it before, I've had phone conversations and e-mails from the county where this has taken place, and they said, yeah, the county adopted it, we began the process, but just that was enough to force the landowners to make the necessary call to solve the situation. My understanding, if my recollection is correct from those phone calls, there were actually four landowners that were involved in this one particular incident where there was one gentleman or

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one individual who owned land with the prairie dog town and it was continuing to expand, and it ultimately covered three of his neighbors. And one of them complained, went to the county, caused the notices, or set the ball in motion, and that brought everybody to the table to fix the problem. Senator Chambers makes note that this is a keystone animal. That's great. But there's nothing that says a keystone animal cannot be a pest. They are a very destructive rodent. If they had been named prairie rats rather than prairie dogs, it would certainly be more appropriate in my book. They're very destructive to the landscape. The tunnels that they dig do not cool the earth, as we have heard. They do not allow for additional rain penetration, as we have heard. If you've ever been to a prairie dog town, you'll know that they build the mound around their hole for a couple of purposes. One is to keep the rain out and the other is to give them a higher advantage where they can survey their surroundings for predators. They keep the grass or crop short around their holes so they can keep an eye out for predators. That's why they're destructive. They eat whatever is around their hole in a very large diameter so they can protect their territories. And they are prolific at expanding. I don't want to say they're like rabbits, but that's a good analogy. They have several pups and when those pups become young adults, they need expansion area. I've got a couple of neighbors that have got small pastures that they're not controlling and those towns are expanding on to my and my neighbors farm ground and eating our crops. I do control the prairie dogs. I poison them on my property. I do not go on my neighbor's property. I have not asked their permission to do that. But if it becomes a big problem, I will. And if they will not do anything about it, I'm going to want to have the county step in and have leverage to make that individual take care of the problem that is devaluing...devaluing my property because I'm planting a crop and I can't harvest that crop, that's coming out of my pocket. My neighbor is not taking care of the business. I travel I-80 quite a little bit and down around Overton which is about halfway home for me, which is this side of Lexington, not too far, there's a prairie dog town off to the south of the Interstate and they are encroaching upon the Interstate. Now the state of Nebraska I'm sure will at some point control the dogs between the right of way and the pavements. But there's nothing without this law to give them any type of leverage to control the prairie dogs on the south side of the fence, on the private property of the individual. So that's just additional expense for the state because once they show up, you kill them, the holes are there, they will move back into those holes and as the population expands, which it always does, they will continue on. So this is a bill about private property rights. It's not any different, the analogy we've made about noxious weeds, it's the same thing. Weed seeds blow

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around, prairie dogs...the young adults they take off and they scout for new territory. I've seen them miles from a town. They're looking for another patch of grass, or a wheat field or a corn field or an alfalfa field, somewhere they can begin to establish their own colony. It's not any different than you living in town and your home and your next door neighbor starts collecting cars, doesn't mow his lawn, you know, starts collecting whatever. There are ordinances within our cities. This is nothing different than that. We have laws in place to protect the value of our personal property from the inaction of our neighbors, and this bill is nothing different than that. I would urge you to support my motion to recommit to committee. Thank you, Mr. President.
[LB449]

PRESIDENT FOLEY: Thank you, Senator Hughes. Debate is now open on the motion. Senator Friesen. Senator Friesen, you're recognized. [LB449]

SENATOR FRIESEN: Thank you, Mr. President. So this bill has been made a focus of property rights. I don't have black-tailed prairie dogs in my area, and I don't really much care about the bill other than that, but I do when you get into talking about property rights. I want to talk about property rights in cities and villages. And when you want to talk about property rights, the same type of ordinances are enacted in every city from the metropolitan class on down to the smallest village. A city of the first-class by ordinance. This is 16-230, may require that lots or pieces of ground within the city or within the city's extraterritorial zoning jurisdiction to be drained and filled so as to prevent stagnant water or any other nuisance accumulating thereon. So the city may require the owner, the occupant of all lots of pieces of ground to keep them all cleaned up. They may by ordinance to be declared a nuisance to permit or maintain excessive weeds or grasses or worthless vegetation or litter. The notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any. The city shall establish the method of notice by ordinance. So you will notice that there is any different method. If the notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by an elected official, and it goes to the hearing process. So if the appeal fails, the city may have such work done

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within five days after receipt of such notice that the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The cost and expenses of such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either levy and assess the cost and expense of the work upon the lot or piece of ground so benefited as a special assessment, or they could recover in civil action the cost and expenses of the work on the lot or piece of ground in the adjoining alley or streets. So when you look at property rights, talking about the same thing. You're talking about a neighbor that didn't do his job of keeping his lot clean and allowed nuisances to accumulate. Anyone can file a complaint with the city and have their lot next to them declared a nuisance if somebody has accumulated junk. One person's junk is another person's treasures. We've used this ordinance before to clean up city lots. People allowed junk to accumulate, they collected things and the neighbors complained because there's a possibility of rats being there. So the city officials, we looked at it and we determined that that was a nuisance, needed to be cleaned up. We went in on his lot without his permission, through the process, had it cleaned up, had his things hauled away and charged him for it. This ordinance, it works. If you wouldn't have something like this in the cities or the villages, you'd have a mess. The same thing happens in rural areas. You have neighbors who are good neighbors who take care of their properties, who control the nuisances whether they're weeds or black-tailed prairie dogs. [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR FRIESEN: And so when you look at property rights, let's think of this as a statewide issue, is it good policy? We apply these to all our cities and villages. I don't see why it isn't good for areas...the rural areas of the state also. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Chambers. [LB449]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'd like to ask Senator Friesen a question. [LB449]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB449]

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SENATOR FRIESEN: Yes, I would. [LB449]

SENATOR CHAMBERS: Senator Friesen, I was occupied while you were talking. Did you say that these ordinances allow people's property to be entered without giving that property owner notice? [LB449]

SENATOR FRIESEN: They give them notice, but they don't make sure that they've received the notice. [LB449]

SENATOR CHAMBERS: Thank you. Members of the Legislature, this law that I'm talking about says specifically that if notice is not given, all these things can be done. Senator Hilgers and I went through that whole thing and the...that's why I handed it out. I said people don't read it. This is the only law on the books which says that a property owner's property can be entered and destructive action taken without the owner being noticed, without being notified. That's violating the Constitution. And if you would have read the material that I handed out, I underlined, I used a marginal note to point out where it states specifically that even if no notice is given, all of these things can be done. I know that Senator Friesen may be upset with me for one reason or the other, and you know why I say that? Senator Friesen usually reads the law and informs himself before he makes his statements. There are other people who are upset, notably, Senator Hughes, which I can understand. And this is what they feel is the opportunity to make things even. And if that's what they want to do, they can do it, but they can't do it alone. There were enough people who voted for this bill to move it. Nothing has been said here today that had not been said before. I'm not going to go through all aspects of the bill to show the problems with it and the things that can be done. Senator Groene pointed out how the Department of Agriculture helps people when it comes to managing these pests, or whatever they're called. Any predacious animal, the law provides how they can be controlled. People can get help from the Department of Game and Parks. Those things are available. Senator Groene mentioned how those programs are accessed where he lives. What Senator Hughes does not point out is that there are 93 counties and Sheridan is not the only county that has prairie dogs. No other county has chosen to adopt this provision. He knows less about flora and fauna than I do and I live in the city. When he wants to compare the movement of animals to the movement of seeds being blown in the wind, there is no way to determine where these seeds are going to go, where they will take

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root. The difference between the noxious weed law and this one that I'm talking about, in addition to the fact that one deals with animals, the others with plants, the word noxious has a meaning. It means that the plant is not indigenous to Nebraska. It is an evasive species. It does not belong here and the purpose of the noxious weed law is to totally eradicate these types of plants. They are brought here in various ways... [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR CHAMBERS: ...just like there have been forms of animal life. Water or aquatic life that winds up here, and they're not indigenous. The prairie dog, on the other hand, is an indigenous species. It is not noxious. Its burrows do all of the things that Senator Hughes said they don't do, because those who study and write scientific papers about these items have made that clear. He feels that all he has to do is make an assertion and you all will swallow it, hook, line and sinker. Maybe he's a good farmer, but he's not a good scientist. This is a bill that has been ambushed in the past. I'm going to put my light on, I'll speak one more time. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Hughes, you're recognized. [LB449]

SENATOR HUGHES: Thank you, Mr. President. Thank you, Senator Chambers for making my argument to recommit this bill to committee because it clearly needs some work. There's no question about that. I'd like to read a little bit from the actual bill, or the law. This is in 23-3806, Section (c) and we're talking about whether or not the individual should be notified. Whenever a county board or a county that has adopted a coordinated program for the management of black-tailed prairie dogs under Section 23-3803 has reason to believe, based upon information or through its own investigation, that a colony or any portion of a colony has expanded on to adjacent property, the owner of the adjacent property...and the owner of the adjacent property objects to such expansion and the county board determines that it is necessary to secure more prompt and definite management of the colony than is accomplished by the general published notice, it shall cause to be served individual notice upon the owner of record of the property upon which the colony is located at his or her last-known address, and recommended methods of when and how black-tailed prairie dogs should be managed. The individual owner is notified.

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Thank you, Senator Friesen, for pointing out the ordinances in town that we have to protect ourselves from our neighbors who do not care for their property and cause the devaluation of our property. I'd like to ask Senator Chambers a question if he will yield. [LB449]

PRESIDENT FOLEY: Senator Chambers, will you yield, please? [LB449]

SENATOR CHAMBERS: Yes, I will. [LB449]

SENATOR HUGHES: Thank you, Senator Chambers. During the original...actually, and this is the third time we've debated this bail. The first time we debated it this year, you did not have enough votes to pass, is that correct? [LB449]

SENATOR CHAMBERS: Right. [LB449]

SENATOR HUGHES: So then you prioritized it and the first round on General File you did have enough votes, that's why we're here today. [LB449]

SENATOR CHAMBERS: Correct. [LB449]

SENATOR HUGHES: So in your statement during that second...well, probably the first and second round, would you remind us of how you described this bill as probably the worst piece of legislation ever drafted? Do you remember those comments? [LB449]

SENATOR CHAMBERS: Words to that effect. [LB449]

SENATOR HUGHES: Do you remember making those...virtually the same statement yesterday on another bill? [LB449]

SENATOR CHAMBERS: Which bill? [LB449]

SENATOR HUGHES: We were on LB948 and you were talking about LB1069. [LB449 LB948 LB1069]

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SENATOR CHAMBERS: Well the number...what was LB1069 about? [LB449 LB1069]

SENATOR HUGHES: I don't recall. But you made...my point is you made virtually exactly the same statements about the worst bill ever written. [LB449 LB1069]

SENATOR CHAMBERS: And you say LB1069 was one we talked about yesterday? [LB449 LB1069]

SENATOR HUGHES: We were...LB948 was on the board, but you were discussing LB1069. [LB449 LB948 LB1069]

SENATOR CHAMBERS: But I hope Senator Hilgers won't leave. Because when we get through there's something I want to establish to show that you don't read the law well. If you were talking about Senator Brasch's bill that we talked about, I said it was one of the worst drafted bills because it had grammatical errors, it was horrendous in syntax, it had redundant, unnecessary language in it. So I was talking about the drafting of that bill. This one, I was talking about the heaping up of punishments, fines and so forth without the intervention of a judge... [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR CHAMBERS: ...and had specifically pointed out unconstitutional provisions and that's why I said the prairie dog bill was one of the worst laws on the books. [LB449]

SENATOR HUGHES: According to my recollection, and once we get the transcripts we'll be able to verify, but as I remember, you used virtually the same verbiage on both of those bills. But my point is, this is a bill that needs to be recommitted to committee because clearly there are things that need to be clarified. When I read the bill, I think it's a great bill, but there are things that need to be clarified and that's what we do. A lot of the bills that we introduce are for clarification. It's important that we get it right. And a lot of times it takes several versions of the same bill to make sure that we have the correct verbiage. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Friesen. [LB449]

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SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Senator Chambers, I'm not upset with you, otherwise I'd spend every day being upset. I'm never upset with you. I just think that words matter. And when we want to talk about laws and the bills we create here, I think that words do matter. So in the prairie dog bill that is currently there, we do have to notify the owner. In a city of the metropolitan class, we do not have to notify the owner, we have to attempt to. They can actually just publish a legal description in the newspaper and that's considered notice. How many people read through the descriptions in the newspaper about lot descriptions? They do not even need to publish the name. They can publish it in the paper and that is considered sufficient notice to go in and clean up junk. Mow the grass. Bill it to the lot, assess it to the property, and in the end, maybe cause it to be taken. So again, we have ordinances that work in the municipalities whether they're the metropolitan class all the way down to the villages. They are not required to notify them. They have to attempt to notify them. No one checks to see if that notification is given. No one has to sign a registered letter. They could just print it in the newspaper. If you do not have access to that newspaper, you would not be notified. And yet, they can go in there then, without your ability to appeal. You've lost that option, and they can clean up your property, assess it to you, and in the end if you don't pay your bill, they could take that property for a tax lien. So I just want the record to be clear. Words matter, and this is how legislation is enacted. Thank you, Mr. President [LB449]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Chambers. [LB449]

SENATOR CHAMBERS: Thank you, Mr. President. Senator Friesen is absolutely right, words matter. In the law there are two ways to give notice, actual or personal notice where you deliver it to the person or the last known address. The other is the general notification, which can be put in a newspaper of certain specified circulation. This prairie dog law mentions both types of notice. Then it says, however, if such notice is not given and it refers back to that specific statute where it describes both types, general and personal, neither has to be given before this prairie dog law takes effect. There is no other law like that in the books. Words do matter. Had Senator Hughes read the law, he would have seen it. He read only part of it, and I'm not going to end mine because Senator Hilgers is talking to some children and he will come back and confirm what I've said because he has read the law. We had an exchange which will be in the record. And I want to tell you something else. Let me concede what Senator Hughes said. It shows how nit-

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picky he is. There are any number of bills that I've described as the worst bill that has come before us. That is common parlance on the floor, so he did not come up with some discovery that rivals the discovery of the double helix in DNA. Also, when he talks about...I'm trying...oh, a bill has to be returned so that you can get it right, there is no textural language in this bill. There is a repealer. The repealer repeals everything in the prairie dog law. This bill of mine does not attempt to amend it. It does not attempt to do anything to it. All it says is that the statutes that relate or contain the prairie dog law are outright repealed. There is nothing for a committee to do with that. Senator Hughes has tried to observe and master what I do with the rules. He just got it wrong because he doesn't understand. I know where he's going and I'm going to try to stop him from getting there. This bill had 25 votes. I asked for a record vote, maybe it was a roll call vote, but there's a record of those who voted for it. Somebody told me that Senator Larson was making the rounds of people who may have voted for this bill. Well, he has legislation that he wants. Other people have legislation that they want. We have Final Reading coming up. We have, what do you call it where everybody gets to have the consent calendar bills coming up. We have Final Reading and we definitely are limited by the clock. We cannot go beyond 12:00 on any given day. We have 3 calendar days and not 24 hours of each. I would like to ask Senator Groene a question if would respond. [LB449]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB449]

SENATOR GROENE: Yes. [LB449]

SENATOR CHAMBERS: Senator Groene, when you supported this bill and were speaking, what agency did you mention that even now will help control prairie dogs? [LB449]

SENATOR GROENE: The Animal and Plant Health Inspection Services of the United States Department of Agriculture is in charge of the management and control. [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR CHAMBERS: And are you...oh, you said time? [LB449]

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PRESIDENT FOLEY: One minute. [LB449]

SENATOR CHAMBERS: Are you aware of them having actually performed these services?
[LB449]

SENATOR GROENE: Yes, I talked to some of my ranchers in Lincoln County. They call them
all the time. [LB449]

SENATOR CHAMBERS: Thank you. That's all. This service is available in every county. What
Senator Hughes is doing is misleading people because there are services available right now and
the people they send in know what they're doing. There won't be random poisoning, nothing that
is going to be hurtful, and it's done with the consent of the property owner. The property owner
wants it. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Groene, you're recognized. He
waives the opportunity. Senator Chambers, you're recognized. It's your third opportunity.
[LB449]

SENATOR CHAMBERS: Thank you. I'm trying to keep it going until Senator Hilgers comes,
but maybe those who are here will remember the exchange that Senator Hilgers and I had with
reference to the notice. I hand out material. I cannot make anybody read it. I would like to ask
Senator Friesen a question if he would respond. [LB449]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB449]

SENATOR FRIESEN: Yes, I would. [LB449]

SENATOR CHAMBERS: Senator Friesen, you were trying to get my attention and I'm not sure
exactly why. Would you like to say it on the mike? [LB449]

SENATOR FRIESEN: When I make a mistake, I will admit it, like you do. I read the statutes. It
does not require notice. [LB449]

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SENATOR CHAMBERS: And it doesn't even require that they attempt to give notice, isn't it?
[LB449]

SENATOR FRIESEN: No, it does not. [LB449]

SENATOR CHAMBERS: Thank you. And members, I'm not upset with Senator Friesen. I had said...or I tried to make it clear that it is my bill. I've studied the law that is involved. I'm trained in the law. I have a law degree. I have argued cases in court on my behalf because I can't represent anybody else. I have won cases. I should know something about the law, but the first thing I know that I must do is read it to know what's there. Now, I don't have to keep this going to confirm with Senator Hilgers that no attempt to give notice is necessary. Now, that...thank you, Mr. President. That's all for me. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Hughes, you're recognized to close on your recommit motion. [LB449]

SENATOR HUGHES: Thank you, Mr. President. Colleagues, if I'm nothing, I'm a pragmatist and I can certainly see that this debate is not going. I knew it was not going and when I get done here, I will pull my recommit motion. But there's a couple of things that I want to remind the body. I never make legislation personal. This is not against Senator Chambers in any way, shape, or form, although he has made it clear earlier in the session that it was personal to him against me. He talked for days, if you will recall, on several of my bills. Not necessarily about my bill, but he does...he is a very good orator, I will give him that. The other thing I never do is I never trade votes and it was clear when we began this debate the other day on General File, when I checked with a few of my colleagues where they were at before we engaged, it was clear that Senator Chambers had plenty of votes. If you traded a vote on any issue, shame on you. With that I withdraw my motion. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: The motion is withdrawn. Anything further on the bill, Mr. Clerk?
[LB449]

CLERK: Nothing further, Mr. President. [LB449]

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PRESIDENT FOLEY: Senator Wishart, you're recognized for a motion. [LB449]

SENATOR WISHART: Mr. President, I happily advance LB449 to E&R for engrossing.
[LB449]

PRESIDENT FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB449 advances. We will proceed to LB194. [LB449 LB194]

CLERK: LB194, I do have E&Rs, Senator. (ER180, Legislative Journal page 1482.) [LB194]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB194]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB194.
[LB194]

PRESIDENT FOLEY: Members, you 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. [LB194]

CLERK: Senator Vargas would move to amend, AM2905. (Legislative Journal page 1526.)
[LB194]

PRESIDENT FOLEY: Senator Vargas, you're recognized to open on your amendment. [LB194]

SENATOR VARGAS: Thank you very much, colleagues. AM2905 is a simple change that reverts back to the language originally introduced in the Banking Committee's AM2587. Just had a good conversation with Director Mark Quandahl about this to update them on this. The change has to do with the term "check", which is the definition that was updated in LB194 to make the definition inclusive of all paper checks and electronic debits. "Check" was changed to "instrument" in AM2872 on General File because there was some question about whether the term "check" was inclusive enough of a term for this certain subsection. However, the term "instrument" is not defined anywhere in this bill and after speaking with Senator Lindstrom and the parties and the lenders, we decided it would be best to revert back to the term "check" as was

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originally defined in the bill because it is inclusive of both paper checks and electronic debits which was something that we had negotiated altogether. With that, colleagues, I'd ask for your green vote on AM2905. Thank you. [LB194]

PRESIDENT FOLEY: Thank you, Senator Vargas. Is there any discussion on AM2905? Seeing none, Senator Vargas, you're recognized to close. He waives closing. The question for the body is the adoption of AM2905. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB194]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Vargas' amendment. [LB194]

PRESIDENT FOLEY: AM2905 is adopted. Mr. Clerk, anything further? [LB194]

CLERK: I have nothing further on the bill. [LB194]

PRESIDENT FOLEY: Senator Morfeld, could you give us a motion, please? [LB194]

SENATOR MORFELD: Mr. President, I move LB194 to advance to E&R for engrossing. [LB194]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB194 advances. Thank you, Senator Morfeld. Next bill is LB117. [LB194 LB117]

CLERK: LB117, I have E&R amendments, first of all. [LB117]

SENATOR MORFELD: I move the E&R amendments to LB117. [LB117]

PRESIDENT FOLEY: Speaker Scheer, you're recognized. [LB117]

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SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. We are still waiting for amendments to come back on the next two bills, so if we could just go past, we will come back to those and go to LB971 if you would please...or LB791, excuse me. [LB791]

PRESIDENT FOLEY: Thank you, Mr. Speaker. We will proceed to LB791. Mr. Clerk. (Visitors introduced.) [LB791]

CLERK: Mr. President, respect to LB791, I have E&R amendments, first of all, Senator. (ER183, Legislative Journal pages 1515-1520.) [LB791]

PRESIDENT FOLEY: Senator Morfeld. [LB791]

SENATOR MORFELD: Mr. President, I move the adoption of E&R amendments to LB791. [LB791]

PRESIDENT FOLEY: Members, you have 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. [LB791]

CLERK: Mr. President, the first amendment I have to the bill, Senator Hansen, FA...excuse me, AM2847. (Legislative Journal page 1438.) [LB791]

PRESIDENT FOLEY: Senator Hansen, you're recognized to open an your amendment. Is there anyone authorized to speak to Senator Hansen's amendment? We will wait a moment for Senator Hansen. Senator Hansen, you're recognized to open on AM2847. [LB791]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon, colleagues. Let me start off by apologizing for the delay. Senator Ebke, Senator Quick, Senator Albrecht, and some committee staff were discussing this very amendment of this very bill in a different room, and thank you to Senator Wayne for coming in and flagging it for our attention that you guys were waiting for us. So I think we've had some productive discussions here. Obviously, I have an amendment here on Select File to kind of hold the issue open. And a lot of what I've been

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looking for and our conversations this morning and our continuing negotiations about the scope and the role and the need for the collective bargaining sections. In terms of just fundamental accountability and transparency for law enforcement to ensure that there are not bad cops, to ensure that if there is a bad actor, they don't get to bounce around from department to department and outrun their paperwork or outrun their controversy. Some of the things we have heard and we do know we need to address. That is something I think there is just wide consensus for in the body. There's wide consensus for that and wide consensus for that outside the glass too. You talk to any law enforcement, you know, union and law enforcement officer or law enforcement administrator, and that's absolutely all something they agree is they don't want to work with the bad actors either. They want to have some teeth in some power to various different agencies to make sure they have an opportunity to address what needs to be addressed. So a little bit of what we're getting to is just a process question. How do we get to that answer? There's kind of a goal that I do genuinely believe we're all moving towards. The question is, how do we get here? A lot of the conversation so far, again, have been kind of hinged on this one collective bargaining selection. That's difficult to do where we're at. Again, just kind of, for reminder, I know I've mentioned this several times, but we're kind of combining LB791 and LB792. And LB791 if you look at the one-liner is to change the Nebraska State Patrol collective bargaining rights. Obviously, the committee amendments can change that. We're going to get some new description, but fundamentally that's the core of at LB791 and that it's also a core issue for many or some of us on the floor at least about kind of unilaterally coming in and chaining labor contracts. Now there's a nonabrogation clause. We're not going to change this current contract, but to what role we as the Legislature have to come in and say in your next contract, you can't have X, Y, and Z. I personally think there's a path forward. I'm not a hundred percent sure how to get there yet, but personally I think this is a path forward, but rather than saying you can't negotiate the subject, or your next contract can't include X, Y, and Z, we instead can give affirmative duties to someone or some agency or some group that would accomplish the same goal. I believe that's been an appropriate and helpful conversation we've been having this morning. So, for kind of the context here, Sections 1 and 2 deal with the powers of the Crime Commission. So does Section 4. We are giving some requirements for all law enforcement agencies across the state to report and disclose discipline especially when it's rising to the level that could be a certification of their law enforcement certificate to the Crime Commission, as well as one person is going from an agency to another agency that they have to do a waiver of

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confidentiality. And I think those things are good and that's within the Crime Commission. That is our...we call it the Crime Commission, but it's actually the Commission on Law Enforcement and...I'll have to look that up. It is a longer name than just the Crime Commission, but it deals with law enforcement certifications. And within that...within that, they are the ones that are essentially the certification board for law enforcement. And we're giving them various powers and provisions in this bill. I think that's good to kind of beef them up because as we were just kind of reflecting on in our negotiations, a lot of times when their executive director has come in to Judiciary and has testified in Judiciary multiple times. There's a lot of things the Crime Commission could do if we gave them the validity to, if we gave them the backing to, if we gave them the support to do. So I hope that that's something we could continue to do and continue to work on. I certainly think there's great opportunities to move forward on this. And with that, that's my opening on my amendment. So thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Hansen. (Visitors introduced.) Continuing discussion on the amendment. Senator Ebke. [LB791]

SENATOR EBKE: Thank you, Mr. President. And as Senator Hansen noted, we were off discussing particular language when the bill came up a little faster than we had expected. Let me just go back and point out briefly what the language in question is. The language in question revolves around the words collective bargaining, and the question of whether or not we can include the collective bargaining...include that in the language in this particular bill. If you go back to Nebraska Revised Statute 81-1371, part of the Collective Bargaining Act, it provides that mandatory topics or a topic of bargaining shall mean those subjects of negotiations on which employers must negotiate pursuant to the Industrial Relations Act including terms and conditions of employment which may otherwise be provided by law for state employees, except when specifically prohibited by law from being a subject of bargaining. So if you go back and consider this, the problem we run into is that there are elements. Senator Hansen, Senator Krist and others are concerned about including collective bargaining. The problem that we have in this particular instance is if that we don't...if we don't exclude the items with respect to information going to the Crime Commission from the collective bargaining agreement, there rests the possibility that the Crime Commission can't get the information because it's prohibited within the collective bargaining agreement. The collective bargaining agreement is generally viewed as superseding

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state law unless there are specific licenses which...or there are specific laws which prohibit the information...prohibit bargaining areas. So we've got a little bit of a problem here. I think we're close on language. I would urge....we're not...I don't think AM2847 is where we want to go. I think Senator Hansen has a number of other amendments in the queue, so we can consider those one by one while we try to work out language, if that works out. Otherwise, I would encourage your continued support of LB791. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Hansen. [LB791]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon, colleagues. And I will say I was just reminding and refreshing myself on what exactly AM2847 does and AM2847 strikes my favorite sections of the bill, so when we ultimately get to that, I may need an opportunity to substitute and/or to consider a different amendment. However, I am thankful I did have it as an opportunity to discuss it because I am impressed with the speed and efficiency that the body remains working on Select File today. I think when the five of us went back to that little room behind the Chamber to talk this, we had no thought or real worry that we might be missed on our own bill that we were discussing. So this is kind of a fun morning, guys. I'm getting some adrenaline rush. All right. I thank Senator Ebke for her discussion of that language and that's kind of the crux as we've been building, we've been building kind of trying to get into this and there are some interesting provisions that connect as Senator Ebke mentioned. We're talking about the mandatory topics of bargaining and how mandatory topics of bargaining can be something potentially other than state law. Kind of, in past precedent, that seems to be things more related to that if we define some sort of state...I think one of the early cases was state vacation leave and then the union was able to negotiate that. So that was kind of some more topics that were generally perceived to be just kind of widely known in the employment sphere. So the question is, how do we basically have a bill with teeth in it? How do we empower the Crime Commission and make sure that any collective bargaining that goes on is powerful and effective enough to make sure the rest of the bill is continuing to go forward. I think the one thing I want to take a little step back and just remind everybody of, as...and this is my current understanding of the bill is, we have a wide variety obviously, as we all know, we have a wide variety of law enforcement groups and law enforcement agencies in the state. Obviously at the state level we primarily control and supervise the Nebraska State Patrol. That is our statewide

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law enforcement agency. And that is the one primarily affected by several sections of this bill. I believe the current thing limits to the Nebraska State Patrol to the collective bargaining is the Section 3 that we have...primarily running into an issue with is related to collective bargaining of just the Nebraska State Patrol. And there's also a Crime Commission subpoena power and since we're struggling at the state level to oversee the Nebraska State Patrol, I believe the most recent Ebke amendment limited that to the Nebraska State Patrol. So there's some provisions of this bill that are very narrow and are only limited to the Nebraska State Patrol. There are other provisions of this bill that are broader and would apply to all law enforcement agencies. And that's why I just kind of want to for the moment while there's discussions and I will notice there are discussions going on and around me that are probably very relevant for when I finish this turn at the microphone. Sections 1 and 2 are to all law enforcement agencies in the state and that is the kind of classic bad actor...not classic, but the classic fear of a bad actor, you know, a cop who is a problem, deservedly loses his job at one agency and then applies to another agency and somehow the reputation, the concerns, the criticisms, the problems don't get flagged for the new agency. And that's really an important provision today. [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR HANSEN: Thank you, Mr. President. That's really important provisions in Sections 1 and 2 that I think there's broad consensus on that we can support. With that, thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Howard. [LB791]

SENATOR HOWARD: Thank you, Mr. President. I rise to discuss LB791 and also to assist in getting us to lunchtime so that the parties can reconvene and hopefully come to some type of compromise about the language of LB791. If anybody can find some middle ground, I believe it will be Senator Ebke after her work on LB299 with me. But I did want to reiterate my support of specific provisions within LB791 as amended. And those live on the last page of AM2708. And these are specific to sexual harassment within our State Patrol. And the really big piece of that is that there are only 6 percent of all of our State Patrol officers are women. And so by our statutes and our conversations on the floor being silent about their experience and the ones that they've

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shared with us, I think that does a disservice to all women in the state of Nebraska. In Section 5, it allows for a women to make a report of sexual harassment to DAS, the Department of Administrative Services, and the department shall investigate the report or ensure that an investigation is conducted. The other piece of this is that it allows for confidentiality for reporters, or if you're going to breach that confidentiality, it creates the requirement for a written disclosure from the individual or the employee who has made the report. And then it also creates a provision around no retaliation against that employee for making that report. These are critical to ensure that the State Patrol and our state government remains a safe place for individuals to report incidences of sexual harassment when they work for our state government. One of the things that I've taken into careful consideration and I always do, I always try to place a lot more emphasis on the testimony of the people who are impacted specifically by the work that we're doing. So for example, when we're working on a cosmetology bill, I put a lot of weight, not on the boards themselves, but on the cosmetologists who come and talk to us, or the nail technicians because those are the ones who will be impacted on the ground by the work that we're doing. And so, I put a lot of weight into the testimony of the two women who came and spoke with us when we had the hearing on this bill. Those were Brienne Splittgerber and Tina Cleveland, who I now know Ms. Splittgerber is a constituent of Speaker Scheer's and that he is very familiar with their family. One of the pieces that concern me most, or that rose above everything after they shared their experiences, after they told us about the persistent harassment, the being followed by a vehicle or being pulled over, and then when they saw that their husband was in the car, they let them go with no warning, no write-up, or being told that the men didn't want to work with somebody who bled for seven days and didn't die. Things like this were concerning and led me to my strong support of these provisions in LB791. But the overarching theme from both of the women and all the women that I've heard from is that while we want changes to the way that the agency handles sexual harassment, we do not want any changes to the way our union can collectively bargain. Both testifiers said, we have no interest in any change around collective bargaining. And so I heard that because the women and the individuals who are being impacted are specifically saying... [LB791]

PRESIDENT FOLEY: One minute. [LB791]

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SENATOR HOWARD: ...don't touch our ability to collectively bargain as a whole. They are saying, please change the way that we handle sexual harassment policies. Please make our State Patrol a safer and more welcoming and inclusive place for women and minorities. That is what they are asking for. When we step into the collective bargaining piece, that, in my view, is an overreach from what the victims of sexual harassment are asking us to do. And so, in that regard I think our job, it behooves us all to pay attention to what the people who are being directly impacted by these statutes are asking us to do. Change the sexual harassment...the sexual harassment procedures in the State Patrol, but don't touch the collective bargaining unit because that's not what they're asking for. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Quick. [LB791]

SENATOR QUICK: Thank you, Mr. President. I'd like to thank Senator Ebke and everyone else that was in the room this morning. It was a productive meeting. We'll see what happens and what we can get resolved. I do support the majority of the bill. I just...it's just a collective bargaining piece for me and I know what that does is it would currently restrict what can be bargained as part of that process. So what's why I stand opposed to that piece. I know Senator Hansen's amendment that's going to be coming could address some of those issues, the reporting issues. I think it would help. It sends it to more or less the Crime Commission that takes out the collective bargaining piece where we would...where we would restrict that. I can tell you in my time as a union representative that I did represent people in the grievance and discipline process. We also negotiated those processes. We actually changed...we had four contracts with the city of Grand Island. We used to have four different grievance procedures and we made them all the same. And through that process what happened was that management and the bargaining unit sat down at the table and we agreed to make a process that would work for both of us, something that we could both agree to. There were some things that we didn't like, some things that we did like, but we were able to sit at the table and actually work on that process together and in the end, we all came to an agreement. So I know there's been some concerns that the bargaining unit would come in and ask for and receive more than what they should be inclined to get. Like I think one of the concerns was that they could bring in and put in the language that they wouldn't have to report anything. Well, that's never going to happen because you have...management is going to have to agree to that and that's never going to happen. So, and I think for the most part, we

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wanted to make sure the process was done right. I mean all we were looking for is fairness and justice for that employee to make sure they had a process that they were treated fairly and we represented employees in the end were terminated. I mean, it happened, but like I say, we still represented them. We went in and sat at the table with them. And sometimes we found out that what they were doing wasn't right. But we still had to do the best we could to represent them to make sure they were treated fairly. Let's see. I know that this...the amendment that is coming up, I'm hoping that we can get to that and I'm hoping that we can actually sit down and make sure that we do this right to keep that collective bargaining piece out of there, so. I truly believe that the next negotiation that they would have, I'd bet you they would be sitting at the table and working on some of that language that would loosen the restrictions on some of the information that needed to go forward. It just has to be a process that allows for fairness. And I know I talked a lot about in the last few days when we've talked about this, about just cause. So I'm sure they have a provision in there for just cause to make sure that they're treated fairly. So with that, I yield the rest of my time. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Crawford. [LB791]

SENATOR CRAWFORD: Thank you, Mr. President, and good morning, colleagues. I just rise in support of ongoing conversations that are being had and I know there have been many conversations and deliberations on this bill to make sure that we keep in place protections for sexual harassment and protections for making sure that when there's misconduct, that it gets reported and to make sure there's protections in terms of making sure that people know when there's hiring taking place as well. And also, I know there have been concerns about some of the disclosure issues. And earlier in the conversation we talked about being able to include some of those disclosure issues without necessarily having it in the collective bargaining section of the statute. And that's been one of my questions and concerns is whether we can address those same issues just without putting it in that section of statute. It's a section of statute that applies to all parties. And I know that this is very narrowly crafted and I really appreciate that and appreciate that the State Patrol is neutral now that it's so narrowly crafted. But it is a precedent that is disconcerting and that's why, I believe, Senator Hansen and Senator Quick have been working hard to see if there is just any other solution on this bill before it goes to the next stage. And that's part of what they have been having this conversation about and so I appreciate their effort

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to again, we have three rounds on these bills in our great Unicameral for a reason, and that is to make sure we have scrutiny necessary and to make sure that we're sure before this bill gets to Final Reading. And so, I believe that...plus Senator Quick and Senator Hansen have been doing and I know it's been a lot of effort again with the police unions and the State Patrol unions and State Patrol interests, and I'm very grateful for cooperation and collaboration that's happened there. But I understand why there's still some question and consideration about whether there is a path forward that doesn't create a precedent that is troubling for all groups that deal in public sector bargaining and are related to those issues in that section of the statute, and whether we can be clear and tight enough or having that set precedent is problematic. So that's really, I think, a part of the conversation that is being had and so I appreciate the members for being engaged in that conversation even at this late date on Select File to make sure that there is added attention and make sure that members are comfortable with the bill as amended and so that we can try to put in place the protections that are necessary and just be as careful as possible on any precedents that are being set. And that's, I think, why Senator Hansen and Senator Quick are engaged in these conversations. And so I appreciate your time as they're deliberating here for a few more minutes and appreciate your attention to this issue. We do want to make sure there's accountability and transparency and we want to make sure that we're supporting our public safety officers as well. And LB791 is an effort to balance those issues and make sure that we're doing it in a way that put those protections in place but then as narrowly and as carefully as possible. So, thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Crawford. Speaker Scheer, you're recognized.
[LB791]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. I know we are waiting for some verbiage and some paperwork to come down on this bill, and rather than to either stand at ease or to fill time, I'm going to move back to LB793 which ran into some difficulty earlier this morning. We found out it is in need of returning back the amendment as I understand there will be those that will explain it, but we will come back to LB791 after lunch, but we will try to finish up LB793 before lunch. So if we could return to LB793, please. [LB791 LB793]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Moving back to LB793. Mr. Clerk. [LB793]

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CLERK: Well, Mr. President, Senator Krist would move to return the bill for a specific amendment. And that amendment...the first I have, Senator, is the amendment Senator Riepe had filed earlier today, AM2906. Is that the one you want, Senator? [LB793]

SENATOR KRIST: That is correct. [LB793]

CLERK: Okay. [LB793]

PRESIDENT FOLEY: Senator Krist, you're recognized to open on your return motion. [LB793]

SENATOR KRIST: Colleagues, please listen and understand this is something that we need to do. After we took the action, and I did register some concerns, some technical concerns and a warning that this sunset would need to be paid attention to in years to come. We found out that the real reason for the need for this amendment was indeed a \$5 million price tag that we can ill afford to spend. So the technical side of this is simply this. If we don't put AM2906 on to LB793, it would kill the bill and do some very bad things in terms of those services that the people of the state need. I did not intend, nor would I ever try to interfere with those services. So I've asked the Speaker in his indulgence to allow us to go back to this subject matter. With that, I would give the balance of my time to Senator Riepe if he would like to take it. [LB793]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Riepe, 8:30. [LB793]

SENATOR RIEPE: Thank you, Senator Krist. And Mr. President and colleagues, I apologize for the confusion earlier today and I take full blame for that. On Friday, the body approved AM2871 which include trigger language for the high school entitlement. The language in AM2871 has been worked on by many shareholders in the community to allow services to occur within the DD Waiver which is fiscally responsible and allows for the Aged and Disabled Resource Centers, the ADRCs, to continue to provide important services throughout the state. My office received concerns from the department and provided suggested changes to AM2871. These are two reasons for those changes. First, without moving the transition date to July 1 of 2019, the Legislature will be creating at least a \$5 million fiscal impact that was not anticipated prior to the adoption of AM2871. With the withdrawal of AM2906 this morning, the current language

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creates a \$5 million fiscal note as noted by Senator Krist. The second change is to make sure the original intent of AM2871 is within the language of the bill. The new language should allow the state to avoid potential relocation of Nebraskans to Nebraska just--and I repeat--just to qualify for this entitlement. The high school entitlement was never meant to encourage relocation for the entitlement, but to provide these services to Nebraska high school graduates. This language is very necessary. The amendment also includes clarification regarding the type of services that are comparable with the waiver. That is why the words, quote, unquote, day services, were added. Finally, working with Senator Erdman, I added further clarification to the ADRCs that only the AAAs that seek to participate in the ADRC program are required to meet the mandatory requirements within the bill. Reflecting back on the date, this morning a line and page amendment would have provided better clarification and that is why I have AM2906 to show the exact changes from AM2871 to AM2906. Thank you, Mr. President. Thank you, Senator Krist, and again, I apologize for the confusion earlier this morning. And I ask for your green vote on AM2906 and the underlying bill of LB793. Thank you, Mr. President. [LB793]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Krist, you are next in the queue if you care to use the time. He waives that opportunity. Senator Stinner, you are next in the queue. [LB793]

SENATOR STINNER: Thank you, Mr. President. I just want to weigh in very quickly from the appropriations side of things. As I've reported, we've kind of drained the swamp in HHS, so when this came up and all of a sudden we turned the amendment down and it created a fiscal note of \$5 million, it effectively killed the bill. Obviously then this program would have fell on state funding. We can't afford it. This bill needs to...this amendment needs to be attached. I think it's an object lesson for all of us, too, that be mindful of the fact, we negotiated this bill, LB793, last Friday. We got everything amended that we needed to get amended. Administration has to catch up with that. They have to take a look at that. Then Fiscal Office needs to take a look at that to make sure that they're caught up with all the details. It takes a little bit of time when we're dealing with a very compressed schedule. These things sometimes happen and it becomes frustrated, but we do need to pass the amendment. Thank you. [LB793]

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PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Krist, you're recognized to close on your motion to return the bill to Select File. [LB793]

SENATOR KRIST: Just very quickly. Thank you for the cooperation and also for the quick work from Fiscal Office to let us know and the courtesy of the...and words from our Chairman of Appropriations. Glad we caught it before it was too late. Please vote green on AM2906 and the underlying LB793. [LB793]

PRESIDENT FOLEY: Thank you, Senator Krist. The immediate question is to return the bill to Select File. Those in favor of returning the bill vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB793]

CLERK: 40 ayes, 0 nays on the motion to return. [LB793]

PRESIDENT FOLEY: The bill has been returned to Select File. Mr. Clerk. [LB793]

CLERK: Senator Krist would offer Senator Riepe's AM2906. [LB793]

PRESIDENT FOLEY: Senator Krist, you're recognized to open on the amendment. [LB793]

SENATOR KRIST: As discussed, it's very important that we put the amendment on and we can move forward and not have that additional price tag. Thank you, colleagues. [LB793]

PRESIDENT FOLEY: Thank you, Senator Krist. Is there any further discussion on the amendment? Seeing none, Senator Krist, you're recognized to close on the amendment. He waives closing. The question for the body is the adoption of AM2906. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB793]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB793]

PRESIDENT FOLEY: AM2906 is adopted. Anything further on the bill, Mr. Clerk? [LB793]

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CLERK: Nothing further. [LB793]

PRESIDENT FOLEY: Senator Morfeld for a motion. [LB793]

SENATOR MORFELD: Mr. President, I move to advance LB793 to E&R for engrossing. [LB793]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB793 advances. Items for the record, please. [LB793]

CLERK: Mr. President, Senator Erdman, new resolution, LR488. That will be laid over. Two confirmation reports from the Government, Military and Veterans Affairs Committee. And Enrollment and Review reports LB948 to Select File with amendments. (Legislative Journal pages 1527-1528.) [LR488 LB948]

Senator Brewer would move to recess the body 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, Mr. President.

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

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CLERK: Just one item, Mr. President. I have a communication from the Exec Board regarding some appointments to an interim study committee. That's all that I have.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Members, we'll now proceed to LB117. [LB117]

CLERK: Mr. President, LB117 is on Select File. Senator Wishart, I have Enrollment and Review amendments to the bill, first of all. (ER117, Legislative Journal page 836.) [LB117]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB117]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB117. [LB117]

PRESIDENT FOLEY: Members, you 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. [LB117]

CLERK: Senator Hilgers has the first amendment, FA148. (Legislative Journal page 1454.) [LB117]

PRESIDENT FOLEY: Senator Hilgers, you're recognized to open on FA148. [LB117]

SENATOR HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to LB117, and I wanted to have a few remarks put on the record this afternoon. Before I do, I wanted to emphasize part of what my approach to legislation, I think what we do here really does deal with two separate questions that in many ways are not related. One question is whether or not what we are doing, is it a good policy decision? Is this...if this policy was enacted, is this good for the state of Nebraska? The second question is, and I believe it's a distinct question, is whether or not we have the power to enact that policy preference. So even if it's a great policy, if it's not constitutional or we do not otherwise have the power to enact the particular law, I think we have to look at that, and I think we should not be passing things that we don't have the constitutional authority to do. And that cuts across policy objectives. That's not a right-left issue. It's not really dependent on whether I agree with the policy or not. It's a separate

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and distinct question that I think transcends ideology. And I'll give you a couple for instances. On the one hand is LB117. LB117, the underlying policy goals I've told Senator Hilkemann, is one that I agree with. I think people who are nearing or in that stage of life when they're terminally ill and are looking for a cure and looking for hope ought to have a structure through which they can get access to experimental drugs under the right conditions, not just carte blanche, but under the right conditions. The fact that DC, the...our congressional representatives in Washington, D.C. haven't figure out a way to expand this. At the federal level I think it's problematic and I'd encourage them to do so as I have before on the mike. But regardless of whether or not I agree with LB117 as a policy perspective, and I do, as a constitutional matter I think it's deeply flawed and I'll talk about that in a second. But take the opposite, take another bill and I think Senator Chambers' LB449, the black-tailed prairie dog bill. I agree from a policy perspective from Senator Hughes regarding the problems that are pervasive with a number of our rural friends and neighbors with this particular black-tailed prairie dog. But at the same time, I believe there are some significant due process concerns and property right concerns with the underlying statute that's in place now, and it's one that we have to grapple with. So those...whether someone agrees with the policy or not, I think is independent of the question of whether it's constitutional or not. And here is LB117 is where...the reason why I am not supportive of it is because I do not think that it's a lawful exercise of our constitutional authorities. And I've spoken about this before, and I'm just going to briefly summarize my comments again, but the reason I rise is not just to repeat those. I always think it's worth considering the constitutional authority with which we are operating under, but also discuss a recent Attorney General's opinion that I requested and received on this very precise issue. So very briefly the reason why I believe this is unconstitutional is that under the U.S. Constitution, it's pretty clear that where state law conflicts with federal law, federal law trumps. It's supreme. It's a supremacy clause of the U.S. Constitution. Now, I believe that under Article I, Section 1, we have a federal government that has limited constitutional powers, and I think those powers in many ways have been extended and broaden beyond the original meaning of the Constitution, beyond I think in a way that's really tied and tethered to the original language that's in the Constitution, but putting that aside I believe that Congress, of course, does have the authority to regulate interstate commerce. And in this particular instance it has done so under the Food, Drug and Cosmetic Act, which regulates the interstate commerce with respect to the sale of drugs. So we have a lawfully-enacted federal statute that in my view takes up the field, and under that

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particular statute, it says, one cannot buy or sell certain kind of drugs if they have not gone all the way through the FDA approval process, they cannot be purchased or sold unless they've gone through that process. And what we're saying here under LB117, is that, no, no, no, no, it doesn't matter if you go all the way through. If you just get through one stage that's enough for you to purchase or to buy those products or sell those drugs. I believe that is in direct conflict with federal law. I don't think there's any argument that the Food, Drug and Cosmetic Act is not a lawful exercise of Congress's constitutional authorities under Article I, Section 1. I believe it is as a regulation of interstate commerce, and I think it's almost impossible to argue that LB117 is not in direct conflict with that particular provision because it authorized that which Congress has said, cannot be done. Congress said, you can't sell it. We're saying you can sell it. Those are in direct conflict. So it's been my position that LB117 if enacted into law would be unconstitutional. And I requested an opinion from the Attorney General on that particular point. I would like to read some of the comments from the response of the Attorney General's Office into the record today. And I received this response on March 27th, that Senator Hilkemann knew that I was requesting the response, he was copied on the request. He has seen the response. He and I have discussed the response both when it came in and more recently. And the question I asked was whether or not LB117, if enacted into law, would be preempted by the Food, Drug and Cosmetic Act in the supremacy clause of the Constitution. Now, of course, the Attorney General's opinion is not a court opinion, but the Attorney General does provide legal analyses which are helpful to this body. And the conclusion that the Attorney General's Office concluded and arrived at, and I'll read some of the reasoning here in a second, but the conclusion was based on our review of other supremacy clause cases, we think a court may well find one or more provisions of LB117 to be preempted by federal law. We think the provision of Section 5 of LB117, which allows manufacturers to make investigational drugs and devices available to eligible patients is the most likely to be found preempted by the Food, Drug and Cosmetic Act and the regulations which implement it. So that's the conclusion from the Attorney General's Office. So I'm going to read a little bit some of the reasoning that the Attorney General included and it's a multi...it's about a seven page legal memo. I'm certainly not going to go through all of it here this afternoon, but I think I wanted to highlight a couple of the primary paragraphs. And I'm just going to quote from two separate paragraphs, if I might here, briefly. The Attorney General's Office says, it appears a court would carefully evaluate each claim or defense asserted under the state law and determine whether that claim or defense was preempted by one of the many

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provisions of the Food, Drug and Cosmetic Act and the regulations which implement it, and I'm quoting from page 6. In our view, although LB117, Sections 5 and 6 allow manufacturers of investigational new drugs and biological products to make those treatments available to eligible patients, a defense based on the state law provision may well be impliably preempted by the provisions of the Food, Drug and Cosmetic Act which prohibit any person from placing in interstate commerce any new drug which has not yet received FDA approval. So, first and foremost, the Attorney General is concluding, hey, these conflict. These are in conflict. Now, one of the rejoinders from proponents of this particular law said, well, you know, there are other laws out there and they've never been challenged and there's no case law, which is I think, a fair point so far as it goes, but I think the relevant data point is not whether there's an absence of challenges, but whether there has been a challenge in a similar law has been upheld. I think there's a significant substantive distinction between those two different things, and the Attorney General goes on addressing that very point. Although there is an absence of case law addressing this issue, point that I can see as do others, it is likely that a court would find that Congress and the FDA through existing federal statutes and regulations concerning early or expanded access to investigational drugs have, quote, occupied the field, which is a term of art in the pre-entrance space, such that LB117, Sections 5 and 6 are preempted for that those provisions of LB117 are preempted through conflict preemption. With regard to investigational devices state law claims may well be expressed as preempted. So the Attorney General has looked at the case law surrounding this area of conflict preemption that I've spoken a lot about and it's concluded, say, hey, in the absence of federal law these things directly conflict, and it's likely that a court would find them preempted. The Attorney General goes on and collects some research, which I think is relevant for this body to consider as sort of a confirmatory data point. The Attorney General said, in addition, several law review authors have expressed the opinion that at least some of the provisions of the various right to try laws are likely preempted by federal law. And then it quotes a number of areas of law review articles which I will not go into detail here on the mike. But it's all on page 6 of the Attorney General opinion that we received dated March 27, 2018. So colleagues, I think it's very clear, in my view, that LB117, if enacted into law as it's currently constructed, would conflict with validly issued and enacted federal law directly on this point. I think as such, this law... [LB117]

PRESIDENT FOLEY: One minute. [LB117]

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SENATOR HILGERS: ...is preempted under the commerce law or the supremacy clause. Thank you, Mr. President. And is...we do not have the authority to pass it. Now, I have told Senator Hilkemann that I oppose it. I'm not...this amendment is on the board so that I speak on these issues and get certain things on the record. I know Senator Kuehn has a few amendments behind me that are substantive in nature, or maybe one amendment at this point, that he will speak to that I certainly support, but even with those amendments I cannot support LB117. And I would urge when we get to Final...if we get to Final Reading because this would probably be a voice vote, when we get to Final Reading we might talk about this again and that I would encourage you all to vote no on LB117 because I do not believe we have the authority to enact it even though it may very well be a very good policy idea. So with that, Mr. President, I would withdraw FA148. [LB117]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Is there anything further on the bill? [LB117]

CLERK: Yes, there is, Mr. President. Senator Kuehn, I understand you wish to withdraw AM26...I'm sorry, AM2867, AM2866, AM2876, AM2877. You want to withdraw those, Senator. [LB117]

PRESIDENT FOLEY: Amendments are withdrawn. [LB117]

CLERK: Mr. President, Senator Kuehn would move to amend the bill with AM2911. (Legislative Journal pages 1529-1530.) [LB117]

PRESIDENT FOLEY: Senator Kuehn, you're recognized to open on AM2911. [LB117]

SENATOR KUEHN: Thank you, Mr. President, and thank you, colleagues. Today, I bring before you AM2911 which is a combination of the four prior amendments which were filed, which each had an individual, substantive issue with LB117 that I discussed when we discussed this bill on General File. I would like to thank Speaker Scheer and Senator Hilkemann for sitting down with me this morning, and we talked through these amendments, and while I don't want to overstep and speak for them, both agreed to the substantive nature that these...and I want to be clear, these

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are not intended as filibuster amendments. These are substantive amendments to address some of the policy concerns that I've had with LB117, so that in the event that this body does pass it, we address some pretty serious issues with the legislation. So I'm going to walk you through the four changes that are made in LB117 and then encourage your green vote on AM2911. First, in the original bill, AM2911 strikes Section 8, which is the automatic exemption from action on licensure of any physician who is utilizing right to try medications and instead replaces it with a statement that says, quote, a good-faith recommendation to an eligible patient regarding access to treatment with an investigational drug, biological product or device shall not subject the healthcare provider to discipline or an adverse licensure action. This section does not preclude any penalties under federal law, including 42 U.S.C. 1395, which is commonly known as the Stark Law, which prevents physicians self-referral and financial conflicts of interest between physicians. This is addressing one of the phenomenon that we've already seen in Texas in which the physician there who is often held up as the individual whose utilized right to try legislation actually is both the chairman and CEO of the pharmaceutical company that produces the drug to which he is utilizing and prescribing to patients under the current right to try law. The second substantive change is one that changes terminology in page 2 of the bill which currently states that "would soon result in death", which is a very imprecise term and instead provides a statement with greater clarity saying instead, "would likely result in death within six months" to ensure a time frame for the utilization of right to try and unapproved medications. Finally, we have two issues resulting in ensuring that those who should choose to participate in the investigational drug act not be put in financial jeopardy by their choice to participate in utilizing these types of investigational drugs. First, it strikes the statement which would preclude insurance companies from being responsible for any care consequent to use of the investigational drug, product or device, which is located on page 3, line 22, as well as in line 30. So the insurance company is responsible...or is not responsible for paying any of the costs for the product only, but any consequent care is still the responsibility of the insurance company. And finally, one of my concerns in page 3 on section or paragraph 6 of Section 4 which reduced the potential for an individual to participate in hospice care, so it strikes Section 6. So Section 5, paragraph 5 of Section 4 will read, contains the statement that the patient's health insurance carrier is not obligated to pay for the investigational drug, biological product or device and makes clear that the patient understands that he or she is liable for all expenses of the investigational drug, biological product or device. So, it takes away some of the potential

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financial risk and ethical concerns as well as ensures that there's still accountability should a physician act outside their ethical framework within the state of Nebraska. So, again, I appreciate the opportunity to sit down with the Speaker who made this a Speaker priority, and Senator Hilkemann to work through these substantive amendments. I do think it improves the bill dramatically, and I encourage your green vote and support for AM2911. Thank you, Mr. President. [LB117]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Debate is now open on the amendment. Senator Hilkemann. [LB117]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. I want to just say, this is the third time that we've had this bill before this body, and I appreciate the support that we had on General File on this. I would just comment that in Senator Hilgers' concerns about this bill that the Attorney General's report said "may"... "may", and that this has been in place in 38 states across the United States, and so far we've not had any court challenges. I really want to thank Speaker Scheer for prioritizing this bill again and I want to thank Senator Kuehn for his suggestions that he came. We worked these amendments out this morning, and I agree with what Senator Kuehn just said that this makes this a better bill. We can't forget what we're doing is, we're giving people who are suffering, near the end of their life, if there is a...some drug that becomes available that has not gone through the entire FDA process but has gone through the phase one, and they wish to try that drug, this gives them the opportunity. So with that, I would suggest that we adopt AM2911 by Senator Kuehn. A green vote there and a green vote to advance LB117, I would appreciate it. Thank you very much, Mr. Lieutenant Governor. [LB117]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Seeing no further discussion, Senator Kuehn you're recognized to close on your amendment. He waives closing. The question for the body is the adoption of AM2911. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB117]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Kuehn's amendment. [LB117]

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PRESIDENT FOLEY: AM2911 is adopted. [LB117]

CLERK: I have nothing further on the bill, Mr. President. [LB117]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB117]

SENATOR WISHART: Mr. President, I move to advance LB117 to E&R for engrossing.
[LB117]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. Division. We'll take a machine vote on this. Those in favor of the bill vote aye; those opposed vote nay. Have you all voted? Record, please. [LB117]

CLERK: 29 ayes, 9 nays on the advancement of the bill. [LB117]

PRESIDENT FOLEY: LB117 advances. We will proceed to LB989. [LB117 LB989]

CLERK: Senator, I have E&R amendments, first of all. [LB989]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB989]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB989.
[LB989]

PRESIDENT FOLEY: Members, you 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. [LB989]

CLERK: Senator Smith, I have AM2894. (Legislative Journal page 1482.) [LB989]

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

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SENATOR SMITH: Mr. President, I'd like to remove that amendment, please, withdraw that amendment. [LB989]

PRESIDENT FOLEY: The amendment is withdrawn. Mr. Clerk. [LB989]

CLERK: Senator Wishart, I have a note you wish to withdraw AM2896. Senator Friesen, I have AM2892, Senator. (Legislative Journal page 1492.) [LB989]

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

SENATOR FRIESEN: I would withdraw the amendment. [LB989]

PRESIDENT FOLEY: The amendment is withdrawn. [LB989]

CLERK: Senator Blood, AM2865. (Legislative Journal page 1501.) [LB989]

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

CLERK: Do you wish to withdraw, Senator? [LB989]

SENATOR BLOOD: Thank you, Mr. Speaker. Since some decisions were made this morning, I'm no longer going to amend this on to the bill. [LB989]

PRESIDENT FOLEY: The amendment is withdrawn. [LB989]

CLERK: Senator Wishart, AM2907. (Legislative Journal page 1530.) [LB989]

PRESIDENT FOLEY: Senator Wishart, you're recognized to open on AM2907. [LB989]

SENATOR WISHART: Thank you, Mr. President. AM2907 is a technical amendment that addresses a change requested by Bill Drafters in a technical change that relates to the registering and titling of autonomous vehicles. This second change comes from working with the Governor's

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Policy Research Office this morning. I want to thank them for working with me on this legislation and to Speaker Scheer for allowing us time to work on language with PRO. With that, I encourage all of you to vote green on AM2907. Thank you, and again, please vote green on the amendment and the underlying bill. [LB989]

PRESIDENT FOLEY: Thank you, Senator Wishart. Is there any discussion on the amendment? Seeing none, Senator Wishart waives close. The question for the body is the adoption of AM2907. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB989]

CLERK: 28 ayes, 2 nays on the adoption of Senator Wishart's amendment. [LB989]

PRESIDENT FOLEY: AM2907 is adopted. Mr. Clerk. [LB989]

CLERK: I have nothing further on the bill, Mr. President. [LB989]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB989]

SENATOR WISHART: Mr. President, I move to advance LB989 to E&R for engrossing. [LB989]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB989 advances. We will proceed to LB791. [LB989 LB791]

CLERK: LB791, E&R amendments were adopted this morning. Senator Hansen, you had pending AM2847 as an amendment to the bill. (Legislative Journal page 1438.) [LB791]

PRESIDENT FOLEY: Senator Hansen, would you like to take a moment to refresh us on your amendment? [LB791]

SENATOR HANSEN: Thank you, Mr. President. AM2847 is a placeholder amendment or what Bill Drafters do refer to as a discussion amendment. It would strike Sections 1 and 2 of the bill,

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sections which I support, but for the moment it is holding place on Select File. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Mr. Hansen. Mr. Clerk. All right. Next in the queue is Senator Bolz. [LB791]

SENATOR BOLZ: Thank you, Mr. President. I'm pleased that there are continuing discussions on finding some compromise on this piece of legislation because it includes a very important provision that was something I was looking for actually in debate last year. When we debated the appointment of Colonel Rice, I rose with concerns about the culture in the State Patrol. And just to read from the transcript, I rose with concerns about a candidate who worked in a culture where inequality was tolerated and I asked a series of questions about what it meant that a culture change was occurring. And the first thing that people said was occurring was an acknowledgment that a culture change needed to happen, but there were a lack of details around what that looked like and how things were going to, in fact, change. And what I ended up saying at the end, before not voting in support of Colonel Rice, was that I found that need for culture change--I don't quote from the transcript now--especially concerning because in a national context where we're seeing significant challenges in communities of color, low-income communities, people of different types in law enforcement, we need more than someone who just acknowledges that change needs to happen. And what I said then was that we needed someone who was taking extraordinary and exceptional steps to make sure that we are doing the best that we can to be an inclusionary community-based, smart, equal, and high-quality employer. And so when those changes didn't happen, and in fact we had the opposite occur, I was pleased to see that this piece of legislation takes a number of steps forward in terms of clarifying how that culture change will happen through statutory change. So Senator Howard reviewed some of this information earlier, but the legislation as proposed to us, articulates how reports of sexual harassment will occur when disclosure is authorized, the identity and to whom that identity will be disclosed, when is necessary for conducting an investigation or imposing discipline. These are the kinds of changes that I was hoping for last year when we talked about some of the problems of inequality and unfairness that we were seeing in the division, and so I'm really pleased that this piece of legislation continues to find its way forward. And with that, I will yield any of the remainder of my time to Senator Quick. [LB791]

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PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Quick, 2:00. [LB791]

SENATOR QUICK: Thank you, Mr. President, and thank you, Senator Bolz. I want to thank Senator Ebke and her staff and Senator Albrecht and her staff for sitting down with us and trying to reach an agreement in negotiating. I know we're still waiting for an amendment to come down that we can all, hopefully, we can all agree upon. We've talked to most of the parties, and...well, actually all the parties involved, and so we're actually waiting to see what comes back. So, you know, my whole point all along has been that the collective bargaining piece within the language is my concern, and I've wanted to make sure that people understand how important that keeping that right and being able to bargain for on the grievance and discipline procedures is important to all of us. And I know that at times that...I know the officers themselves want to make sure they're doing the things that they...you know, their jobs right. [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR QUICK: And you also have to make sure that management on their side is doing what they're supposed to do. And I know in my experience, I'm negotiating with...on a discipline we found that probably half the time the employee's been in the wrong and the other half the time the employer hasn't followed their procedure down the way, along the way. So it's just very important for me to make sure we can hold on to the collective bargaining rights. I know at some point along here I'll probably read a little bit about maybe some of the history of collective bargaining and I might even talk a little bit about the history of the IBW as we go along. And hopefully that the amendment will come back soon and we can get to that and then come to an agreement and vote on this bill. So with that, I yield the rest of my time. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Schumacher. [LB791]

SENATOR SCHUMACHER: Thank you, Mr. President, and members of the body. Just to briefly comment on this. This bill kind of foreshadows a procedure that started out, I could really be in support of it because I think there had to be a mechanism by which people hiring law enforcement officers would be able to get reliable information on their past and their past

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conduct and any past problems, and that was necessary. I had some experiences as city attorney for some small communities in which that would have been extremely helpful and probably prevented some legal exposure on their part. But this thing has gotten whittled down. We're down only to the patrols, I understand it now, and much of that value has gone away what I originally saw in value, and it got whittled down through deal making. Somebody balked. Somebody got an exemption. Another person balked, got an exemption until we're down only to the patrol and now we're negotiating for, apparently, off the record somehow, exemptions from collective bargaining positions. So what started out as a good thing in the rush to get the thing passed, the expedient maneuvers that apparently are taking place in order to get past Select File, we've got a bill that seemingly, if I were in the patrol, I'd say is unfair to me. I mean, why do I get to deal with this mechanism and not any of the other police departments or police chiefs? And I don't know if it's been a good reason articulated for that difference. From an officers point of view, why? And the second thing that I still find problematic with it is, suppose you have a superior officer, or somebody up in the chain of command who reports to the Crime Commission folks who just got it in for you, who you clash with. How do you appeal, contest that bad report? It would be very much like somebody, a creditor turning in a bad report to the credit card companies about you that simply wasn't true. There needs to be some due process way to challenge a bad report, otherwise how do you know it's there? How do you know how to deal with it? And how do you know it's not a killer for your career if it isn't dealt with? And those, I think, are big problems now that have been created in this bill, and I just am extremely unhappy that we're down to just the patrol being under the scrutiny of this mechanism. There is no reasonable justification for that discrimination among law enforcement agencies. It's a good idea as it started out, but now I am scratching my head wondering whether or not I can justify pushing green on this, and I'd like to push green. But there's been too much deal making going on, and what was...inside this body we should make policy decisions and not be so knee-jerkyish that behind the glass, calls the shots, and unless behind the glass agrees with us, we don't act. This bill was good policy at the beginning. It should remain as what it started out, not this watered-down version that's highly discriminatory with no protective mechanisms for the officers. Thank you. [LB791]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Hansen. [LB791]

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CLERK: Mr. President, I have a request. Senator Hansen would like to withdraw AM2847 and offers a substitute, AM2909. (Legislative Journal page 1531.) [LB791]

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

CLERK: Senator Hansen, AM2909. [LB791]

PRESIDENT FOLEY: Senator Hansen, you're recognized to open on your amendment. [LB791]

SENATOR HANSEN: All right. Thank you, Mr. President, and good afternoon, colleagues. When we initially got back to this bill, I referred to the amendment that I've just withdrawn as a discussion amendment, a placeholder amendment, use whatever term you want to use there. This amendment is a substantial amendment. AM2909 is a substantial amendment. And AM2909 represents where I was at when I walked into negotiations about lunch hour, late morning this morning, and kind of...it's the last bill I had drafted. It was the last amendment I had drafted and at this point it's the best thing I have to offer on this bill. I've cleared some of this off in the previous days, previous day or so since the cloture vote yesterday, but I had to what if you went through chronologically a archeological dig of various amendments of various ideas to the bill going back to, frankly, to the end of February, that obviously some were more discussion amendments and some like this are very sincere. So what this amendment does, it should be up on line, but this amendment strikes Section 3 in its entirety, and then in Section 4 it adds a new substantive division to the powers of the executive director of the Crime Commission that the executive director will have the authority to disclose to the Legislature, the superintendent of law enforcement, public safety, or complainant, the status or outcome of an internal investigation or discipline of a member of the Nebraska State Patrol, and then renumbers and renumbers some sections accordingly. So this is where we've gotten. I have, as I said, Senator Quick has said, as others have said, hesitation and opposition to the collective bargaining language. That is contained within Section 3. The collective bargaining language had some various things to try to do and one of the things we kept coming back to, and I kept hearing of, we really need from Section 3, the collective bargaining language was to protect complainants who have made allegations and determine discipline particularly women who have made sexual assault or harassment allegations, the protection to get an update to know the status and outcome of the

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discipline, as well as we in the Legislature could find out the status and outcome of discipline. Those are things that have been going on...have been going on and we've been trying to find an answer to this. This would take that out of the State Patrol statute, out of the collective bargaining statute, and give it as an affirmative power to the Crime Commission. The Crime Commission could then tell somebody the status of outcome of discipline and whatnot. Now, that's where we left it. I'm kind of...I wanted to make sure at a minimum we had a sincere amendment on the board when we ultimately get to a vote, which I don't think will be all that long here in the future. So this is my best attempt to limit the restrictions in collective bargaining, eliminate the restrictions in collective bargaining as well as provide a best preservation of what those collective bargaining limitations sought to provide to us as a Legislature, the people of Nebraska, and the members of the State Patrol. I was optimistic when I first got up here. We've been meeting throughout the time, throughout this morning and I've talked to people in the body, committee counsel behind the glass, in the glass, out of the glass, upstairs, downstairs, every which way, and I was optimistic...and I was optimistic we could get to some sort of compromise language. And frankly, I still think there's some compromise language that I know I personally can agree to. Apparently there's enough stakeholders and enough moving parts that that is moving at a slower pace and might be impossible, but I guess I still have my slim glimmer of hope of optimism that we can do that. So if we're going to move LB791 forward, I would vote for it, stop debate if we could adopt my AM2909 right now. And this is an opportunity to have a sincere amendment about removing the collective bargaining while still providing some of the affirmative duties to the Crime Commission to just make the disclosure requirements. And the disclosure requirements are kind of things, time and time again...they weren't the only thing, but time and time again, the thing we felt were needed within that collective bargaining section. So with that, I'd ask the body for a green vote on AM2909, and if AM2909 is invited, we can support LB791. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Hansen. (Visitors introduced.) Discussion on AM2909. Senator Quick. [LB791]

SENATOR QUICK: Thank you, Mr. President. You know, over the summer I had the opportunity to go down to the police academy. I was invited by the Hall County sheriff to come out and do a...I guess, it would be, take part in the law enforcement training just from a citizen

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from Grand Island, and it was a great opportunity to see what some of the things that they go through, and I know that they have a hard job. I also know that they see some very difficult situations that a lot of us, we don't see on our daily jobs. So, you know, me as a welder in at a power plant, I didn't interact with the citizens like they do. And so, but it was a great opportunity to...I also did a ride along, which I got to see a lot of different things in the community. I know I didn't get to see everything that they go through, but I know that evening we went through everything from a bomb threat to domestic violence to sexual assault of a child that we saw, so there was quite a few things that go on in their daily lives that we don't usually see. And, you know, going back to that...the collective bargaining piece, it's...for me it's, I take it to heart because that's something that as a union representative, and I was only a rep for about seven years. Three years I was a vice president and kind of helped along, but then the last seven years I actually spent quite a bit of time either working on negotiating or representing people in grievance procedures. I want to read you something about collective bargaining and some of the...and then there will be some history behind that, but collective bargaining with any labor union is a process of a negotiation between employers and a group of employees aimed at agreements to regulate working salaries, working conditions, benefits, and other aspects of Workers' Compensation and rights for workers to secure full-time employment. The interest of the employees are commonly represented...are commonly presented by representatives of a trade union to which the employees belong. The collective agreements reached by these negotiations usually set out wage scales, working hours, training, health and safety, overtime, grievance mechanisms and rights to participate in the workplace or company affairs. The union may negotiate with a single employer who is typically representing a company shareholders or may negotiate with a group of businesses, depends on the country to reach an industry-wide agreement. A collective agreement functions as a labor contract between employer and one or more unions. Collective bargaining consists of the process of negotiation between representatives of a union and employers generally represented by management, or in some countries such as Austria, Sweden, and Netherlands, by employers organization. In respect to the terms and conditions of employment of employees, such as wages, hours of work, working conditions, grievance procedures, and about the rights and responsibilities of trade unions, the parties often refer to the result of the negotiations of collective bargaining agreements. And I can tell you in the state of Nebraska for our local we were a public sector union so we negotiated with anything

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from...we had human resource departments that we negotiated with. We negotiated with at times with mayors or city council people. We negotiated with attorneys... [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR QUICK: ...that represent maybe some of the power districts. Also they would have a manager and maybe a couple of their board members present. And every time we sat down to negotiate, I know it was brought out in one of our meetings that the union may get everything they want, and then that would restrict something that happens down the road or make the restrictions tougher for them to receive information. And I will tell you that working with both sides, that's probably never going to happen because everybody wants to make sure that it works right for everybody, and what's going to benefit the most. With that, I'll yield the rest of my time. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Ebke. [LB791]

SENATOR EBKE: Thank you, Mr. President. I thought I would update folks on where we are. As Senator Hansen mentioned, we did negotiate through the lunch hour. We had a couple of amendments. Unfortunately, in order to be good-faith negotiators with the folks who previously negotiated with us, the State Patrol union and the paternal order of police folks who wanted to make sure that we were treating them fairly, and they are the ones that are most directly and immediately involved in this particular issue. We don't feel like we can...whether we can get a definitive answer from them on whether or not they would approve of any new amendments in adequate time to move this bill forward, so it looks like we've sort of broke down. Let me just make a couple of comments with respect to the collective bargaining language, which seems to be sort of the holdup here. The collective bargaining language is included in the bill because the reference to collective bargaining is necessary in order to prevent collective bargaining agreements from superseding the laws that we're proposing with respect to transparency and the ability of the Crime Commission to get the information that they need. There is a Supreme Court case, Nebraska Supreme Court case, Livengood v. Nebraska State Patrol Retirement System, which basically says that in order for you to exclude particular areas from a negotiated agreement, from the negotiated agreement, you have to actually, as bargaining points, you have

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to actually have it in statute. You have to mention it in statute, and so that's what we were trying to do there. If you look at the current State Patrol contract it includes reference to the assorted HR issues and the release of certain information, so we wanted to avoid doing that so that the Crime Commission could actually do their job. The bill does still apply to state and local officers and agencies. The only narrowing that we had, and I think Senator Schumacher asked this question, they may be addressing it over there now, but the only narrowing with regards to the Crime Commission with respect to the subpoena power that the Crime Commission would have with the State Patrol only. And the rationale for that was really one of a fiscal note as much as anything. You know, our belief was that we had to be very careful about tacking on sort of new, administrative burdens for the local agencies, but the Nebraska State Patrol believed that they could handle the requests under certain...under the current, with current staff with the Crime Commission power directed just at them. So that's where we're at. You know, we continue to talk through this, and, you know, it may be that there will be some sort of a surprise, but it looks like any kind of a negotiated agreement is going to become quite difficult to come by. So, in the end I would...if the board stays as it is, I would encourage you to vote no on AM2909 and yes on LB791. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Krist. [LB791]

SENATOR KRIST: Thank you, Mr. President. Good morning, or good afternoon, colleagues, good afternoon, Nebraska. The amendment that is up before you, AM2909, preserves all of the strength and all of the transparency and all the changes that would have been made in one of the bills that we heard in Judiciary that was attached to the other bill that went to Business and Labor that are messing with the negotiated rights of union members. It only applies to one union. It is only limiting those capabilities for the state troopers. It is an overreaction to a bad actor being in charge of the State Patrol who did not apply proper leadership, who did not surface and bubble up the issues that he needed to to protect the troopers themselves, to protect the sexual orientation and the abuse that went on. So we...in negotiation this morning, I kept asking the same question. What are we trying to fix? We're trying to fix a situation that no longer exists. Brad Rice took all of his secrets, all of the gag order with him. He walked out the door, and there are still so many questions that we have about how he mismanaged and how we got to the situation that we're in. But, folks, collective bargaining does not need to be messed with. What's

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next? Collective bargaining issues for corrections officers. And I've told you many times on this mike, the corrections officers are in the Supreme Court right now asking, or they were in the Supreme Court, asking to be relieved and cut away from the state labor union. If the Supreme Court rules in their favor and we do this to this union, what are the rest of the unions inside the state going to do? I know what I would do. The precedent is there. I don't want to be treated like the troopers do. I want out. This is a clear and simple amendment that enforces and does what needs to be done in order to give the Crime Commission teeth. I've been on the Judiciary Committee for six years, and every time Mr. Fisher comes in and talks to us about an issue, he complains about not having the teeth that he needs to do what he needs to do and the organization not being able to look at all law enforcement all across the state. Why should the state...the state trooper should be the premiere unit in the state, but why should they be held to a different standard than anybody else? Conversation I had this morning with Senator Albrecht, I think she agreed that she would like to see all the police, all the police officers, anyone who is wearing a badge have the...that the Crime Commission would have the same jurisdiction over them that we're purporting to do with the State Patrol. If you believe that you can look at your constituents who are union members and say, I helped to deteriorate the collective bargaining process for one union in this state. If you can go out and try to get re-elected and say to your union members, I was a green vote to start the deterioration of the collective bargaining efforts of one union in this state, then vote no, or red on AM2909. But AM2909 represents the answer for this dilemma. And you know what? If it gets vetoed, it gets vetoed. At least we could stand on our own principles for once. PRO said, no way, no go. We're not doing this. We're going stick with the negotiated fact. You go out there and you talk to any of those unions, don't, because they're all going to give you a different idea. I'm okay with this. I'm afraid...I hear this over and over again when I go out there. We're afraid of what's going to come next. If this is the best deal we can muster then it's the best deal we can muster. Collect your checks because you represented one client in this state, and you got what they wanted, but I'll tell you one thing, and I'll name some names. Mr. Miller had no opportunity as the lobbyist for the... [LB791]

PRESIDENT FOLEY: Time, Senator. [LB791]

SENATOR KRIST: ...state troopers to weigh in on this particular amendment. [LB791]

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PRESIDENT FOLEY: Thank you, Senator Krist. Senator Blood. [LB791]

SENATOR BLOOD: Thank you, Mr. President. Fellow Senators, I stand in support of AM2909. We've heard a lot today about collective bargaining, and one of the things I've not heard and perhaps I've missed it on the mike, is I want to talk a little bit about our first responders and why collective bargaining is so important. I fear so often when we talk about things, issues like this, we talk about unions, which of course are very important. I mean, they built America, but people end up being either pro or con. And the one thing that collective bargaining does for these first responders especially who put their lives every single day on the line for me and for you, is it gives them a unified voice. And that unified voice is important because unlike a lot of organizations that are union oriented, these people who risk their lives, who run towards danger every day for us, they take an oath to protect and serve, and they don't ever engage in stoppages or slow downs because they understand what their role is. So I think we have to be really cautious about what we approve and don't approve today because ultimately that is what we're talking about. We're talking about people who are putting their butts on the line for us, who have short-lived careers, from firefighters to State Patrol. Their health issues are issues that you and I don't have to deal with every day. They have short careers. We have to make sure that they can continue to have a voice to protect themselves and their families, because that's the right thing to do. That's the ethical thing to do. But I have to tell you that it was my hope that sometime when we would here my amendment, AM2809 that's been treading water, still in the queue, because I want to talk about this one more time because ultimately this is my concern with the bill. Women are a long way from parity with men, especially at the State Patrol. Changes have and are being made, but we're not there when it comes to women and people of color. The issues that are pertaining to workplace harassment have existed under our radar in many forms for many, many years, and I think that's embarrassing. I want to see this as culture of boys will be boys comes to a halt. I want to see an era of mutual respect start now. Women have been sexually harassed, intimidated or physically preyed upon. So what I'm going to say right now, this is for you. I'm disappointed at the abuse of power, the fear of retaliation, the obvious imbalance of power and how women who dare to speak up were ignored. They were ignored. That made them voiceless, and that is wrong. All people have the right to have their voices heard. They have the right to feel safe and unintimidated in the workplace. Let's be careful what we do and do not vote for today. There's a lot of good things going on behind the scenes. I respect Senator Ebke. She is one

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person who is always willing to negotiate, is always willing to listen, and I think that is admirable. She doesn't bring partisan politics into it. She's thinking about the people. And so as we rise to stand either for or against these bills and amendments, as we look to vote, be it green or be it red, I want you to think about all of this is ultimately about people. People and their right to be heard. When we're talking about transparency, we're talking about safety. When we're talking about their voices, that's what we're talking about with collective bargaining. But let's make sure we're doing the right thing. Let's make sure... [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR BLOOD: ...that we protect those who have not been able to protect themselves and let's give a voice to the voiceless. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Quick. [LB791]

SENATOR QUICK: Thank you, Mr. President. And I do support Senator Hansen's AM2909, and I think that would remedy all the things that I have concerns about within the bill itself. I want to talk a little bit about the fact that my grandfather was a state patrolman. His name was Clifford Watson. His badge number was number seven. He was in camp number two when they first started the State Patrol back in, I believe this was June 29th is when he...I'm going to guess when he went to camp in 1940 and August 3rd, 1940, I'm going to guess that's either his graduation date from the camp or when he actually started with the patrol. And he retired November 2nd of 1969 from the patrol. And I can remember as a kid I got to ride around with my grandfather once. He took me around the block, and he let me push the siren one time, which was really exciting for a young child. I can remember my mom also talked that...he did get in trouble a couple times, but I think it was for not giving out enough speeding tickets, is what she said. So that might have been his reason, but that's what she told me. I know we were very proud of my grandfather when he served in the patrol, and he has since passed away but we still remember him well. Going back to the collective bargaining, I can tell you that when we negotiated with the city of Grand Island we always had a great reputation with the city for working with them and coming to an agreement, and I think that's what this is all about. I think this...what's in this bill they could actually do through negotiations and probably write the process, make it work so

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that the information that they need is released. But it should go through the negotiation process through the collective bargaining agreement, not through a bill that's...that we want to make into a law. And that forces the hand of the fact that we're going to lose some of those rights. I have the fear that it won't just stop at the State Patrol. That's my own fear. I know that's being a little pessimistic, but my fear is that it won't stop there, that it will move to another bargain unit within the public sector. And what happens in a right-to-work state is that you already have the fact that members don't...you know, people who are in the bargaining unit don't have to pay dues, so they are still represented. They don't have a voice within that local or within that unit, but they are still represented at the bargaining table because you're bargaining for everyone who is paying dues, and everybody is included in that. So this could have adverse effects of where you could...if people lose their rights like what's happened in other states, like Wisconsin and other states where they've taken away their collective bargaining rights, you've seen a drop in membership. And so that's some of the fear that's coming out of this is that this will start to reduce the numbers and as you reduce the numbers of people who pay dues, it actually ends up weakening those units and the labor unions and they lose some of their bargaining power with the employer. [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR QUICK: Thank you, Mr. President. So that is one of my biggest fears that this is where this is taking us, and I just strongly believe that this does not belong within this...within LB971, and I will continue to support Senator Hansen's amendment, and we'll keep moving from there. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Hansen. [LB791]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon again, colleagues. Colleagues, I obviously rise in continuous support of my amendment and in potential support of LB791 with my amendment's adoption, AM2909. I just kind of want to get up and make sure we're clarifying who's involved and what's happening and what's going on. I don't think we're at a point where this bill has become too complex or there are too many parties or any of that to happen. Earlier it was kind of implied on the microphone that a State Patrol union or the police

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groups unions, everybody basically various groups behind the glass killed an amendment because they didn't have time, or we couldn't do another amendment because you don't have time. I would invite anybody who is on the fence who is interested, who is not on the fence, just go back and check with anybody there. There are plenty of people out there who are looking at language, talking about things and that. I think AM2909 is not against anything, the Fraternal Order of Police, the state troopers, Omaha police, Lincoln police. This is, kind of been something I have flagged the whole time ever since we had this in Business and Labor Committee and have been working with those groups as something that they would...it was maybe a higher priority for me than it was for them, but it was certainly something removing the collective bargaining language is certainly not something they want. They don't want the collective bargaining language. It's not (inaudible) to their support or respective neutrality of the bill. Sorry, I believe I got the double negatives there and hopefully that didn't get too confusing. But there's certainly an opportunity to adopt my amendment. It keeps intact, I think, everything that the police unions and various groups have support of and we can move forward and we can move forward pretty easily with the adoption of AM2909 just removing the collective bargaining and protecting one provision by giving it the power expressly to the Crime Commission. So...and I think just kind of what we're seeing, I actually think Senator Schumacher had some interesting comments earlier, and I was glad he commented on it. If you look at the bill, different sections apply to different groups, so Sections 1 and 2 applying to all law enforcement across the state, Sections 3, 4 and 5 apply just to the State Patrol. And that kind of gives you, if you can just read between the lines there, the respective positions of the State Patrol and the Fraternal Order of Police and why one might be in support and one might be neutral. We have limited this in some areas. We had broadened it in some areas, and fundamentally as these negotiations have been going on time and time again, I have been worried about the collective bargaining. I know there's kind of been some precedent and some credit gave people who were willing to come bargain and negotiate early. I think the problem, maybe a problem that happened in this bill is not a lack of negotiation but maybe a sequential sets of negotiations where one group's concerns were addressed and another group's concerns were addressed, and it built, and unfortunately when you get to the final group of people whose concerns to be addressed, which happens to be a handful of senators on this floor, we've now reached the point where we felt that the bill had...too many negotiations have happened or it's somehow too late. Colleagues, until we take a final vote on this, it's not too late. I mean, I know we've got the day 58, clock running in the back of our

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heads, but...and so there's definitely a time crunch, but we still have the time to get up, you know, enforce our ideas and thoughts as the policymakers in the state of Nebraska. And I just as a state senator, as a policymaker for the state of Nebraska, fundamentally continue to have opposition to the fact that we did not feel like we got the right things in a labor contract, so we're going to pass a state law saying the next time we do that labor contract... [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR HANSEN: ...we start with the leg up and there's some things that are just off the table. That...I know people who have alluded to it as a slippery slope or running down the hill. To me, the first step is already one step to far down the hill. This is that first step, and that is my continued opposition to the collective bargaining part. I would urge your adoption of my amendment and potentially the bill, depending on how you vote on my amendment. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Erdman. [LB791]

SENATOR ERDMAN: Question. [LB791]

PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Record, please. [LB791]

CLERK: 28 ayes, 0 nays to cease debate. [LB791]

PRESIDENT FOLEY: Debate does cease. Senator Hansen, you're recognized to close on AM2909. [LB791]

SENATOR HANSEN: Thank you, Mr. President. We've covered a lot of topics, so I'll just refrain the debate narrowly to AM2909. So AM2909 does two primary things. It strikes Section 3 of the bill, as it stands, completely. Section 3 is a provision that is inside the state employee's Collective Bargaining Act that is a limitation on what the State Patrol can and cannot bargain for. And that

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has a variety of different positions of what they can and cannot bargain for. That would strike that out and allow the State Patrol to continue to negotiate for anything up until this point. It would then take one provision of that section out and give it to, as an affirmative power of the Crime Commission under the already existing Section 4, where the Crime Commission would allow somebody who has made a disciplinary complaint then is reported to the Crime Commission to note the status and outcome of that complaint. That's fundamentally what it is. And so the premise and thing behind the bill, and I'm actually very glad we're going to get on a separate vote to my AM2909, but the premise of AM2909 is, do we want to put restrictions on collective bargaining? Yes, it is only on one labor union. Yes, it is only on one class of employees. Yes, there probably is an indisputable public policy interest behind it, but the question is, do we have to solve this public policy problem by putting a complete limitation on collective bargaining for one category for one union, and what precedent does that set? I started off this day. I started off everything since the vote yesterday optimistic that we could find consensus. Unfortunately, you know, a potential consensus amendment, a potential compromise that we had was shot down before I, frankly before I even got to see language. And that was kind of heartbreaking to me because that was the culmination of many, many hours of work on this bill for me. So that's why I presented AM2909. AM2909, as I said, strikes the collective bargaining limitation and still provides opportunity for transparency and disclosure in the Crime Commission. And with that, Mr. President, I will take a call of the house. [LB791]

PRESIDENT FOLEY: Thank you, Senator Hansen. There's been a request to place the house under call. Those in favor vote aye; those opposed vote nay. Record, please. [LB791]

CLERK: 24 ayes, 3 nays to place the house under call. [LB791]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Senator Vargas, could you check in. Senator Linehan, could you check in. Senator Kuehn, please return to the Chamber and check in. The house is under call. All unexcused members are now present. There's been a request for a roll call vote in reverse order. The question for the body is the adoption of AM2909. Mr. Clerk. [LB791]

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CLERK: (Roll call vote taken, Legislative Journal pages 1531-1532.) 19 ayes, 28 nays, Mr. President. [LB791]

PRESIDENT FOLEY: AM2909 is not adopted. I raise the call. Items for the record, please. [LB791]

CLERK: Thank you, Mr. President. Before we proceed, some resolutions. Senator Linehan LR489, Senator Riepe, LR490, LR491, LR492, LR493, and LR494. All will be laid over. Mr. President, LB791, the next amendment, Senator Hansen, AM2903, Senator. (Legislative Journal page 1503.) [LR489 LR490 LR491 LR492 LR493 LR494 LB791]

PRESIDENT FOLEY: Senator Hansen, you're recognized to open on your amendment. [LB791]

SENATOR HANSEN: Thank you, Mr. President. Colleagues, we're going a little bit back in time with this amendment but this is in the process of things. I guess you're seeing some of the negotiations, and you're seeing what I brought to the table in reverse. So the basic premise of AM2903 is that it strikes Section 3 and then incorporates a lot of what we had done in Senator Ebke's AM2888 last night. I had been optimistic that at some point AM2903 could have maybe been substituted for AM2808, which if you don't remember was Senator Ebke's update and compromise amendment...or compromise with some parties amendment that was adopted last night when we did this on General File. So I had at that point filed AM2903 on Select File as an opportunity to potentially discuss it, and so it ultimately, I would say, probably, it ultimately still gets at the heart of what I want in terms of striking Section 3. We've had different options here in different categories here, so one of the things that I had proposed throughout this process was not, in fact, striking Section 3 but changing Section 3 and this...changing Section 3. So Section 3 as it now stands is a...as I said, is a current provision of the State Employees Collective Bargaining Act, and that has now an inclusion of a lot of new language about the Nebraska State Patrol and specifically in our Nebraska State Patrol in what they cannot bargain for in terms of discipline. Those languages, I wanted to keep the limitations on discipline and move it to a different section. That was an option we had to move it to a different section. I know Senator Ebke did have a good discussion earlier about why that amendment was not necessarily as strict as she wanted because of some of the other provisions and connecting provisions throughout the

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Employees Collective Bargaining Act and the CIR. Fundamentally, I just kind of want to take a step back. So, obviously I would urge your adoption of AM2903. It still gets to the heart of striking the Section 3. I mentioned this earlier today when I talked about it this morning, but I thought it was...or it might have been entered yesterday. I appreciate all of you and know how the days are kind of blending together at the end of session. Hopefully, they all are for you as they are for me. Last week when we were talking about negotiations going behind closed-room doors there was some reference on the floor brought up to the bank vault and the time all the senators had to be dragged off to the bank vault to come up with a compromise. That was over these same issues. That was over the collective bargaining rights of Nebraska state employees and public employees. And that is kind of the passion and interest and difficulty that we have here where this comes from. Actually, some of those resulting things from that compromise and that bank vault where I've heard stories that a table was broken in anger among other things, I will let the rumor mill run on who actually broke that table in that bank vault. But one of the things that came out of that was a lot of the provisions of the State Employees Collective Bargaining Act that are kind of circling around us and circling around this debate on LB791 and some of the connecting provisions between mandatory subjects bargaining and things of that nature. That's...I just want to really rise the body and make sure that that's kind of the stakes, that's kind of the passion, that's kind of the history behind this why it might be one interesting thing where one union or the union most impacted by it has gotten to a point where they can live with it and they're neutral and they're backing off, but while kind of unions as a collective group definitely as well as people who stand with the working men and women of labor have the hair raised on the back of their necks when changes like this start coming down the pike. I'm very optimistic based on that last vote that we have a lot of people on the floor willing to stand up and support the rights of all of our workers to collectively bargain and not unduly place restrictions on collective bargaining when they can, in fact, get the same disciplinary accountability and transparency better in other sections. With that, I will close my opening on AM2903 and urge your adoption. Thank you, Mr. President. [LB791]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Ebke. [LB791]

SENATOR EBKE: Thank you, Mr. President. And I appreciate Senator Hansen's continued efforts here, and while I disagree and urge a no vote on AM2903, I do want to put a few more

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things into the record. Again, we've had some questions about why the words, collective bargaining are here, and there's some sort of an assumption that there's some sort of a nefarious effort being made to take away bargaining rights. If you look at Nebraska Revised Statute 81-1371, Section 9, it provides that, quote, mandatory topic or topics of bargaining shall mean those subjects of negotiations on which employers must negotiate pursuant to the Industrial Relations Act, including terms and conditions of employment which may otherwise be provided by law for state employees, except when specifically prohibited by law from being a subject of bargaining. In other words, anything in...that we create in statute, okay, the ability of the Crime Commission to get records can be bargained away unless we specifically provide in statute that it can't be. So this is why the words, collective bargaining, are here. The plain meaning of this statute would read that even if there were other provisions regarding terms and conditions of employment located in other areas of law, the collective bargaining agreement can supersede the other provisions of law unless there is a specific prohibition. We are attempting to put that prohibition in. And I mentioned earlier Livengood v. Nebraska State Patrol Retirement System, a Supreme Court case here in Nebraska. So what happens. If we do not specifically limit the ability to bargain over these things, this means that the State Patrol could be able to bargain to, first, prevent a person who reports sexual harassment from finding out if the person they complained against was disciplined and what the discipline was. The bargaining agreement can prevent that. They could prevent previous sexual harassment or other misconduct from being considered for progressive discipline. For instance, a person could sexually harass or engage in misconduct once every year for the past eight years, but if the contract says you can only look back two years, six of those times could not be considered for the level of discipline. Prevent discipline of a person for conduct that occurred within the past two years. Example, a member of the State Patrol cannot be disciplined for conduct that occurred more than 90 days ago. And so if we do not have the words, collective bargaining in there we run into more problems. If we don't have it in there, it could also allow the State Patrol or any bargaining unit to permit members of the State Patrol from seeing their entire case file before they're interviewed for the first time. That's allowing the members of the State Patrol to tailor their statement to the materials and reports in the case file. It could prevent or make different or impossible for the Crime Commission to access the records they need to revoke certifications. One of the things that we talked about earlier as we were trying to negotiate was this question of whether or not we could just make the subpoena, the subpoena power supreme so that we get rid of that portion of it. The

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problem is that you can't issue a subpoena if you don't know that there's something there. Okay. If you don't know what you're looking for... [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR EBKE: ...and so that represents a problem as well. Colleagues, this was a big compromise. If you look at the two original bills, this is what we whittled it down to. This is a big compromise compared to where we were. It's important to remember that the bill before you, as amended, is the result of negotiations with union members that are actually affected by the law. We have negotiated with these parties for almost two months now, and the problem we have when we say that these things can be negotiated instead of legislated, is that the negotiated agreement does supersede legislation and many interests. This is a public safety concern. It's important for us to make sure that we have protected our State Patrol's reputation, and so I would again ask for your red vote on AM2903 and your green vote on LB791 when we get to that point. [LB791]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Quick. [LB791]

SENATOR QUICK: Thank you, Mr. President. Again, you know, I've talked about the collective bargaining piece and kind of what's...where I'm at on that whole situation. One of the things that I brought up as I've been talking about this is that the fact that you can set a past practice. And so I have a piece to read about. Past practice in negotiating history. It is a cardinal rule of arbitrators that a party cannot gain an arbitration what it was unable to gain in negotiations. Parties can however easily lose at the bargaining table what they have gained through past practice. A past practice is strengthened when it's observance can be shown to have been established under the same contract provisions contained in previous agreements. Having survived negotiations of a new contract, it is commonly viewed by arbitrators as the written basis of which the bargain was made. The strengthening indeed...indeed survival of a practice is predicted, however, on the absence of challenge to the practice in negotiations. Practices which serve to clarify contract language are applicable only insofar as the agreements language remains constant. If change in negotiations, the new provision may be deemed to invalidate or amend the previous practice, it will at any rate necessitate a demonstrable acceptance of continuation of the previous practice

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under the new agreement before the practice in question can be said to have the same clarification affects on the new provision. Past practices which establish separate conditions of employment are even more susceptible to change during negotiations than those which serve to either clarify ambiguous language or which implicate general provisions. Since mutual acceptance is essential to the valid practice, once an objection is raised to a continuance during negotiations, the practice would lose its validity upon the adoption of the contract. Only a withdrawal of the objection or the adoption of controlling language in the agreement will suffice to save the condition or benefit bestowed by the practice. Given the potential value of past practices and the ease with which they may be amended or repudiated in negotiations, obvious considerations are raised for bargaining strategy. If a valid and valued past practice exists do not raise any proposals in negotiations dealing with any of its provisions. If you fail to prevail, that may render it lost or unilateral prerogative of management. If a past practice is served to satisfactorily interpret ambiguous contract language, resist any attempt to clean up or clarify the language in bargaining. Review with your stewards in leadership all contract proposals of the union before submission to management and review all management proposals for the simplification for established practices. And one of the main reasons for this, that I'm talking about this is because this will establish a past practice. And I think that will lead us down that road where we have allowed this to happen so it can happen again. And it's hard once you've let that...once you've established that practice, it's, unless--I think explained in here--unless the other side agrees to change that, then you are at the mercy of what you previously did. So I know we were pretty careful. [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR QUICK: Thank you, Mr. President. I know we were pretty careful about if someone would...let's just say that they worked there overtime or...and in the contract it said you had to do it a certain way and you went ahead and did it a separate way, and the supervisor kept letting you do that, and you just keep doing it over and over and over again and pretty soon, another employee wants to do the same thing. Then the supervisor says no. So we go in...or another employee complains about that, the other employee getting maybe an advantage with some type of overtime, then we would go in and say, well, you can't do this. He says, well, he's been doing it for a year. So, you know, that's setting a past practice. Now, I mean, that's kind of outside the

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box thought, but I mean it doesn't happen very often but there are times that we've had situations where... [LB791]

PRESIDENT FOLEY: Time, Senator. [LB791]

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

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Krist. [LB791]

SENATOR KRIST: Thank you, Mr. President, and good afternoon, colleagues and again, good afternoon, Nebraska. Senator Brewer and others who have had any experience with the United States military and military history know very well that tactically or strategically there are hills worth dying on. Well, this one is worth dying on for me. One way or another, we're going to take a cloture vote, because in essence, I believe that the State Patrol needs to be more transparent, and I think we've taken care of that by beefing up the language in this bill, which was one other bill, and I believe that we have gone too far in terms of infringing on collective bargaining. I have a vote count here, those of you who voted one way or the other. Some of you don't care. Some of you aren't coming back. Some of you don't get it, but if you voted no on that last amendment, or here, present not voting, I hope every union in your district or anyone who would vote for you in the future would ask you the same question that I'm asking you today. Don't you support collective bargaining? Don't you support collective bargaining? I thought you were a union, at least neutral person or a pro-union person. Why don't you support us in our collective bargaining efforts? The ends do not always justify the means. This bill has been worked on, and I can appreciate Senator Ebke and Senator Albrecht saying, we've done everything that we can do, and it's the best that we can be, and I can attest to what I've heard from that lobby in that Rotunda, we're just kind of concerned that if we don't buy off on this one, it's going to get worse. Well, folks, this is the hill that I will die on this afternoon one way or another. After it's all over with, I'll have a Coca-Cola or a cocktail with anyone who wants to on a different issue, but collective bargaining to me is very important, and maybe it's because I was part of that group that witnessed the CIR in negotiation that witnessed the folks who were taken into Pankonin's bank vault, and we hashed out CIR. I wasn't in the vault. I was here on the floor, but they hashed out in that bank vault the CIR parameters. It made me believe in the process. It made me believe

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in collective bargaining, reinforced again by my upbringing in a union home. I thought maybe I would just read these names off to you to let everyone know out there in television land who were those members who do not support collective bargaining, but I'm not going to do that. I'm not going to do that because I respect you all too much. Somehow you have made your mind up on this bill, and you're going to vote your heart. Nothing has to happen this afternoon. If Senator Albrecht doesn't get her 31 votes or 3:15 comes around, this bill will disappear, and you will be able to deal with it next year. That's the way the rules are. [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR KRIST: I'll play by those rules as my learned-agent colleague has told me many times. Tell me what the rules are, and I'll beat you with them. I believe that collective bargaining is worth standing up for. I believe that we should not move this bill forward in its present state, even with AM2903. Thank you, colleagues. [LB791]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Bolz. [LB791]

SENATOR BOLZ: I'll yield my time to Senator Quick. [LB791]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Quick, 5:00. [LB791]

SENATOR QUICK: Thank you, Mr. President, and thank you, Senator Bolz. You know, one of the things that we always...whenever I'd go to a union conference and we would talk about collective bargaining and how important it was to us, one of the things that they always brought up to us was that if you're not at the table, then you're probably on the menu. And I think that was something that with that saying, along with an injury to one is an injury to all, that was very important to us to make sure that we kept our sight on what we needed to do, and that was to keep everybody together as one and to protect everyone as a whole. And I know when we talk...when I address my brotherhood and sisterhood, it's important for me to make sure they understand that I'm there to help them anyway I can, and it's not...and I know I talk a lot about union activity and those areas, but when I'm standing up here addressing the Legislature and all of you at home, I'm not only trying to help union members but I'm trying to help all working

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people and working families. It's very important for me. As I went door to door talking to people, I didn't go back and talk about my union activity. A lot of people don't quite understand what it means unless you are part of a union, but it was important for me to help them understand that I was there to represent all working people and not just union members. And so, that's one of the things that's been very important for me, and I think in doing this, I'm not just representing the union members, we're trying to move this piece of collective bargaining, I'm also trying to help working families in doing that. I know that's hard for everybody to understand, but for me, that's how I see it. I know the State Patrol and the police officers, law enforcement officers, they have a very difficult job, because their daily job, they're dealing daily with people and the public. And for me, you know, I was a welder at a power plant, so if I was welding on something, and I got upset at a piece of equipment I was working on, you know, I could swear at it and hit it with a hammer or whatever I needed to do, but I could do something like that, and it really didn't hurt anything. But I know there are some situations where law enforcement, they have to deal with sometimes with someone who is angry in the public, and that becomes a very difficult situation. So I understand what they deal with on a daily basis. My wife is actually a labor and delivery nurse, and she has talked about there have been times when she has had to deal with a difficult patient or maybe a family member of a patient who becomes angry and upset about something that's happening with their family member, and so she would have to deal with that and also face the public. So there are those jobs out there that have to deal with these situations. I think it's...I don't think that we can understand it until we have actually walked in their shoes and understand what they go through on a daily basis. And I think that's the same way it is for anybody in life. It's that way for me as a working person. [LB791]

PRESIDENT FOLEY: One minute. [LB791]

SENATOR QUICK: Thank you, Mr. President. And I don't think anybody could understand what living paycheck to paycheck is like or for someone who lives in poverty or someone who faces drug addiction or any of those situations until you've faced that and walked in their shoes or lived that life or had...maybe even had a family member go through that, you cannot understand that until you've actually lived that life. So with that, I yield the rest of my time. Thank you, Mr. President. [LB791]

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PRESIDENT FOLEY: Thank you, Senator Quick. Mr. Clerk, you have a motion at the desk.
[LB791]

CLERK: Mr. President, Senator Ebke would move to invoke cloture pursuant to Rule 7, Section 10. [LB791]

PRESIDENT FOLEY: It's the ruling of the Chair, that there has been a full and fair debate afforded to LB791. Senator Ebke, for what purpose do you rise? [LB791]

SENATOR EBKE: I would like a call of the house and a roll call vote. [LB791]

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

CLERK: 26 ayes, 3 nays to place the house under call. [LB791]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Senator Briese, if you could check in. Senator Smith, if you could you check in. All unexcused members are now present. There's been a request for a roll call vote. The first vote is whether or not to invoke cloture. Mr. Clerk. [LB791]

CLERK: (Roll call vote taken, Legislative Journal pages 1535-1536.) 34 ayes, 5 nays, Mr. President, to invoke cloture. [LB791]

PRESIDENT FOLEY: The motion of cloture is successful. We'll move on to the next vote which is the adoption of AM2903. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB791]

CLERK: 17 ayes, 26 nays on the amendment, Mr. President. [LB791]

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PRESIDENT FOLEY: The amendment is not adopted. The next question for the body is the advance of the bill. Senator Wishart for a motion. [LB791]

SENATOR KRIST: Record vote. [LB791]

PRESIDENT FOLEY: Record vote has been requested. We'll do a machine vote. Those in favor of the advance of the bill vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB791]

CLERK: (Record vote read, Legislative Journal pages 1536-1537.) 37 ayes, 4 nays, Mr. President, on the advancement of the bill. [LB791]

PRESIDENT FOLEY: LB791 advances. I raise the call. Pursuant to the Speaker's instructions, our next bill for consideration will be LB496, unless you have some items first, Mr. Clerk. [LB791 LB496]

CLERK: I do, Mr. President, thank you. Your Committee on Enrollment and Review reports have examined and engrossed LB670, LB731, LB731A, LB807, LB807A, and LB1120. Those all reported correctly engrossed. I also have another resolution, Senator McDonnell, LR495. That will be laid over, Mr. President. Mr. President, LB496 is on Select File, carry over bill from last year. No Enrollment and Review. When the Legislature left the issue, Senator Williams had pending AM1378 as an amendment. Senator Williams, I have a note, Senator, you wish to offer as a substitute AM2887. [LB670 LB731 LB731A LB807 LB807A LB1120 LR495 LB496]

PRESIDENT FOLEY: Without objection, so ordered. [LB496]

CLERK: Senator Williams, AM2887. (Legislative Journal page 1540.) [LB496]

PRESIDENT FOLEY: Senator Williams, you're recognized to open on AM2887. [LB496]

SENATOR WILLIAMS: Thank you, Mr. President, and good afternoon, everyone. And we're back again this year with my priority bill, LB496, Senator Stinner's bill, and we are offering a

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substitute amendment for my AM1378. It is AM2887. And the basis of the amendment is the tremendous success that we have enjoyed with the workforce housing grant program that was introduced last year, LB518, which I would remind you was passed on a 49-0 vote. That bill recognized that the single most problem that we have in creating new opportunities and new jobs is the lack of workforce housing in the rural parts of our state. The grant program opened up after the first of the year, and just as of the end of March, the grant program for this first year was closed. Twenty-one communities submitted grant applications for more than double the amount of dollars that we have in the program, showing clearly that there is a demonstrated need for rural workforce housing. Communities that were included in that included North Platte with two grant applications. Holdrege, Kearney, Hastings, Columbus, Norfolk, Lexington and certainly others, all of those people's and communities matched those grants, which I think is really important. The goal of this Legislature should be to create an environment for growth in our state, and that's what we're working towards. The amendment, and why it is important to include this amendment to LB496 brings in those important parts of LB518 that made it the success that it is. First of all, it defines workforce housing the same way that it is defined under LB518, so that we don't tell people, here is one definition, and here is another. It's a consistent definition that now we have proven has worked. The amendment also brings in a definition of rural community that matches LB518. Therefore, under LB496 as amended by AM2887, it will be in counties of less than 100,000 people. That definition is consistent again with the success that we had with LB518. We are going to hear a lot, I'm sure, on the microphone today about tax increment financing, the good, the bad, the ugly. We've had a lot of discussions this year already, and I would remind you that earlier this session, the Urban Affairs Committee brought forward LB874 which has been termed the cleanup bill to those situations with...of potential abuses of the use of TIF. Under LB874, there are new parameters, there are new recordkeeping requirements. There's additional hearing requirements, and notice provisions, all of which create added protections so that we can look ourselves in the eye and be sure that we are using TIF properly in our state. That passed nearly unanimously, if not unanimously, by this body. I would suggest that with those protections, now is the time to recognize that we can step forward and support the amendment and the underlying bill to begin creating the right environment for workforce housing. I would at this point yield the balance of my time to Senator Stinner on the underlying bill. Thank you, Mr. President. [LB496]

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PRESIDENT FOLEY: Thank you, Senator Williams. Senator Stinner, 5:20. [LB496]

SENATOR STINNER: Thank you, Senator Williams. Well, I...first of all, I want to thank Senator Williams for reprioritizing this bill for the second year in a row. I think that demonstrates that this is an important bill both to Senator Williams, myself, and all of Nebraska. Just to regurgitate a little bit about the history behind this bill, similar to what Senator Williams was talking about, LB496, embedded in LB496 are safeguards. And I think Senator Williams talked about those safeguards. Those safeguards require to conduct a housing study, and it has to be conducted within 24 months, so it has to be a current housing study. Adopt an incentive plan for housing construction, hold a public hearing to receive public comment on the incentive program, and we also embedded LB470 in this that includes a separate hearing on the incentive program. So not only do we have TIF being looked at on a hearing basis, we also have the incentive program. A determining that incentive program is necessary, a hearing is held to prevent the spread of blight and substandard conditions within the municipality. So we have embedded some safeguards that Senator Williams was talking about and, of course, AM1378 also has to do with the workforce housing, and the definition of workforce. We wanted to make sure LB518, which was actually a companion bill to LB496 was compatible in terms of language. So when we talk about workforce housing, we're not talking \$300,000, we're not talking \$500,000; we're not talking \$700,000; we are talking \$275,000 and less. And frankly in Scottsbluff/Gering, in my community, we have yet to have a \$200,000 or less house built over the last ten years. The affordability aspect of this, the median income being \$55,000 does not conform with the construction costs of almost \$200. But if we could do multiple houses, I've talked to builders, we might be able to bring that down to the 150, 140 category, which still creates a gap of \$20,000 to \$40,000. That's where TIF comes in. That's the difference. And depending on the assessed valuation and depending on what that cash flow looks like, it might be a 7-year deal, it might be a 8-year deal, it might be a 9-year deal, or a 10-year deal, depending on interest rates and terms. But that is what the incentive program is about. That is, the market...I hear that market forces need to take care of this. The market has not taken care of it. It's not only in the Scottsbluff/Gering. I heard about it in Norfolk. I have a study from them on their housing study. I have a study from Kearney, just recently put together, and Kearney basically says the same thing I'm saying that we need that \$200,000 and less house. We cannot produce it. We've produced one over the last five, six years. The three, four, \$500,000 house, we have plenty. Plenty of supply for

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that, but that workforce house is the people that we're trying to attract. And, you know, I have been involved in economic development in the Panhandle for 30 years now. And when I was on Twin Cities Development and president of Twin Cities Development, we were trying to attract business, attract and retain business. That paradigm shifted now. Now we're trying to find on workforce to fit the jobs that we have available in our town. Over 660 homes in the Panhandle are needed between now and 2021. Most of those are workforce houses. Some of those obviously are fourplexes, duplexes, those multiple family dwelling homes, that's also incorporated in this in the incentive plan. So we're trying to take care of all of the needs of all of the communities outside of Lincoln and Omaha. And I guess the exclusion...

PRESIDENT FOLEY: One minute. [LB496]

SENATOR STINNER: ...is outside of Lincoln and Omaha, that is to satisfy the Governor. The Governor believes that there's plenty of houses here, plenty of builders here, and obviously, they don't need it. But LB874 was talked about over the entire summer. It was put together, it includes additional safeguards for this bill, and I think that LB874 also took care of the "but for" clause which was, I think, a heartburn. It also took care of some of the accountability aspects afterwards, which was cited in the audit report. So it took care of a lot of the concerns that this body has. That will be incorporated also in this bill. I have done as much in this bill as I possibly can other than skip rope, which I can't do very well anyway. So we've tried to accommodate all the safeguards within the bill. The idea of see if I know in many... [LB496]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Time, Senator. [LB496]

SENATOR STINNER: Thank you. [LB496]

SPEAKER SCHEER: Thank you, Senator Stinner. Thank you Senator Williams. Senators waiting in the queue are Senators Erdman, Groene, Halloran, Stinner and others. Senator Erdman, you're recognized. [LB496]

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SENATOR ERDMAN: Thank you, Mr. Speaker. Here we are again, LB496, tax increment financing. I'm opposed to AM2887 and to LB496. You heard plenty from Senator Williams and Senator Stinner about workforce housing. I don't know what jobs are in the 47th District that can pay a mortgage on a \$275,000 house. The past mayor of Scottsbluff last year, early this year went to a city council meeting because they had done a study to discover if they have a shortage of workforce housing. I know that mayor quite well, the past mayor, and he was mayor for some time, and he said at the city council meeting if you needed the report written, you could have let me write it. I could have saved you thousands of dollars, because when I was mayor, we wrote that report several times and it said the same thing every time. But first, you have to have a report that says you have a workforce housing shortage before you can be eligible for all the tax grants and giveaways that are available. So that's what they did. He is an owner of several rental properties in the city of Scottsbluff and Gering, many rental properties, and in that same comment he said, over a period of time we generally average about 3 to 4 percent vacancy in our rental properties. He said for the last couple years we've averaged about 10 percent. It doesn't appear we have a workforce housing shortage. I don't understand why we need to have TIF financing used in a way that it was never intended to be used. When TIF was put in place, it was a redevelopment project. That's what it was for, but now we annex cornfields next to cities and build hardware stores or whatever we want to build there, and we continue to use TIF, and I'm not an opposition to TIF if it's used correctly. It was for redevelopment. TIF was never intended to be used for economic development. We do not have a workforce housing shortage, but if you hire somebody to write your report and you tell them what you want them to say, they will figure out how to write it. That's how it works. And I see Senator Williams has put in LB287 which explains what they did last year, and I understand that. It's a definition. But the point is, if we build one house with TIF financing, we'll build them all that way. And it is a tax abatement and it takes tax dollars away from your schools and the people owning the house may not even know that their taxes is not going to support the school, but it's going to the contractor or the bank, whoever owns the TIF bonds. Those TIF bonds are a peculiar thing too. And when I stand up to speak the next time, we're going to figure out exactly who buys the TIF bonds, who negotiates the interest rate, and where does that money actually go? Because as we begin to discover where all that stuff goes and who benefits the most from having TIF financing, if you're in favor of LB496, you may have a different opinion when you find out what happens to that money. Thank you. [LB496]

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SPEAKER SCHEER: Thank you, Senator Erdman. Senator Groene, you're recognized. [LB496]

SENATOR GROENE: Thank you, Mr. President. Here we go again. We've talked about property taxes for everybody. Property taxes are too high for everybody, but this body still looks hard at picking winners and losers. What we're doing here again, is we have a property tax problem in the state. Why else would they even bother? Why would certain lobby spend money to push this issue, because there's a lot of money involved. Our property taxes are so high that people can't afford to buy a house. We have a disruptive factor somehow in our housing, real estate markets and our housing construction market. Could that disrupted factor be too high of property taxes? So now what are we going to do? We're going to raise property taxes on everybody again by putting somebody else, another tax avoider, into the lifeboat, and then the rest in the water have to pay higher property taxes to offset it. We've done too much of that in our tax...how we tax in the state of Nebraska. We give too much away. I don't believe this to be constitutional. If you read Article VIII, Section 12, for the purpose of rehabilitating and acquiring and redeveloping substandard and blighted property in a redevelopment project as determined by law, any city or village of the state may do it. How can you tell three...the cities and the contractors in three counties, it isn't just Omaha and Lincoln by the way, it's Sarpy County too. And it isn't \$200,000 houses, it's \$275,000--to correct the record--houses. How can you tell those three counties and those three cities and those cities and towns in those counties that they cannot use TIF for workforce housing. It says any city in the Constitution. And by the way, the word, workforce housing isn't in there either. It's based on blighted and substandard properties, communities, parts of a community. It's not based on a factory, a house, what the purpose of the house is, what business is built. It's to fix urban areas that are blighted and substandard. It has no other purpose. It has nothing to do with workforce. It has nothing to do with labor, the needs or excesses. We are going to put into statute, workforce housing, as a reason why you can TIF. That has nothing to do with blight and substandard. By the way, all you senators from Lancaster, Sarpy and Douglas County, what do you think the first thing that will happen with the big developers? They will go to Washington County, Gage County, Cass County, and they will find a small town right on the edge and they will buy a section of land and they'll go to that little town and say, annex this, and you TIF us, we want 30 percent TIF. And those people will commute into Omaha and Lincoln. You will just...you're going to create a doughnut around your counties. You're going to hurt your tax base big time, 30 percent over 15 years. Can't do it in Waverly, but you can do it in Ashland.

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You can do it in Greenwood. Can't do it Raymond, but you can do it in Valparaiso. Just think what's going to happen. Think through this. You are putting another big hole in the property tax lifeboat. I came down here, and I didn't say it this year, but I said it the first three years, I will only support tax cuts for everybody. Tax cuts for everybody or for nobody. [LB496]

SPEAKER SCHEER: One minute. [LB496]

SENATOR GROENE: This is a bad bill. This sends a wrong message to all the people in rural Nebraska that work hard, pay their taxes, support their schools, build a new house. By the way, if you're in a little town and ten homes are going to be built, and three of them are TIF, all ten will be TIFed because the other seven cannot compete with somebody getting a 30 percent tax cut. Period, folks. This is a disruption in the housing market. It is not a fix. It is a huge disruption. Everybody gets a tax cut or nobody. That's the only way we're going to fix the property tax problem, folks. That's the only way. It's harder to do, because you ain't got lobbies with deep pockets, the average homeowner, but that's the only way we can fix it. Tax cuts for everybody or for nobody. Thank you, Mr. President. [LB496]

SPEAKER SCHEER: Thank you, Senator Groene. Senator Halloran, you're recognized. [LB496]

SPEAKER HALLORAN: Thank you, Mr. Speaker, and colleagues. Field of dreams. Build it and they will come. It seems a bit upside down. I don't know that I would know of anyone that would say, well, I'm going to move to Harvard, Nebraska because they've got a lot of good houses I can choose. They wouldn't move there without a job. The job comes first, the house comes second, and a lot of contractors can build a house on demand in a very short period of time. If there's good jobs, good paying jobs, it will happen. I'm going to read from an article that was adapted from the testimony presented in the Urban Affairs Committee. It's a little bit dated, October 17, 2014. And let me preface this. I'm not against TIF if it's used for the right purpose, blighted and substandard properties. We have plenty of those that would justify TIF financing. As the article says, TIF can be a very useful tool for redevelopment of blighted and substandard areas, and state law explicitly describes this as narrow purpose for which the Community Redevelopment Act was enacted by the Legislature. In locations where there's stagnation and deterioration,

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redevelopment financed by TIF dollars may be the only way to start the process of turning those neighborhoods around. And frankly, Nebraska law requires that to be the case to what is commonly called the "but for" test. One should carefully consider what it means to say this project would not occur but for TIF. If a project is defined with sufficient specificity and the project plan is entirely built around tax incremental financing, it is fairly easy to conclude that particular plan would not occur but for TIF. This is the wrong question. The more important question is, were there any project of similar value might go forward on that parcel in the near future without TIF. If there's some alternate project that could go forward without it, the attribution of the incremental increase in future revenues to the TIF project becomes much less certain. That means that we have to question the dedication of that future tax revenue bumped to redevelopment authority. The whole reason for the "but for" test is to ensure that anticipated future revenues dedicated to paying for a project are really return on investment for that project. That is important because there is an opportunity cost when we divert property tax dollars from other uses. Accurately assessing the probability of development without TIF is a crucial factor for understanding how a TIF project will affect local schools. More likely it is that a project would not have happened anyway...or excuse me, would have happened anyway, the more likely it is that the TIFing the project will be detrimental to local school districts. Colleagues, the shoulders of taxpayers are slumping, and this is just going to add to that weight on their shoulders. The "but for" test currently in state statute is vague enough to allow for a lot of shoehorning for projects that probably ought not to be approved as TIF recipients. Simply claiming that it won't happen if we don't TIF it, should not be adequate evidence to pass the test. Taxpayers are entitled to transparently and public accountability for those projects that do receive TIF dollars to ensure that project backers are acting in good faith... [LB496]

SPEAKER SCHEER: One minute. [LB496]

SENATOR HALLORAN: ...and are following through on the conditions they agreed to when they proceeded with the project. Again, colleagues, I have no problem with TIF, but it should be used for what its dedicated purpose is and that is for blighted and substandard property. It's detrimental to the housing market, as Senator Groene pointed out, to try to have contractors compete with the TIF project. They won't be able to. Thank you, Mr. Speaker. [LB496]

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SPEAKER SCHEER: Thank you, Senator Halloran. Waiting to speak: Senators Stinner, Hilgers, Schumacher, Williams, and others. Senator Stinner, you're recognized. [LB496]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, I do want to continue on with the idea of tax increment financing, and what we've tried to do in the bill, and the fact of where the state is in a study that...just current, March 9, 2008, produced by the Nebraska Economic Developers Association, they talk about the usage of TIF, and I think that's pertinent for the conversation today. South Dakota has the most stringent TIF requirements in the U.S. according to the President's study. The study found that in 2016, Nebraska TIF policies ranked as the sixth most stringent restrictive among the 50 states. Among the 50 states, 17 limit the source of funding to property tax. Nebraska is one of 17. Sixteen states allowed the use of sales tax collections as a source of TIF funding. Nebraska is not one of the six...excuse me. Nebraska is one of the last two that do not allow sales tax for TIF. Only two states restrict the TIF payoff period to less than 20 years. Nebraska is one of two. So we've restricted TIF as far as we can go. It's property tax oriented, it's not sales tax oriented. All 50 states have a TIF program. All 50 states. There's 16 or 17 states that are much more...that are equal to us and the rest of the states are much less restrictive. So let's set that aside. I find it interesting that a senator would stand up and say there's no shortage of housing, no shortage of housing. I have a study here by the Panhandle which includes the senator's district. Scottsbluff, is mine. Morrill and Kimball were formally presented to members a housing study statistic by Nebraska Economic Development as the group picks up the ongoing challenge to provide more housing in their communities. The group earlier commissioned by the Lincoln-based community planning firm of Hannah Kellan to conduct the study, which was presented on May 4th meeting. Lonnie Dickinson noted 500. That 777 additional housing units, 521 for single family ownership, 256 for rentals, with an overall population growth of 1.45 percent. That was the target reached, 828 units were needed by 2021. The study went into great detail on the needs of various demographic economic groups, family size, and what the cost of housing are most needed. And, of course, they cited the lower income housing but the workforce housing was the most needed. Workforce housing, meaning something in that neighborhood of 75 to 275. That's one study. I also have a study here that shows...not only from the Panhandle, I've got one from Norfolk, I have one from Kearney. Norfolk's needs are in excess of 700 units. Most of those workforce housing units. Norfolk has 900 jobs available. That was reported to me by their developmental people. Kearney,

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I just got a recent study from Kearney. Houses less than \$250,000, one house has been built in the last five years. The demand for those types of housing exceeds all other types of housing. There is an excess supply of high-end homes, the \$350,000, \$400,000, \$500,000... [LB496]

SPEAKER SCHEER: One minute. [LB496]

SENATOR STINNER: ...that can't build these types of home. I do want to read another thing when we talk about rural Nebraska and jobs not being available or jobs being available. It says good afternoon, I'm writing in regards to LB496 which allows housing construction to qualify as an eligible TIF expense. I'm fortunate to have the opportunity to represent economic development in my home town of Kearney. I'm also fortunate to have a thriving county that is one of the fastest growing in Nebraska. However, with eight years of experience representing Buffalo County, I can attest the rural community of Buffalo County, excluding Kearney, are completely stagnant for new housing. For the past eight years, I can honestly say that I have participated in at least 100 housing meetings, locally and statewide, and based on those meetings, I'm certain that almost every small rural community across Nebraska is stagnant for new housing development. And if there are some housing development occurring in rural communities, I would venture to say the volume is so low that it doesn't even come close to meeting that demand. [LB496]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Time, Senator. [LB496]

SENATOR STINNER: Thank you. [LB496]

PRESIDENT FOLEY: Thank you, Senator Stinner. Mr. Clerk. [LB496]

CLERK: Mr. President, Senator Wayne would move to amend Senator Williams' amendment with AM2914. (Legislative Journal page 1541.) [LB496]

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PRESIDENT FOLEY: Senator Wayne, you're recognized to open on your motion...or excuse me, your amendment. [LB496]

SENATOR WAYNE: Thank you. You caught me in the middle of eating a mint. Thank you, Mr. President...Mr. Speaker...or Mr. President. You switched in the middle. This amendment is a...it's no secret that we spent all summer in Urban Affairs working on TIF. Many of my colleagues know that I wasn't 100 percent behind this bill because of the work we did. Rereading the bill and understanding and looking back at the testimony that was given throughout the committee hearings in North Platte, Lincoln, Grand Island, there's a housing problem that we have to deal with. What I did not like about this bill and where I'm trying to fix is the issue Senator Groene actually raised about the counties involved not being able to somehow do workforce housing. What my bill does, and you will see a map that was handed out in front of you, is we have a definition of extreme-blighted area, which is simply using the federal census data, 200 percent of the average rate of unemployment, and the poverty average being more than 20 percent. Has to be both. And if you look at that map, it is strictly the red area in the map that this would apply to. Because as I talked to Senator Stinner over lunch and Senator Williams and talk to people in my community, the issue in some small towns across Nebraska are no different than many issues that we face in north Omaha when it comes to housing. There's a gap that we have to fill. And when I look at the extreme poverty areas, dealing with some of the issues that I heard and seen e-mails, in Senator Linehan's district and Senator Brasch's district around the Omaha metro area of sometimes TIF being used to build million dollar homes. Well, we have in north Omaha is we have two, that I know of off the top of my head, companies, if you want to call that, building affordable homes in Omaha. Those affordable homes are Habitat for Humanity or Holy Name. And there's a couple other ones who are doing some work, also the city of Omaha who is trying to help do work. So what I try to do is take this concept that was applied in this bill and say how do we make it work for Lincoln and Omaha and every county but doing it in a way that targets the exact same needs that are being talked about in the smaller communities. I'm trying to get away from the urban versus rural divide that we continue to hear, and many of you know I've been preaching that for at least two years since I'm been in this body. And I honed in on the need, the need for a housing to fill in a gap for affordable workforce development housing in certain key areas. So that's where the definition came from and this is where the map that is drawn, where you look at this map and you look at what's going on in this map, those are some

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of the most poverty stricken, unemployment areas where we have vacant lots where this gap filling of TIF could actually do wonders. This meets actually all the criteria that Senator Groene continued to talk about, urban renewal and development. This meets all the criteria of other people who objected to this bill, so I think this amendment should fly straight through. Now if you have an additional problem with the underlying bill, we can have that discussion, but as it relates to this amendment, every argument that I've heard from last year to this year, this amendment meets your definition. So there should be no issues when it comes to this amendment. My understanding is Lincoln is neutral on it, because Lincoln already has an agreement with LPS not to do single family housing. But I can only imagine the benefit we would get when we deal with flight out of the urban area to the suburbs and the lack of housing in north Omaha and south Omaha, affordable housing that our school district would love the idea of new homes, new family homes, working class individuals being able to create home ownership. So the fact of the matter is that this bill or this amendment meets every objectionable criteria that has been laid out for the last year and a half, and I would ask you to vote green on this amendment to make this bill better in a way that it applies across the state. But I would ask you not to vote red because you're against the underlying bill on my amendment, because my amendment meets your definitions of your objections. So let's be consistent in our policy discussion. I would ask you to vote green on this because we are solving the exact same issue that rural Nebraska has when it comes to affordable workforce housing. And with that, I'll ask you to vote green. Thank you, Mr. President. [LB496]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Hilgers. [LB496]

SENATOR HILGERS: Thank you, Mr. President, good afternoon colleagues. I rise sort of conflicted on this particular bill along with the amendments. I have spoken with Senator Wayne about AM2914. I'm still looking at it. I was a no last year, I'm conflicted today. I'll explain a little bit of my thought process and some of the questions that I'm looking to have answered. I think that...I think, many, if not all of us, agree that TIF can when used correctly is a significant and important tool for our communities and it's maybe one of the only tools in the toolbox of our municipalities to tackle certain blighted areas and help some of the economic and redevelopment of our municipalities and villages around the state of Nebraska. I certainly think that there are many projects around the state that would not have occurred but for TIF. And I know there's been

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an editorial piece that's been passed around. It was in the Journal Star, a former Senator Landis, that I read when it was published, and I think is correct and raises many good points. But as often is the case, it is not just the good things that could happen from particular legislation. We also need to look at the potential downsides. We had this conversation yesterday in regard to the land bank because it's not...what might happen that is good is not the entire part of the story, and I think there are several arguments that are against expansion of TIF, I suppose. Maybe not necessarily in this context that I think I've heard in the debate today and that I've had concerns about before today, and one is the potential for abuse. That abuse can come from lack of paperwork requirements or some other ways that I know that we addressed this...this body addressed through Senator Wayne's efforts over the interim in this session, and I'm not sure the abuse concern is much at the top of my list this year. Another concern is that this will take money from the tax rolls. And the argument against that is, well, you know, these projects would not have occurred but for TIF. And I think that's true, but to the extent that projects would have occurred without TIF, I think is absolutely true that allowing TIF in those instances will take money off the tax rolls. If the project will go forward and the tax rolls will increase because of that project, with or without TIF, if you allow TIF, if the project is TIF those tax...the increase in tax dollars will be diverted. I think that's also true, and I think proponents of this bill should recognize that. And the question then is, to what degree are we going to have projects that would not have occurred without TIF and those that would have occurred without TIF. And I think that's hard...it's hard to answer strictly. I do think the amendment that Senator Williams has offered, AM2887, helps to some degree, because it carves out three counties, Sarpy, Lancaster and Douglas where I think the potential for that kind of scenario, property tax dollars being taken off the rolls I think was highest, although certainly not exclusive to those three areas. Another argument I've heard is...from Senator Erdman, I think he's articulated this as well as Senator Groene, that essentially it will skew the competitive marketplace. In other words, if you are going to build one house with TIF, then all houses will be built with TIF. And I think that's a sound argument and one that I'm certainly going to consider and speak with Senator Stinner and Senator Williams off the mike, and I'll be listening during the debate for the counter to that particular argument because I do think that raises a good concern each though I know the bill is drafted fairly narrowly. And I think the last concern, at least that I've heard is one raised by Senator Halloran which is, that this might not be tied precisely to the constitutional limits. And I think there's another flavor that's from Senator Groene that is raised by the amendment, that you

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might, if we're not allowing every city to have it, maybe we're in conflict with Article VIII of the Constitution, that's another argument that I'm going to look into a little bit further. And so I don't know for certain in that case. I will say that the language of the originally drafted bill does seem to go beyond just the restriction to blighted areas because it goes to, quote, the spread of blight... [LB496]

PRESIDENT FOLEY: One minute. [LB496]

SENATOR HILGERS: Thank you, Mr. President...to stop the spread of blight. And I think there's a meaningful distinction between stopping the spread versus acquiring blighted areas and redeveloping those blighted areas. But again, those are issues that I'm going to continue to investigate. I certainly understand at the end of the day the need in many areas, not all. Certainly, Senator Erdman has provided some testimony here today, maybe that certain areas where he...District 47 and other areas around there where maybe this isn't needed. I certainly wouldn't rest on the idea that it is needed everywhere, but I would also say, I'm sure there are areas where this could be a significant use, and where the market and efficiencies in those areas have precluded us from having additional workforce housing and the development of that housing and I think TIF could help solve that particular problem. I think, like most things, it's going to come from me on the potential downside ensuring that we're not opening up a Pandora's box. Those are some of the concerns that I've articulated during the course of the remainder of this debate. Those are the concerns I'm going to listen to and see if they can be addressed either on the mike or off. Thank you, Mr. President. [LB496]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Schumacher. [LB496]

SENATOR SCHUMACHER: Thank you, Mr. President, and members of the body. I listened closely as Senator Williams explained the success of the program last year where we set aside, I think, several million dollars, if my memory is correct, I mean seven million dollars for grant matching, and that there was a high demand for free money. Shucky darn. Who would have thunk. I rise in opposition to this whole concept that has gotten us into so much trouble. But first, I want to say that as far as Senator Wayne's amendment, AM2914 is concerned, what is good for the goose is good for the gander, and if it's...this would work magic out state, it would work

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magic maybe where he's at too. But let's think about what we are doing here. The idea behind tax increment financing, basically you forgive the tax on the new development and let the developer, the owner take that money and pay it toward their mortgage payment, or bond payment, to the banker, whichever in case. That was designed to try to get rid of slummy areas within the town. It was a good idea. And then the economic developers, those wizards that can make magic happen or not, showed up on the scene in great numbers and said, well, we can use the loose language in this law to blight a cornfield, to compete with the neighboring location, to create a competing business against our local businesses, to be heroes because we were on the city council when it happened. To use the unique power of this, which may be unconstitutional and violate one man, one vote, or one woman one vote, to commandeer assets from outside the city for our own in the city purposes. And so we have TIF now being considered for building single family residences. Now anybody knows that if an economy is not strong enough to finance housing for its workers, then there's something fundamentally flawed with that economy. And that is the case in much of rural Nebraska that's seen consistent loss of population since the 1920s, due not to a lack of TIF, but lack of need for population in the high intensity, efficiency agriculture that we have that used to be dependent on those communities. If you start this intercommunity war, you will never have any number of houses built without TIF. Within a town, if a developer comes in and his competitor has TIF, he will want TIF too, or she will want TIF too. Between communities along the Interstate or along any highway or anyplace, if they don't yield to the pressure to grant TIF, well, then the developer will just go up the street and get TIF. So everybody has got TIF, and houses for under a quarter of a million dollars, which I think is an incredibly high figure... [LB496]

PRESIDENT FOLEY: One minute. [LB496]

SENATOR SCHUMACHER: ...will all want TIF or they just won't be developed. This is a bad thing to get started. It's a bad thing to bless. It is the kind of thing that once you open the flood gate, once you start this process of making somebody in a community pay taxes on their house and somebody not, you can't get that back into the bottle. That smoke doesn't go back into the cigar. And we've seen that time and time again with every kind of economic development program. Once you let the smoke out, you aren't getting it back, and you will hear all kinds of stories how it's the greatest thing since sliced bread because they will have the revenue then to

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hire lobbyists to tell you that. Bad idea. Let's not depart more from the free market. Let's treat everybody fairly and equally. Thank you. [LB496]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Williams. [LB496]

SENATOR WILLIAMS: Thank you, Mr. President, and good afternoon again, colleagues. I want to first rise and be sure that everybody on the floor knows that I have no objection to Senator Wayne's amendment. I appreciate the work that he has done and his willingness to understand TIF and how it can be used properly and for the success of our communities, and his community is one that certainly needs these things. So I wanted to make that clear so that everyone knows that that is certainly not a poison pill, and I will be voting green on that. Also I've reminded people before, you know, we can stand on these microphones and have our opinions and our beliefs end up becoming facts, and they aren't facts. They're just your opinion and your belief, but here is a fact. LB496 was heard before the Urban Affairs Committee last year. There was no opposition testimony. None. Nobody came and opposed the bill. It was voted out of committee with no dissenting votes. So all this controversy that you're talking about didn't exist. Just simply didn't exist. As I talked before, our role is to create an environment for growth in the state, and now somebody is trying to say that we're going to hurt people, and we're not caring about property tax. This could be no further from the truth. Senator Stinner has been an advocate of finding a solution to property tax and so have I. But Senator Stinner and I have both spent a lifetime growing things, growing our communities, growing our counties, and helping to grow our state, and there is no better way out of our tax situation than growth. Senator Hilgers and others have brought up some issues about TIF in general. I draw your attention to a handout that I thought was extremely timely that former State Senator Dave Landis had an opinion piece in the Lincoln Journal just a few days ago, talking about TIF and talking about the fact that these comments that TIF takes dollars away from your schools is just simply wrong. You can't take away something you don't have. We don't have those dollars until they're there. In his article, he states, TIF dollars are the taxes paid by the developer on the project they build. They do not come from the other taxpayers nor are they from the General Fund that supports our array of public services. We've also talked about the abuses, and in particular the "but for" test that we have now strengthened with the passage of LB874, and this concept that things are going to happen if we don't help them happen, they're just going to happen anyway. And in his article he

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says by state law, TIF may only be used in circumstances where the development would not occur without it. I can recall about a dozen examples of developers asking for TIF assistance only to have the city decline. None of those projects went forward without TIF. I repeat that. None of those projects went forward without TIF. If the skeptics were right, these projects should have occurred, but they did not. Senator Stinner talked about housing studies, and there have been many. We've read many of them. [LB496 LB874]

PRESIDENT FOLEY: One minute. [LB496]

SENATOR WILLIAMS: Thank you, Mr. President. In conclusion this time on the mike, I will read from one of those studies that I think is important because it was put together by a wide group of people in our state, and the quote, unfortunately a silver bullet strategy does not exist for addressing the ongoing workforce housing shortage occurring across Nebraska. This shortage did not develop overnight, and solutions will take time to evolve and thrive. However, it is clear that increasing the inventory of market rate and workforce housing that meets the needs of future Nebraskans is essential to the state's economic future. We're talking about our economic future. Thank you, Mr. President. [LB496]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator McCollister. [LB496]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. I served one year on the Urban Affairs Committee and, of course, TIF is a topic that comes up every year, and in my year, it certainly was. As you know, it does make for great development. I have sure seen that, evidence of that in Omaha. I've seen areas that have been revitalized because of TIF and it serves a very important function and the results are well-known. I know Lincoln has been effective with that and, in fact, Senator Williams was talking about former Senator Landis, and he mentioned some statistics that I found interesting. Before the TIF projects, the total value of property for all 20 projects was \$20 million. Today with TIF projects completed, that property is valued at \$208 million. Before the TIF project, those properties paid in \$490,000 in annual property taxes. Today they pay \$4.21 million annually, ten times more than the old days. So you can see the beneficial effect for TIF in Lincoln and it's just not Omaha and Lincoln. Rural communities have seen the benefits as well. I like the workforce housing that both

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Senators Williams and Stinner talk about occurring throughout Nebraska, and that's a good thing. Yes, for sure, the "but for" test is problematic, but I think we have, in fact, sharpened that up and made that a better test. I know TIF in my part of Omaha, school boards look at it very carefully, and a couple of the TIF projects that occur in my legislative district, the school board trimmed it down. So they do know, and they do consider not only the benefits but some of the challenges of TIF. You know, also in my time on the Urban Affairs Committee we were worried about the transparency and the accountability of TIF, and we worked, at least in the last two or three years, to improve that, and it's been very much better. Now the TIF recipients have to do a better job of reporting to those cities that they do TIF projects in. I think it's better, so I think we've improved our ability to deal with TIF and I do support LB496 and its amendments. Thank you, Mr. President. [LB496]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Brewer. [LB496]

SENATOR BREWER: Thank you, Mr. President. Still trying to sort out all the facts with this, so I would like to yield my time to Senator Groene. [LB496]

PRESIDENT FOLEY: Thank you, Senator Brewer. Senator Groene, 4:45. [LB496]

SENATOR GROENE: Make some clarifications. First on Landis, from Lincoln, they made a deal with the Lincoln Public Schools that they would not TIF single family homes. So any statements made on this floor that it does not affect schools, it does. Otherwise, LPS would not have made that deal. Period. Talked to Lancaster County officials. They have 100 bridges that need to be fixed. Lincoln confiscated their property taxes through TIF, put bike trails in, arts in the park. We have cities with the ability to confiscate the property tax base of counties and schools, NRDs, and everyone else. We have a property tax problem in the state. It's a high property tax. I'm getting really frustrated. Agriculture, the biggest industry in the state, homeowners who call me about their property taxes or ignore it, but the bankers and the real estate interests with their big campaign money can drop some threats, drop some checks and votes get changed. That's not good, folks. That's not good. That's what's happening out there in the lobby and the threats that are being made. Residential is TIFed. The 2017 report from the Revenue Department on TIF said residential, there was \$12,658,000 of taxes abated out of a total of \$71 million, and was 17.8

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percent. Homes are being built across the state. They're being built in North Platte. I've looked at some of the counties with just...that I've noticed, and it's been TIFed. You can already TIF houses, but you can only cover the cost, government cost. In Custer County, 11 percent of their total TIF was residential. In Dawson County it was 12.7 percent of their total TIF was residential. In Lincoln County, my county, 32.6 percent was residential. Chase County, which I have relations down there, so I see it happening, it's 28.5 percent, is TIF towards the total amount. This is dangerous path we're taking. As to Senator Wayne, his area is being TIFed or it should be. It's being TIFed. The big TIFs are not houses, folks. It's moving out on West O and Interstate. Now there is that the school districts that are being affected are the Millards and the Westsides, and guess what? I was told by the lobby that Westside is against TIF. They're understanding it. The counties are starting to find out the effect on their budgets. The Millards are finding out. So why would we do this? Do you believe in the free markets at all? If there's demand for housing, it is being built. It is being built. The reason people will not live here that have a work ethic is they want to maximize their incomes. They can't do that in a state with high property taxes and a high tax burden. [LB496]

PRESIDENT FOLEY: One minute. [LB496]

SENATOR GROENE: If you buy one of those TIF houses, folks, you're still paying your property taxes. There's no reason for that individual to buy that house with an incentive they're going to get the TIF money. It doesn't go there. It goes to the banker. It goes to the contractor. A person moves to town and buys one of those houses, works at the local school district as a teacher, thinks he's paying tax for his school, he doesn't even realize that his taxes aren't going to support his school or his county, it's going for equity guarantee for a bank loan. Why do you think the bankers are in this? Community bankers. You'd think they would want to help support their schools and their county and their city's budgets. No. They want collateral on their bank loans. That's sharp business decision. I understand that. I'm not criticizing them. But it isn't about the community. It's about protecting that equity and that loan. This is bad, bad policy, and I'm sadly seeing the things changing here because of people being bought off. That's not good. [LB496]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Briese. [LB496]

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SENATOR BRIESE: Thank you, Mr. President. Good afternoon, colleagues. I want to thank Senator Stinner and Williams for bringing this bill to us, and I want to thank them also for their ongoing efforts prior to being in this body and during their time in this body to grow their communities and grow the state. As you travel rural Nebraska, the two primary issues, at least I heard, were property tax relief and housing. This bill implicates both of those issues, and there are those that suggest we don't have a housing issue. I disagree. I was in Osmond a year and a half ago, a community of about 1,200 in northeast Nebraska, a local banker told me there that there is not a house for sale, or was not a house for sale at that time in Osmond, Nebraska. Back home recently, local community development leaders insisted to me that, yes, there is a housing shortage locally. A Chamber survey from a couple of years ago reported 70 percent of respondents said there is a lack of suitable housing in their communities. A housing shortage is handicapping growth in rural Nebraska and I think that's why as a body we have supported efforts at addressing this issue, but they were efforts that I believe could also help on the property tax issue. We passed a vacant property registration ordinance bill that I believe can help with the housing issue in our communities, but it can also help to expand our property tax base. We also moved Senator Quick's land bank bill the other night, and I know some colleagues suggested that bill could add to the property tax burden, but I think the land bank bill can actually help to expand our property tax base. I think it was good policy. Here in LB496 we have a bill that purports to help the housing issue, but you have to ask yourself at what cost. And some have said that cost is the abatement of property taxes for 15 years. And my concern is if TIF is being used when these houses would be built anyway, the taxpayer loses big time. And others have brought up this issue, essentially the "but for" test, and that was the intent behind my LB846 I introduced earlier this year to help ensure that TIF is properly used and that the "but for" test is adhered to. And I want to thank Senator Wayne and the Urban Affairs Committee for including a version of my LB846 in the omnibus bill LB874. And someone said earlier, a couple of folks said earlier, well, the "but for" test was addressed then in LB874. But to get that bill passed, the Urban Affairs Committee had to water down the "but for" components of my LB846. And why did they have to water that down? Because at the hearing on that bill, we had a room full of lobbyists there to oppose any efforts at TIF reform. One lobbyist said that they opposed any legislation that restricted the use of TIF. Another said, and I quote, anything that impedes TIF, we oppose. To me that statement is telling. It suggests to me that left unchecked, TIF could someday become a part of every development in our state. And I don't believe that's what our voters intended in

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1978 when they adopted Article VIII, Section 12 of the Constitution. That provision allows TIF, quote, for the purpose of rehabilitating, acquiring or redeveloping substandard and blighted property. I question whether LB496 is consistent with the intended use of TIF. And there's another factor for me, and that flows from the tax policy debates over the last couple weeks. After those debates and after Friday, it was painfully obvious from our discussion that consensus on comprehensive and sustainable property tax reform is going to be extremely difficult to come by in this body. [LB496 LB846 LB874]

PRESIDENT FOLEY: One minute. [LB496]

SENATOR BRIESE: Thank you, Mr. President. So anytime we can help our property taxpayers by the legislation we enact in this body, we need to do it. So for me, this bill boils down to, how does it impact our property taxpayers? And I did hear something earlier, I think Senator Stinner, and he can correct me later if I'm wrong, but I believe he said that we are one of only, perhaps, two states that rely solely on property taxes to fund TIF. Other states typically rely on some sales tax revenue to fund TIF. And I assure you if we use sales tax to fund TIF, the tone of today's discussion would be a whole lot different. But anyway, I look forward to more debate on this. I'd like to hear from the various sides and look forward to it. Thank you, Mr. President. [LB496]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Lindstrom. [LB496]

SENATOR LINDSTROM: Thank, Mr. President. I rise in support of LB496 and the amendments. I believe that this is a very important tool for local communities to help themselves, places like Seward, Gering, Gothenburg, etcetera, allowing them...those communities help them help themselves. So I think that's important so that's why I stay in support. Senator Briese is right. I had the chance this last August and end of September to visit 40 different communities and talk to 40 different bank presidents from Hordville, being the smallest. Went to Talmage and Hebron, Bruning, Wausa, Laurel, Pierce, all over, and had a chance to visit with them and get a sense of where they're at as far as the community. Of course, property taxes came up. Commodity prices came up, but the other issue that did come up was workforce housing and they're having a difficult time expanding and providing that in their

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communities. So that is why I stay in support of LB496. And Mr. President, with that, I would yield my time to Senator Vargas. [LB496]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Senator Vargas, 3:50. [LB496]

SENATOR VARGAS: Thank you, Senator Lindstrom. Colleagues, I stand in support of AM2914 and I'm going to tell you why. I know it was mentioned on the mike that this specific area was for north Omaha. I want to address the record that the way that this amendment reads and the actual area that is designated is not just focused on north Omaha. There is a focus on north Omaha, but it is prioritizing looking at the data. So you should have received an amendment from Senator Wayne. I just want to read the standards here. We'd be inserting that the extremely blighted area means a substandard and blighted area in which the average rate of unemployment in the area during the period covered by the most recent federal decennial census is at least 200 percent of the average rate of employment in the state during the same period, and the average poverty rate in the area exceeds 20 percent for the total federal census tract or tracts or federal census block group or block groups in the area. When we look at this map we are talking about high unemployment and high poverty. What we see as a mix of conditions that lead to decrease in economic development, decrease in affordable housing and areas that are truly blighted. So in addition to some of my travels over the summer, going to different areas outside of my district, if you haven't been to my district, and actually if you look at this map and you look at where I-80...is a little bit above I-80, that red part right above I-80 is my district. This also impacts south Omaha. We have areas that have extremely blighted areas that are very high poverty, high unemployment that would benefit from this, which is a step in the right direction. Because the original intention is specifically the funds that are supporting this bill that I understand for workforce housing came from the Affordable Housing Trust. And we want to make sure that we are doing everything we can to ensure that we are doing exactly that, creating opportunities for affordable housing in these specific prioritized areas. Because if you haven't been to some of these neighborhoods, and I'm not talking about just rural, I'm talking about my district, if you haven't seen the neighborhoods and you haven't seen the average age and the actual conditions of homes, these are areas where we're seeing flights. People are leaving the areas because we're not able to create more affordable housing and in addition the housing that currently exists is growing old, deteriorated and isn't necessarily always up to code. If you have questions about

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that, feel free to contact city councilman Vinny Palermo, city councilman Jerram, and others that represent some of the crossovers, city councilman Gray,... [LB496]

PRESIDENT FOLEY: One minute. [LB496]

SENATOR VARGAS: ...with this specific part of Omaha. So I specifically stand here because I just want to address that this is not just applying to north Omaha. This also applies to my district of south Omaha which has some of the highest poverty, top two, three highest poverty districts in the state of Nebraska. It's an opportunity for us to what Senator Wayne mentioned is to bridge the urban and rural divide. I'm not saying every single bill is perfect. I'm not saying this is solving the problem, but if we are really trying to figure out ways to be more equitable, I believe this is a step in the right direction with this amendment, and I can support every other underlying bill. So colleagues, I join and would support with Senator Wayne that this is a step in the right direction for our most needed, high-need areas in Omaha, and ask you to support AM2914, AM2887 and LB496. Thank you very much. [LB496]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Baker. [LB496]

SENATOR BAKER: Thank you, Mr. President, members of the body. I'm supporting LB496 and the amendments, and I thank Senators Stinner and Williams for their work on this. Workforce housing is a need in some of the communities in my District 30. I yield the remainder of my time to Senator Kolterman. [LB496]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Kolterman, 4:30. [LB496]

SENATOR KOLTERMAN: Thank you very much, Senator Baker. Mr. President, thank you. I have a couple of things I'd like to say. First of all, for those of you that are in this body that can stand on this floor and say we have no housing shortage in this state, and TIF is not an economic development tool, I would like to know what planet you live on. There's a definite housing shortage in this state and all you have to do is drive around the state and talk to people. I was on the Southeast Nebraska Development Board and all we talked about was the housing shortage, and that's in small towns as well as the larger towns in the area. That encompasses 17 counties.

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To stand here and say that we are not building bridges in Lancaster County because the shortage of TIF money coming from Lincoln, that's nonsense. One thing that I just have to say, if we're going to get personal about this stuff, let's get personal. I happen to believe very strongly in the bankers in the state. I'm not a banker so I can say that without any prejudice. They don't do this TIF and work their butts off in this state to line their own pockets. Yeah, they make a buck. That's free enterprise. I've made a good living in my community but I'll tell you one thing, I have given back to it as well. And I didn't do it for the sake of padding my own pocket, which people have been accused of here today. That's a bunch of nonsense. I'm a member of a housing development group in Seward, Nebraska. We have TIF in Seward, Nebraska. We have never used TIF in our housing development. We've developed a lot of land. In fact, we're right in the process of developing 84 lots and not one nickel of TIF is going into that project. People asked us if we were going to TIF, and we said no, we don't need to. There's two other developments being developed and they don't need TIF either. Why is that? Because we didn't need it, but there are communities that do need it, Fremont, Norfolk, Kearney, North Platte. They could all use more housing. They could all use TIF. Has there been abuse in the past? Absolutely, there's been abuse. I had several in my district that abused it and they stood up and said, we made a mistake. They paid it back. They paid back the wrongs that they made, and now they're moving on. This is really about local controls in our communities. We passed our TIF six years ago in Seward and we used LB840 monies to fund it, a portion of that money. York has TIF. They're the two largest communities in my district. And both of them use it, and they use it wisely without taking advantage of it. This is a tool that we need in the state of Nebraska. [LB496]

PRESIDENT FOLEY: One minute. [LB496]

SENATOR KOLTERMAN: I would encourage you to vote for LB496 and AM2887 and I really appreciate the fact that Senator Wayne has worked with us. It's another example where urban and rural can come together. I think it plays an important role. But let's keep to the facts of this issue and let's not try and throw people under the bus because you don't like the position they take. Thank you very much. [LB496]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Erdman. [LB496]

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SENATOR ERDMAN: Thank you, Lieutenant Governor. I see the handout that Senator Stinner sent around. Senator Stinner, I was interested to see what kind of income one has to have to afford a \$275,000 house. According to the flier that you sent, it looks like about \$37 an hour one must make to afford the mortgage on that property. I don't know how many jobs in the 47th District pay \$37 an hour. There probably are some, but that's a pretty significant wage for our area. I was wondering if Senator Stinner would yield to a question or two. [LB496]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB496]

SENATOR STINNER: Yes, I will. [LB496]

SENATOR ERDMAN: Thank you, Senator Stinner. Senator Stinner, tell me in a TIF project how does one arrive at how much the TIF bond is going to be? [LB496]

SENATOR STINNER: There is a calculation of what the need is and the differential between what it would have been assessed at before versus now, that differential gives you the incremental increase. [LB496]

SENATOR ERDMAN: Okay. So on a normal house, say of \$275,000, do you have any idea what the TIF bond would be? [LB496]

SENATOR STINNER: Well, the amount that would probably be calculated, depending on what the lot price was, say that the lot was \$25,000, then 250 would be the incremental increase. [LB496]

SENATOR ERDMAN: So the TIF bond would be how much? [LB496]

SENATOR STINNER: The TIF bond would be...you'd have to figure out what the assessed value is. If the assessed value is 250, then you would take your levy, say it's 2 percent times that, and that gives you the amount of money that normally would have been paid for taxes, and then you could figure out a 15-year stream, that would qualify for TIF. [LB496]

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SENATOR ERDMAN: Okay. So when the TIF bond has been discovered, or you've figured out what the amount should be, then who determines what the interest rate would be on the TIF bonds? [LB496]

SENATOR STINNER: That's generally negotiated between the buyer and many times in my situation, it's always been...I've been a lender and I also bought in a loan form the TIF, and it's a tax free, so we usually use some kind of indexing off of an A or a AA type of municipal equivalent. [LB496]

SENATOR ERDMAN: Okay. So would it be safe to say that a TIF bond could be 6 percent? [LB496]

SENATOR STINNER: It could be, depending on what was negotiated. [LB496]

SENATOR ERDMAN: Okay. So then, if you're the owner of the bond, if you're the bank and you own the bond, and they make their payment in the form of taxes, then you, the bondholder, would receive those taxes, and in that taxes would be included a 6 percent interest payment. Would that be correct? [LB496]

SENATOR STINNER: It would be principal and interest, and we would be receiving it from the county that collects the tax, yes. [LB496]

SENATOR ERDMAN: Okay. So the citizen or the person who owns the house would pay their taxes as normal and then the county would cut you a check for whatever their taxes were, and in that would be principal and interest. [LB496]

SENATOR STINNER: Yes. [LB496]

SENATOR ERDMAN: Okay. So if you're a lender and you get a 2 percent guarantee for 15 years, that's pretty good collateral. Would you agree? [LB496]

SENATOR STINNER: Yes. [LB496]

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SENATOR ERDMAN: Okay. So that's exactly what happens with these TIF bonds, because I have seen some of these TIF projects, and I wanted to buy some of those, because I thought that would be a great investment to have, 15 years, 6, 7 percent, but I can never get in a position to buy those, because they always go either to the lender or to the contractor. This is a great opportunity if you are a lender or a contractor to have a TIF bond that pays you 6 percent interest. That's tremendous. And I have some TIF projects in our area, they're paying 7 percent. So what happens is, they write a check to the county, the county write a check back to the city for that amount, and in that check amount is 7 percent interest on their TIF bonds. [LB496]

PRESIDENT FOLEY: One minute. [LB496]

SENATOR ERDMAN: Thank you, Mr. Speaker. That's tremendous. So I also read that there was a person in Omaha that had bought a property that was financed with TIF, and he had to sign an agreement when he purchased the property to never protest his valuation. As long as he owned the property, he couldn't protest his valuation. For you see, if you protest your valuation and the county lowers your valuation, then it means you pay less taxes. If you pay less taxes then that means the bondholder gets less TIF money back. So this really helps if you're a lender or you're the owner of the TIF bonds, this is a great opportunity at that interest rate, because we all know what interest rates are today and they're not near 6 or 7 percent. So beware of how this money is distributed and who gets it. Thank you. [LB496]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Groene. [LB496]

SENATOR GROENE: Thank you, Mr. President. LB518 was mentioned. It's not even gone into effect, folks. We passed the workforce housing bill in 2017. The guidelines have just been set up. We haven't even issued the grants for the 3.5 million in '17-18, the 3.8 million in '18-19. We don't even know if the grants are there if people want it, folks. And I did not insult the bankers. I complimented them. I'm a businessman. It's your bottom line. It's your bottom line. Hopefully, you make a bunch of money and then you can go to the art auction at the charity and buy a picture and help the community, but that's how free enterprise works. That's a compliment. We have a property tax problem, folks. We've sent a very bad message to the public that we didn't come up with a property tax fix for everybody. No, the taxpayers don't show up for homeowners

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and the ag, the farmers. They started this year showing up at hearings, but they didn't back when this was heard because they were in the fields working. The homeowners were at home working at their jobs. The lobby shows up and it's the lobby on TIF is always government. It's always government where the company...I've been to those hearings. It's always the League of Municipalities. It's the people who sell the bonds. It's the attorneys that do the bond work. That's how the system works, but I don't represent them, I represent individual taxpayers, and they want property tax relief. We cannot send a message that we don't understand, that we're going to give property tax relief to individuals. My contractors aren't asking for this at all. They're staying busy. There's houses being built all over the state. Last year in 2017, residential and recreational homes added \$1.3 billion in valuations in the state. Commercial only did \$755 million. Agriculture did \$226 million in improvements. Minerals, \$752 (million). Folks, homes are being built in Nebraska. They're being built in every town in the state, every town. I heard Senator Vargas say that the city council members at Omaha are all for this. I didn't hear him mention one school board member at OPS, 6.8 percent of their total valuation is off the books because of TIF. You can already do TIF in areas of high poverty. They are not doing it. You can do TIF. You can do it for 5, 6, 7, 8 years with public infrastructure. What this will do is take all TIFs to 15 years. There will be a generation of children, plus a year from preschool to graduating high school, will not receive \$1 property tax to the school where they attend because it will be abated. This is the absolutely wrong message. Let's see if LB518 works. Let's see if that's distributed. We changed the TIF rules in LB874. Let's see how that works out, folks. This is...we can't do this. It's an absolute insult. I want to yield the rest of my time to Senator Watermeier. [LB496 LB874]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Watermeier, 1:20. [LB496]

SENATOR WATERMEIER: Thank you, Mr. President. Good afternoon Nebraska. Real quickly here I will have to weigh in. Last year I supported LB496 on General File, reluctantly supported it and told them at the time I was going to look at it pretty hard and there's several reasons why I'm going to oppose it today. And I have traveled the state with the BIA, which is the Business Innovation Act, and we had hearings across the state of Nebraska, workforce development housing. Housing is one of those top things. Every time we traveled the state, it's clear that housing is an issue. But our discussion today needs to be on how we are going to support housing infrastructure. How are we going to support the need for the housing. What you're doing

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here with LB496 to me and directly to supporting the bankers is you're subsidizing housing. I think the conversation is misguided. We need to talk about how we're going to subsidize our wages, not directly give dollars for wages, but how we're going to build our wages so they can build and buy a better home. We are off track with this. Constitutionally, it was borne with the idea that TIF would be okay for those very specific things. We're expanding TIF in an area which I just cannot support. What we need to be doing is not filibustering bills like this, and this is what I'm going to encourage this summer. We're going to have to come back together a couple of times and talk about these issues and many issues. So when I call the chairmen together this summer, I don't want to have to pull them together kicking and screaming because right now we have a conversation about a Special Session out there. And Special Sessions don't work like many of us in this room think. [LB496]

PRESIDENT FOLEY: Time, Senator. [LB496]

SENATOR WATERMEIER: Thank you, Mr. President. [LB496]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Friesen. [LB496]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. When I was involved with the city of Henderson, I was involved in the first TIF project that happened in that community. And I do wish there would be more people on the floor because this is finally a good policy decision that we should be making in the state, and it's important that it's not based on emotional issues, it's based on facts, and what we should be doing going forward. There is a housing shortage in rural Nebraska and it's because of low wages. If we would focus on bringing more jobs, better paying jobs in the state into the rural areas, we wouldn't have to worry about subsidizing housing. It would get built on its own. I've had several different cities working in different ways with TIF. Central City. They TIFed a housing project but they did the streets, sewer and water with that and they got a subdivision started and a developer came in and it filled it up fast. They filled it up, it worked great. And what it did, it proved to developers that there was room for growth in the city. Sp the next subdivision did not receive TIF. They did not put in streets and sewer for them or anything. They just built it, but it jump started it. I am a fan of TIF in the right place. But not in the wrong place, and not in subsidizing the cost of a house. There's other things that can

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be subsidized, you know, the streets and the sewer and water putting in, that is an issue that I think I finally warmed up to. I was opposed to that even in the first. But when you look at what TIF does, and Senator Kolterman listed off a bunch of cities that needed TIF, those are all equalized cities that receive equalization aid. And so when Omaha, for instance, they have TIFed a value of \$1.534 billion is in TIF, that value is pulled off of the TEEOSA formula as part of their resources and they get subsidized with state tax dollars. But in the rural unequalized districts when we do TIF projects and we pull that value off, that value is just going to go on to rural...other owners of property and there's no change in the equalization aid to communities. So we do not get subsidized out there. It makes a huge difference. If you suddenly start a subdivision on the edge of a community that is nonequalized and they bring in a few more kids and suddenly you have a need for a new classroom or more teachers, that cost gets passed on to everyone else, and that subsidy goes to the builder and the home buyer. It doesn't go to the home buyer, not until we do this, but it could go to put in the streets and sewer and water. Workforce development housing is housing that's in the \$150,000, \$160,000, \$170,000 range, not \$275,000. We don't have a housing shortage to that extent. We have a shortage of good paying jobs that can afford it. If we keep subsidizing everything that our working people have out there, and we just allow the employers to pay less wages. If we don't force them to pay more wages by creating this workforce shortage, they will continue to hold their wages down, and we will subsidize the next thing that we have to do. It boils down to paying good wages, and if you're an employer out there, and I think if you want to offer a fair wage, you'll find an employee. But if you want to get by on the cheap where they have to have subsidized housing in order to come and live there, then you should be looking elsewhere to live. This isn't a question about housing. This is a question of how we're going to go about subsidizing something that I think that doesn't need to be subsidized. It will take care of itself. This isn't really what you would call local control either. We're allowing a taxing entity to make a decision here to take the taxes from several other entities. [LB496]

PRESIDENT FOLEY: One minute. [LB496]

SENATOR FRIESEN: It crosses county lines. When you're taking money from the school districts, and the NRD's, the counties, you're impacting them also. That all gets passed on to the other property tax owners, the property owners, and so it just continues to raise property taxes

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for the rest of us, and we already have a giant problem. This does not have anything to do with the rural-urban divide. I like TIF. TIF should be used to renovate old lots. Small communities can use that. TIF is needed there to clean that lot up. Those lots aren't worth much with an old rundown house on it. To use TIF to tear down that house and do that lot, I have no problem with that whatsoever. I think it's a fantastic tool. I think the land bank thing will also work the same way. I think it's a tool that can be used. This is not something that most of rural Nebraska needs. [LB496]

PRESIDENT FOLEY: Time, Senator. [LB496]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. [LB496]

PRESIDENT FOLEY: Thank you, Senator Friesen. Mr. Clerk, do you have a motion at the desk? [LB496]

CLERK: Mr. President, Senator Stinner would move to invoke cloture. [LB496]

PRESIDENT FOLEY: It's the ruling of the Chair there has been a full and fair debate afforded to LB496. Senator Stinner, for what purpose do you rise? [LB496]

SENATOR STINNER: I'd like two things, and that's a call to the house and a roll call in reverse order. [LB496]

PRESIDENT FOLEY: Thank you, Senator Stinner. There has 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. [LB496]

CLERK: 20 ayes, 2 nays to place the house under call. [LB496]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Members, please return to your desk. The house is under call. Please check in. Senator Hughes, Senator Murante, please return to the floor and check in. Waiting for

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Senator Hughes. All unexcused members are now present. There's been a request for a roll call vote in reverse order. The first vote is whether or not to invoke cloture. Mr. Clerk. [LB496]

CLERK: (Roll call vote taken, Legislative Journal pages 1541-1542.) 33 ayes, 11 nays, Mr. President, to invoke cloture. [LB496]

PRESIDENT FOLEY: Cloture is invoked. The next vote is whether or not to adopt AM2914. Those in favor vote aye; those opposed vote nay. Roll call vote has been requested in reverse order. [LB496]

CLERK: (Roll call vote taken, Legislative Journal page 1542.) 39 ayes, 1 nay, Mr. President. [LB496]

PRESIDENT FOLEY: AM2914 is adopted. Our next vote is consideration of AM2887. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB496]

CLERK: 34 ayes, 6 nays, Mr. President, on adoption of the amendment. [LB496]

PRESIDENT FOLEY: AM2887 is adopted. Select File motion, please. Senator Wishart. [LB496]

SENATOR WATERMEIER: Roll call. [LB496]

PRESIDENT FOLEY: Roll call vote has been requested regarding the advance of LB496 to E&R Initial. [LB496]

CLERK: (Roll call vote taken, Legislative Journal pages 1542-1543.) 34 ayes, 6 nays on the advancement. [LB496]

PRESIDENT FOLEY: LB496 advances. I raise the call. Mr. Clerk, do you have items for the record? [LB496]

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CLERK: I do, Mr. President. New resolution, LR496, by Senator Blood. That will be laid over. Enrollment and Review reports the following bills as correctly engrossed: LB873, LB953, LB1034, LB1034A, LB1065, LB1065A, LB299, LB729, LB845, and LB957. Those reported correctly engrossed. That's all that I had, Mr. President. (Legislative Journal pages 1544-1545.) [LR496 LB873 LB953 LB1034 LB1034A LB1065 LB1065A LB299 LB729 LB845 LB957]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Members, the next bill we're going to consider is LB948. Mr. Clerk. [LB948]

CLERK: Mr. President, LB948, E&R amendments, first of all. [LB948]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB948]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB948. [LB948]

PRESIDENT FOLEY: Members, you 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. [LB948]

CLERK: Mr. President, a series of amendments. I have a priority motion. Senator Harr would move to bracket the bill until April 11. [LB948]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on your bracket motion. [LB948]

SENATOR HARR: Thank you, Mr. President. So here we go, beginning right at five o'clock, folks. Last night we had a wonderful evening together and it gave us a lot of time to talk about this bill. And a housekeeping issue, first of all, is, I was asked earlier this session if I knew who the four seasons were, or are, and I said, yes, it's a band. It turns out it's also summer, spring, winter and fall, but it is a band and they're coming to the Stir Cove. So hopefully this summer everyone can make it to the Stir Cove, party Cove, and see the Four Seasons. But before we can do that, we've got to take care of this bill. And last night I might have misled some people and

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said this is a Seinfeld bill, a bill about nothing. And that was because there was a handout, I think we all got. And I think, well, I know it was from Senator Murante. And it said, hey, here is what the rule does...or here's the law, here's the rule, and by golly, they're duplicative and we're just eliminating what's duplicative. And then today at lunch, I saw Senator Lowe, and we were walking, having a nice time. I went to Amigos, so I apologize. But I saw a sign, and it said, think before you talk, read before you think. And I thought, wow, that's pretty inspiring. And so you know what I did? Something pretty novel is, I read the bill line by line. It wasn't quite 249 pages, Senator Erdman, but then I went and I looked at the underlying rules and regs. Where we went from "shall", we demand you, Governor, do these things to, "may", hey buddy, if it's not too much, if you've got time. Again, I know after the baseball season, could you look at these and maybe make some rules and regs? And I thought, well, they're duplicative. They're going to be the same and you know what? I only got to two, and of those two they were not the same. Would Senator Murante yield to a question? [LB948]

PRESIDENT FOLEY: Senator Murante, would you yield, please? He's coming. [LB948]

SENATOR HARR: Senator, would you yield to a question, please? [LB948]

SENATOR MURANTE: Sure. [LB948]

SENATOR HARR: Okay. Last night you had that big binder. I think it's right there by your nameplate. [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR HARR: Okay. And that has a summary of what the bill does and the underlying amendments and what they are or are not, is that correct? [LB948]

SENATOR MURANTE: It's not a summary. What it is, is an example of the regulations that have been adopted and promulgated because of statutory language and the statutory language that are... [LB948]

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SENATOR HARR: Okay. And last night you read from Section 1. [LB948]

SENATOR MURANTE: Right. [LB948]

SENATOR HARR: Correct. So I'm looking at Section 1, and it strikes some language on line 9, and shall be in the form prescribed by rules and regulations, which the division shall adopt and promulgate. And it was your contention and Section 1 is a mere paragraph, and it was your contention that the language in 3-158 is the exact language in the rules and regs, is that correct? [LB948]

SENATOR MURANTE: Well, I can read it again for you, if you'd like, Senator. [LB948]

SENATOR HARR: Well, that's a yes or no. Is it the same? [LB948]

SENATOR MURANTE: So we're talking about Section 1, Department of Transportation relative to a person renting aircraft, insurance information, is that correct? [LB948]

SENATOR HARR: That is correct. [LB948]

SENATOR MURANTE: Okay. So we have the section provided for in Section 3-158 and then I have the accompanying rule and regulation. [LB948]

SENATOR HARR: Okay, and what is that accompanying rule and regulation? [LB948]

SENATOR MURANTE: Okay. This is regulation, Title 17, Nebraska Department of Aeronautics, prior issue August, 2002, Chapter 9, rental of aircraft. 1.01. Any person who in the ordinary course of his or her business rents an aircraft to another person shall deliver prior to the use of subject aircraft to the renter written notice stating that 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. 1.02. [LB948]

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SENATOR HARR: Wait, just a second. That's almost verbatim from the statute, is that not?
[LB948]

SENATOR MURANTE: Yeah. [LB948]

SENATOR HARR: Okay, and then now we're at 1.02. Go ahead. [LB948]

SENATOR MURANTE: Okay. This notice shall contain the name of the person giving the notice of... [LB948]

SENATOR HARR: Stop. Sorry, I don't want to interrupt you there. And that's verbatim from the statute, correct? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR HARR: Okay. And now you're about ready to read some more. There's more text, isn't there? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR HARR: Okay. And this text isn't found in the statute, is it? [LB948]

SENATOR MURANTE: I'm sorry, repeat that question. [LB948]

SENATOR HARR: What's that? [LB948]

SENATOR MURANTE: I didn't hear the question. [LB948]

SENATOR HARR: All right. So we have read the paragraph that's the statute and now you're about ready to read some more. And can you point to...well, why don't you go on and read the rest of that paragraph of 1.02. [LB948]

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SENATOR MURANTE: Okay. So starting after 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 carried aboard the aircraft, and a statement of protection from demand, if any, from owner's insurance policy for hull damage to the aircraft and a statement of renter's liability for deductible amounts, if any, of owner's insurance policy. [LB948]

SENATOR HARR: Okay. Where is that found in statute? [LB948]

SENATOR MURANTE: It's not in the statute. [LB948]

SENATOR HARR: Okay. Thank you. So there is some difference. It's not completely duplicative. Can you...we next go to Section 5, which is on page 4. Okay. And that covers the Civic and Community Center Financing Act which Senator Friesen had a bill on that this year and I had a bill on that this year, and this is what kind of drew my attention to the whole thing. Okay. So, what is your contention that Section 5 does? [LB948]

SENATOR MURANTE: Conforms, it creates...Section 5 of this bill goes into the statute relative to the Department of Economic Development and instead of mandating that the department shall adopt and promulgate rules to carry out this particular act, it transitions that to may. [LB948]

SENATOR HARR: Okay, and I appreciate that. And is it your contention, therefore, that the statutory language is...or excuse me, the rules and regs are duplicative of the statutory language so therefore, we can delete the rules and regulations? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR HARR: Okay. Thank you. I appreciate that. Do you have a copy of the rules and regs as it applies to the Civic and Community Center Financing Act? [LB948]

SENATOR MURANTE: I do. [LB948]

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SENATOR HARR: Good. Thank you. I'm going to start with, on page 3 of that, it has alphabetical table of content and it states, application guidelines. [LB948]

SENATOR MURANTE: I'm sorry. Page 3 of the code or page 3 of the statute? [LB948]

SENATOR HARR: Of the code, and that's titled 90 NAC, Chapter 1. Are you with me? [LB948]

SENATOR MURANTE: I'm not, I'm sorry. Okay. Got it, yes. [LB948]

SENATOR HARR: Thank you. And I'm looking at the application guidelines. Do you see that? [LB948]

SENATOR MURANTE: The application guidelines, yes. [LB948]

SENATOR HARR: Okay. And then it says statutory authority 13-2710. Do you see that? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR HARR: Okay. And then it says the code is 108. [LB948]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB948]

SENATOR HARR: All right. Well, I'm going to continue this conversation. Thank you, Senator Murante, and maybe you and I can talk off the mike. What you're going to find, folks, is that the Civic and Community Center Financing Act, something that goes to every small town to turn back tax money from the Pinnacle Bank Arena, the turn back tax money from the CenturyLink Arena that goes to financing a lot of projects, what you're going to find is that there are items in the rules and regs that are not found in the statute. We require those in the statute. We say, make rules and regs, fill in the blanks, so that there's certainty out there of how this money is applied,

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and what you're going to find is that we're eliminating that. We are giving the Governor carte blanche to say you can spend that money. [LB948]

SPEAKER SCHEER: Time, Senator. [LB948]

SENATOR HARR: Thank you. [LB948]

SPEAKER SCHEER: Thank you, Senator Harr and Senator Murante. (Visitors introduced.) Returning to debate, those waiting in the queue: Murante, Harr, Chambers, Schumacher, and others. Senator Murante, you're recognized. [LB948]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening. I'd again like to begin this evening as we began yesterday. I do have in front of me, as I assume we'll be going through in probably great detail with Senator Harr, the list of regulations and rules, which have been adopted and promulgated pursuant to statute, and the accompanying statutes which mandate their existence. It is my belief that these are duplicative in nature. To be clear, duplicative does not necessarily mean identical. There are instances where verbiage is certainly added, or changed, modified, in the rules and regulations, but I don't believe that it serves it a tremendous amount of public interest. With that said, I will make the same offer today as I made yesterday, which is to say, if there is a provision of this bill, which you believe...where you believe that these rules and regulations need to be adopted and promulgated, and you can make that case, and we can send this bill on, I am happy to consider entertaining that discussion. This was a lot of work done by a lot of people over a long period of time, and I'm happy to continue working throughout this floor discussion to make that happen. So, I'm happy to do that. That's not a problem, but I don't believe that just because we can find differences we are illustrating that the bill doesn't have value. I believe that it does have value, and that this...and I do also want to make one additional thing clear. This does not give the executive branch carte blanche authority. If we give the executive branch the authority to change these "shalls" to "mays", any rule that is modified that is currently in existence still needs to be done through the APA. These don't just go away. These rules and regulations don't simply vanish into thin air. They would continue to have a public hearing and go through the typical APA process that is set out. And I also want to bring to the members attention what I believe is another policy. We haven't discussed it in the last day,

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but what I believe is a good policy change which is to say that the model rules that are adopted and promulgated by the Attorney General's Office relative to the APA, I believe that this bill harmonizes that. I believe even Senator Harr has indicated on the microphone his support of that particular provision of this bill, and what that does is that the model of rules and regulations. Rather than just setting up a model in the Attorney General's Office for state agencies to sort of use as a template, this says that this will be the standard that is used and if it's deviated, that...if it's deviated from that the state agencies need to identify some reason or rationale for that, so I think that's an important policy improvement from what we have right now. Like I said, I'm happy to go over. I'd like to particularly appreciate the members who between General and Select File...excuse me, between the first two discussion periods on General File came to me, I believe I satisfied, either I or the agency has satisfied the concerns of those folks and this is a good bill. This is a bill that... [LB948]

SPEAKER SCHEER: One minute. [LB948]

SENATOR MURANTE: ...I appreciate the members yesterday providing the votes necessary to advance this bill on. I also appreciate the bipartisan support that we had on this bill on General File. I think that really speaks volumes for the amount of work that went in to this bill. And again, I would continue to open myself up to anyone to reach out to me off the microphone. If there are specific concerns with this bill, I'm happy to have that conversation, and I think that it's a good conversation and look forward to having it. Thank you, Mr. President. [LB948]

SPEAKER SCHEER: Thank you, Senator Murante. Senator Harr, you're recognized. [LB948]

SENATOR HARR: Thank you. And I want to thank all those people last night who continued to--sorry, I dropped my pill--who continued to talk about this. I think this is bipartisan in our concern about how do we protect our powers within the legislative branch without giving too much to our good friends in the executive branch. So continuing where we left off, I'm going to come back to Section 5 and ask Senator Murante if he would yield to a question. [LB948]

SPEAKER SCHEER: Senator Murante, would you please yield? [LB948]

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SENATOR HARR: Oh, he took off. While he comes back to his desk, we're going to be talking about Section 5...or excuse me, 3, folks, which deals with another portion of the bill. Senator Murante, would you yield to a question? [LB948]

SENATOR MURANTE: Sure. [LB948]

SENATOR HARR: All right. I'm now looking at your introduced bill, Section 3, which deals with Section 13-2103. Do you know what that's regarding? [LB948]

SENATOR MURANTE: So we're at Section 3 of the bill, we're in economic development right now. [LB948]

SENATOR HARR: I believe you are correct. And you cross out some language and you replace it with, beginning on December 1st, 2014. Do you see that language on line 26? [LB948]

SENATOR MURANTE: I do. [LB948]

SENATOR HARR: Okay. Question for me is, what is so magic about December 1, 2014 and not the date of this bill, or the date that a rule or reg was originally passed? [LB948]

SENATOR MURANTE: So my understanding, Senator Harr, is that the answer to that question is that was the date in which that provision became operative when it was first enacted into law. [LB948]

SENATOR HARR: Okay. So that's why it said...but if agreed today, it would still be the same, correct, or would it be different? [LB948]

SENATOR MURANTE: So beginning on...excuse me. [LB948]

SENATOR HARR: If we said beginning as of the passage of this bill, would it change the underlying meaning? [LB948]

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SENATOR MURANTE: I don't believe so, Senator Harr, since the rules that were adopted. Back in the day I don't believe we're by retroactively taking their authority out, we're doing anything to their ability to have adopted and promulgated the rules in years past, but that's a lawyer question. [LB948]

SENATOR HARR: Okay. [LB948]

SENATOR MURANTE: And you're a brilliant, scholarly attorney from Creighton Law School, if I remember correctly and you think like a Jesuit. [LB948]

SENATOR HARR: And I appreciate that. [LB948]

SENATOR MURANTE: That was not a... [LB948]

SENATOR HARR: Let me just state the law school that I graduated from may or may not accept me, so let's just for the time being pretend that it was Creighton, although it was not. [LB948]

SENATOR MURANTE: Oh, it wasn't. My apologies. You're an Irishman, were you? [LB948]

SENATOR HARR: That's right. Normally, you can tell when someone's from Notre Dame because they'll tell you in the first two minutes, so the fact you don't know is somewhat of a... [LB948]

SENATOR MURANTE: Kind of like Georgetown. That's another commonality between you and Senator Larson. [LB948]

SENATOR HARR: One among many. He and I seem to gravitate towards the same places. [LB948]

SENATOR MURANTE: Indeed. [LB948]

SENATOR HARR: I'm looking at the...back to Section 5. [LB948]

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SENATOR MURANTE: Okay, back to Section 5. Okay. [LB948]

SENATOR HARR: The application guidelines, and it says the statutory authority comes from 13-2710. And then it says the code is 1.08. So if you can flip to 1.08, and I'll flip with you, and it says the department may issue annual application guidelines for the fund consisting of the time, manner, applications shall be received, reviewed and awarded. Is that correct? [LB948]

SPEAKER SCHEER: One minute. [LB948]

SENATOR HARR: One minute? Is that correct what it says? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR HARR: And I'm going to hand to you something now that says 13-2710. Okay. Is that, in fact, 13-2710? [LB948]

SENATOR MURANTE: Yes. [LB948]

SENATOR HARR: Okay. And is that language the same as what we see in 1.08? [LB948]

SENATOR MURANTE: In 1.08, is it...no, it is not the same language. [LB948]

SENATOR HARR: All right. So we have different application guidelines, folks, then what is in the statute. And how much time do I have left, Mr. Speaker, Mr. President? [LB948]

SPEAKER SCHEER: 20 seconds. [LB948]

SENATOR HARR: Okay, thank you. We are going to continue down that road regarding just the differences and why I think the Community and Civic Fund is so important and that we need to have certainty built into it, and that by passing this law we will take something that has certainty and introduce, well, maybe not chaos, it's definitely less certainty. Thank you. [LB948]

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SPEAKER SCHEER: Thank you Senator Harr and Senator Murante. Senator Chambers, you're recognized. [LB948]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I hate that there's so many people gone during this exercise that Senator Harr is undertaking. He is showing that our...the very essence of what we do, which is to make laws, is being undermined by the Governor's Office. What Senator Murante is asking us to do is almost as insulting as when the Lieutenant Governor sat up there and put his thumb on the scale. We pass the law. We don't have to then go filter through Senator Murante, or some other tool of the Governor's, and find out if he approves or disapproves and based on that, maybe something will be done. We passed the law and it is to be obeyed. Either you all accept that or you don't. But right now, it's not a you accept it or you don't, you don't even know. You don't even care. It's not acceptance or rejection. It's acquiescence in. You're going along because the Governor sent it over here with Senator Murante who's running as fast as his little legs will carry him to become treasurer, or whatever it is. And we are going to be here as we are now enacting laws that the Governor tells his people they can ignore. This bill ought to be put to bed. It is not good. It is not offered in good faith. It is an insult to the Legislature, and after having been insulted by the Governor disobeying his constitutional duty, he sent Senator Murante to rub it in your face. Do you know what your face would be called, brothers and sisters, because I don't use the kind of language that I would have to use to tell you what I'm trying to say? Your face would be called Northern tissue because of what he is rubbing in your face. He is using your face in a way that Northern tissue is used, and you swallow it. This thing should have been gone a long time ago. This goes to the essence of the Legislature's work. We say, write rules and regulations. The Governor says, I'm not going to do it. And Senator Harr is showing that what Senator Murante said last night was not accurate. I won't say it's not true because Senator Murante hasn't read it, all of these items himself. Had he read them, as soon as Senator Harr began to read, Senator Murante would have said, I'm aware of that. He wasn't. He doesn't have to read it because you all don't read. Look how few of us there are here now. I have to say this day after day, but I'm going to do it because if I'm telling you, you should do your duty and read these bills and uphold the integrity of the Legislature as an institution, I have to discharge my duty by flaying you, by lashing you, by trying to stir you up into obeying your oath, carry out your duty. I'm doing mine. That's why I can point at you and say you ought to do the same. Don't let an outsider such as myself, outdo you. This side where

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I'm located, on this side of the aisle, we have four people. There are five on the other side sitting down. Then there's some miscellaneous senators scattered here and there. You all don't get the letters that I get. You don't get the calls that I get. Where are they? Do you all know that I get calls from California on a daily basis. They watch what we do in California. At committee hearings when I gave my resolution... [LB948]

SPEAKER SCHEER: One minute. [LB948]

SENATOR CHAMBERS: ...before Senator Murante's committee, I got calls from people in other states who watched that hearing and they wanted me to send them clippings. I said, it's not going to be written about in the papers in Nebraska. And they said, a resolution like that? I say, yeah, you don't know the press in Nebraska. I think the Lincoln Journal Star put a small, little item, but things that are deemed consequential in other parts of the country are ignored here, and it's why Nebraska as a state is considered a flyover piece of wasteland. I'm going to put my light on again and talk to the Northern tissue-faced senators. Thank you, Mr. President. [LB948]

SPEAKER SCHEER: Thank you, Senator Chambers. Waiting in the queue to speak: Senator Schumacher, Hansen, Riepe, Murante, and others. Senator Schumacher, you're recognized. [LB948]

SENATOR SCHUMACHER: Thank you, Mr. President, and members of the body. This represents another one of those mad ideas where some foundation, some nonprofit, some political guru somewhere decides that they're going to promote a political objective of less regulation of trying to drive the states into the same kind of panic that we were driven over taxes, and which left many states bankrupt or approaching bankruptcy, this one included. The new fad is, let's cut down on the number of words in a regulation and let's rank states by a number of words. Problem is that most regulations serve a function. They're not just a ditto of statutes. The reason they ditto statutes over is so that a citizen in looking at the regulation also has a text of the statute. So it's not a complete waste of time. I suppose in the age of hyperlinks and Internet they could hyperlink to the statute book, but that would be six of one and half a dozen of the other. What they do do is when they promulgate a regulation and follow the legislative instruction to promulgate a regulation, they have an affirmative obligation in spite of what they might want to

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do or figure they can afford to do to fill-in the blanks, add meat to the skeleton of the laws we pass, because quite frankly we are not in the position to detail out every possible permutation of how to apply our laws. It's worked. There hasn't been a big problem. There hasn't been a great outcry. There hasn't been a great cost. Now we're asked to change that by substituting in the word, "may". Now we do something like that, it's not just for this administration, but to go back to "shall" would require 33 votes, and there may be future administrations who are more at odds with the Legislature than this one is. And as such, the Legislature may pass something and end up being in the predicament of not having it enforced, or existing rules that are on the books being undone or replaced by future administrative action. I'm not sure what we're accomplishing with this other than a headline that says, well, we got rid of a few thousand words out of seven and a half million, so we're heroes. I stand opposed to this because it's not necessary, and it accomplishes very little, and it's getting close to where we should be working on that long list of Final Reading. If I have any time left I'd yield it to Senator Harr. [LB948]

SPEAKER SCHEER: Senator Harr, 1:10. [LB948]

SENATOR HARR: Thank you. Well, you know, I don't know if you heard that on the last time on the mike, Senator Murante stated, folks, this doesn't do anything actually because you still have to have rules and regs to get rid of them. This just gives them the authority if they want to. Okay. So of the 7.5 million words, we have done nothing. This still requires action by the Governor, action that he's not prohibited from doing right now if he really wanted to do some of these, not all of them, but a great number of them he could already do. And for some reason has chosen not to because I've gone through the rules and regs and looked at what has been addressed and what has been introduced, and it's crazy because for all the time that was spent on this, as Senator Murante said, you would have thought they would have found more rules and regs and more quantitative changes than this, let alone qualitative. They don't...I don't know. So we're going to have some more time on the mike. If anyone wants to give me some. [LB948]

SPEAKER SCHEER: Time, Senator. [LB948]

SENATOR HARR: Thank you. [LB948]

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SPEAKER SCHEER: Thank you Senator Harr and Senator Schumacher. Senator Hansen, you're recognized. [LB948]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon, colleagues. I'm glad Senator Harr gets to represent Tyson Larson as a proud alumni of Jesuit institutions. He represents me pretty well on this bill in terms of my questions and concerns, so I'd yield my time to him, to Senator Harr. [LB948]

SPEAKER SCHEER: Senator Harr, from your Jesuit friend, 4:35. [LB948]

SENATOR HARR: Thank you very much. Is Senator Murante here on his bill? [LB948]

SPEAKER SCHEER: Senator Murante, would you please yield? [LB948]

SENATOR HARR: Well, while he is not here, I'll go and just answer the questions for him because the answers are pretty simple. If you go again to the administrative code and you look at, it says, annual report. I think we covered that, so now we're on to conditional approval of grants, statutory authority comes under 2708 and the code is 1.07. So you go to 1.07 and you look and see, well, what does the statute say and what do the codes say and how do they differ? Because if all we're doing is eliminating duplicative language, they're probably the same. Right? So 27, 1327.07 is department of valuation criteria, match required, and location. And it says, and we're looking for approval of grants. It has one. The department shall evaluate all applications for grants of assistance under 1327-04.01 based on the following criteria which are listed in no particular order, retention impact, new resident impact, the visitor impact, readiness, project planning, any grant assistance under 3701 shall be matched at least equally from the local sources. All right. So then we go to, again our handy-dandy rules and regs, and what do we find out? Well, they're not the same. They're not the same. It goes on to state what is found in statute, but it also says, if the department gives conditional approval to a project and one or more days later to another project, the earlier project is first in order. If conditional approval is given to more than one project on the same day, the project in the first in the order is the one preferred in ranking order of projects approved by the department on that day. In any calendar year when the department may accept applications for grant, it may accept the application during one or more

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application cycles. These cycles will be set forth in annually-issued application guidelines stating the time frame and manner in which the applications are to be submitted. It is the intent of the Legislature to approve funds to support the project. A grant shall be finally approved when the funds of the project are appropriated by the Legislature. Now, that last two sentences actually comes in another part of the statute, but this other part, no, man, this is all new. This is different than the underlying statute. That we were told these were duplicative and this was a show about nothing. This was a Seinfeld bill when in fact it is not. Is that Senator Murante up with the President? Mr. President, is that Senator Murante to your left? [LB948]

SPEAKER SCHEER: It is, it is, Senator Murante. [LB948]

SENATOR HARR: Okay, good. Senator Murante, would you yield to a question? And while he's coming back, folks, the next one we're going to...for those following at home, we're going to be doing evaluating criteria for evaluating...oh, that's for grant applications.

SPEAKER SCHEER: One minute. [LB948]

SENATOR HARR: Well, I guess we're not going to get to that. I guess to hit the mike another time and we can talk about how the grant amounts differ between the rules and regs and the statute. A statute where we have been told repeatedly, they're the same. They're duplicative. We're just getting rid of duplicative language. Folks, we are not. These are just the first two I looked at and I bet you, if we go through and look some more, we'll find more changes, and then we got to ask ourselves, why are we making these changes. Thank you. [LB948]

SPEAKER SCHEER: Thank you Senator Harr. Senator Riepe, you're recognized. [LB948]

SENATOR RIEPE: Thank you, Mr. President, and colleagues. My interest today is to divert a little bit and talk about the...some of the issues of where we're at with Heritage Health and the progress that has been made. We're serving a number of people. We're serving 230,000 people, and we're also providing or working with some 30,000 providers. That is off subject, but it's simply a piece that I wanted to make a comment on, and I thank you very much. Thank you, Mr. President. [LB948]

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SPEAKER SCHEER: Thank you, Senator Riepe. Senator Harr, you're recognized. [LB948]

SENATOR HARR: Thank you, Mr. President, members of the body. And I'll come back to a lot of this stuff in a second that where I see some duplicativeness and I see some nonduplicativeness. But I want to talk about the Mercatus Center. And I gave everyone a handout on this. And I don't know if everyone had a chance to read it or not, but when we go to make legislation, we have to be so careful, and there is a burden of proof on the person who is moving the bill. And next week I'll get to give a speech that--the room will be full at that point--about my time in the Legislature, and maybe I want to just give you a little early thought about what I'm going to say, teaser, if you will. What we do here is so, so important. We affect the lives of every individual, and it is a scary thought when you think about the power that has been given to us by the people, and it is an awesome responsibility, and it is something I have not taken lightly, and something I enjoyed, and its been a great honor. And it makes me so disappointed when I see outside interest groups peek their heads in and try to tell us how to do things in Nebraska based on a national model, because we are in Nebraska, we are unique, we are special. We have a tradition of bipartisanship of working together and finding a way to get things done. And a lot of times these outside interest groups come with a single interest. And in this case, you know, the Mercatus Center on one of their form 990, and I saw that they're being funded by the Koch brothers. Now ironically, the Koch brothers are not, or maybe not, so they actually are bipartisan. Not very much but on prison reform they're bipartisan, on taxes they're not. They have a singular goal, and that is less regulations and fewer taxes. Not all bad, folks. Not all bad, but it needs to be done in a manner in which takes analysis, it takes time, sweat and energy and figure out what works best for you in your state and where you are. And it's not looking at the number of words and saying, deciding arbitrarily that "shall" is a limiting word. "Must" is a limiting word. "Must not" is. If that were true, we should probably rewrite our Constitution because our Constitution has those same, darn words in them. Those aren't bad words. Now, I would argue you should use the word "will" instead of "shall" because "shall" to me has a moral implication, but to uniformly say that is bad or that is good because of the word itself, it inherently is bad or good, takes away from all the hard work we do and all the studying and the reading that we do. And we've got to do something about that. It's not easy governing, and it's not easy finding 25, let alone 30 or 33 votes. And that's why it's important not to just fall into the hands of these gimmicks that do a word search, literally do a word search. I showed it. It's in that handout I gave you where they go through and

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they look and see how many times a word appears, and each time that word appears, that is negative. That is something bad, and that's just not true. And so let's really look at it and decide, what is the underlying purpose of the law, read the rule and regs, say does that rule and reg really follow the underlying purpose? And I think we have some watchful people in our agencies that do constantly repeal. [LB948]

SPEAKER SCHEER: One minute. [LB948]

SENATOR HARR: Thank you. And that's why there weren't a great number of changes. If we really want to affect rules and regs, I said it last night and I'll say it again, Senator Ebke is your champion. She came with a bill on that. Senator Groene is your champion. He came with a bill on that. And many others have come with bills that look at outdated rules and regs and what we need to do to change them, and then you need to look at our Administrative Procedure Act, which I think is too burdensome. It is meant to be hard to institute rules and regs, but it makes it also hard to get rid of them, and as a result, our rules and regs aren't always as receptive as they should be. So, I want to thank you for the time, and we'll continue to work on this bill and decide if this is a good idea or a bad idea. Thank you. [LB948]

SPEAKER SCHEER: Thank you, Senator Harr, and that was your third time at the mike. Senator Pansing Brooks, you're recognized. [LB948]

SENATOR PANSING BROOKS: Thank you, Mr. Speaker. I rise opposed to LB948 as I have before. I feel that this is one of the most dangerous bills of our session. If we have a problem with an area of law, then we can go through and use our legislative process and change the law, one at a time, or if there's a decision that multiple sections relate to one another, we can change multiple sections at a time. But to come through and summarily wipe out the rules from previous Legislatures that various agencies and departments "shall" promulgate rules and regulations, is total overreach by the executive branch, in my opinion. It worries me. It's happened continuously this session, and what's next? Right now, it's something that you don't care about. But what is the next thing that starts happening? What are the next rules and regulations that are affected? If we have a problem and you want to get rid of something, but we all know that we're not getting rid of very much. All we're doing is taking away the teeth from the Legislature, and I mentioned it

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last time, we might as well just say whatever you want to do. We don't need to have a Special Session. We don't need to meet and discuss laws and figure out the three...have three readings of a specific bill before it becomes Final and adopted. Let's just lie down. Let's go home because we have received our marching orders. And our marching orders are to take out the teeth of the legislation that has been drafted about which hearings have been held, and instead we're just going to...it doesn't do anything, some people, some of my colleagues have said. That's not true. If you study the law, there are differences and important differences in words. Words matter. And to have our Legislature just roll back and say, oh, you know, this is better, these are better ideas than we have. We can take these out. Why aren't these all coming before us in a hearing? If these are such great, easy ideas, they can be presented by a senator, and we can push them through on consent. Again, these rules that a department or an agency can't, may or may not decide to create a rule about. Deal with insurance notices for aircraft rentals. Economic development district annual performance and financial reports. You can...may or may not develop some regulations and rules regarding the Enterprise Zone Act. May or may not decide to create rules regarding the Civic and Community Center Financing Act. May or may not decide to give voting certificates. If that doesn't deal with the safety issue, I don't know what does. Boating certificates. Making sure that the boats are safe, that the people who drive them have some experience. How about... [LB948]

SPEAKER SCHEER: One minute. [LB948]

SENATOR PANSING BROOKS: ...the Protection from Domestic Abuse Act or the retirement disability and life insurance policy standards or the Environmental Quality Council, the Anatomical Gift Act. You're all fine with just letting it go. These agencies may or may not decide to create rules. May or may not decide that it's important to do. We, as a Legislature and our predecessors have decided that we "shall" and that we have told these agencies that they "shall" promulgate rules and regulations. That's how our state understands how to act. That's how the people in Nebraska know how they are supposed to act and move forward appropriately. [LB948]

SPEAKER SCHEER: Time. [LB948]

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SENATOR PANSING BROOKS: Thank you. [LB948]

SPEAKER SCHEER: Thank you, Senator Pansing Brooks. Senator Chambers, you're recognized. [LB948]

SENATOR CHAMBERS: Thank you. Mr. President, sometimes you have to get people's attention. There are two guys, a father and a son, they sing country music. I can't think of their name now. But one of them said, good morning America, how are you? Don't you know me? I'm your native son. I'm the train they call the city of New Orleans. I'll be gone 500 miles when the day is done. I'm not your native son, but I'm going to do some traveling. Get people's attention, and there was one name...a man named Walter Winchell. He said, good morning, good evening, Mr. and Mrs. America and all the ships at sea, letting you know he's got a message he's going to bring. The people who do watch us, and they're not in this Chamber, will make a distinction between those of us who are and wonder why a Legislature is so barren as this one. I'm not making it up when I tell you that people call from California. I don't know what these gadgets do. It would be preposterous for me to say that. If it wasn't happening, it wouldn't even occur to me to say it. But there's some of you whose names the people don't know, but they will lay out pretty well what you said and based on that I can tell who they're talking about, and I give the name. So the regrettable thing is that they cannot vote here. What I'm going to do is a little bit of civic...civics presentation this evening. There's an oath, an official oath, and this is what it says. It's found in Article XV, Section 1, of the Nebraska Constitution. Executive and judicial officers and members of the Legislature, before they enter upon their official duties shall take and subscribe the following oath or affirmation. I do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the state of Nebraska and will faithfully discharge the duties of my office according to the best of my ability. The Governor has violated that oath. He is not doing what he should do, but don't take my word for it. Let me go to Article IV, Section 6, to show you what the Governor's duty is that he swore to discharge to the best of his ability. The supreme executive power shall be vested in the Governor who shall take care that the laws be faithfully executed, and he's not executing them. They are to write rules and regulations, and his people have not done it. He's in violation of his oath, but what...when has a rich man ever felt he was bound by an oath. That's why Jesus said it's easier for a camel to go through the eye of a needle than for the whole Ricketts family to get into heaven. Let's see what

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the legislators have the duty to do. Article III, Section 1. The legislative authority. All of the legislative authority of the state shall be vested in a Legislature consisting of one chamber. That is us. We took an oath. You all did. I gave an affirmation, and I am discharging my duty to the best of my ability at the time that I'm operating. I take it seriously. I don't need an oath. My word is going to bind me to do what I ought to do more than any oath because I don't believe there's a heaven that I'm going to or a hell that I'll be condemned to. [LB948]

SPEAKER SCHEER: One minute. [LB948]

SENATOR CHAMBERS: You all need that and even with that, you don't do your duty. Look at this Chamber. The Governor violates the Constitution. Do you see any of these articles by these reporters pointing out what facts are being presented here? They don't care about this Legislature because you don't care. Read some of the stories they write about the most significant issues. It's patchwork. You wouldn't even know what they're talking about if you only went by the story. They are the barometer of how little esteem and how little respect anybody in this state has for you all. Reporters want to get good stories. It enhances their reputation, but you don't get anything in the way of enhancement of reputation by writing about the Legislature because it's so vacuous, so vapid, so supine, and so willing to disavow the oath that it voluntarily took. Thank you, Mr. President. [LB948]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB948]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, and members of the body that...a few members of the body who are here. It's interesting how the place kind of just clears out. You can almost hear it echo. Echo. Administrative law is made in two ways. In other words, the administrative agency enforces its duties in two ways. One is through adjudication. That means they take the statute, they bring an action against somebody for violation of the statute, and then a court fills in the blanks as to whether or not that is within the intent of the statute. That is expensive way to do things, but it can be done, and sometimes is. You'll see, for example, in the IRS regulations, they'll bring a court case and it will go to the tax court, and the court will make a decision on a fine point of law. That's how that form of administrative law is developed, and

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then they use what the judge said in order to fill in the blanks and administer it the next time. The other way is through rule making, and basically they propose a rule. They publish a rule. They hold hearings on the rule, and then after that, they promulgate the rule that's got to be signed off by the agency head, by the Secretary of State, and I think maybe even the Governor. And that becomes a rule, so it's kind of a shortcut to getting the meat filled in on the legislation. Now, what happens is a practical matter in a small state like Nebraska. A lot of even the rules that they make don't quite fit, and so oftentimes what they will do is, the regulator will come to an understanding of some mechanism of compliance, some mechanism of behavior with the "regulatee", and that's what will guide their decisions. Oftentimes, we see a situation where administrative agency will not make a decision to enforce its regulations, but will kind of sit on it. And when it does that, and it does nothing, then it leaves in limbo the regulated party, and the regulated party has nothing to appeal to the courts from, because there's no final decision. And that is a very frustrating situation, but it does force all the parties to the table to try to come to some kind of an operating accord. That's a practice that sometimes is happening, I'm told, with some of our Advantage Act rulings. They won't say yes, they won't say no. There's nothing to appeal from and things are in limbo until something practical is worked out. So there's various ways of doing this. But the best way is if they just try to fill in all of the blanks ahead of time by promulgating a good set of regulations, and apparently from the small amount of regulations in question by this grand reform effort, they've done a pretty good job over the decades that regulations have been promulgated, and some of these things aren't reviewed for years and years and years. They just are there and everybody becomes familiar with them. I know that Senator Harr did some research, and I think he may even be out of time on his...do you need time, Senator Harr? Nope, he doesn't need any time right now, at least. So what we have today is whether or not we shall, for really no good reason, change the way we've been doing things. [LB948]

SENATOR HILGERS PRESIDING

SENATOR HILGERS: One minute. [LB948]

SENATOR SCHUMACHER: Generally, you don't make changes that aren't necessary, that there are not compelling cases for. That's a conservative way to do things. You don't take reckless

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action. Don't spend money you don't have. You don't repeal regulations that are just fine sitting there. The ink's already dry on them so you're not saving anything. They make for very poor firewood. So that's what we're being asked to do today, and that's what I think is probably a bad idea to do. And I think that if we move along here at a point and we dispose of LB948, we will get to the bill that apparently Senator Larson is gnawing at the bit to get to. Thank you. [LB948]

SENATOR HILGERS: Thank you, Senator Schumacher. Speaker Scheer. [LB948]

SPEAKER SCHEER: Thank you, Mr. President. We will pass over this bill. We'll work on some further language on this and we will now move to LB291, please. [LB948]

SENATOR HILGERS: Items for the record. [LB948 LB291]

CLERK: Mr. President, Enrollment and Review reports LB117, LB194, LB449, LB793, LB998, LB791 and now LB989 as correctly engrossed. That's all that I have. (Legislative Journal pages 1545-1546.) [LB117 LB194 LB449 LB793 LB998 LB791 LB989]

SENATOR HILGERS: Next bill, please.

CLERK: Mr. President, the next bill is LB291. Senator Wishart, I have Enrollment and Review amendments, first of all. (ER55, Legislative Journal page 993, First Session, 2017.) [LB291]

SENATOR HILGERS: Senator Wishart for a motion. [LB291]

SENATOR WISHART: Thank you, Mr. President. I would just like to point out that this may be my last E&R amendment as chair of the E&R Committee, so just want to breathe that in for a second. With that, I move the adoption of the E&R amendments to LB291. [LB291]

SENATOR HILGERS: All those in favor say aye. All those opposed say nay. Amendment is adopted. [LB291]

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CLERK: Mr. President, Senator Smith would move to amend, FA162. (Legislative Journal page 1546.) [LB291]

SENATOR HILGERS: Senator Smith, you're recognized to open on FA162. [LB291]

SENATOR SMITH: Thank you, Mr. President, and colleagues. This amendment is not intended to do harm to the bill. As Senator Larson will note, this bill was heard in Revenue Committee last year. The purpose of the bill is to create tax incentives for new businesses to develop on Indian reservations. The bill advanced with AM530 from committee with five members voting in favor. The committee amendment reduced a sales and use tax exemption from the first \$10 million of taxable purchases down to \$250,000. This was strictly driven by the fiscal impact which continues to be an issue this year. However, I would note that on page 2 of the E&R amendments from last year, a qualifying business would start claiming the tax incentives beginning January 1 of 2018. If the E&R amendments are not updated to make the effective day January 1, 2019, this would imply that the tax exemptions are available on a retroactive basis back to the beginning of this calendar year. That was not the intent of the bill when it was advanced from committee last year, and I believe it should be corrected before the bill advances any farther. Thank you, Mr. President. Thank you, colleagues. [LB291]

SENATOR HILGERS: Thank you, Senator Smith. Debate is now open on FA162. Senator Chambers, you are recognized. [LB291]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, it's not on this bill, but something that happened just before this bill began to be considered. Senator Wishart had indicated this might be her last bill and there was a smattering of applause. In a place like this, don't try to determine what is meant. The applause could either mean approval of what you have done and they're giving testimonial to that effect, or it could mean that they're glad that you're gone. So just kind of be cool and don't change your expression. Be the great stone face. That's all I have, Mr. President. [LB291]

SENATOR HILGERS: Thank you, Senator Chambers. Senator Pansing Brooks, you're recognized. [LB291]

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SENATOR PANSING BROOKS: Thank you. I was hoping that Senator Larson could do a little summary of this bill to refresh because I haven't...I don't really remember it. Sorry. Would you please...yes, Senator...I will yield my time to Senator Larson. [LB291]

SENATOR HILGERS: Senator Larson, 4:45. [LB291]

SENATOR LARSON: Yes, thank you, Mr. President. LB291 creates...is the purpose to create a special economic zone. It was my personal priority last year that is now able to be funded. Essentially, this is an economic development tool for the Native American reservation. They came to me. I represent Santee, Ponca, and parts of Winnebago in an effort to look...to start to work to revive their economies. So what LB291 do would create a special economic zone that would exempt nonnatives that start businesses from state income tax. And what this will do is it will help level the playing field. Natives already receive all of these benefits so it would just go to the nonnatives that do start businesses there. It does not apply to those that are selling grains, because essentially grains meaning row crops, corn, beans, those types of things, because it would blow the fiscal note up. Last year we fixed it a little bit on General File with Senator Harr, dealt with federal low-income housing tax credits. Like I said, I could go into more detail, but I know we're short on time. This is a bill that is supported by all the tribes. This is something that they view as an economic development tool that will be, hopefully, very big in terms of jump-starting some of their economies. And, you know, any of you that have been to those reservations, it can be tough to see sometimes. So, I'd urge your support of LB291 and this crucial economic development tool that the natives are asking for. [LB291]

SENATOR HILGERS: Thank you, Senator Larson and Senator Pansing Brooks. Senator Pansing Brooks, you're recognized. [LB291]

SENATOR PANSING BROOKS: Thank you. I was wondering if Senator Larson might yield, please. [LB291]

SENATOR HILGERS: Senator Larson, would you yield? [LB291]

SENATOR LARSON: Yes. [LB291]

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SENATOR PANSING BROOKS: Okay. Could you explain to me what the revenue-sharing agreement might be, what kind of revenue-sharing agreement is envisioned with this bill? [LB291]

SENATOR LARSON: Yes. So essentially right now, if you're familiar with the way that the tribes collect sales tax, and they're supposed to collect sales tax on nonnatives, but they don't have to collect sales tax on natives. And what this is happening...what happens in practice on tribal land is it's just hodgepodge. And what this would do is it directs the Department of Revenue to enter into a revenue-sharing agreement with the tribes, and essentially that way everybody...they'll collect sales tax on everybody. The reason that the tribes are supportive of this, even though that their members aren't paying sales tax right now, is because they'll essentially get revenue from that, that they will be able to reinvest back into their tribes. And they're also okay...and the state is okay with it with that concept because they'll finally be collecting sales tax that probably isn't being collected on nonnatives that are purchasing things on tribal land. So that's the concept of the revenue-sharing agreement. I'm trying to find in LB291 where exactly that is, but that is...does that answer the basis of your question? [LB291]

SENATOR PANSING BROOKS: I think so. I was also wondering then because knowing the difference between tribal law and Nebraska law, I mean there is a difference there. So for us to even have the authority to impose any kind of tax upon a tribal nation to me is contrary to my understanding of the law. [LB291]

SENATOR LARSON: So there's no difference then how we created revenue-sharing agreements with the cigarette tax and gas taxes. This is...this follows that same type of language. So we do have the authority to enter into revenue-sharing agreements. We do have the authority to tax nonnatives on tribal land. We do not have the authority to tax natives unless they enter into revenue-sharing agreements with us. Does that make sense? [LB291]

SENATOR PANSING BROOKS: Yes. [LB291]

SENATOR LARSON: So we couldn't impose a sales tax on natives unless they agree to a revenue-sharing agreement. Which as I said, they are...I've worked very hard with all the tribes

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on this. They are very supportive of this because they view this as added economic development and also in terms of the revenue-sharing agreement, they'll be collecting more taxes that they can go into a lot of the efforts that they've been working towards to improve their communities. You know, you go to Winnebago and with Ho-Chunk and whatnot, this actually talking with that tribe and Santee, they are very excited for that portion to pass. [LB291]

SENATOR PANSING BROOKS: Okay. So just to ask some more questions. Then, could you explain what the special economic impact zones are pursuant to those. [LB291]

SENATOR LARSON: So the zones specifically will be the reservation, or with...pertaining to the Ponca, they're...I'm going to blank on that. They're federally recognized zones. I think they have 13 counties in Nebraska. So with the land in reservation tribes, which are Winnebago, Omaha, and Santee, it can only be reservation land. It can't be any land off the reservation. And with the Ponca, it will be their federally recognized economic zone, which as I said, I believe is 13 counties in Nebraska. [LB291]

SENATOR PANSING BROOKS: Okay. And I was just wondering, you've got a part there that somehow exempts gambling, is that correct? [LB291]

SENATOR LARSON: Yep, that was a worry from my committee members that they were worried that if a tribe built a casino, that a casino would be tax-free, or if a nontribe member, because right now if a tribal member did it, it falls under the native law. This would be if... [LB291]

SENATOR HILGERS: One minute. [LB291]

SENATOR LARSON: ...somebody from Vegas came in and built a casino on tribal land, it wouldn't be subject to state income tax and that's why we are exempting that to ensure that that wouldn't be the case. If it's gambling, they would have to pay state taxes. [LB291]

SENATOR PANSING BROOKS: Okay. And just one more question. So on page 5 of the bill, line 13, it says if a revenue-sharing agreement is entered into under this section, then for any

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transaction subject to the tribal tax, the department shall not impose state sales and use taxes on such transaction. Could you explain that for the record? [LB291]

SENATOR LARSON: Are you on the committee amendment or the bill. [LB291]

SENATOR PANSING BROOKS: I'm on the bill. [LB291]

SENATOR LARSON: I'm on the E&R amendments...that original law introduced. [LB291]

SENATOR PANSING BROOKS: It was the last page. [LB291]

SENATOR LARSON: Okay. Yeah, as introduced, yep, line 13. [LB291]

SENATOR PANSING BROOKS: Line 13, Section 3. [LB291]

SENATOR LARSON: Yeah, I think that was just clarification language to make sure that there isn't double taxation. So if there's a revenue-sharing agreement with the state... [LB291]

SENATOR HILGERS: Time, Senators. Thank you, Senator Pansing Brooks and Senator Larson. Senator Albrecht, you're recognized. [LB291]

SENATOR ALBRECHT: Thank you, Mr. President, Speaker. First of all, I guess I have a question for Speaker Scheer, if he's available. [LB291]

SENATOR HILGERS: Speaker Scheer, would you yield to a question? [LB291]

SPEAKER SCHEER: Yes, I will. [LB291]

SENATOR ALBRECHT: Thank you. Can you help me understand, how did this get on the agenda today, without...I mean, it's not on there, correct? This just added? [LB291]

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SPEAKER SCHEER: Yes, yeah, you are correct, it is not there. We sent out a note this morning placing it on. That was an error in our office. It was unintentional on our part not showing it. This is a 2017 priority bill that was stuck at Select because it had an A bill. And I told Senator Larson at that point in time that it would not go any farther because of the funds expended. He asked if next year if he had his priority bill and it was going to be passed, if it produced a revenue fund larger than this would be spending, if he could get both of them back on. I told him that he could, but it would be the very last bill of the year and voila, we are at the very last bill of the year. [LB291]

SENATOR ALBRECHT: Thank you. Well, my heartburn with this is I had no idea that this was coming and I haven't had a chance to really look at it. I live on the reservation. I live on the Winnebago, and Macy is part of my district as well. My concern is, I have a lot of questions as Senator Pansing Brooks also was questioning. So when you say the boundaries of the reservation, are you talking about just...because I went to the reservation and spoke with several of their leaders, and they, you know, they have a village board, they have a council, and they can impose taxes and do certain things, you know, within the reservation for themselves. Why would we be doing something like this at a state level, is my first question, and I'll give you a couple of others. Not yet. And also, when it comes to, you know, the boundaries, does that mean if they decide to go into Pender and open up a business or in Emerson they have a casino, what expressly does it say about the boundaries of the reservation because it does encompass a very large part of Thurston County? So, they'd be collecting the sales tax and the revenue, but what about the gasoline? I'll let you have some time to help me understand this bill. And I really want to understand how it went from...did you say \$10 million to \$250,000, is that the...? So I'll give you the rest of the time, but I'm still going to have some more questions for you. [LB291]

SENATOR HILGERS: Thank you, Senator Albrecht. Senator Larson, 1:30. [LB291]

SENATOR LARSON: Yeah, so essentially there's a few and I think as you're trying to understand this, Senator Albrecht, it's very clear that with the landed reservation tribes, the boundaries are the federally recognized boundaries. So it is whatever the federally recognized boundaries of the reservation are, that is the boundaries. And this bill actually helps nonnatives.

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It's focused on giving the benefits to the nonnatives and not the natives. The natives already have all of these benefits. [LB291]

SENATOR HILGERS: One minute. [LB291]

SENATOR LARSON: So this is...so this would be for those individuals that are nonnatives that are starting a business on the reservation. And I know we discussed...you and I discussed this a lot last year and I appreciated your support last year, but as...and so if they enter into the revenue-sharing agreement with the Department of Revenue, yes, the tribes would collect it and they would get, I think it was no more than...or the state would get no more than 20 percent. But as I said, that sales tax isn't being collected now so the state will actually see what I would say as a bonus on that, and the tribes do as well. But the income tax portion of it is directly focused on nonnatives because the natives already get all of these benefits. [LB291]

SENATOR HILGERS: Thank you, Senator Larson and Senator Albrecht. Senator Erdman, you are recognized. [LB291]

SENATOR ERDMAN: Thank you, Mr. President. Good evening. Senator Larson, I will give you this. You are very creative. You come up with a lot of ideas. I have no idea where you get them, but I will give you that, you're creative. So this impact zone is the whole reservation, as I read this. So any business, any business means any entity at all, except for the ones that you mentioned that are exempt, like selling grain and gambling. And I know you may find this surprising, but I am surprised that you exempted gambling. So, just for the record. But any business or entity with a location on the reservation will not be taxed on any income tax, or any other sources that they get revenue from will not be taxed. Would you yield to a question, Senator Larson? [LB291]

SENATOR HILGERS: Senator Larson, would you yield? [LB291]

SENATOR LARSON: Yes. [LB291]

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SENATOR ERDMAN: Is that a true statement, any entity that's on the reservation will not pay any income tax? [LB291]

SENATOR LARSON: Any new business that is nonnative won't...that isn't associated with gambling, or I think it has more than 5 percent of their income coming from the sale of grains a year, won't pay state income tax. The nonnative businesses will still have to pay federal income tax. [LB291]

SENATOR ERDMAN: All right. And I was listening to Senator Albrecht's questions. She said, how did you get from \$10 million to \$250,000. Can you explain what that means? [LB291]

SENATOR LARSON: That's on the sales tax exemption side. So another one of the things, nonnative businesses they don't have to pay sales tax...or native businesses don't have to pay sales tax. So part of continuing to make this more...make the reservations more attractive for nonnatives, originally the first \$10 million worth of goods coming in would have been exempt, but we dropped that down to \$250,000 for the fiscal note. [LB291]

SENATOR ERDMAN: I get that, thank you. So if one started an Internet business on the reservation, that would be exempt? [LB291]

SENATOR LARSON: If a nonnative started an Internet business on a reservation it would be state income tax exempt. [LB291]

SENATOR ERDMAN: Okay. So basically, about anything goes except for gambling and grain production. Is that right? [LB291]

SENATOR LARSON: You...yes, pretty much. [LB291]

SENATOR ERDMAN: Okay. I'm trying to figure this out. I'm having a difficult time understanding why we need to do this, and Senator Chambers on numerous occasions will say things like, what happens if you don't do this? And I guess that's kind of where I'm at. I'm not

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sure I have seen the value in doing this. I'll have to have some more information or convincing before I vote for this bill. Thank you. [LB291]

SENATOR HILGERS: Thank you, Senator Erdman and Senator Larson. Senator Friesen, you are recognized. [LB291]

SENATOR FRIESEN: Thank you, Mr. President. Senator Larson, would you be willing to yield to a question? [LB291]

SENATOR HILGERS: Senator Larson, would you yield? [LB291]

SENATOR FRIESEN: So as I'm kind of reading through the bill and kind of refresh my memory and from what he has mentioned here, I'm thinking that the sales tax component and the income tax component could be a rather large item depending on how they handle things, so. [LB291]

SENATOR LARSON: I'm here, yes. [LB291]

SENATOR FRIESEN: Thank you, Senator Larson. So, I'm going to stretch my imagination pretty good, but let's say that Amazon puts a warehouse on the Indian reservation. What is the tax consequences to Amazon and to the state of Nebraska? [LB291]

SENATOR LARSON: Essentially, if you look at the fiscal note for LB291, the fiscal note I believe is \$48,000. So right now, it would be \$48,000 because, colleagues, what you have to remember is that is how few nonnative businesses there are. \$48,000 is what the fiscal note of this is. I can guarantee you that Amazon will not come to a Native American reservation without something like this. And so, therein lies, what does LB291 cost? \$48,000. [LB291]

SENATOR FRIESEN: So when you say the sales tax exemption that applies there, you're saying that the Native American tribe would charge a sales tax? [LB291]

SENATOR LARSON: No, it would be a state sales tax...well, it could. The Native American tribe and the Department of Revenue would enter into a sales tax agreement and essentially what

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that...and the state of Nebraska could not charge a sales tax on there if that agreement has happened. So the tribe will enter into an agreement with the state of Nebraska to collect the sales tax, of which they will get, as I said, I think it was 80 percent and the state will get 20 percent. [LB291]

SENATOR FRIESEN: What if the Indian tribe decided to charge a zero percent sales tax? [LB291]

SENATOR LARSON: I'm not sure why they would want to do that, specifically because they are going to be...they want the money from the sales tax, the revenue-sharing agreement and that wouldn't even make sense for them. And right now, as I said, natives don't pay sales tax. They're supposed to be collecting it on nonnatives. This would actually implement to where all natives and nonnatives would be paying a sales tax and therefore the state would be collecting a percentage of the sales tax. So that's not reflected in the fiscal note, but it would actually be fiscally possible to do that. [LB291]

SENATOR FRIESEN: If everybody goes to paying the sales tax and they move the rate to zero, then nobody pays sales tax. They would do it for the jobs, I would think. But anyhow, this seems a little strange, but I'm willing to listen. I think there's more to this than what we're seeing here, because there's too many unknowns when you negotiate these rates. And then again, I think the tribe when they do separate rates, they can set them to wherever they want. And again, if you look at how the process works, they could actually set them to zero and it would still be a big benefit to that area. So, interesting concept. Thank you, Mr. President. [LB291]

SENATOR HILGERS: Thank you, Senator Friesen and Senator Larson. Senator Albrecht, you are recognized. [LB291]

SENATOR ALBRECHT: Okay. I would just like to ask Senator Larson to walk me through the LB291, and then any amendments that he has put on to this bill so I understand what else I need to know. [LB291]

SENATOR HILGERS: Senator Larson, would you yield? [LB291]

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SENATOR LARSON: Yes, and thank you, Senator Albrecht. LB291, I think where some members are getting confused, tribal members already have all of these benefits. Everything that LB291 does, tribal members already get. Period. They are already state income tax free. They won't ever have to pay state income taxes because they are part of another nation. They, technically...well, right now, they don't have to pay any state sales tax. What LB291 does is it gives nonnatives...so you, Senator Albrecht, I believe are a nonnative, correct? [LB291]

SENATOR ALBRECHT: Yes. [LB291]

SENATOR LARSON: So, if you were to...and you live on the reservation. [LB291]

SENATOR ALBRECHT: Yes. [LB291]

SENATOR LARSON: So what LB291 would do, if passed, if you decided to start your own...what's one of your hobbies? Do you like knitting or crocheting or making pillows? [LB291]

SENATOR ALBRECHT: No, no, no. So I started my own business and then what? [LB291]

SENATOR LARSON: So if you started your own business out of your home, that business, if LB291 passes, would be state income tax exempt. So that business on the tribe, you as a... [LB291]

SENATOR ALBRECHT: No, not right now, it would not. [LB291]

SENATOR LARSON: No, if LB291 passed. If LB291 passed, that business, if you live on a reservation, would be state income tax exempt, if LB291 passes. [LB291]

SENATOR ALBRECHT: No, no, no. [LB291]

SENATOR LARSON: Yes. [LB291]

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SENATOR ALBRECHT: I mean, if I didn't have to pay taxes on the farm that we have right now. [LB291]

SENATOR LARSON: The farm would be...the farm not qualify because you are making more than 5 percent of that income from the sale of grains. [LB291]

SENATOR ALBRECHT: And show me...tell me where that's at in here? [LB291]

SENATOR LARSON: I'd have to... [LB291]

SENATOR ALBRECHT: Well, that's what I'm talking about. I mean, I want to wrap my head around what we're doing here. [LB291]

SENATOR LARSON: So the farms and gambling, essentially don't...are not...don't get that benefit that I was discussing, but any other business does. [LB291]

SENATOR ALBRECHT: So what if I want to open up a pizza store, a little pizza restaurant in Pender. What would happen to...? [LB291]

SENATOR LARSON: Is Pender part of the federally recognized reservation? [LB291]

SENATOR ALBRECHT: Yes, it is. [LB291]

SENATOR LARSON: If Pender is part of the federally recognized part of the reservation and you open up a new pizza store, it will not be subject to state income tax, if LB291 passes. If it doesn't pass, that pizza store will still be subject to state income tax. This could be a huge economic benefit for Pender. Massive. [LB291]

SENATOR ALBRECHT: So, but where is this 80-20 money coming in? [LB291]

SENATOR LARSON: That's a sales tax. So sales tax...as a member of the...you're not a member of the tribes. As someone who lives on the reservation, if you go to a convenience store, they do

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not charge a tribal member sales tax. But they're supposed to charge you sales tax as a nontribal member. That doesn't always happen. I can go into my...the reservation on Santee and they rarely charge me sales tax in the convenience store because they don't ask. So what this would do... [LB291]

SENATOR ALBRECHT: Then we're losing money if they're not asking. [LB291]

SENATOR LARSON: Right now, yes. That's how LB291 fixes that problem. In LB291, they would enter into our revenue-sharing agreement with the state and as they would collect that sales tax on everyone, tribe members and nonnatives. [LB291]

SENATOR HILGERS: One minute. [LB291]

SENATOR LARSON: Therefore, the state...and that's why it can't be reflected in the fiscal note because the state doesn't know how much they're losing on that or how much they could gain. So LB291 would actually collect a sales tax on everybody, tribe members and nontribe members, and then the state would get a share of that. So it would be, in terms of the sales tax portion, it would be, again, very beneficial to the state. [LB291]

SENATOR ALBRECHT: Okay. So let's talk about these amendments that you have. You have three of them that were adopted. [LB291]

SENATOR LARSON: The first one that was adopted had to deal with the NIFA. It was recommendation from Senator Harr that essentially provided that the allocation of any federal low-income housing tax credits through the NIFA Act, the authorities shall give the bonus to the highest scoring application with the project located in the... [LB291]

SENATOR HILGERS: Time, Senators. Thank you, Senator Albrecht and Senator Larson. Senator Hilkemann, you are recognized. [LB291]

SENATOR HILKEMANN: Thank you, Mr. Speaker. Senator Larson, may I ask you a couple of questions? [LB291]

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SENATOR HILGERS: Senator Larson, would you yield? [LB291]

SENATOR LARSON: Yes. [LB291]

SENATOR HILKEMANN: You have a large organization up in that area called Ho-Chunk. Would they be exempted from this? [LB291]

SENATOR LARSON: They already are, because they're a tribal-owned business. [LB291]

SENATOR HILKEMANN: So they're already...okay. [LB291]

SENATOR LARSON: Any tribal-owned business and tribal individual are automatically exempt from state income and federal income tax. So any native-owned businesses are already exempt. This bill only helps nonnatives. And historically, natives have been opposed to that concept because they're opposed to giving the same benefits that they receive to nonnatives. The tribes support this because they want the economic development. They are willing to give nonnatives the same benefits they are receiving for economic development. [LB291]

SENATOR HILKEMANN: Thank you, Senator Larson. With that I would yield what remaining time I have to Senator Pansing Brooks. [LB291]

SENATOR HILGERS: Senator Pansing Brooks, you're yielded 3:55. [LB291]

SENATOR PANSING BROOKS: Thank you, Senator Hilkemann. Well, I just...I did pull up a bunch of the testimony on this bill and I think I've caused sort of...asked some questions. But I wanted to read some of the testimony from Judy gaiashkibos. And she...she was speaking on behalf of the Indian Affairs Commission. And she said--and also on behalf of the Ponca tribe--the Indian Commission is here to advocate on behalf of all the tribes as is our mission and we're very appreciative of Senator Tyson Larson once again introducing the new version of what he did in LB291 last year. It has the potential to help tribal economies. Unemployment in Indian country and among native people in Nebraska is extraordinarily high. Nebraska is among the group of the second highest unemployment rates for natives in the country, reaching from 30

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percent to nearly 40 percent. It is only behind South Dakota. That is a seriously stark contrast to the statewide unemployment rate of only 2.5 percent. At the same time nearly a third of natives live in poverty while the statewide rate is less than 13 percent. No other race or ethnicity even approaches the unemployment and poverty rate for natives in Nebraska. So some of the questions that I've heard thus far about why Native Americans, and I think it's appropriate today as we celebrate our Statehood, that native people, the first people, we are the first people and yet we lag behind and our people have not had the benefits and are not doing as well as others. And considering the sacrifices made, and we love the state, and we want to be part of the progress of the state. And she went on to say, I'd like to, in particular, the tribe supports the fact that it is being included in the bill, along with all other tribes geographically located within Nebraska's boundaries and not separated out because of its unique land base. And the tribe has sought to demonstrate how with its unique land base, the government can work together to generate grant opportunities and increase revenue, not only for the tribe and its members, but also for the state of Nebraska, it's local governments, and all residents of the state. A large part of the problem for natives is the difficulty with economic development in Indian country. Those problems exist within the Ponca tribe's territory, too, and often exacerbated by the fact that the tribe's territory is scattered throughout the state. The tribe was terminated in '62 and restored in 1990 without a residential land base and instead has service areas. So they are unique to the other tribes. Although, as you know, the story of Ponca Chief Standing Bear, we were the first people here along the Niobrara. We had a huge reservation. Nebraska providing income and sales tax exemptions to businesses that choose to locate in the tribe's jurisdiction has the potential to improve tribal economies. It could be very difficult to attract outside businesses to Indian country. In most cases the tribes themselves must establish all businesses in Indian country... [LB291]

SENATOR HILGERS: One minute. [LB291]

SENATOR PANSING BROOKS: ...to make up for a lack of outside businesses. I would recommend that you go on and read the testimony regarding what Judy gaiashkibos has said, and I will vote for FA162 and LB291. Thank you, Mr. President. [LB291]

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SENATOR HILGERS: Thank you, Senator Pansing Brooks and Senator Hilkemann. Senator Bolz, you are recognized. [LB291]

SENATOR BOLZ: Thank you, Mr. President. I just have a few questions about this proposal. The way it's been framed has been an economic development opportunity. And the way I see that, it is as sort of a tax incentive. And so I wondered if Senator Larson would yield to a couple of questions. [LB291]

SENATOR HILGERS: Senator Larson, would you yield? [LB291]

SENATOR LARSON: Yes. What was your question, I'm sorry? [LB291]

SENATOR BOLZ: So if you'll yield. [LB291]

SENATOR LARSON: Yes. [LB291]

SENATOR BOLZ: My first question is, your proposing this as an economic development or an economic incentive tool. Have other states used this to positive economic impact or is there economic modeling that proves that this initiative works? [LB291]

SENATOR LARSON: Other countries have, actually. Essentially...and multiple of countries, the best economic...special economic zone that I can come up with is, Schengen, Europe...Schengen, China. So if you order a new iPhone and you look where it's shipped from, it's Schengen. And so China in the late 1980s created essentially these tax-free zones within China as they went to develop their free market system. And essentially anything coming in, built in there, coming in and out of that zone was tax free. And that's essentially how they started their economic liberalism towards that. In terms of states, I'm not sure that any other states...I can give a list of all the other countries that have created these potentially tax-free zones, but they are very beneficial across the world. But the most famous one would be Schengen. That's why when you look at many of your electronic products, that's where they all initially come from. [LB291]

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SENATOR BOLZ: Okay. So we have an international example, but to your knowledge, there isn't an example of a tribe in the United States that's doing this, or any other domestic initiative? [LB291]

SENATOR LARSON: No other tribes have this, no. [LB291]

SENATOR BOLZ: Okay. And there is not any modeling or any economic analysis, there hasn't been any academic study of this particular strategy? [LB291]

SENATOR LARSON: No. [LB291]

SENATOR BOLZ: Okay. And I looked through the bill fairly quickly, but I'm wondering, so if we're giving a tax incentive for the purpose of economic development, we passed LB936 earlier this session and it said that if we're giving tax incentives, we should have criteria, it should be clear in terms of the types of businesses, the types of jobs, the wage levels, hiring practices. Are any criteria established in your piece of legislation that illustrates the value that you're bringing for these tax incentives? [LB291 LB936]

SENATOR LARSON: No, because these tax incentives haven't been created, so it's hard to say...I can tell you that there are no, or very few nonnative businesses on the reservation, hence, the \$48,000 fiscal note. [LB291]

SENATOR BOLZ: Sure. [LB291]

SENATOR LARSON: And so the concept was that the tribes thought through this with me, that this would be a tool to get nonnative businesses to invest. So it does have that \$48,000 fiscal note. That could be a cost to the state. I don't think it is anywhere near Nebraska Advantage or anything like that. [LB291]

SENATOR BOLZ: Sure. I guess part of my concern is, if we're giving a tax incentive to incentivize businesses, nonnative businesses to come in, how are we ensuring that those are good businesses, providing good jobs and good wages? How do we make sure that these businesses

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aren't actually coming in and exploiting a workforce that is desperate for jobs and employment? And so I guess I rise with hesitations about this piece of legislation based on the quality criteria that seems to be absent from it. I'll continue to listen to the debate, but wanted to rise with some questions around, not just... [LB291]

SENATOR HILGERS: One minute. [LB291]

SENATOR BOLZ: ...the explanation that we should be creating jobs, but also the idea that we should be creating good jobs, that we should be creating jobs of high quality. Thank you, Mr. President. [LB291]

SENATOR HILGERS: Thank you, Senator Bolz and Senator Larson. Speaker Scheer. [LB291]

SPEAKER SCHEER: Thank you, Mr. President. Being upon the agreed time that this bill was going to have on the floor, we will move on to Final Reading of the consent items. [LB291]

SENATOR HILGERS: Next item, Mr. Clerk. Please return to your seats. We are going to start Final Reading. [LB291]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Mr. Clerk, first bill is LB497. [LB497]

CLERK: (Read LB497 on Final Reading.) [LB497]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB497 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB497]

CLERK: (Record vote read, Legislative Journal pages 1546-1547.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB497]

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SPEAKER SCHEER: LB497 passes. Next item is LB629. [LB497 LB629]

CLERK: (Read LB629 on Final Reading.) [LB629]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB629 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB629]

CLERK: (Record vote read, Legislative Journal page 1547.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB629]

SPEAKER SCHEER: LB629 passes. We will now proceed to LB682. [LB629 LB682]

CLERK: (Read LB682 on Final Reading.) [LB682]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB682 pass? All those in favor please vote aye; all those opposed vote nay. Please record. [LB682]

CLERK: (Record vote read, Legislative Journal page 1548) 45 ayes, 0 nays, 4 excused and not voting. [LB682]

SPEAKER SCHEER: LB682 does pass. We will now proceed to LB701. [LB682 LB701]

CLERK: (Read LB701 on Final Reading.) [LB701]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB701 pass? All those in favor please vote aye; all those opposed vote nay. Please record. [LB701]

CLERK: (Record vote read, Legislative Journal pages 1548-1549.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB701]

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SPEAKER SCHEER: LB701 passes. We will now proceed to LB708. [LB701 LB708]

CLERK: (Read LB708 on Final Reading.) [LB708]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB708 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB708]

CLERK: (Record vote read, Legislative Journal pages 1549-1550.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB708]

SPEAKER SCHEER: LB708 does pass. We will now proceed to LB717. [LB708 LB717]

CLERK: (Read LB717 on Final Reading.) [LB717]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB717 pass? All those in favor please vote aye; all those opposed vote nay. Please record. [LB717]

CLERK: (Record vote read, Legislative Journal page 1550.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB717]

SPEAKER SCHEER: LB717 does pass. We will now proceed to LB732. [LB717 LB732]

CLERK: (Read LB732 on Final Reading.) [LB732]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB732 pass? All those in favor please vote aye; all those opposed vote nay. Please record. [LB732]

CLERK: (Record vote read, Legislative Journal pages 1550-1551.) 45 ayes, 0 nays, 4 excused and not voting. [LB732]

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SPEAKER SCHEER: LB732 does pass. We will now proceed to LB733. [LB732 LB733]

CLERK: (Read LB733 on Final Reading.) [LB733]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB733 pass? All those in favor please vote aye; all those opposed vote nay. Please record. [LB733]

CLERK: (Record vote read, Legislative Journal page 1551.) 45 ayes, 0 nays, 4 excused and not voting. [LB733]

SPEAKER SCHEER: LB733 does pass. We'll now proceed to LB742E. [LB733 LB742]

CLERK: (Read LB742 on Final Reading.) [LB742]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB742E pass with the emergency clause attached? All those in favor please vote aye; all those opposed vote nay. Please record. [LB742]

CLERK: (Record vote read, Legislative Journal page 1552.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB742]

SPEAKER SCHEER: LB742E does pass with the emergency clause attached. We'll now proceed to LB749. [LB742 LB749]

CLERK: (Read LB749 on Final Reading.) [LB749]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB749 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB749]

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CLERK: (Record vote read, Legislative Journal pages 1552-1553.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB749]

SPEAKER SCHEER: LB749 does pass. We'll now proceed to LB766.) [LB749 LB766]

CLERK: (Read LB766 on Final Reading.) [LB766]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB766 pass? All those in favor please vote aye; all those opposed vote nay. Please record. [LB766]

CLERK: (Record vote read, Legislative Journal page 1553.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB766]

SPEAKER SCHEER: LB766 does pass. We will now proceed to LB786. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB766 LB786]

CLERK: 40 ayes, 3 nays to dispense with the at-large reading. [LB786]

SPEAKER SCHEER: The at-large reading is dispense with. Mr. Clerk, please read the title. [LB786]

CLERK: (Read title of LB786.) [LB786]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB786 pass? All those in favor please vote aye; all those opposed vote nay. Please record. [LB786]

CLERK: (Record vote read, Legislative Journal page 1554.) 44 ayes, 1 nay, 1 present and not voting, 3 excused and not voting, Mr. President. [LB786]

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SPEAKER SCHEER: LB786 does pass. We'll now proceed to LB799. [LB786 LB799]

CLERK: (Read LB799 on Final Reading.) [LB799]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB799 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB799]

CLERK: (Record vote read, Legislative Journal page 1555.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB799]

SPEAKER SCHEER: LB799 does pass. We'll now proceed to LB812E. Mr. Clerk, the first vote is to dispense with at-large reading. All those in favor please vote aye; all those opposed vote nay. Please record. [LB799 LB812]

CLERK: 42 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB812]

SPEAKER SCHEER: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB812]

CLERK: (Read title of LB812.) [LB812]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB812E pass with the emergency clause attached? All those in favor please vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB812]

CLERK: (Record vote read, Legislative Journal page 1556.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB812]

SPEAKER SCHEER: LB812E passes with the emergency clause attached. We'll now proceed to LB815. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor please vote aye; all those opposed vote nay. Please record. [LB812 LB815]

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CLERK: 40 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB815]

SPEAKER SCHEER: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB815]

CLERK: (Read title of LB815.) [LB815]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB815 pass? All those in favor please vote aye; all those opposed vote nay. Please record. [LB815]

CLERK: (Record vote read, Legislative Journal pages 1556-1557.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB815]

SPEAKER SCHEER: LB815 does pass. We'll now proceed to LB840. [LB815 LB840]

CLERK: (Read LB840 on Final Reading.) [LB840]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB840 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB840]

CLERK: (Record vote read, Legislative Journal pages 1557-1558.) 43 ayes, 0 nays, 3 present and not voting, 3 excused and not voting, Mr. President. [LB840]

SPEAKER SCHEER: LB840 does pass. We'll now proceed to LB847. [LB840 LB847]

CLERK: (Read LB847 on Final Reading.) [LB847]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB847 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB847]

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CLERK: (Record vote read, Legislative Journal page 1558.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB847]

SPEAKER SCHEER: LB847 does pass. We'll now proceed to LB848. [LB847 LB848]

CLERK: (Read LB848 on Final Reading.) [LB848]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB848 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB848]

CLERK: (Record vote read, Legislative Journal page 1559.) 46 ayes, 0 nays, 3 excused and not voting. [LB848]

SPEAKER SCHEER: LB848 does pass. We'll now proceed to LB859. [LB848 LB859]

CLERK: (Read LB859 on Final Reading.) [LB859]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB859 pass? All those in favor please vote aye; all those opposed vote nay. Please record. [LB859]

CLERK: (Record vote read, Legislative Journal page 1559-1560.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB859]

SPEAKER SCHEER: LB859 does pass. We'll now proceed to LB885. [LB859 LB885]

CLERK: (Read LB885 on Final Reading.) [LB885]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB885 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB885]

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CLERK: (Record vote read, Legislative Journal pages 1560-1561.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB885]

SPEAKER SCHEER: LB885 does pass. We'll now proceed to LB889. [LB885 LB889]

CLERK: (Read LB889 on Final Reading.) [LB889]

SPEAKER SCHEER: All provisions of law relative to procedure have been complied with, the question is, shall LB889 pass? All those in favor please vote aye; all those opposed vote nay. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB497, LB629, LB682, LB701, LB708, LB717, LB732, LB733, LB742E, LB749, LB766, LB786, LB799, LB812E, LB815, LB840, LB847, LB848, LB859, LB885, and LB889. Mr. Clerk, would you please record LB889. [LB497 LB629 LB682 LB701 LB708 LB717 LB732 LB733 LB742 LB749 LB766 LB786 LB799 LB812 LB815 LB840 LB847 LB848 LB859 LB885 LB889]

CLERK: (Record vote read, Legislative Journal page 1561.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB889]

SPEAKER SCHEER: LB889 does pass. Mr. Clerk, for any items. [LB889]

CLERK: Mr. President, your Committee on Enrollment and Review reports of examining engrossed LB496 and find it correctly engrossed. I have a series of name adds: Senator Morfeld to LB989; Senator Thibodeau to LB1040. (Legislative Journal page 1562.) [LB496 LB989 LB1040]

Mr. President, Senator Hilgers would move to adjourn the body until Wednesday, April 11 at 9:00 a.m.

SPEAKER SCHEER: Senators, you've heard the motion to adjourn. All those in favor please say aye. Do I hear any opposed? We are adjourned.