

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fourth day of the One Hundred Sixth Legislature, Second Session. Our chaplain for today is Senator Dorn. Please rise.

DORN: Join me in a moment of prayer. Dear Lord, thank you for the beautiful day in Nebraska. Thank you for the gorgeous sunrise. Thank you for the honor and privilege of serving in this body, the Nebraska Legislature. Grant healing and good health to all as we face the COVID virus issue and many other health issues. Guide and look over this legis-- this legislative body, as they work through and discuss the many issue in the remaining seven days of this session. Help us be mindful of others, and help us respect each other. In your name, we pray. Amen.

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

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

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

CLERK: I have no corrections.

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

CLERK: Mr. President, bills read on Final Reading Friday were presented to the Governor at 12:17 that day (re LB1140, LB1144, LB1188, LB1148, LB43, LB247, LB461, LB705, LB751, LB760, LB774, LB780, LB780A, LB797, LB803, LB803A, LB832, LB835, LB840, LB850, LB858, LB889, LB899, LB910, LB911, LB911A, LB912, LB924, LB931, LB944, LB944A, and LB1003). That's all that I have.

FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative resolutions: LR353, LR360, LR366, LR375, LR376, LR403, and LR426. We will now proceed to the first item on the agenda: General File 2020 committee priority bills. Mr. Clerk.

CLERK: Mr. President, LB866, a bill by Senator Wayne, relates to cities, adopts the Density Bonus and Inclusionary Housing Act. The

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

bill has been presented on the floor. There are Urban Affairs Committee amendments pending, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Wayne, it's been a number of days since we've heard this bill. Why don't you re-- refresh us a bit on LB866 and the pending committee amendment.

WAYNE: Thank you, Mr. President. LB866-- originally was my bill. We incorporated Senator Hansen's bill, and we sat down with all opposition groups to alleviate their concerns. And out of our conversations, we found out there are roughly ten municipalities who, the majority of them-- I believe eight-- are already working on this. And so we are developing a report. That report will be developed by the municipalities and reported back to Urban Affairs so we can start having an understanding and the data of the issues around middle housing as it relates to these individual cities. And with that, I would ask for a green vote on AM2913 and the underlying bill, LB866. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. In the speaking queue, Senator Kolterman, you're recognized.

KOLTERMAN: Thank you. Thank you, Mr. President. Good morning, colleagues. Just as a little bit of background, I-- I support this bill from the perspective of the reporting has been very useful. As an example, in 2014, we passed a bill called LB759. It was introduced by Heath Mello, and he was Chair of Appropriations Committee at the time, but he was also a member of the Retirement Committee. In the introduction, he testified that it was increasingly concerned about the significant underfunding of defined benefit plans offered by political subdivisions. And so as a result of that, we passed some legislation that once a year required anybody that hadn't hit 70-- or 80 percent in their defined benefit plans would have to come to the-- to the committee and make an annual report. Through that report, we've been able to monitor these plans that are underfunded and-- and make solid recommendations and even pass legislation as a result of that. So the more information a committee can have in regards to what's going on in the field with our constituents, the better off we're going to be. So with that, I would encourage you to give a green vote to LB866 and AM2913. I think this just gives the committee a lot more information about what's taking place in our municipalities and what's happening from a housing perspective. And I think we need to give them all the support and background that they can get. Thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: Thank you, Senator Kolterman. Are there any other senators wishing to speak on LB866 or the pending committee amendment? I see none. Senator Wayne, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of the committee amendment, AM2913. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 31 ayes, 0 nays on adoption of committee amendments.

FOLEY: AM2913, committee amendment, is adopted. Further discussion of the bill as amended. I see none. Senator Wayne, you're recognized to close on the advance of the bill. Motion for-- he waives closing. The question before the body is the advance of LB866 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 28 ayes, 5 nays, Mr. President, on the advancement of the bill.

FOLEY: LB866 advances. Per the agenda, moving now to General File, 2020 Senator priority bill. Mr. Clerk.

CLERK: Mr. President, LB1021, introduced by Senator Groene. It's a bill for an act relating to cities and villages that provides for an expanded review of certain redevelopment plans under our Community Development Law. It exempts such redevelopment plans from certain requirements. Introduced on January 15, at that time referred to Urban Affairs, advanced to General File. There are committee amendments pending, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Groene, you're recognized to open on LB1021.

GROENE: Thank you, Mr. President. Many of you know, I've studied and followed the history and use of tax increment financing over the last 20 years. Article VIII, Section 12, of our state Constitution was added by the vote of the people of Nebraska in 1978 to address blighted and substandard older areas of a community. LB1021 would create an expedited review process for certain TIF projects. I refer to it as micro-TIF, which will remove statutory and financial barriers presently in the way of urban renewal in truly blighted and substandard areas of communities by making it practical for individuals to redevelop projects that entail small single houses and older business structures that have lower input costs. Current statutes covering TIF lead to high costs, including legal-- legal

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

con-- consulting and required planning studies, along with red tape preventing small projects from even being considered economically feasible. Today, TIF is a tool used mostly for new, large economic development projects. These projects are usually outside of truly blighted and substandard areas due to the need for wide "spanses" of open land, thus defeating TIF's true purpose of redevelopment of urban areas. LB1021 creates an expedited review for qualifying projects. This new process will provide for redevelopment in older neighborhoods and main streets in Nebraska communities. In order to qualify for expediated review, LB1021 establishes several requirements. First, the city must choose to have an expedite-- expedited review program. The city controls where these projects can occur by declaring blighted and substandard only those areas where they see need for assistance from tax increment financing. The expedited review applicant must propose a project to repair, rehabilitate or replace an existing structure-- no cornfields-- that is at least 60 years old and located within an area already designated as blighted and substandard. Additionally, the proposed project site must be located in a county with a total population under 100,000. Lincoln and Omaha wanted to be left out, by choice. Projects must also satisfy a dollar amount limit to qualify. The project dollar amount is calculated by subtracting the property's base value, prior to project, from the total assessed value after the project has been completed. For single family residential structures, the project dollar amount limit is \$250,000. For multifamily or commercial structures, the limit is \$1 million. Finally, if a structure is included on the National Register of Historic Places, the limit is \$10 million. LB1021 also outlines the application process for an-- for a micro-TIF review. The Department of Economic Development would create a standard form to be used for the application. Developers would be required to obtain and-- and submit any necessary building permits along with their application. The bill allows governing bodies to designate which department employee will manage the program and allows for simplified reporting by the town to the Department of Revenue, and allows for a town to combine their micro-TIFs into one fund instead of multiple ones. Tax governing bodies are also permitted to set up a filing fee for no more than \$50 to assist-- assist with administrative costs. Once approved, projects must be completed within two years. A project would be considered complete upon certification by the county assessor. LB1021 also provides for the division of ad valorem taxes, better known as TIF. For projects receiving expedited review, distribution of the excess portion of the ad valorem tax would not begin until the project is certified as completed. The tax would be divided for a period of no more than ten years, and the excess portion would be paid directly to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

the property owner by the governing body. Article VIII of Section 12 of our Constitution states: Cities or villages must incur indebtedness for projects to be funded through TIF. To avoid cities having to go through costly bonding process or to take loans, LB1021 creates a 10-year promissory note issued to the owner of the rec-- on record-- of the property by the city. The note will have an estimated value, but will be paid in full by the lesser of the note amount for the receipts of ten tax increment payments by the city. In preparing this legislation, we have worked with the League of Nebraska Municipalities. Their staff collaborated with a group of city redevelopment experts to prepare a series of questions about our initial proposal. With the help of Urban Affairs Committee counsel, we have created AM2998, which addresses the concerns of the League and the committee counsel. LB1021 will finally enable TIF to fulfill its promise to urban renewal for those citizens living in the older areas of our communities. It truly will create affordable work force housing. It will make possible redevelopment business structures in old downtown areas affordable, and it will incentivize private redevelopment of historic structures in communities across the state. Those willing to invest in their communities' old town areas will be able to avoid expensive legal fees and focus instead on funding their project. Additionally, they will be exempt from bureaucratic requirements that are disproportionate to the small nature of their project. The resulting proliferation of improved structures provide a much needed boost to blighted areas in rural communities. I would appreciate a green vote on LB1021. We talk about work force housing, we talk about affordability. This does it. When you remodel an old house, the city doesn't have to put a street in, doesn't have to put a sewer in, don't have to put water mains in, they already exist. It helps control urban sprawl. It helps cities rebuild their core. Big developers can't go into an old downtown and tear it-- buy five or six houses and tear them down because on that block there might be three dilapidated houses, but there's somebody who loves their home, lived there 50 years and have tulips in the yard. So what did the developer do? He goes to the cornfield. The truly urban areas, where our poor and our poorer work force live, is left behind. LB1021 addresses that problem. It'll create small businesses, folks, a lot of them. Small contractors will now work in town. They'll buy at the local hardware store and the local lumber yard instead of bringing in truckloads of shingles and rafters to build corporate housing. This is an answer, and I would appreciate your support. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: Thank you, Senator Groene. As the Clerk indicated, there are amendments from the Urban Affairs Committee. Senator Wayne, you are recognized to open on the committee amendment.

WAYNE: Thank you, Mr. President and members of the Legislature. The committee amendment, AM2988, is the white copy amendment that replaces the entire bill. During the period that we were adjourned or on recess, I mean, committee legal counsel-- and I want to thank Trevor Fitzgerald for working with Senator Groene and all the opposing parties to address all their concerns. A complete list of changes in the-- included in this committee amendment can be found in the committee statement but the majority of the changes or the major changes are, first, the amendment provides that the municipality may elect by resolution to allow expedited reviews under this bill. If a municipality elects to allow expedited reviews, then the governing body must-- the governing body must approve a submitted redevelopment plan to meet statutory requirements within 30 days of the submission of the plan. Second, the amendment limits the provisions of the bill to municipalities that are located with-- within a county with a population of less than 100,000 inhabitants. Third, the amendment ensures that a municipality with-- that utilizes TIF for a project receiving an expedited review incurs indebtedness, which is required by Article VIII, Section 12 of the Nebraska State Constitution. Under the amendment that indebtedness would be in the form of a promissory note issued to the owner of record of the property in the redevelopment plan. Fourth, the amendment requires the Department of Revenue to develop a standard of certification form to be used by county assessors to certify that a valuation of the redevelopment project is receiving expedited reviews. And fifth, the amendment allows municipalities to file a single report within the Property Tax Administrator for all redevelopment plans that utilize TIF receiving the expedited review. I would ask that-- for a green vote on AM2988. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Debate is now open on LB-- LB1021 and the pending committee amendment. In the speaking queue are Senators Moser, Williams, and Friesen. Senator Moser.

MOSER: Good morning, colleagues. I would like to ask Senator Groene a few questions, if he would answer.

FOLEY: Senator Groene, would you yield, please?

GROENE: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

MOSER: The irony of this moment is not lost on me. All the discussion we've had on TIF, you've always had kind of qualifying or negative comments, and then you bring forward a TIF bill. So I was wondering if you could explain the quandary there. What do you like about this that you didn't like about TIF in the past?

GROENE: What-- I've fought TIF because it wasn't used correctly, but I've always had a qualifier in there that it's a good program. And when I ran for election, I knocked-- I knocked on every door, even in the poorer parts of towns. And I've seen those housing, and I've seen those folks living in some of that housing. I talked to tenants who were accused of slumlords, but they aren't. They couldn't fix up their properties because they'd get \$1,000 or so, \$1,500 tax increase and that was two months' rent.

MOSER: OK.

GROENE: So I thought we needed a fix and we came up with this.

MOSER: Now, in-- in the previous iterations of TIF, the TIF was supposed to be for parking lots, utilities, and all those sorts of things. This TIF appears to be available to upgrade the house just in general. So it's more of a general subsidy than it is for lighting, parking lots, streets, and things like that. So is this a change in what qualifies for TIF funding?

GROENE: Well, Senator Williams would get a kick out of this, but I fought their proposal a couple of years ago about adding construction costs to TIFs for work force housing. So the statutes are already there that you can use construction costs for work force housing. And this just follows that.

MOSER: OK. Thank you. I just couldn't let that pass. Thank you, Mr. President.

FOLEY: Thank you, Senator Moser. Senator Williams.

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. And I stand in full support of this amendment and the underlying bill. And yes, over the past six years that Senator Groene and I have been in this body, we have had spirited discussions about TIF over that period of time, a different philosophy, which is just fine. In this particular case, I-- I believe wholeheartedly that Senator Groene has found something that does benefit all of our communities, and it's a use of TIF that I certainly would-- would support. We have talked a lot over the last days in here about communities. We've talked about

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

the land bank and-- and other things, that we have communities that have rundown vacant housing. And how do we help solve that problem and move our communities forward and give them the right tools? Well, LB1021 is one of those additional tools that can be added to that toolkit to help these communities. And I was really pleased that, when-- when I looked at the committee statement and saw the objections, the negative testimony coming from Omaha, it appears to me that the committee amendment takes care of those concerns completely and so that this bill is now in a position of being fully supported. With that, I would encourage your green vote all the way through on LB1021. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Senator Friesen.

FRIESEN: Thank you, Mr. President. This goes back to kind of the comments I've made previously on subsidized housing again. We continue to complain that our housing is too expensive, people can't afford it, and so we subsidize housing. And instead of looking at the low-wage jobs that we've created, we subsidize everything people need in order to justify those low wages. You know, we've-- we've complained in the past that property taxes are a detriment to someone fixing up their house because if they do fix up their house, they put new siding on it, new windows on it, it increases the valuation of their house and now they have to pay more property taxes, which are also a-- a burden. And so I-- I-- it's-- it is kind of a quandary that we're in. We have a lot of substandard housing out in the rural areas, and yet we really don't have the jobs out there, probably, that provide people with the income that they can fix them up themselves, and encourage them to maintain their homes in a-- in a manner which they'll last longer. With that, I'd like to ask Senator Groene a few questions.

FOLEY: Senator Groene, would you yield, please?

GROENE: Yes.

FRIESEN: So if I understand right, I mean, this-- this cannot be used in a county with a population over 100,000?

GROENE: Yes. And there-- the reason was they thought they'd be overwhelmed with applications because it would-- because they would be forced to accept it. So they opted out. They want to basically see how it works in the rest of the state. And then I'm sure Senator Wayne and I will find a way to get qualified for those bigger cities with-- with those extremely blighted areas. Maybe it would be a first step.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FRIESEN: OK. So in-- in those counties less than 100,000 population now, where you're an equalized school district, when you fix up this house and add valuation to the district, that valuation will not go to help pay the school funding, but their equalization will not change, so they'll continue to receive dollars that they're currently receiving. Shouldn't affect anything there?

GROENE: No, and that wouldn't hurt the school in an equalized district at all.

FRIESEN: For 10 years.

GROENE: Yes.

FRIESEN: OK.

GROENE: It might help them, actually.

FRIESEN: So can this be used outside of the city limits at all?

GROENE: No, it's defined to whether a city decides to blight and substandard-- and substandard an area. So the city has control of which areas they want to focus on.

FRIESEN: OK. So let's say that I-- I-- you know, in rural areas, it's pretty easy to come up with a \$15,000 house these days, which is probably about the cost of a cheapest lot you should ever be able to buy with sewer, water, and paving. And so I buy that \$15,000 house, I completely tear it down and put up a new one. Does that whole value from \$15,000 to the completed price, up to \$250,000 qualify for TIF?

GROENE: You subtract the \$15,000 off, yes, and the total project is \$250,000.

FRIESEN: And so is it possible, though, we can take areas then and is this-- is this has to be owner occupied?

GROENE: No, the small contractor could buy a house. I think actually this will drive up the valuation of older homes. If this passes, better hurry out-- up-- and buy some burned up old houses because they will be bought up quickly by developers. So the-- the valuations of all-- all them older homes will go up when actually, right now, they're going down over time.

FRIESEN: Could this--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

GROENE: But yes, it will.

FRIESEN: Could this drive gentrification of neighborhoods, so to speak?

GROENE: What-- what was that again, sir?

FRIESEN: Well, if-- if you take really low-income housing like that and developers can compete, you suddenly buy up these \$15,000 houses, you get a pretty good tax incentive to put a house there that's priced higher--

FOLEY: One minute.

FRIESEN: --than neighbors can afford.

GROENE: What-- what's unique in this, Senator Friesen, is it follows ownership. So the developer buys it, he fixes it up. Who-- he can sell it on the open market and say, if you buy this house in this older part of town that's fixed up, your taxes for ten years will be \$300, not \$2,300.

FRIESEN: OK. And-- and it will follow--

GROENE: So for ten years they will pay their taxes, and for ten years they will get the difference back to them. It will--

FRIESEN: So the developer has to pass it on to the buyer--

GROENE: Yes.

FRIESEN: --or he can pass on as much as he wants?

GROENE: It follows the taxpayer, the owner of the house.

FRIESEN: OK. I'll probably have a few more questions when I talk next time.

GROENE: Thank you.

FRIESEN: Thank you, Mr. President.

FOLEY: Thank you, Senators Friesen and Groene. In the speaking queue, Senators Pansing Brooks, Ben Hansen, and Moser. Senator Pansing Brooks.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

PANSING BROOKS: Thank you, Mr. President. I rise in support of Senator Groene's LB1021 and the amendment from the Urban Affairs Committee. But the reason I'm standing up today is because I am sick to my stomach about what is going on in this body. I'm sick to my stomach about it. I could barely sleep this weekend. We are moving forward as if we have no idea that an entire pandemic and an entire protest about justice in our community has happened since we last met. We have six days after today. There's this group walking around. Some people are calling it the "super seven," some are calling it the "stupor of seven." And I'm thinking of the stupor because people are wandering around in a fog, totally oblivious to the needs of our people in this state, needs of people who are being evicted because they don't have jobs right now, the needs of people who need food because they don't have jobs. Do you remember that we were somewhere between 2.5 and 3.5 unemployment? What's changed? Well, I'm hearing from some people, well, these people want to just stay home, they want to get paid for not working. We're just moving forward, we're-- we're worrying about the corporations. Remember the people, the workers? We could be spending time right now showing that we are a state that cares for workers. We are a state that welcomes workers. But no, we're worried about corporations, we're worried about property taxes, we're worried about all the things we were worried about before. We couldn't even give Senator Vargas the vote to have a hearing for workers that are complaining to us. I'm-- I'm about to side with Senator Erdman and-- and vote for sine die. There's a movement right now. So again, it's great. I-- I've been told, oh, you know, really, we need to think about that LGBTQ bill because it'd be so much better if we don't discuss it because it will make the state look bad. You know what makes the state look bad? Not caring for its people, the individuals who put us into these offices. That's what I'm hearing about. I'm hearing about people that care about SNAP. I'm hearing about people that want to make sure that our-- our elections are safe and free. I'm hearing about people who are worried about their children. I'm not hearing about all this other stuff and these deals that are going around and-- and no person of color is in that deal-making group. I've heard about that complaint from people of color. So I'm-- I'm ready to continue talking about all of this. That's what my constituents expect. I don't care if you guys don't like it. That is what my constituents expect, to stand up and fight for those who are in need around us. We have money to spend, but boy, do not help the people, do not help the individuals who are standing up and being evicted, evicted from their homes. Where is the compassion? Where is the religious moral center about caring for the least of these? I-- I'm not done talking about this and I will continue to take--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: One minute.

PANSING BROOKS: --time on this. And I understand we're also going to possibly bring back the abortion bill, because we have six days and we have so much time now to just talk about anything. So instead of talking about people who are hurting and people who are living day to day, people of color, people are-- who are our workers filling our jobs, why not be the state that welcomes people, that says we will protect workers, we will support workers? But no, we are the state that says let's keep protecting the corporations. We do corporate law. I understand the need for business. But I also understand the-- the phrase, cut your nose to spite your face-- cut off your nose. The nose is the workers. The corporations is the-- are the face-- is the face. So we're cutting off and not caring about the workers and the people who need jobs in our state, who don't sit around at home--

FOLEY: Time, Senator.

PANSING BROOKS: --so that they can get paid. Thank you.

FOLEY: Thank you, Senator Pansing Brooks. In the speaking queue, Senators Ben Hansen, Moser, Friesen, and others. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. Just a couple of thoughts on Senator Groene's bill. I am in favor of the amendment and the underlying bill. I appreciate Senator Groene bringing this bill. Being on the city council myself, we've-- we've seen some issues with TIF and how it's been used, and some legitimate concerns about TIF that have been raised before in this body by people who've been involved in local government. And so I appreciate this bill on maybe a couple levels. It seems like we're putting the power back in the people's hands a little bit more and the free market as opposed to government-controlled land. And this does kind of give-- takes some of the chance for larger corporations and local-- and local government to misuse TIF. I think this has some more controls in place. I like the idea of how the people can get involved now more instead of decisions being made on a board about land out in a field that could be TIFed to use to build a Menards or something. So I like the idea of this bill. I'm glad we put it together. I was just going to make my comments quick and give my opinion. So I'd appreciate a green vote for the amendment and the underlying bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Ben Hansen. Senator Moser.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

MOSER: I have a couple more questions for Senator Groene, if he would respond, please.

FOLEY: Senator Groene, would you yield, please?

GROENE: Yes.

MOSER: Are the rules for what's blighted and substandard the same in your micro-TIF compared to what we've approved in the past?

GROENE: Yes.

MOSER: So there are percentages of the community-- limits on the percentages of the community that can be TIFed?

GROENE: That's true-- 35 percent. Don't quote me, but in small towns, I guess it's 100 percent actually, in villages.

MOSER: Small towns it's 100 percent?

GROENE: Um-hum, I believe that's true.

MOSER: Do you see this putting any pressure on schools, where people live in a-- in a community and pay no property tax, or very little property tax, for 15 years? Or is it 20?

GROENE: Senator, you've got to remember, these are properties that are right now harming the property base of a community because they go down every year. Unlike a cornfield that's being TIFed now, that ground keeps going up and it's froze. This are properties that are going down. Now you got it-- you put an economic value on them. And developers, young couples will buy homes, and the price will go up because they want to fix them up. And for the older school districts, this will be a boon to them, because instead of that young couple moving to the suburbs and going to Westside, they will fix the home up and-- and-- well, I can't say Omaha because-- well, let's say North Platte. They move into the suburbs, go into the small communities, schools. Now they will live in the older-- fix up a home, young families will. And their children will go to the older school districts. I think it's a boom all the way around.

MOSER: And is it a 15-year limit or 20?

GROENE: Ten.

MOSER: Ten-year.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

GROENE: If it works great, I'll bring a bill in a couple of years or so, and move it to 15.

MOSEER: OK. Thank you very much.

FOLEY: Thank you, Senators Moser and Groene. Senator Friesen.

FRIESEN: Thank you, Mr. President. You know, I've been in this body for six years and in those six years, we've had elderly people lose their homes because of property taxes and they couldn't afford it on a fixed income. We have tried to come up with numerous solutions and then blocked every time. So we've had people losing their homes for a long time on some of these issues, and it's time we have this good discussion. Senator Groene, I have a few more questions yet to ask.

FOLEY: Senator Groene, would you yield, please?

GROENE: Yes.

FRIESEN: So is there any way that there's other housing redevelopment programs out there? Is there any way they can double down and use other programs on top of this one? Or is this stand-alone, can't use any other?

GROENE: It's totally free enterprise. For example, on the historical, that was something parochial. We have an old hotel in-- in North Platte, in downtown, that's sitting there drawing pigeons-- eight stories, tallest building in our community, I think. A private-- in order to get a tax break, it has to be a private entity. A-- a nonprofit couldn't do it.

FRIESEN: So can you use historical tax credits on top of this?

GROENE: I think they sunset, don't they?

FRIESEN: I don't know. I'm asking the question. I--

GROENE: Yeah, I believe they could if it exists, yes--

FRIESEN: OK.

GROENE: --on that building, because of the historical designation.

FRIESEN: 'Cause some of those, if you recall, in Revenue Committee, I mean, those were some pretty good tax credits from the-- from the federal and the state. And then, if they can add this to it, does that get to be pretty substantial?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

GROENE: It would only be on those rare occasions on those older buildings, but it would have to be done by a private entity to-- to be able to double dip.

FRIESEN: OK.

GROENE: A lot of those old historical are being done by nonprofits and government entities, and they're getting tax credits when they don't even pay taxes, but this has to be a private individual.

FRIESEN: OK. So what happens if I-- if I do redevelop a house-- take it, you know, a \$20,000-\$25,000 house, put new windows, sidings, remodel it? Now I've got a \$200,000 house and we got the project completed, I'm on path to get the tax credits or the lowering of the property taxes, and-- and a tornado hits it. Is there any obligation there from the city or anyone else on that 10-year agreement you have? Or is that just gone then?

GROENE: The promissory note says that you're going to put an arbitrary number on it, a value. And on that promissory note, it will say, this is paid in full by the-- by the lesser of the amount on it or 10 increment payments. So if-- if the fifth year a fire or a tornado took it out and the value dropped from \$200,000 to value of the lot, well, you're not paying any taxes. But after 10 years, it's paid in full because it's 10 increments, not the value of the-- of the note, the property [INAUDIBLE].

FRIESEN: So the city's obligation would stop when that value drops.

GROENE: Yes. It's-- when 10 payments are made, if it's-- if the-- if the promissory note has a value on it of \$20,000 and ten payments adds up to \$21,000, it stops early because it's the lesser of. If the ten-- ten increments because of a fire adds up to \$10,000, it's paid in full at \$10,000 because it's the lesser of the two. We covered the cities well. The small towns can't afford to go into debt and do all the paperwork. A simple promissory note which is a-- which satisfies the constitution's-- Trevor and I went around and around on this, trying to find a mechanism to use without having the small towns and the cities having to go out and take debt on. It's a promise. You fulfill your end of it, we promise you 10 increment payments.

FRIESEN: OK. That's what I was concerned about.

FOLEY: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FRIESEN: I do not-- I don't want to have cities with some obligated debt there that they, down the road, they couldn't come up with the payments. So thank you. With that, I do support the bill and the idea and the concept behind it. Thank you, Senator-- Mr. President.

FOLEY: Thank you, Senators Friesen and Groene. In the speaking queue are Senators Linehan, Pansing Brooks and Moser. Senator Linehan.

LINEHAN: Good morning, Mr. President. Good morning, colleagues. I rise in support of LB1081 [SIC-- LB1021] and the underlying amendment. Senator Groene has worked very hard on this. And just in my district, we have homes, areas that are very expensive homes, and they're TIFed because they're around old gravel pits that are now lakes. And yet in Valley or Waterloo or Elkhorn, we have homes they can't fix up because of the property taxes. So I-- this is an answer to a challenge that I think we have all across the state, not just in rural rural, but also in my part of my district that's rural. The other thing I want to address this morning is what all we have actually done, with the help of the federal government, for people over the last three or four months. To say we've done nothing, that we don't care, I-- that's just not the facts, if we care about facts. So rental assistance program: There was millions of dollars for rental assistance in the COVID act. The Governor has put money-- directed money toward rental assistance. If you go to the official website of Douglas County, Nebraska, which my staff quickly did this morning when I came in, you can apply. Douglas County CARES rental assistance program provides funds to assist low- to moderate-income eligible county residents with unpaid rent due to COVID-19 related hardship. This program is intended to stabilize housing for low- to moderate-income residents and those at greatest risk due to a loss of employment or loss of work wages. This program's assistance shall not exceed four months-- four months-- of household's rental need and/or a maximum benefit of \$4,000. What are the eligibility requirements? You must be a Douglas County resident. Your income was negatively impacted due to COVID-19. Household income at or below 100 percent of the area median. Applicant is listed on the rental and lease agreement. You must be a U.S. citizen to qualify. How much funding may I receive? This program's assistance shall not exceed four months of a household's rental need or a maximum benefit of \$4,000. Who can I contact to access this program? The Eastern African Development Association of Nebraska at 4735 Northwest Radial Highway, Catholic Charities of Omaha at 2111 Emmet Street, Latino Centers of the Midlands at 4821 South 24th Street, Open Door Mission, Omaha Public Schools, Siena Francis House, Together. The fact is, there is a lot of money out there for rental assistance, and people are not reaching out for it. So maybe if we talked on the floor about the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

assistance that is available, people would be aware and, hopefully, ask for help.

FOLEY: One minute.

LINEHAN: Will the-- will I be required to pay the money back in the future? No. The assistance is in the form of a grant, not a loan. I can send you all the link. There-- there is-- this is just rental assistance. Our hospitals-- I've got more here if we want to keep talking about this. Our public health centers all got millions, in some cases hundreds of millions of dollars to address COVID. The state got almost \$10 billion, if you count the \$1,200 to everybody adult, \$500 for the inde-- dependent. I don't know how we can stand up and say nobody cares. Thank you, Mr. President.

FOLEY: Thank you, Senator Linehan. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President. Again, I support LB1021. I also support the underlying amendment from the Urban Affairs Committee. I'm going to keep talking as long as I find articles and things to-- to talk about. And I, again, am sick at the tone deafness of this body, how we walk and wander in a stupor. That's what we're doing. To heck with the individuals. To heck with the people in our districts who help provide the work to keep the companies open, keep the companies open. With a huge work force and a supported work force, we will attract worker-- we will attract companies here. But at this rate, dismissing our workers, acting as if their concerns and their needs are unimportant, I-- I don't know what else is more important. Families, that's what's important. People being able to work for a reasonable living, that's what's important. I'm going to mention the fact that my colleague, Senator Adam Morfeld, attempted to attach an amendment to the housing bill that would put a moratorium on evictions during the public health emergencies, such as COVID-19. And again, it failed on a largely partisan vote. The housing bill that was up for debate the first time was introduced by my colleague, Senator Justin Wayne. It would require Lincoln, Omaha, and other cities of a certain size to report to the Legislature regarding efforts to address availability and incentives for affordable housing. Cities of populations of more than 50,000 would have to adopt an affordable housing plan. Senator Morfeld's amendment-- and this is coming from the Lincoln Journal Star-- Senator Morfeld's amendment would have ensured that Nebraskans have homes during a crisis such as a pandemic. COVID-19 has placed many individuals at the risk of losing their homes. These are individuals who are workers in our communities, workers in our corporations who have either been furloughed or lost

their jobs-- lost their jobs. But we're in the-- we're in the world of Marie Antoinette, let them eat cake. They can't work, let them eat cake. They can't-- they can't make a living and pay for food for their children, let them eat cake. If you don't think it's a problem, as Senator Morfeld said, just after the moratorium on evictions ended, Lancaster County alone, there were 64 evictions immediately. Again, let them eat cake. So they're without a home. They can go get cake somewhere to eat. That actually wasn't Marie Antoinette's exact-- it-- it was wrongly attributed to her. But what is not wrongly attributed is our position in this body that what is important is not the people. It's the corporate entities, it's abortion. We have not even talked about COVID. We have not even talked about people who are losing their jobs and need help. Senator Vargas tried. He got 28 votes to even discuss the workers who have constantly talked to us, who have written to us, who have begged for help for their families. There are corporations that are doing a really good job in the meatpacking industry, but there are some who are not. But we want to close our ears and move forward, we don't care. Just so business is going--

FOLEY: One minute.

PANSING BROOKS: --and just so people comply with what they think is important. Corporations vote with money, I understand that but they do not vote. So I hope Nebraskans are watching all of this and recognizing the fact that we're-- we're in la-la land here. We are in a stupor. Six more days after today, we're going to spend-- I don't know, I think it's ten more hours on abortion-- ten more hours, Nebraskans. Is that where you want our priorities to be? Ten more hours. Thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks. In the speaking queue are Senators Moser, La Grone, and Chambers. Senator Moser, you're recognized for your third opportunity.

MOSER: Oh man, I'm out of time. I don't normally use all three of my opportunities to speak, and I-- I support Senator Groene and his bill. I just have questions about the implementation of it and to make sure that I understand it and those in the state understand it. So back to-- I'd like to ask Senator Groene a couple of questions, please.

FOLEY: Senator Groene, would you yield, please?

GROENE: Yes.

MOSER: OK. So you said this is for individuals, correct?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

GROENE: Yes, sir.

MOSER: But now, like a housing group, like in my area, we have a northeast Nebraska housing group that buys old homes, and they get grant money from the federal government and I think, also from the state. And then they buy old homes and rehab them and sell them again. And quite often, they lose money on them. But that's what the grant money is for. Would they be able to buy these homes and get this TIF financing?

GROENE: I'm glad you asked that. I said private individuals, but it's any entity that pays property taxes. So if you're-- if you're those-- we have one, too, in North Platte, and they do good work. They buy older homes and fix them up and they sell them and they use grants. And mostly they use the-- the rotation of that money to do it. I'm fine with that. That-- another one who will really benefit is Habitat for Humanity. Right now, they fix up homes, and individuals help them. We have a very strong organization in North Platte. But what happens is they, they-- \$150,000 house-- they put in a part of town on an old lot. Well, those people who move in all of a sudden have over a \$3,000 tax bill every year, and they can't pay the property taxes. So what would happen here, Habitat for Humanity would go in one of these blighted areas, buy an old home, fix it up or tear it down and put a modular in there like they do a lot. And those folks' taxes would be \$300 to \$400 a year for ten years. They could afford to live in that home.

MOSER: So it doesn't concern you that an individual or someone who is qualified could get this TIF and then they could sell it to somebody who couldn't get TIF financing, maybe wouldn't qualify, and the benefits go to the new owner?

GROENE: The benefit goes to the new owner. If-- if vice versa, you say if an individual buys it who does pay property tax, or an individual, and then they try to sell it to a hospital that is a nonprofit and doesn't pay property taxes, it does no benefit to the hospital because they don't pay property taxes. It doesn't harm the city because it's limited to ten increments, and if the increment isn't there, the note is paid off at ten years with the amount that is paid. So it works. It really works, Mike. We thought it through.

MOSER: OK. Thank you, Senator. Well, one more question, if you wouldn't mind.

GROENE: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

MOSER: Would you say that this is a program that would benefit low income-- low-income people?

GROENE: Work force housing, because when you buy a new house out in the country, you got to pay for the street you put in, the sewer that's put in, the-- the electrical hookups. That's already exists in these parts of town. And housing will be affordable. And if you're a young couple, working hard, and you want to fix it up yourself and you only want to put \$50,000 into it over time, the banker is going to be more willing to give a loan because he knows that those folks aren't going to get hit with a \$2,000 increase in their taxes. It works. Work force housing, affordable work force housing.

MOSER: OK. Thank you, Senator. Thank you, Mr. President.

FOLEY: Thank you, Senators Moser and Groene. Senator La Grone.

La GRONE: Thank you, Mr. President. Colleagues, I wanted to continue the discussion Senator Linehan was having, because I think the Governor's been doing a really solid job managing this crisis. And fortunately, it seems to be that the position of some of this body is that if we're not the ones who come up with an idea to help people, it doesn't count. I think the Governor has gone out of his way to try to help people who are suffering during the COVID crisis, and so I want to continue Senator Linehan's discussion about some of that. So public health and assistance, this is some of the federal appropriations that the Governor's Office has been managing: public health and assistance, assistance for children and families, \$39.6 million; assistance for aging and disabled, \$7 million; public health response preparedness, \$84 million. Colleagues, I could go on and on. I have page of this-- pages of this. But let's be honest, if we're going to have this conversation. The Governor's Office has been doing a great job managing this pandemic. Just because the legislative branch is not as nimble as the executive branch doesn't mean that nothing is being-- being done. Just because it's not coming out of this body doesn't mean we're not trying to help people. So I apologize to Senator Groene for getting off the topic on his bill and to get back on topic, I'd yield the remainder of my time to Senator Groene.

FOLEY: Thank you, Senator La Grone. Senator Groene, 3:40.

GROENE: I, like you, Senator Moser, am not excited about government getting involved in housing. Part of the reason poverty stays in an area is because-- I think Senator Wayne and Senator Chambers would agree-- where did the white man build the federal housing? In the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

slums. They didn't want them out in the areas. They didn't help them build, rebuild their communities with programs where an individual could take pride in homeownership and afford it. Back in 1978-- I've said, I've studied this over time. I went back to the old editorials in the World-Herald and the Lincoln Journal Star, through the archives. LB1021 is what tax increment financing was meant to do. Remember, we came out of the '60s and the early '70s-- riots in the streets. This isn't the first time what's happening, it's happened before. One of the answers was-- I believe it started in Minnesota-- was, how do we get the developer to rebuild the older parts of town instead of building on a donut on the outside? We failed them miserably. We turned this TIF into an economic development plan where we incentivized developers to build where they were going to build anyway, on the Interstate. LB1021 is a start to use its purpose when the voters voted in 1978. One little house at a time, one little business on the rundown part of Main Street gets fixed up by an individual. My town, we have the-- we all-- go to any small town-- two-story buildings-- the upper level's got nice windows in it, but they're empty, full of boxes. I've got a developer in my-- who owns some of the properties and might put condos up there now, affordable housing for the people who work in the banks and downtown. That could happen in every town North Platte's size, every little town, because it's affordable to live there, the taxes are affordable. I can't-- we thought this through at every angle. And how do we make it affordable? How do we make sure that we don't put up barriers of legal fees? Right now when, to do a TIF, you've got about a \$5,000 to \$10,000 legal fee, because this body put so many restrictions on, and-- and planning into TIF that it just became absolutely unaffordable to the small developer. This fixes that.

FOLEY: One minute.

GROENE: This makes that old house-- boarded up, we all have them-- got a little char on one side because they had a fire. That makes that property valuable again, that somebody might look at that and say, yeah, I'm going to fix that up. I'm going to bulldoze it in, and I'm going to bring in a-- a modular home-- \$150,000-- and I'm going to be able to pay my taxes. Or you're going to fix the property up. People who are accused of being slumlords but they're business people, will now look at a property and say, I'm going to fix that up. I'm going to put \$50,000 into that because two mills, that's \$1,000 a month increase in taxes, that's a month and a half rent that they're going to have to raise their rents. People don't want people to live in-- in unsavory housing. It's an economic decision. You got to be able to pay

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

the bills. So this will allow them to fix them up and allow better housing--

FOLEY: That's time, Senator.

GROENE: --for the poor. Thank you.

FOLEY: Thank you, Senator Groene. In the speaking queue are Senators Chambers, Wayne, and Pansing Brooks. Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm pleased that Senator Pansing Brooks is raising issues that we ought to be dealing with, although we won't. Those of us who care about people have got to use what we have at our disposal to try to force some action in behalf of those people. Senator Wayne pointed out that my principle of using time is about the only thing we have, those of us who care about the people who are ordinarily brushed aside and not given consideration by this body. I'm going to vote, ultimately, for Senator Groene's bill. But I'm going to take time on it. I'm going to offer motions. And when, if it has to go to cloture, when cloture comes, I'm sure the votes will be there to move the bill. But we still have too much time on our hands in this body. If they bring up that abominable antiabortion bill, it lets me know that this body is not really concerned about how little time is left. But whether the body is concerned or not, the interest that I have in the people who are disregarded continues, and it has for all the years that I've been in this place. You all have no idea of things that I've done, so let me give you an idea of one thing. There are more white people in Omaha than black people by far. So there are more elderly white people than elderly black people. White people have a longer life expectancy, generally speaking, than black people. It can be traced directly to the privileged position occupied by people as opposed to the second- or third-class status accorded black people. I've read the Constitution of this country and of the state, and I don't see, in either of those documents, a designation of and definition of second-class citizenship. Yet black people do not have first-class citizenship, and I don't feel that I have citizenship at all. I've studied the history of this country. One reason I studied it was not just to pass classes when I was in high school, where you take something that can be called history, or at Creighton. When I went to Creighton undergraduate school, I didn't attend classes-- not in the classroom-- but I spent far more time in the library than most people did in the classroom. And I read selectively what dealt with the issues of interest to me. But I said I would tell you something about Omaha. It was kind of peculiar to me that people in Omaha were going

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

to have to pay a fee to have their trash picked up. And I questioned my white colleagues. All of my colleagues at that time were white. I use the term colleagues advisedly. It might be in the same family as the word collegial. There was no collegiality toward me--

FOLEY: One minute.

CHAMBERS: --never has been in this body, never will be. But colleagues is one of those terms that we just use automatically, like Mr., Mrs., Ms., and so forth. I'm not going to be able to get into what I intended to talk, but since, say, I'm going to take a lot of time today, just kind of moseying, ambling, and strolling, metaphorically speaking. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Wayne.

WAYNE: Thank you, Mr. President. Colleagues, I hope people don't mistake kindness for weakness. The reason I'm saying that is I want to walk you through the evolution of this bill. And I'm going to show you the difference, I believe, that my colleagues in Urban have displayed on this bill, and I can point to other bills, to where we try to find balance and work with each other. In this committee, I want to point out there are five out of the seven members-- eight members-- there are five who are from urban areas. When this bill arrived to our committee, it was unconstitutional and it was dead. We could have let this bill just die this year, but we recognize there is a need in the community that Groene's-- in the communities that Groene was trying to help, trying to help, and for those who are signaling this might take care of the land bank, we're talking about two different properties. Land bank deals with properties who have back taxes, who can't not move those back taxes and it clears title. This is for somebody currently living in the house, currently wanting to upgrade their house in an area where they could need some type of TIF financing to do so. Two separate properties, not even in the same category. Nevertheless, there was enough opposition to this bill that it should have never come out of committee. The only reason I'm not taking time is because my legal counsel, Trevor, spent the whole break fixing and talking to people to bring this bill to a point where our committee could vote on it. Senator Groene will tell you that if I was in the committee, not because I control the committee, but TIF is kind of something that I'm an expert in. And we spent a lot of time bringing this bill to a place where it works for small communities, but it's unworkable for the larger ones. So what did we do? We divided it to say, let's just do it for the small communities. Let's just do it for the rural communities because it's their issue. We have the same

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

issue, but the practical outcome of how we would do it is unworkable. So we took time to separate that out, to put this bill to the floor. That is important because I feel like we don't always get that same go-- negotiation back and forth from our other colleagues. And we're starting to see that play out with what I hear about the great bargain that is being brokered. None of the colleagues that I've talked to in urban areas are on board with the "super seven's" deal. Now, we haven't read it. People are waiting to see it. But by my count, that puts us at about 18 or 19. How do you get cloture with 18 or 19? The math isn't there. So what I'm showing you is two different ways we can go about this. Like we did on this bill, ask Senator Groene how we got there-- hard work, tough conversations, and making it workable for everybody. Or we can continue what we continue to do and divide where nothing gets done. And so today, depending on how much time we take and get through Final Reading, maybe tomorrow for sure, there will be a sine die motion and count the board, because that's where we're at. We can't spend time making it work for rural and supporting rural when we don't get the same time and respect in our areas.

FOLEY: One minute.

WAYNE: So I hope we sit down and have a real conversation like we did on this bill. And you can ask anybody on the committee, this bill was dead. But we also recognized that if we have time, there is an issue to address and we addressed it. That's why we support this bill. That's why it came out of the committee unanimous, because we made it practical and we understood the issues, and we said right now it's not going to work for-- for urban, but we'll take that brunt to make sure your guys' community has the tools it needed to be successful. And that's all we're asking for, the same. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. In the speaking queue are Senators Pansing Brooks, Matt Hansen, and Senator Chambers. Senator Pansing Brooks, you're recognized, your third opportunity.

PANSING BROOKS: Thank you, Mr. President. I don't usually do this, but I'm intending to do this for quite a while. Senator La Grone said just because we aren't nimble like the executive branch, we just have to move forward with what we have. We may not be nimble, but right now we're numb. I'm going to read some-- some information that was printed in the Omaha World-Herald from-- by Diane Wanek, who's the communications director for the Joslyn Institute for Sustainable Communities. Affordable housing was a critical issue before the pandemic. Before COVID found its way here, full-time minimum wage workers could not afford a two-bedroom rental anywhere in the U.S. In

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

Nebraska, a two-bedroom rental requires 16-- wages of 16-- of more than \$16 per hour. Minimum wage here is what? Do you remember? Does anyone care? How many know the minimum wage here in Nebraska? It's \$9. So can they afford a-- a rental? No, is the answer. Medium income in Nebraska has been declining in recent years, while rental and real estate prices rise, and there's a serious deficit in rental and affordable housing inventory. In a-- in addition, the floods last year caused great problems to law and had a long-term effect on housing availability and stability. In Nebraska, no law assures fair housing to recipients of Social Security or other federal income. Remember, Senator Vargas had a bill, LB1020, to ensure that people's sources of income can't be used to discriminate against them when they are seeking housing. Of course, that didn't reach the floor because we are numb. Not only are we excusing our lack of "nimbleness"-- I guess that's a word now-- but we are excusing the fact that we are numb to the needs of Nebraskans. I am a fan of alliteration and that was a good one. So, you know, what's happening now is that we're missing middle housing, middle-income housing. Then you add to our toxic mixture of a lack of affordable housing, the fact that the flooding and COVID-19 disproportionately affects people in lower income. More than-- there's more than 7 percent unemployment in Nebraska, which may increase. But remember, I know some of you think they're just sitting at home, get-- garnering this-- the money in from the federal government because they don't want to work. But why were we at 2 to 3 percent when we weren't in the middle of this crisis? Most of the unemployed are low-wage workers. The official unemployment numbers also do not include those who-- who do not qualify for benefits because they work one or more part-time jobs, they are caregivers for family members, or they just exist at the fringes of the economy. Actual numbers may be 10 to 20 percent higher. What is going to happen in our state and in our economy when it finally gets too much and the people can't eat and they can't feed their children?

FOLEY: One minute.

PANSING BROOKS: Let's just continue-- we'll just arrest them all. We'll put them in jail. We can pay for their-- their food in jail. The University of Chicago and the Federal Reserve economists believe about 40 percent of jobs may be lost permanently. The \$600 expand-- enhancement-- unemployment enhancement expired-- expired this week, as well as unemployment benefits for thousands of Nebraskans altogether in the coming weeks. There was no eviction moratorium actually under Ricketts because it wasn't a mandate. And many counties ignored it. Homeless facilities are stretched to the limits right now. Are we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

listening or are we numb and walking in a stupor? Thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President, and good morning, colleagues. I hadn't originally intended to rise and speak on this bill. And for those of you looking around, I'm behind you up in the balcony. I hadn't originally intended to speak on this bill, but as you know, housing is something I've worked on. I had a bill related to evictions last year as my priority. I had a bill incorporated in Senator Wayne's bill that we just passed this morning, so I did want to rise. And I did kind of want to just kind of talk and highlight some of the terms we've used today is. And we had a-- we had a senator go out of their way to say they don't know of any slumlords. And then we had that same senator come back and talk about the neighborhoods that are slums. And when we talk about that, well, we go out of the way the landlords can do no wrong, but the neighborhoods are terrible, that says a lot about how we view the issue and how that comes across. And I just wanted to put that out there. You can dismiss this as political correctness or what have you, but that's an issue we're really struggling with when some of us who are really advocating for housing and really advocating for issues kind of encounter it. It's-- no matter what, it's the fault of-- it's the fault of the renter, it's the fault of the neighborhood, it's the fault of whatever. And somehow landlords both get this incredible agency given to them. At the same time, they're also helpless and need new government programs like micro-TIF to bail them out. And I just kind of wanted to flag that, and as we talk about this, the issue. Relatedly-- and Senator Pansing Brooks just touched upon this-- the \$600 a week of unemployment benefits did expire. To my knowledge, nothing clearly has coming-- has been passed to replace it. Colleagues, there's about 5-- sorry-- 50,000 people who were receiving those. We do 50,000 times \$600, I believe that's \$30 million a week that is just not going to be coming to Nebraska citizens, not coming to Nebraska residents, not coming to our economy. So when we talk about we've done some things and some states have done-- you know, a county's done \$1 million for this, the Governor has done \$7 million for this. For the foreseeable future, for this week at least, we're already taking a \$30 million hit in terms of the aid we've been giving out over the past several months. So when we talk about we did \$7 million over the summer for such and such, you know, we've done something. Yes, but that's-- pales in comparison to, frankly, what's going to hit us this week. And I hope your constituents know. I imagine your staff is going to get kind of flooded with emails from people who don't understand why their unemployment dropped

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

significantly or they lost it altogether. So I wanted to flag that for your attention and for your mind, this issue. And I would actually yield the balance of my time to Senator Pansing Brooks if she needs it.

FOLEY: Thank you, Senator Matt Hansen. Senator Pansing Brooks, 2:20.

PANSING BROOKS: Thank you, Senator Hansen. And I hope everything's healthy and well with you. Again, we have homeless facilities that have been stretched prior to the commit-- to the pandemic, and they're now facing emergency levels of housing. Again, economists at-- at New York University, Harvard, Chicago, and Princeton predict a serious economic contraction with perhaps 42 percent of all businesses closing-- closing, affecting millions of workers, millions of workers' families, children, people. We're talking about people here. We cannot continue to bury our heads in the sand. I am not going to end up at the end of this next six days without at least having my constituents know that I cared enough to speak for people, to speak for the fact that we just sit here. I thought we were going to do more. I thought we were going to care for people that we-- I-- I had belief in this body--

FOLEY: One minute.

PANSING BROOKS: --to be able to make a change, to be able to say, oh, my gosh, people are hurting, people are in need, people are sick. But no, we're just going forward as if nothing happened. To heck with COVID. The Governor's got this handled. We give away all of our powers, all of our powers. You know what? Let's just disband the Legislature since the Governor has this all handled. He will handle it. We can sit back and go home. That's what we can do, because he's got this handled. We aren't nimble enough to care about our constituents. Thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks. Mr. Clerk, items for the record, please.

CLERK: Thank you, Mr. President. Enrollment and Review reports LB424, LB848, LB848A, LB918, LB918A, LB965, LB965A and LB966 all reported correctly engrossed. Confirmation reports: two-- two confirmation reports from General Affairs Committee, those offered by Senator Briese. And Enrollment and Review reports LB755A and LB808A to Select File. Mr. President, returning to LB1021, Senator Chambers would move to bracket the bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: Senator Chambers, you are recognized to open on your motion.

CHAMBERS: Thank you. Mr. President, members of the Legislature, since I'm offering a motion, I have ten minutes to speak on it. And I'm not going to rush anything this morning because I'm not speaking to these people on this floor. I'm talking at them, but I'm speaking today to the people who watch us. This is my bully pulpit. And since those watching us may not understand motions, a motion to bracket to a day certain is a priority motion. That means it can jump over certain other motions and be taken up. When that motion is offered, usually it will be voted down. If I've offered it, I will be not voting. That puts me in a position to offer a reconsideration motion, which is a priority motion. In order to offer a reconsideration motion, you must be on the side that prevails. Since that re-- that first motion, I know, is going to be voted down, rather than vote against my own motion, I just register as not voting. That leads-- leaves me in a position to reconsider. This motion is to bracket until August 6. We will still be in session, so what I can do if this motion fails, I can offer another bracket motion until August the 7th. If you offer a reconsideration motion and take it to a vote and it's voted down, you cannot reoffer that motion. Here's something else that I can do. And maybe these new people, who are not too bright, will pay attention to it because they may have occasion to make use of it. If I offer a motion, as the offeror I can move to amend it or modify it; or if no action has been taken on it, I can withdraw it. Well, I could either let this motion go to a vote, be not voting, and then offer my reconsideration motion. But since this is a primer on the rules, here is what I shall do today. I will speak on this. If some speak, fine. If they don't, it's all the same to me. I will speak on my closing, but I will not take a vote. I will withdraw my motion, which I have a right to do since I'm the one who offered it, and it has not been altered. Then, when I've withdrawn it, guess what I can do? No vote was taken on it. I can offer it again, and it becomes, again, a priority motion. You all want to play? Then we're going to play. You think you're tough? We're going to see how smart you are. Senator La Grone's the Governor's water carrier. But compare what La Grone got from the Governor compared to what Senator Slama got. Both of them were appointed by the Governor. Senator La Grone came in second, that's not bad. But there are two ways to look at the position that a person winds up in during a primary. I'm not trying to embarrass Senator La Grone, the Governor did that. But let me put it on me. I am running in a primary. There are only two of us. So even if I come in second, then I'll be on the ballot, because the top two get to go on the ballot. There are two ways to describe my position. I could be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

said to have come in second or I could be said to have come in last. Language can be used to soften a situation or to make it harder. When you're softening a situation, it's because the fact, as it stands unvarnished, is too difficult to confront. So it is softened by the language used to discuss it. But the softening of the language does not alter the reality. The person-- and myself will be that person because I'm giving an analogy in which I'm a participant-- I still came in last. I still have to get more votes than the other person, in the final or general election, to be elected. Well, the Governor doesn't care much for me. He might give \$15,000 to one of his appointees and give me \$107 or \$170, which tells me something. Now, that's so much for the primer on the rules. I want to tell you about this trash collection fee. I didn't want to see elderly people or anybody in Omaha pay a fee to have their trash collected. To my way of thinking, that is a service to be provided by the government. See, unlike you hypocrites, I don't think everything the government does is bad. I like big government. And you all like it when you've had a flood. You all like it when you want to overturn the free enterprise system and have the big government compel big oil, as it's called, to put in some of that inferior ethanol. That's big government. That's heavy-handed government. But you hypocrites like that. And that's what makes me tired because I listen to you all, and then I watch how much you do that's contrary to what you talk about. Here's what I did. A bill was before the Legislature that people wanted. I believe it was offered by somebody from a smaller community. What did I do? I offered an amendment. What did my amendment say? That in a city of the metropolitan class-- Omaha is the only one that fits into that class. Digression. You cannot mention the name of a city because that is special legislation. Legislation is considered special, for the purpose of the Constitution, when it creates a closed class. You create a class which only those that exist now can participate. It must be a classification which remains open or amenable to others to participate, to join it. So the cities have been classified in this state according to population. Omaha is the largest city, population-wise; Lincoln, second place. If you want to make a law that applies only to Omaha and not have it be struck down as unconstitutional, then you don't mention Omaha, you mention the classification. And even though Omaha is the only city in that class, other cities could wind up in it once they cross a population threshold. Isn't this interesting? Well, instruction, pedagogy, is never interesting--

FOLEY: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CHAMBERS: --but it is essential. So I'm just going to amble right on through, mosey around, and stroll to my destination. And as yet, I haven't explained how I did something which saved residents of Omaha from ever having to pay a garbage collection fee, unless-- and I'll save that for the next time I speak. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Debate is now open on the bracket motion. In the speaking queue are Senators Chambers, Ben Hansen, and La Grone, and others. Senator Chambers.

CHAMBERS: Thank you, Mr. President. And I must turn on my light because I'm carrying this load. I put it out here so I should be prepared to carry it. My amendment said that no trash or garbage collection fee can be imposed on the residents of a metropolitan class city unless there is a vote of the people. Let the people vote. And here's where I'm cagey. Here's where I'm very clever, very tricky. I figured that as dumb as white people are, they are not dumb enough to vote for a fee to be placed on them, not as long as white people stay at least intelligent enough not to vote against their own interests, which there's some doubt about since they voted for term limits to get rid of me. People in Omaha will not have to pay a garbage collection fee. That does not obtain for any other city. You all didn't know I did that. Senator Wayne did, he reads. I've rescued white people so many times because as the defender of the downtrodden, white people in general are not. But there are white people who are held in contempt by other white people, and those people held in contempt are trodden down. And as quiet as it's kept around here, they know that I will come to their aid, and they come to me. And I help them to the extent that I can. Why, you may wonder, or you may not, am I doing what I'm doing now? We're in what is called crunch time in a legislative session. There are not many days left. If they want to talk about an antiabortion bill for ten hours, I don't care. I welcome it. The more time spent on that, the less time spent on other things. And as for this plan by these seven people who are the leaders of the Legislature-- that's the way they're described, the leading senators-- I will work to derail that. The only way you're going to stop me is to have 33 votes for some form of that bill. How much time can be taken before you get there? Do you think I can take all that time myself? Watch me. Do you think I'll be exhausted? You've seen in the past that I'm not going to be exhausted, but that was the past. As a little song by white people said, that was yesterday and yesterday is gone. But time for me is a continuum. There is, in fact, no yesterday, no tomorrow, there is only the here and now. Only at this instant can we act. And when I say act, I don't mean make believe, I mean place action of some kind.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: One minute.

CHAMBERS: It's not necessary that I do anything, even utter words when I'm recognized to speak. I'm free, under the rules, to use my time when I'm recognized any way that I choose. And I choose to take considerable time today. And Senator Groene may be shocked, but my participation may be what leads to cloture. But when he makes the motion, I'll vote for cloture. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. I am against Senator Chambers' bracket motion. And again, I am for the amendment and the underlying bill. I do appreciate Senator Groene for bringing the bill. I think it's a good bill. And I do appreciate a lot of stuff that Senator Wayne mentioned on the floor about the reasoning behind himself and the Urban Affairs Committee voting this out. And I do believe it can help not just rural, but also urban areas. Instead of a city making decisions, we are leaving it up to the people a little bit more in their capacity to help better their lives and better their homes, and-- and create some economic development that is-- that is, like I mentioned before, more in the spirit-- and it might not be completely-- but more in the spirit of free market as opposed to more government-owned land. So I'd appreciate a green vote on the amendment and Senator Groene's bill. And one of the things I-- I just-- I had to mention a little bit about something that maybe Senator Pansing Brooks mentioned about the unemployment rate. We're actually about 7 and a half, 7-- or 6 and a half, 6.7 percent, not 7 percent, and so I don't think that really is a dire situation for our state. I think we're still in the top ten, if not the top five, overall, for unemployment rate, because I think the unemployment rate in the United States right now is around 11, 11.5. And so I think that kind of speaks to the grit and the determination and the fiscal responsibility of our state, not just in the Legislature, but as small business owners, as well, when we saw this pandemic coming on. So I do want to congratulate all the people in our state and the small business owners sticking with their employees, sticking with best business practices, and being fiscally responsible. So I think we've done really well as a state. And-- and with that, I will yield the rest of my time to Senator Moser, who I think had some more questions.

FOLEY: Thank you, Senator Hansen. Senator Moser, you've been yielded 3:00.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

MOSER: Thank you, Mr. President. I should mention that I support Senator Groene's bill. And even though I've asked him a lot of questions about it, I just wanted to make sure he thought it through well and make sure that it made sense to me. And one thing that he told me about, or we talked about in between speaking on the microphone, was that the land banks don't pay tax. So they really can't use TIF financing and get any benefit from it, because the whole idea of TIF is, the increase in property taxes that the property will cause can be used to support the rehabilitation of the property. So the land banks can clear title, and it's a mechanism for cities. The TIF is a mechanism for individuals. A few other comments about our discussion today. Not all senators are going to agree on everything. No one should be alarmed. You know, we're different people. We're different in our education, our life experience. We have different backgrounds. We represent different constituents. So it shouldn't be surprising that in a group of 49, that there are differing views. You can look at a school board, you can look at a church council, you can look at city councils, very seldom do they all agree. And quite often they make better decisions when they don't all agree. The Governor's COVID subsidy program included \$230 million for small business subsidies, up to \$12,000 per business. So that's a-- a benefit for small businesses who can get up to \$12,000 to help keep them in business to kind of bridge this gap and-- and turmoil caused by COVID.

FOLEY: One minute.

MOSER: COVID has had such a stunning effect on everyone. There is no way to make everyone whole. You can't tax everyone and give everyone a subsidy and have any net gain. The larger COVID damage can't be fixed with money anyway. It's something we have to live through together, and I think we're working and trying to put forth the best policies where they make sense. Thank you, Mr. President.

FOLEY: Thank you, Senator Moser. In the speaking queue are Senators La Grone, Morfeld, and Pansing Brooks. Senator La Grone.

La GRONE: Thank you, Mr. President. I'm still just kind of dumbfounded by this notion that-- that this body hasn't done anything. We came back when the pandemic hit, and we passed over an \$80 million package to allow this state to react. And let's not forget the difference-- the executive branch only has that power which we give it. The actions the Governor is taking are powers that this body gave him. That is the only way, so that is how we are responding to this. And I just want to touch also on something that Senator Moser talked about, which is, help the small businesses. I don't think it should be forgotten that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

the banking community in this state really came together after the PPP loan package was passed at the federal level and provided a lot of assistance to small businesses that were struggling. They took advantage of that. Nebraska was the number one state for that program. I think that's incredibly commendable. Just some examples: \$3.4 billion that are to be used for payroll costs to help people keep-- keep jobs, interest on mortgages and rent and utilities, and fully forgivable, and deferred for six months; then economic injury and disaster loans; capped interest rates; some flexibility on collateral and personal guarantee requirements. Colleagues, there's a lot of information that we could go into. But I know that there are others who want to speak, so I'll yield the remainder of my time to Senator Arch.

FOLEY: Thank you, Senator La Grone. Senator Arch, you've been yielded 3:30.

ARCH: Thank you, Mr. President. First of all, I want to stand and-- and note that I am very much in support of LB1021 and the underlying amendment. I sit on the Urban Affairs Committee. We discussed it at length. We-- the work that was done over the recess was extensive. Trevor Fitzgerald has been mentioned in that and Senator Wayne's leadership to get this-- to get this to the floor. But I also, obviously, stand in opposition to the bracket motion. But I-- but I-- but I would like to talk for a second about the involvement of the Health and Human Services Committee over the summer under Senator Howard's leadership. We have been busy. We have been having a number of briefings via Zoom. And one of the briefings that we received was on July 16. CEO Smith briefed us on a number of matters that we were concerned about. And one of the things that she provided was a document that is identified as "Select COVID-19 Waivers, Suspensions of Statutes and Policy Changes." This is-- this is the response of the HHS Committee to what-- what are we doing to help those now in our communities and in across the state by-- by easing restrictions, by waiving certain statutes, by setting aside certain provisions so that we can get aid to these individuals as quickly as possible? In the document that she provided, which was dated July 14-- as I mentioned, it is identified "Select COVID-19 Waivers, Suspensions of Statutes and Policy Changes," broken out by the divisions within HHS. The Division of Child and Family Services identifies 11. The Division of Developmental Disabilities identifies 1. Division of Medicaid and Long-Term Care identifies 7. Division of Public Health identifies 29, 29 different waivers, suspension of statutes, and policy changes. And I want to read just a few of these here to indicate the work that DHHS has been doing, the Governor's direction. One has to do with

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

low-income energy assistance for crisis situations. The description is, "Consider inability to pay home energy costs as result of COVID-19 extenuating circumstance for crisis assistance; allow client's declaration to be used if DHHS and household cannot obtain verification of reason for inability to pay." The end date on that is, no fixed end date; reviewing periodically. Food assistance, "Implement P-EBT, which provides additional food benefits on EBT card to households currently participating in free and reduced lunch program with school shutdowns of five days or more." End date: Applications due in June and July; benefits issued in July and August, currently going on. SNAP, food assistance. "Exempt able-bodied adults without disabilities who are subject to work requirements and do not meet these requirements from maximum of 3 months of SNAP benefits in 36-month period," an exemption. End date: End of month subsequent to month HHS secretary lifts emergency. That will continue through that emergency. Social services for aged and disabled adults, "Authorize delivered meals for all congregate meal recipients; waive requirement for delivered meals to avoid physical contact with participants."

FOLEY: That's time, Senator.

ARCH: No fixed end date; review--

FOLEY: That's time. Thank you, Senator Arch. In the speaking queue are Senators Morfeld, Pansing Brooks, Arch, and Chambers. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I just wanted to get up and, number one, support the comments of Senator Pansing Brooks. It's true, there has been over a billion dollars in CARES Act funding that has been appropriated to the executive branch to address COVID. But I believe that we have a responsibility as a Legislature. We have a duty as a Legislature to oversee those funds and then also to provide targeted guidance and support on where those funds should go. We have failed to do that as a body. That is the concern that I have. Now, has the executive branch taken action on some of these things? Absolutely. But the bottom line is, is that we have a responsibility to listen to our constituents and to provide more targeted guidance in where those funds are going; and we have failed to do that as a body. And that's my concern. It's my concern because I know, as a legislator and helping Nebraskans and my constituents, where there is targeted relief that is needed. For instance, my office has helped over 750, 750 Nebraskans, from all across the state, directly with unemployment benefits over the last few months alone. So I understand what the scope of the issue is, and I also understand that there are certain services that are available in Douglas County. I'm glad that Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

Linehan brought that up. But I also know that there's not enough money that is currently allocated to those agencies right now, based on what we are going to see in the next few weeks and the next few months, particularly with the lack of action at the federal level. The unemployment benefits for \$600 a week expired this Friday. There are many Nebraskans who are barely getting by with that. There are tens of thousands of Nebraskans that are unemployed. It's likely only to get worse, based on the response or lack thereof across the country, and we have a duty as a body to provide targeted benefits. And I could only laugh a little bit at Senator La Grone talking about the executive branch being nimble. They're so nimble that they took a year and a half longer than any other state to implement Medicaid expansion. So I don't think that the leg-- that the executive branch is necessarily the epitome of nimble, based on their past performance. So I do have concerns and I do believe that we as a body should be providing targeted guidance in the law, in statute, for over \$1 billion in funds that are coming into the state to help Nebraskans. We haven't had that conversation other than to acknowledge that it's there. And when we have had that conversation, we're told, no, don't worry, the executive branch has it all covered. Well, I'm sorry, but past experience shows all of us that the executive branch needs guidance. So colleagues, I will be getting up and talking about that over the next few days, and I will join Senator Pansing Brooks, Senator Chambers, and others in discussing that. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President. So I want to read from a World-Herald article that came out. It was an editorial that came out-- let's see-- yesterday. The article said-- the article said you can't be thrown into jail without legal representation. Of course, they forgot the part that kids don't have to have legal representation. But you can-- but you can be thrown out on the street, which can be even more devastating to an entire family, including children-- children, hello. Failure to pay rent is a terrible mess for all parties. It's a mess for landlords, whether they're big companies or individuals, and they rely on the income, but at the same time, those people who fall behind in rent are in an economic vise of sorts. Something awful is usually happening in their lives. A job loss-- excuse me, I said 6, I said 7 percent, and Senator Hansen told me it was 6.7 percent-- job loss, a shattered relationship, illness, mental illness, or just the tedious grind of poverty. In recent months, many low-paid workers whose businesses have closed during the virus pandemic have teetered even closer to eviction. The enhanced jobless

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

benefits and federal protections against some evictions during the health crisis expired Friday, and Nebraska's limited protections are gone. There is a new piece called "Understanding Evictions in Omaha," from Creighton University Professor Pierce Greenberg and housing lawyer Gary Fischer, which shows the evictions follow historic patterns of racial, health, and educational disparities. Again, we can't be nimble, but can we discuss and can we work on things and make a difference and change things? I believe we can, that's why I'm here. Many people believe eviction to be an individual problem, simply a side effect of an inability to pay rent-- guilty people, people who don't, aren't worth the effort, people who aren't worth our concern. If they only bucked up, they pulled themselves up by their bootstraps, we wouldn't have to even think about this or worry about them. To heck with it. But no, we have to go on and worry about all of the other matters, those-- the haves, the haves being able to keep what they have. That's what we're worrying about right now. And again, I stand in support-- against Senator Chambers' bracket and thus support Senator Groene's bill. Many people believe that eviction to be an individual problem, but social research on the topic illustrates a more nuanced view of eviction that shows how eviction can also be a significant cause of poverty. For example, people's-- it can restrict people's future housing opportunities and cause a loss of possessions, and damages residents' credit. Evictions loom more ominously at a time when we should all be worried about children falling behind in school as they struggle to deal with-- safely with the virus threat. Evicted families face extremely limited alternatives that might mean changing schools, living far from a job, less access to mass transit. Douglas County records about 3,500 evictions a year.

FOLEY: One minute.

PANSING BROOKS: For struggling families, it's a steam roller, a steam roller that we don't have the time or energy or the nimbleness to discuss. I have the nimbleness to discuss it, and I intend to for the next six days. If we have the nimbleness to talk about abortion for ten hours, I have the nimbleness to talk about my constituents who are hurting. Thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks. Senator Arch.

ARCH: This will be my last time on the mike on this matter. Thank you, Mr. President. This will be the last time. I-- I just want to-- I just want to mention a couple of other things regarding the Legislature's involvement in the issues that we're facing in our-- in our communities right now. I'm continuing on, in the document that I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

mentioned of July 14, provided by the Department of Health and Human Services on-- on select COVID-19 waivers, suspensions of statutes, and policy changes. And I want to mention just a few more. One is bus passes. "Permit recipients currently authorized to receive bus passes with Star Tran or Omaha Metro to switch to taxi services for remaining authorization period," no fixed end date. In the TANF program, the Temporary Assistance for Needy Families, "Expand use of good cause for nonparticipation with work requirements; assist incapacity-exempt participants in gathering required medical documentation for Incapacity Review Teams"-- the IRT review-- "or grant extension of due date"; allow declaration of student status (need only document what status was reported and who reported it)," no fixed end date. The Emergency Food Assistance Program: Remove requirement that participants receive these foods only in county of residence; remove signature requirements, allowing verbal attestation. And that will-- that will end with the expiration of the federally declared emergency. And then just one other, in the Division of Public Health, the Commodity Supplemental Food Program, "Waive requirement to receive client signature for recertification and receipt of food," no fixed end date; reviewing periodically. I guess the point is that I know with-- with the Department-- with the Department of Health and Human Services briefing and the-- and the-- and the report that they provided to us, we-- we received an-- an understanding of what was being done. I-- I have introduced an interim study this session, at the end of this session, to take a look at telehealth and see, what are those things that we learned in COVID-19 now in this-- in the waiving of certain telehealth requirements, and then what can we-- what can we do in the future? What needs to stay, with regards to that, so that we can continue, what did we learn? So those-- those-- those are some of the involvements of the Department of-- or I should say, the Committee of Health and Human Services. Thank you, Mr. President.

FOLEY: Thank you, Senator Arch. Senator Chambers, you're recognized for your third opportunity.

CHAMBERS: Thank you, Mr. President, members of the Legislature. Now is this my closing?

FOLEY: No, Senator; it's your third opportunity.

CHAMBERS: Oh.

FOLEY: Then you'll still have a closing.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CHAMBERS: Thank you. I counted the number of bills on Final Reading, and I think I counted 16. If I put a motion on each of those bills and just speak my ten minutes, that gives me 160 minutes, or 2 hours and 40 minutes. Now suppose I decide that I don't want to just open on the amendment-- the motion-- and then pull it, allow some discussion. Maybe I will discuss it a bit. And if nobody discusses it, maybe all I will do is make the motion. If there's no discussion, then offer a closing if I decide not to speak. But I have many opportunities. And since you all are not concerned about the people I'm concerned about, why should I be concerned about those you're concerned about? Now, Senator B. Hansen is not a feckless fellow. He's not a mean man. He's as nice a person as you could find in any room-- I don't care how large it is-- if he's the only person in that room. I give that intro in order to make a comment about something he said. He didn't mean it, in my opinion-- he didn't mean it to suggest that those who are not working should not get consideration. But he said because the unemployment rate-- it's less than 7 percent, 6 point something-- unemployment in Nebraska is not dire. Well, it's dire for those who are unemployed. You all look at the 90-something percent who have jobs, and I look at the 6-point-something percent who have no work, no job. Without a job, there's no money. Without money, there is no place to live. There is no food. If you have children, you are indeed in dire straits. It hasn't happened to you all on this floor, so you are totally unaware of how horrendous that situation is, the uncertainty, the depression, the feelings of helplessness and hopelessness. It reaches the point where, in what they call the richest country in the world, you are an outcast, not an unperson but a nonperson. You have no dignity, you have no respect. And it's fine to say that because the human spirit is indomitable, even the person who is without a job and hungry can rise up, based on the knowledge that he or she has intrinsic human dignity. But your dignity can be taken from you. It can either be sliced away bit by bit, it can be squeezed out drop by drop, and those who fare sumptuously every day will never give you a thought.

FOLEY: One minute.

CHAMBERS: You all are too casual in the presence of other people's suffering, so I'm going to see how you like it when all I'm taking from you is some time. Don't get upset. You've got someplace to go eat. You've got someplace to go sleep. But I'm thinking about all those people who have neither, and that is troubling to me. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: Thank you, Senator Chambers. Remaining in the speaking queue are Senators Pansing Brooks and Wayne. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President. So continuing with the editorial from the Omaha World-Herald yesterday: In Lancaster County, a Nebraska law professor and city of Lincoln employee began to work-- began working to advocate for eviction defendants during the pandemic. That's grown into an effort involving Legal Aid, several housing advocates, and the Nebraska Bar Association Volunteer Lawyer program. University of Nebraska law professor Ryan Sullivan, who helped create this effort, said tenants often bring pictures showing flooded basements or other problems to a basic habitable-- habitability would-- that landlords have not addressed. Lan-- language barriers and simple misunderstandings are at the root of other disputes. Lawyer participation has been strong in Lincoln, with one to three volunteering each day, and they've been highly successful in averting evictions. The Omaha study, which I mentioned before by Creighton professors, recommends that Nebraska adopt a similar measure to New York's first in the nation right to counsel law, which has enabled more than 80 percent of tenants to remain in their homes. But again, we don't have time. We're not nimble enough. We didn't have time to allow Senator Vargas to have a hearing on the people who are calling him, whom we heard, tearful, in the Zoom calls about their parents, their families, the risk to their lives. But we aren't nimble enough here. A state law will take time. It will never fly. But the American Bar Association now is urging all lawyers to provide at least 50 hours of pro bono work each year. Helping people face eviction is a critical need that during the pandemic is an emergency that has doubled down. The Nebraska Bar and advocacy groups can make a difference here. So that's the call. To heck with the Legislature. The Bar Association, which already does give pro bono work-- we do that all the time in our law firm-- we're supposed to double down, take care of these people in the state because the Legislature doesn't have the nimbleness or the ability to move forward and to make a difference. Yes, we have all sorts of-- of-- of service providers. We have had those service providers. Their funding hasn't changed one iota since the pandemic occurred and these evictions, and all of the mental health issues, and all of the issues regarding social justice issues, not one thing has changed. We've made significant cuts in past years to those service providers, that's one thing. We've never come back and said, oh, we've got to help those providers who are helping the least-- or as Senator Chambers says the lost, the last, and the least in our community. We have to do more. Sitting here saying, oh, well, we didn't talk about it then, so there's no way to talk about it now. Well, I'll continue

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

to talk about it. You want ten hours on abortion? That's fine. That's-- that's your choice. That's the Speaker's choice. But I also can make a choice about how long I talk about things, about things that my constituents are now overwhelmingly calling my office, and writing my office, and talking about, thanking me--

FOLEY: One minute.

PANSING BROOKS: --on social media for talking about these issues where they are hurting. They are hurting every single day. Nothing has changed since the things that Senator Arch pointed out to us. Nothing's changed. Yes, some-- some money has come in. But we are worrying about not what happens to the workers, but to the companies. But the companies will not succeed if the workers are not thriving. Thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks. Senator Wayne.

WAYNE: Thank you, Mr. President. I don't think I'll take up most of the time here. I just wanted to, for those who are watching at home and some of the colleagues, not sure what really is going on and-- what you're seeing folding-- or right before your eyes, unfolding before your eyes is the structural problems with Nebraska's government. And here's what I mean by that. We-- we-- we, with the constitutional amendment that was passed to go after one person, we have term limits, and that has completely destroyed the trust that is needed for good governance. Now, whether you are against or for LB1106, the issues the school districts had-- and I know because I was a school board president of the largest school district in the state-- was getting away from the reliance on property taxes because that was something you can trust. That was something that increased value, that you knew it was anywhere from 2 to 3 percent. We've seen recent jumps higher, but it was something you can trust, something you could see, something you can project. But when it came to state aid, the reliance on state aid was never something you can trust. And that's-- was the big fight. I sat in a room and I said the big issue is the lack of trust, that in two or three years, you think the state won't fully fund education. And those groups of superintendents said, yes, that's the issue. We just don't think you'll keep your obligation. That same trust is what's playing out right here. Well, we talk about a grand bargain and we talk about property taxes, I was here four years ago when we cut \$1 billion out of our budget. But somehow we increased the Property Tax Credit Fund. I think it was a hundred-and-something million to \$500 million. And we stood on this floor and talked about reimbursement rates and how small towns across Nebraska are going to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

see their senior citizen facilities shut down. And four years later, it happened. In 1900, we had roughly a million people; 2022-- 2020 we are at 1.9. We are not growing the state because we continue to have this distrust. I can't vote for a property tax package that is based off of projections when I know my first year, we cut our budget on the backs of poor folks. We spend \$500 million right now per year in property tax credit relief. Does anybody in the body know much-- how much property tax we actually collect? None. At Costco, this is called a loss leader. We just do it because we should even though we're getting no revenue off of it. There is an inherent problem with 93 counties for 1.9 million people, 260-plus school districts for a couple hundred thousands of kids. So colleagues, what you're seeing here is people reading for the first time--

FOLEY: One minute.

WAYNE: --a deal that was close to being struck, and they've never heard about it and they're on the floor with your body, that the media knows more of who's in the "super seven" than people in this body. And that's why this deal won't probably get done, because there's not trust among each other, because inherently we're a part-time group. We go back to our communities. We come back 90 day, 60 day. Most of us-- or all of us only get paid \$12,000 a year, so you're balancing your work and your family life. And then we make decisions about Vargas' bill and give \$10 million to rural and it destroys the-- what little trust we have in the little time we're here. So I'm going to sign off on a \$125 million property tax deal that's going to keep going based off of some future revenue. But at the end of the day--

FOLEY: That's time, Senator.

WAYNE: Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Senator Pansing Brooks, you're recognized for the third opportunity.

PANSING BROOKS: I like that roll that Senator Wayne was going on, so I will yield my time to Senator Wayne.

FOLEY: Thank you, Senator Pansing Brooks. Senator Wayne, 4:50.

WAYNE: Thank you. When there are things that are critical to the communities we represent-- I've seen a bill regarding LGTB rights purposely go the distance so we won't have a vote, because the business community was afraid that it would make Omaha and other places-- big cities, big-- bigger companies not be able to recruit,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

and other people who just did not want it on their voting record-- goes back to term limits. This property tax proposal is going to be interesting because there are people running for office, there are people who, in two years, may run for office. Because of term limits, we are taking different positions. We have to do something about the structure, but we're scared to do something about the structure. We're scared to have a constitutional convention. We're scared to take things to the voters. We're scared to do that because of perception, because of our term limits. So when your colleagues-- or when you go back to your community and they ask you about how come we don't have property tax relief done, let's stop making excuses about Democrat, Republican, conservative or liberal. It's about term limits. You have eight years to build an idea and to get it through fruition. And property tax and the structural changes that Senator Linehan was working on is not going to take. You can't get it done in one or two years. You can't build a coalition. You're talking about fundamental structure change. And guess what? Every two years, part of your body leaves. How can you do that? But what happened in the last two weeks here, with certain votes that took place, has forged a group of senators together that probably didn't talk a whole lot. And we're going to see this urban and rural divide start playing out more and more because we're too busy taking political votes, because you're afraid somebody is going to run to the right of you or run to the left of you, because you only got two terms versus saying this is the right thing to do, and if I give a little bit here, I get a little bit there. How many times have we really done that? How many times have we set priorities throughout the entire state and say property tax, yes, it's one of them. But so are SNAP benefits for a lot of communities. And it's easy to say that, yes, the federal government gave us \$1.3 billion, but that's a different deal. That's a different category when the state decides it's going to give money to property tax relief. You can't mix the two. Just like when I read in the paper that somehow throwing \$10 million at urban-- because that's what it's been called on the floor, throwing-- I don't think so but urban housing is part of the property tax relief deal. It's not. That was strictly because this body chose to do a wrong to Senator Vargas. That's not a part of this property tax deal. And to think you're going to lump me into that, because I got on the floor and demanded that we should be treated equal, is fundamentally wrong.

FOLEY: One minute.

WAYNE: That builds distrust. And to negotiate a deal for property tax relief, but nothing for the urban core, it's fundamentally wrong. If people are walking away with property tax relief, there has to be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

balance on the other side. That's how you come together as a body and that's how we get something done for the greater good. We have to change how we operate. We have to stop taking votes that are political and we have to figure out, yeah, we have eight years, but let's change our system. The system is the problem. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Senator Chambers, you're recognized to close on your motion.

CHAMBERS: Thank you, Mr. President. And as I suggested earlier, I'm going to pull this motion before a vote and then I'll offer it again at some point, on this bill. But since I'm giving a primer on the rules, let me read you something about a motion or two. Well, I will just tell you. I'll give the page number rather than the section. Postpone to a time certain, which is what my motion does. No motion to postpone to a time certain, to commit, or to postpone indefinitely being decided, shall again be allowed on the same day at the same stage of the bill or proposition. This motion is not going to be decided, I'm going to pull it. So I can offer it again on the same day, on the same bill, at the same stage of consideration. This Rule bill-- Book is so thin, I don't know why everybody doesn't read it. But now let me tell you something about a motion. On page 48. Once motions are stated, they may be withdrawn or mod-- mod-- or modified by the mover before a decision, amendment, or ordering of a vote has been made. A motion to reconsider may be withdrawn only with unanimous consent or a majority vote of the elected members. Did you all know that if I make a motion to reconsider, I cannot just withdraw it? Now maybe, even though it doesn't say so, I could do it with unanimous consent, because that is allowed, but somebody may object. Anyway, I can reoffer this motion. But before we chew that again, I have one to recommit to committee. And I'm going to take time. The members of this Legislature are not about to do anything to help the poor people because poor people don't count. You all want to make them come to you on their knees, show you their wounds, cry, talk about having hungry little children at home, a wife who's sick. There's a song called, Stagger Lee, and there was a gambling match or a game going on. And at one point it said, Stagger Lee threw seven. Billy swore that he threw eight. Stagger Lee went home, got his 44, said, I'm going back to the bar room just to pay that debt I owe. And this one who was going to be shot said-- Stagger Lee was the one to be shot. Stagger Lee told Billy, please don't take my life. I have six little children and a very sickly wife. That's the plea you all love to hear. You are like the little boy who pulls wings off butterflies and sticks pins in beetles' eyes. I've got six hungry children and a very sickly wife. And after they've come on their knees, crying, then you take that foot

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

and put it on them and push them away and say, get away, you bother me.

FOLEY: One minute.

CHAMBERS: These are your brothers and sisters. They have the same dignity you have, even if they don't have the job you've got. They don't have a house. They don't have a car. Because God put you in a position to take care of your hungry brothers and sisters and those less fortunate. Yes, you are your brothers' and your sisters' keeper. But it doesn't mean anything to you. So it takes somebody like me, who rejects all of that nonsense, because I see what it does to those people who say they accept it. And that is something I cannot do. The one thing I can do is deliver on my promise and I'm going to take time. And with that, Mr. President, I withdraw that motion.

FOLEY: The motion is withdrawn. Debate continues on LB1021 and the pending committee amendment. Senator Chambers.

CHAMBERS: Thank you. Mr. President, I had not spoken on the bill itself, but I want to assure Senator Groene that no matter how irritated I get, I'm not going to do anything to hurt your bill. And when it comes to cloture, if we have to do that---and I'm going to see if I can force a cloture vote-- I will vote for cloture. I don't even care about that bill now, although I have some concerns about how it can be misused. That pales into insignificance. You know what I've got here? I've got a copy of the letter to the bishops of the Catholic Church regarding the new revision of number 2267 of the Catechism of the Catholic Church on the death penalty from the Congregation for the Doctrine of the Faith, which was transmitted February 8, 2018. I've got a list of things I intend to talk about, this is one of them. Before the day is over, I'm going to read it and I'm going to show you that your Catholic Governor, who pretends to be a Catholic, is not a Catholic at all. Since he decided to attack the Catholicism of a woman who indeed is a Catholic, I'm going to call in to question his, because he is not following the Catholic Catechism. So I kind of smile when I think about how he talks to his children, who I imagine are Catholics, because their daddy is not a Catholic. Can he tell them to follow the catechism? No, because he doesn't follow it. He's bigger than the Catholic-- the catechism because he's a politician, a rotten one to the core. And I'm going to read what the Catechism of the Catholic Church is and tell you all how your Governor rejected that and continues to reject it, but then plays that game of being a Catholic. But to show how rotten he is, he is attacking the Catholic status of Ms. Palmtag because he wants his hand-picked person, Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

Slam-- Slama, to win the upcoming general election for that legislative seat down there. I handed out something today to you all, and I may read through that before we're through, where Ms. Palmtag is fighting back. She pointed out what a shame it is that the Governor would attack her religion and give the impression that she somehow is an atheist. And the one who benefits from it will not even have the decency to say that this is not something that I agreed to. In fact, that person is not even allowed to comment on that rotten, vicious, lying flier that drew my name and my likeness into it. If Senator Slama's people had left me alone, I wouldn't even talk about it. It's white folks' mess even with my having been drawn into it, but white folks create mess all the time. But it would've been white people dealing with white people. Why did they choose to bring me into it? Then they whine and cry because I talk about it. And I'm going to talk about it and say how unreliable, untrustworthy these people are. Senator Slama has been asked--

FOLEY: One minute.

CHAMBERS: --several times by the media to comment, and she won't comment. In fact, I think I read where she said she's going to talk about the issues that really concern the people in her district. I should think that what would concern the people would be the straightforwardness, the transparency, the honesty, the integrity of the candidates. And if my integrity were called into question, I would be ready to defend that and not say, well, I don't want to talk about it because I want to talk about other issues. If you can't be trusted in the big thing, why should you be trusted in the smaller things? But that is not what I'm going to primarily deal with this morning. I saw Senator Slama come into the Chamber, and it made me decide that I need to comment on that issue because I intend to, from time to time, for the rest of the session. It shows how underhanded the Governor is. He gave the order to attack that woman, to attack a woman, a fellow Catholic. But she's a Catholic and he's not.

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Chambers would move to recommit LB1021 to the Urban Affairs Committee.

FOLEY: Senator Chambers, you're recognized to open on your motion.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CHAMBERS: Thank you, Mr. President. And I'm going to withdraw this one also, before we get to a vote, but I intend to talk about it. I said I have a list of things I want to talk about. And the thing that's so wonderful about being in charge is that you can do whatever you choose. I don't know if Senator Erdman is here, and I don't remember whether he was the senator, but when you all were putting together a flood A bill to help white people who had been flooded, I found out that there was something in that bill you all were proposing which would make it unconstitutional. I did not sit on it quietly, allow the bill to take effect, let white people think they had something, then it would be struck down and they'd wind up with nothing. That's the way your Governor, Senator Slama, and the Republican Party operate, but not me. I knew that the people who had been flooded out were unfortunate. They didn't cause the flood. They should not have built on a flood plain, but they may not have known where they were. But all those things aside, I believe it was Senator Erdman that I discussed the matter with. And rather than have that knee-jerk, negative reaction, Senator Erdman took corrective action, the problem was solved, and the bill went through. When I tried to tell you all that a bill Senator McDonnell brought on behalf of Michael Yanney, I pointed out before you voted on it, that it was unconstitutional, but you voted on it anyway to teach me a lesson. Well, the Attorney General talked to the Governor and what I had said was correct, so the Governor vetoed it. You all don't have to listen to me. But at some point, you will pay the piper. And I want some of you to stand on the floor and challenge me. I read a letter by a woman who signed her name and then put "first lady" in it. Well, she's the last lady, as far as I'm concerned. She's got a husband who orchestrated the attack on a Catholic woman's religion-- attacked it. He did it. And the head of the "Repelican" Party said, when the Governor makes it clear that he wants something done, then it's done, things happen. And he made the decision to hit this woman hard, Ms. Palmtag-- the Governor did. Why don't you all talk about what your Governor did? Now Senator La Grone jumps up here to make the Governor a good guy because he wants some additional help from the Governor. The Governor handpicked him, appointed him. Governor appointee La Grone came in second in a two-person race. This is very interesting to me as I watch white people. And when I do my memoir, oh, you just wait. And I keep records. And I keep articles and notations. But you all are giving me another first where your constitution is concerned. I am the first senator to be term limited twice. I am your god twice over. The "Bibble" has God saying, I am Alpha and Omega, the first and the last. I was the first one term limited out and came back. But because of term limits, I'm the last one who will ever serve as many years as I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

have served. So I am the alpha and the omega of this Legislature. And now you've made me your god twice over. I will be term limited out twice. And that's how I control white people. These intelligent white people became so offended at one black man who was more than a match for 48 white people, due to their inferiority while talking about being supreme, that they changed the constitution to get that black man out. White people in this state changed their constitution. They changed the structure forever of their Legislature because one black man was too effective in following the rules of that Legislature, not because I violated the rules, but I followed them. And the problem was that I followed them so effectively because there was Senator Chambers and 48 dumbbells. I'm just going by what white people tell me by changing their constitution to get rid of me. Why didn't they just elect more intelligent people and send them here? White people are so hard for me to understand, but white people know that they're not smart. There was a provision in many laws down South and constitutions that the invention of any slave belonged to and was credited to the slaveholder. Slaveholders were not doing inventions. When black people were dragged over here out of Africa, they had formed societies. You do a little reading, you laugh at the term Timbuktu, but you might be interested in knowing something about a library. No, you wouldn't. No, you wouldn't. You will not take my dignity from me. You will never have me on my knees crying and whining, especially as long as there are people like Senator Slama, Governor Ricketts, and the whole "Repelican" clique, c-l-a-q-u-e. And they think they're going to make me be quiet because a woman who signs her name the first lady, is upset with me. She just shows that her husband is not much of a man because he pushed her out here too. He's the one who doesn't respect women. Then Senator Slama is going to jump up and talk about I'm sexist and all these other slogans that she learned. And she is not allowed to even comment on that flier. She's been asked several times by the media and she says, I-- I'm going to concentrate on the real issues, or however she got away from it. Well, I play with words, and I could take the word "Slama" and I could put the "s" on the end of it and take one of those other letters and manipulate it till it's a "c," then it comes up clams. Why would I say clams? Because they talk about being as silent as a clam-- clam up, don't say anything. You challenge my integrity and there's no way anybody could stop me from speaking out. Do I attack any of your religions individually? No, I say believe what you want to and whatever you believe, if it gets you from the morning till the night, don't let anybody take it away from you. You know why I attack that religion you all say you have, but you deny it every day by the conduct you engage in here, you're the one who shows me you have no religion. And when I get to talking about your Governor

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

and how interesting it's going to be when he has to explain to his children why they should follow the catechism, but he doesn't have to, maybe I'll make him angry enough-- the coward-- that he'll veto that one bill I got passed, and show how petty he is. He's hiding someplace, your Governor. And that lady he's married to refers to herself as the first lady. And I guess you all do too. Did you see that verse I got from the "Bibble" and put it on that thing I handed out today? There are those who are first who shall be last. They say they're first. Adam Clayton Powell--

FOLEY: One minute.

CHAMBERS: --told how Bess Truman was not the first lady, but the last lady, because she was in cahoots with those who denied Marian Anderson, a world-renowned black female singer, to sing at Constitution Hall. Isn't that something? It's called Constitution Hall, Constitution of the United States of America with liberty and justice for all. And you wonder why I won't salute that rag. And I can show you time and time again when that rag has been used to strangle black people and deny us our rights. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President. Well, I have never done this before. Senator Chambers has opened the way for all of us to take hold of an issue that we think is important and slow down the process and get us refocused. It won't work. It won't work to get us refocused, but it will let our constituents know that some of us do care in here. Some of us are listening. Prior to the pandemic and when we all left, the state was earning failing grades on its ability to provide paid sick leave, negative 62 percent, and paid family leave, negative 7-- 61 percent. It should come as no surprise that a strong majority of Nebraskans, 86 percent, support the establishment of a paid family and paid medical leave program for every worker in Nebraska. But again, we're in the "let them eat cake" state. Let them just, you know, get along, quit raising concerns. I know some of you are pretty aggravated with me right now, but you know what? The effort to always be nice and go along to get along, that doesn't work. It doesn't work. It doesn't make you listen. It doesn't make you say, OK, well, maybe we better not. Yeah, we can put up with Senator Chambers in the way that he goes on taking time. But how are you going to put up with that if I also now start taking the time on every bill to the point that I can? Because we want to have another seven hours, total of ten, on abortion during a pandemic, during a social justice emergency in our nation. So fine, you make those decisions and I will make mine. We will not get

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

to everything that we need to get to. Senator Wayne is also upset. Senator Morfeld is upset. Again, there are those already rumbling about adjourning early, sine die. If we cannot get to the issues that my constituents care about, and only the ones that your constituents care about, then I'm sorry. I don't know why to go forward. I-- I'm upset about this. I know you'll all be very surprised to hear that governors and lawmakers in at least eight states have used millions of federal coronavirus relief dollars to protect businesses from tax increases as unemployment skyrockets. This is an article by, a Stateline article-- the topics are budget, economy, and tax. It came out today. And if any of you would like to read the article, I know you will not be surprised that one of the eight states that is not so-- that is not concerned about the employees, but instead about the employers, is Nebraska, one of eight states that is spending the federal dollars on the employers and not the employees. So far, lawmakers in Iowa, Maine, Mississippi, Nebraska, North Dakota, South Carolina, Tennessee and West Virginia have announced they'll spend federal aid dollars on their unemployment insurance trust funds. States and federal governments work together to fund unemployment benefits. State trust funds--

FOLEY: One minute.

PANSING BROOKS: --must rely on a per-employee tax that's higher for companies that have laid off workers recently. In a way, if you aren't listening very well, that sounds sort of good-- well, it's an unemployment trust fund. But it's-- it's to help the companies, not money that's going to be directed towards the employee. There isn't a huge effort to fund the services that are in great need here in Nebraska because of what's going on. There is not a push to be concerned to make sure that we get food to the people in need, that we get jobs to the people in need. We could, again, be a welcoming state. We could do everything for employees and guess what? They're all going to move here if we do that. Think of that. Then we can go forward with the corporate incentives, we can go forward with all of these plans. And we will be a state thriving, thriving in business and in our economy. Thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers.

CHAMBERS: Thank you, Mr. President. I'm glad to hear the almost desperation in Senator Pansing Brooks's voice. She now sees what I've gone through for 46 years. These people don't listen. But there are people out there who do. I'm starting to get, surprisingly, letters from older white people-- and that's the way they describe themselves,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

some of them older than I am-- about how sorry they am that I'm leaving. Can you imagine that? It finally occurred to them. But anyway, there was a guy who was Secretary of the Treasury or something-- I forget what they called him in those days because my memory is slipping, but it was during Abraham Lincoln's time-- there was a man named Simon Cameron. And Lincoln was something like me with reference to some people. He told the truth. He said, do I think Simon Cameron is an honest man? And he pauses-- Lincoln was wont to do, w-o-n-t-- and said, well, I don't think he would steal a red hot stove. And Simon Cameron heard that and he was livid, and he went to Abraham Lincoln and said in the presence of other people, how dare you insult me in that fashion. And Lincoln said, well, friend Cameron, how did I insult you? You said I would not steal a red hot stove. Lincoln said, oh, having insulted you, I take that back-- which meant he would steal it. They couldn't top Lincoln because they were too dumb. And these people running around here thinking they're smart, they don't know what people learn in the street. I didn't live in the streets, but I spent time there, like people do. I was going to put my mask on so it'd be an example, but I think people will understand that I don't want my voice to be muffled. I'm going to read some things from a Lincoln Journal Star article, July 23. Ms. Palmtag talked about the multiple negative fliers sent out by the Republican Party which she has been a member of for decades. Quote: The Slama campaign mailed this flier to people in the Legislative District 1, and it basically attacked my faith and my conservative values, Palmtag said. Quote: They called me an atheist. I'm a Catholic, unquote. Quote: It was an unethical, misleading, and outrageous example of lying politics, she said. Quote: It was very disappointing, unquote. Slama should not have allowed it, Palmtag said. But when she did, she should have taken responsibility for it and apologized to the district voters and to Palmtag for that character assassination. When asked about that Wednesday, Slama said only that she remained focused on the real issues facing her district, including property tax relief, broadband expansion, and COVID-19 and flood recovery, and would not talk about the flier. Palmtag said it was disturbing that Governor Pete Ricketts said he supported the dishonest ad. She said she has helped many politicians she believed in and had worked on fundraisers as far back as Congressman Doug Bereuter and as recent as campaigns for Fortenberry and U.S. Senator Deb Fischer. Where is Deb Fischer speaking for this woman? Continuing. Quote: I have been con-- Ms. Palmtag being quoted-- I've been contacted--

FOLEY: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CHAMBERS: --by many people in the GOP, saying they had no knowledge of those ads whatsoever, she said. Palmtag said people in the district, in District 1 she talked to, believed the ad and were surprised to learn she wasn't an atheist, but instead a Catholic. Where is the first lady on that? Where is this Miss Shore on that? Her husband is the one who did it, that low-down, scheming slyboots, sneak. And his wife had to go forward and act like I've said something so wrong. I did not misrepresent anybody. This woman had been a loyal--

FOLEY: That's time, Senator.

CHAMBERS: --"Repelican". Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Pansing Brooks and Senator Wayne are in the queue, as long as-- as well as Senator Chambers. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you, Mr. President. I'm rising to talk some more. Again, I'm against the recommit to committee. I am in support of LB1021, Senator Groene's bill. Just-- you know, I'm-- I'm sure everybody's aggravated because we've wasted an entire morning on one bill. But that's what happens when we decide that we're going to start messing around with the schedule and putting up very controversial matters. So we can just figure out how we're going to get through this session. I don't have problems with-- with commitments I've made. I do have problems about the fact that we cannot pass something very simple that Senator Vargas brings forward, a-- a hearing to listen to the employees at meatpacking plants. Give me a break. We couldn't get 30 votes. One of the people that is on the Appropriations Committee, to whom Senator Vargas is very loyal and supports the bills that come out to a fault, couldn't even give him a vote on that bill. So Senator Wayne talks about a lack of trust. Huh-- yeah, you're right, Senator Wayne. There is a lack of trust going on when we can't listen to each other about the things about which we most know and care. Senator Vargas is completely connected to the people who are the employees at the meatpacking plants. But you all know better. Again, we aren't able to be nimble enough. We have to hide our heads in the sand. We don't want to put any single burden, any kind of burden that would protect the health of others in a meatpacking plant. So goodness knows, do not give Senator Vargas the 30 votes. This maneuvering and manipulation of bills and working behind the scenes. I-- I sit there and watch the whole thing with Senator Linehan. She-- she is working her tail off on this. Do I agree with what she's doing? I-- I haven't come to a point where I can agree with her, but my goodness gracious, people are not kind about this woman working her tail off to try to get something

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

done. Can we try to be more respectful to one another about the fact people do care about things and people work hard in here? But one thing we aren't working hard on? Helping those that are in need after this COVID crisis, the people. There is an article that came out on July 31, COVID-19 hospitalizations rise as Nebraska sees increase in cases. But again, the people-- you know, pull yourselves up by your bootstraps, won't you? We have more important things to talk about than your day-to-day lives and whether you can feed your families or not. So we'll talk about them. That's what I intend to do. We've just spent one whole morning.

FOLEY: One minute.

PANSING BROOKS: I now know I can do it, I've never done it before. This is my fourth year. You're all very lucky that I only have two more, because I now know that we can take an entire morning on one bill. You don't want to be nimble? Then let's not be nimble, not be quick, not jumping over any candlesticks. Again, let's start talking about how we can move this forward and not spend seven more hours on abortion to try to hurt the Democrats in here that have votes. It's not going to hurt me. I ran in a pro-choice district and people know that I was on the board of Planned Parenthood at one point. It does not hurt me. I am able to move forward. But go ahead and try to hurt the others that are running for office and spend the time and avoid your property tax issues. Thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks. Senator Wayne.

WAYNE: Thank you, Mr. President. And colleagues and those who are watching at home, I want to talk to you about something else that's building distrust, a term called decoupling. See, what people don't know is there is a secret out here that is not talked about a whole lot. The Lincoln Journal Star reported Senator Briese's amendment, AM-- I believe AM3029, maybe AM3229-- I don't know the exact AM, but Omaha didn't get a lot of play in it, and I think our-- our public should know. When the CARES Act was passed, for those people who are making, who have owned businesses or make a little bit over \$250,000 single or \$500,000 as a married couple, they get a tax break. And Nebraska's tax code is directly linked to the federal tax code. So when the federal tax code changes, Nebraska loses or gains revenue. Well, when property tax was a big issue, Senator Briese introduced his amendment. They had a special hearing on this amendment because at the federal level something changed to allow those couples with making \$500,000 or more after your expenses-- so that's truly profit, truly income-- to decouple from the federal law, and that way Nebraskans can

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

have more revenue. The projections of that revenue is anywhere from \$175 million to \$250 million over three years. Well, we do know the first year was-- is roughly about \$100 million. The low estimate was 75, but most of them have come in around \$100 million. So think about that. We are going to allow those who are making \$500,000 more receive another tax break. We are going to do a property tax relief fund based off of projections and maybe using some federal dollars. But we can't have a conversation about decoupling for \$125 million-- \$100 million the first year-- in which some of the programs that Senator Morfeld, Senator Vargas talked about in his bill, SNAP benefits, that was on the floor, we can't have that conversation because they cost too much money. But it's OK to give people who are making \$500,000 or more another tax break. It seems like we're putting property and profits over people again. Now, I spent those few hours last, the other day, walking through history of when that's never really worked, that at some point people rise up, whether through protests, through-- hopefully but never happens, but violence did happen in the past. Or they fundamentally, as Senator Halloran pointed out, switch entire parties and move the party to a whole complete different direction. That's why you have Democrats and Republicans who are literally flip-flopped on some issues. Because during that time, during the New Deal, during those things, people rose up. What are we doing? Property and profits over people. We hope the federal level allows us to use the CARES Acts in different ways. We brought a-- a-- Senator Cavanaugh brought a bill for the \$235 million. It wasn't even discussed, only got kind of discussion off of it after we pointed out that there's money. But a "super seven" can take that same deal or that same amount of money and say we're going to put it in a property tax relief fund--

FOLEY: One minute.

WAYNE: --and create a new one that's more equitable, but leave the current one with \$500 million, that we all know is not equitable, in place. And what's interesting is, after those comments that I made this morning about the-- the deal, really only two people have talked to me about it. I've seen everybody else getting pulled into the frat party behind me. But it's not that easy. The math is not there. We can play with numbers all we want, but the numbers we're ignoring is the \$100 million we're leaving on the table for those making \$500,000 or more. Where does that equate into the equation? I see that Briese's bill has been filed on the-- as an amendment. I would like to have that discussion. And if I can get a guarantee from everybody who's going to vote from this bill, that if--

FOLEY: It's time, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

WAYNE: --somehow-- thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Items for the record, please.

CLERK: Mr. President, just one. Senator Vargas would like to add his name to LB924 as cointroducer. Senator Hunt would move to recess the body until 1:30.

FOLEY: Members, you've heard the motion to recess. Those in favor say aye. Those opposed say nay. We're in recess until 1:30.

[RECESS]

FOLEY: Good afternoon, ladies and gentlemen. Welcome to 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.

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

CLERK: I have nothing at this time.

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

SCHEER: Thank you, Mr. President. Colleagues, I'm trying to do some scheduling. We will not be going late tonight. We will be done at five-ish, depending upon where we can get to. I can't guarantee the-- the rest of the week. But right now, at least today will not be and hoping not to have to push into the nights. No guarantees, but that's sort of where we're at. But at least for tonight, you get to go home early. So that's all. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. Proceeding to the 1:30 agenda, Select File appropriations bill, LB755A. Mr. Clerk.

CLERK: Senator, I have no amendments to LB755A. Senator Slama.

FOLEY: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB755A be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB755A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB755A advances. Next bill, Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CLERK: LB808A. I have no amendments to the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB808A be advanced to E&R for engrossing.

FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB808A advances. Members, pursuant to the rules, we're now on Final Reading. I'll ask you all to please be at your desks. We'll now commence to Final Reading. The first bill is LB1028. Mr. Clerk.

ASSISTANT CLERK: [READ LB1028 ON FINAL READING]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1028 pass? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Bolz, Hunt, and Vargas. Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

FOLEY: Thank you. LB1028 passes. Now proceeding to LB1042e. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor of dispensing the reading vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 34 ayes, 4 nays to dispense with the at-large reading, Mr. President.

FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title.

ASSISTANT CLERK: [READ TITLE OF LB1042]

FOLEY: All provisions of law relative to procedure, the question is, shall LB1042e pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Bolz and Hunt. Vote is 47 ayes, 0 nays, 2 excused and not voting.

FOLEY: LB1042e passes with the emergency clause attached. We'll now proceed to LB1042Ae. Mr. Clerk.

ASSISTANT CLERK: [READ LB1042A ON FINAL READING]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1042Ae pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Bolz and Hunt. Vote is 47 ayes, 0 nays, 2 excused and not voting.

FOLEY: LB1042Ae passes with the emergency clause attached. We'll now proceed to LB1052. Mr. Clerk, the first vote is to dispense with the at-large reading. Those that are in favor of dispensing with the reading vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 37 ayes, 5 nays to dispense with the at-large reading.

FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title.

ASSISTANT CLERK: [READ TITLE OF LB1052]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1052 pass? Those in favor vote aye; those opposed vote nay. Record, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Bolz and Matt Hansen. Vote is 47 ayes, 0 nays, 2 excused and not voting.

FOLEY: LB1052 passes. Proceeding now to LB1055. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 37 ayes, 8 nays to dispense with the at-large reading.

FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title.

ASSISTANT CLERK: [READ TITLE OF LB1055]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1055 pass? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Bolz and Matt Hansen. Vote is 47 ayes, 0 nays, 2 excused and not voting.

FOLEY: LB1055 passes. Proceeding now to LB1060. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Cavanaugh would move to return LB1060 to Select File for a specific amendment. That amendment is AM3288.

FOLEY: Senator Cavanaugh, you're recognized to open on your motion to return the bill to Select File.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CAVANAUGH: Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. This bill, LB1060, my priority bill, expands race discrimination under Nebraska's Fair Employment Practice Act to include hair textures and protected styles. After listening to the concerns expressed by several colleagues and receiving the feedback from the Attorney General's Office, I make a motion to move LB1060 from Final Reading back to Select so that we may address those concerns via AM3288. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Any discussion on the motion to return the bill to Select File? I see none. The question for the body is whether or not to return the bill to Select for a specific amendment? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to return the bill.

FOLEY: The bill has been returned to Select File. Mr. Clerk.

ASSISTANT CLERK: Senator Cavanaugh, AM3288.

FOLEY: Senator Cavanaugh, you're recognized to open on AM3288.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. LB1060 amends the Nebraska Fair Employment Practice Act to provide a definition of race that includes hair texture and protective hairstyles as traits intrinsically associated with race. It is important to note that race is already covered-- a covered basis under the Nebraska Fair Employment Practice Act and LB1060 does not add a protected class. However, under the current law, race is undefined. It does not include in the definitions section of the act, nor is it defined under the Title VII of the federal 1964 Civil Rights Act. In a request to review the legislation-- a review of the leg-- this legislation by the Attorney General's Office, the Chief of Staff noted that as Section (19) (a) of LB1060 defines race to include color and thus conflates two longstanding, separate protected classifications, it would be advisable to strike (19) (a). So that is what is proposed and this amendment does. It strikes the proposed definition of race in the introduced copy of LB1060 and leaves the portion that makes clear that race under the Nebraska Fair Employment Practice Act is inclusive of hair texture and protective styles. We heard from many black women in the hearing on this bill who share their personal experiences of discrimination in the workplace because of their hair. This bill was supported by the Greater Omaha Chamber, who recognizes that-- that this bill is important to making our state a more inclusive and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

welcoming place for all employees. In this moment, when we are being called to take action that promotes racial equality-- equity in our state, it is important for us to ensure that the Nebraska Fair Employment Practice Act fulfills its stated intent that all individuals race and characteristics inextric-- inextricably linked to, do not limit equal employment opportunities. I ask that you support the amended-- amendment recommended by the Attorney General's Office reflected in AM3288 and support the underlying bill. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Debate is now open on the amendment. Five senators in the queue: Senator Erdman, Brewer, Clements, Ben Hansen, and Lowe. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor, and good afternoon. I see that Senator Cavanaugh has made an adjustment because of the Attorney General's Opinion. And earlier you had heard comments about a bill that I had that someone requested an Opinion from the Attorney General. When that request was made, I was quite concerned about that and considered that to be a stall move or whatever you would want to call it. And once I seen the Attorney General's Opinion, then I understood exactly why that person did it and-- and I appreciated it. And we worked through that amendment and made it so that the bill was constitutional. So I appreciated the Attorney General taking a look at it and I would assume that's what happened here. And I was wondering if Senator Cavanaugh would yield to a question?

FOLEY: Senator Cavanaugh, would you yield, please?

CAVANAUGH: Yes.

ERDMAN: Senator Cavanaugh, is that the reason because the Attorney General's Opinion, you have AM3288 on the board?

CAVANAUGH: Well, I should be clear that it's not the Attorney General's Opinion. This is not a formal opinion. This is advice and guidance that the Attorney General's Office provided based on-- on questions around this bill. But it was something that was expressed by several members in this body. And since I heard it from my colleagues and I spoke with the Attorney General's about it-- Attorney General's Office about it, I thought this was a good move to make and it made the bill stronger and more clear.

ERDMAN: OK. So do you have an Opinion from the Attorney General?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CAVANAUGH: I have a copy of the email that was sent at the request of an opinion, but it is not a-- an official opinion and they will not be issuing an official opinion.

ERDMAN: OK. So after I get off the mike, would you be able to show me that?

CAVANAUGH: Yes, absolutely.

ERDMAN: OK. I will do that. So anyway, I'm a little concerned about declaring a hairstyle as a protected class. If-- if I'm a manufacturer and I manufacture things and I have a lathe that turns metal or wood or if I have drill presses and those kind of things that have a tendency to catch long clothes or long hair, it would be very difficult for me to not be able to restrict my employees to certain styles of hair to be safe. So I'm kind of concerned about what this will do to some of those industries. And I don't know whether there's a provision for that to happen or not. But I'm still up in the air on this one. I don't-- I don't think I'm supporting LB1060 at this time, but I'll keep listening. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Brewer.

BREWER: Thank you, Mr. President. Well, first off, Senator Cavanaugh came to me with this bill and I had to admit that I had not taken the time to read through it. I apologize for that. I-- I did have some time to run through it and I just wanted to run a few quick-- quick questions by if I could have Senator Cavanaugh yield.

FOLEY: Senator Cavanaugh, would you yield, please?

CAVANAUGH: Yes.

BREWER: I understand that-- one of my concerns was that this bill might somehow give special qualifications or status to someone who might not necessarily deserve them. So we're gonna run through this and then I'm gonna give you a scenario and you'll kind of see why I decided to do this. Well, first off, the purpose of the bill was just to protect employees from racial discrimination. Is that kind of generally it?

CAVANAUGH: Yes.

BREWER: All right. And would you agree that there are certain hairstyles that historically are associated with certain races?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CAVANAUGH: Yes.

BREWER: All right. We're on the same sheet of music here. One of my concerns is that-- let's-- let's kind of shift gears a little bit and let's go a little more into my world. I was concerned that if the hairstyle was to play a part in someone getting a particular status, say, a-- an Erdman wanted to wear a Mohawk and-- and try and use that hairstyle as a particular status to help him in whatever way, the bill doesn't necessarily define the hairstyle and associate that with a race or does it?

CAVANAUGH: So that is an excellent question. If Senator Erdman wanted to have a Mohawk or dreadlocks, those are not associated with Senator Erdman's race. So Senator Erdman's hairstyles would not be covered under this protection because they are not intrinsic-- intrinsic to his race.

BREWER: Very good. Well, I just didn't want the forked-tongue devil to be able to do that, so I'm glad to hear that. That's all I have. Thank you.

FOLEY: Thank you, Senator Brewer. Senator Clements, to be followed by Senator Ben Hansen and Senator Lowe. Senator Clements.

CLEMENTS: Thank you, Mr. President. I did not vote for this bill in General or Select the last two rounds. I was present not voting and I was-- had some concerns about it and still do. I did read through the bill and in Section 48-1102, the Fair Employment Practice Act, and I'm just seeing how different this bill is-- this changes from the rest of the law, just wanted to review some of that. It deals with an employer that has 15 or more employees or any business financed by the state in any way and talks about disability being a physical or mental impairment, substantially limiting life activities, and a qualified individual with a disability as someone who is able to perform the job. But the employer needs to make reasonable accommodations, including making facilities accessible for the employee, including equipment or devices, or allowing part-time or modified work schedules, providing interpreters or readers for disabled individuals and accommodation for medical conditions or pregnancy. There is undue hardship exception for the cost of the accommodations or financial resources of the employee and perhaps because of the number of employees. This section also does prohibit sexual harassment, intimidating and hostile work environments, and I'm good with all of those. But then suddenly it adds on page 6, new language defining race which I don't see used elsewhere in the bill or in the law. The bill

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

does not quote a current race definition in law, although it sounded like Senator Cavanaugh did in her opening refer to that. But it adds, including not limited to, hair textures and protective hairstyles. For me, that's too vague or ambiguous to define and hairstyles people use could be changed from time to time. I also took a look back at Section 48-1101, and it talks about purpose for this section. "It is the policy of this state to foster the employment of all employable persons in the state on the basis of merit regardless of their race, color, religion, sex, disability, or national origin." And it says "Denying equal opportunity for employment because of race, color, religion, sex, disability, or national origin is contrary to the principles of freedom." I agree with these principles of equal opportunity. But I have a problem with the additional provisions defining race in this bill because the principles of freedom also need to apply to employers and some discretion that I believe they should have and their guidelines of employee appearances to their customers, and like Senator Erdman said, around their equipment. The-- then there's the automatic discrimination language in 48-1101 is a problem for me. It has an annotation, paragraph 2, Miscellaneous says "A prima facie case of discrimination may be proved by showing that the complainant is a member of a protected class within the meaning of the Nebraska Fair Employment Practice Act."

FOLEY: One minute.

CLEMENTS: The interpret-- thank you-- the interpretation of hairstyles being automatically protected is subjective in my opinion. I believe this bill would create new court cases and unreasonable requirements for employers to try to determine what they must allow and what they may require of employees. I see that it has no fiscal note, but I believe it will likely be costly to employers on defending their requirements and their practices in the workplace. So for that reason, I oppose LB1060 and oppose the amendment. I don't believe it is-- goes far enough to correct the problems in this bill. Thank you, Mr. President.

FOLEY: Thanks, Senator Clements. Next in the queue are Senators Ben Hansen, Lowe, Halloran, Murman, Hughes, Friesen, and Matt Hansen. Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. And just for the record, I am all in favor of Senator Erdman having a Mohawk. So if he ever wants to do that, I think that'd be great. And just-- just like I did before on the-- in-- in General and previously, I am opposed to LB1060. And I kind of want to give a few reasons why. However, I do want to mention

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

that I do appreciate Senator Cavanaugh for discussing some of the issues with me and other senators and willing to work and discuss the topics at hand and alleviating some concerns, but for me, maybe not all of them. And so just a couple concerns I do have about the bill that I'd like to share is some concerns that I shared earlier during General File is the necessity for the bill in the first place. Is this bill needed or-- or are we creating more repetitive law and redundancy that is already covered under federal protections? It is my understanding that it already is, according to the EEOC, that people are protected if they happen to get fired because they decide not to change their hairstyle, because they view it's because of the race. I think that's a legitimate reason why they can take someone to court, from my understanding. I might be wrong. But I just want to ask Senator Cavanaugh a question if I could pertaining to this.

FOLEY: Senator Cavanaugh, would you yield, please?

CAVANAUGH: Yes.

B. HANSEN: Just to kind of play off of the necessity of this law, do you know, are there any current or pending lawsuits or litigation against employers pertaining to people getting fired because of their hairstyle?

CAVANAUGH: That is an excellent question. If you don't mind, I'll read you one sentence from the Department of Nebraska Equal Opportunity Commission. This is from Marna Munn. Case management database revealed that in the past six years the NEOC has taken charges alleging discrimination involving hair or hairstyles at least 39 times. So 39 times in the past 6 years.

B. HANSEN: And do you know how those turned out? Were their concerns taken care of?

CAVANAUGH: No.

B. HANSEN: OK. So one of the other-- thank you for answering that, appreciate it.

CAVANAUGH: Um-hum.

B. HANSEN: One of the other concerns I do have is the idea of what they call a kind of government creep, the idea that overreach by the government. And so are we as a government encroaching too much on the employer-employee relationship and disproportionately affecting employers and their ability to feel like what they want to do best is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

for their business instead of mandating behavior? I always kind of take pause whenever we're trying to mandate behavior and at least like to voice those concerns and discuss some of this on the floor, so. And this kind of ties into some of the free-market principles that we've talked about before. I know Senator Chambers has talked about this. And a lot of stuff that I do agree with him on is the business and employee and consumer behavior and liberty. And so one of them is obviously the business and their ability to determine their future, their ability to determine how they want to have the employer-employee relationship within certain aspects of the law and their liberty to do that. The employees' liberty and ability to-- again, under certain fundamental protections, determine whether they want to work at a place or whether they're being mistreated and their ability to then leave that place. And consumer behavior, the ability of the consumer to do their due diligence and understand maybe where they're spending their money. And if they do find out there is a place that is disproportionately affecting their employees or being racist to their employees, then it's beholden upon them as consumers--

FOLEY: One minute.

B. HANSEN: --to not spend their money at that place. I think if we all found out that Walmart was firing employees because they didn't like their hairstyles, and particularly because if they were hairstyles based on a certain race, myself and I hope nobody else would spend money there if that got out in the news or we saw it on social media. And so I think it's kind of our responsibility as consumers to also to do that. And so that comes into the greater context to this whole discussion about creating a good bill. Something I've talked about before about the art and the science and the philosophy of creating a good bill, which I think ties into some of the concerns that I have. And that's something I can maybe discuss just a little bit more on later. And I do have one more question for Senator Cavanaugh that I'll ask in a little bit. Thank you, Mr. President.

FOLEY: Thank you, Senator Ben Hansen. Senator Lowe.

LOWE: Thank you, Lieutenant Governor. As a businessman, I think about how I can improve my business and what it takes to improve your business. Part of that is the people that you hire and the attitudes that they have when you hire them. I've employed hundreds of people over the years, and I look back at all of them. I really can't tell you what their hairstyle was no matter what race they were. I know that they were all neat and well-kept because that's what I asked them. After that, they let their hairstyle be as they wanted. Now we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

didn't have heavy machinery around, so there was nothing that they could get their hair caught up in. Well, most likely. But as long as a person is reasonable, businesses don't mind the person that they're hiring. But when we're told we can't fire a person because of their hair, we need to hire a person because of their hair, their shirts, their shoes, whatever may come of this in the future, I think we're encroaching on business. And I speak of that because I actually do have some knowledge of this. I've always had a beard since I was in college. And while I was in college, I was working at a auto dealership and we were selling cars right and left, but they needed a new management team and they brought a new manager in from the Coast, a clean-cut, young man who knew what he was talking about. But one of-- one day he called me into his office and he said, you're gonna have to shave your beard or I got to let you go. New policy. My hair did not fit the new policy of the company. Well, this was in September, and I explained to him that shortly it was going to get cold out and you would see a lot more beards running around this area. And he said, no, this is our new policy. I respected that policy. I left. I found a much better position. That was their choice. This is my choice. No government agency had to tell him what to do. No government agency-- agency told me I had to fight that either. Well, come December that same sales manager had a full beard. And I-- and I asked him one day, I said do you enjoy your beard? He said, yes, it does come in handy. And then I bought him a Coke. No hard feelings. I have a better job. I went to look for a better job because I knew I could. And to be held back because of facial hair, because of hair on your face is not something we should think about. We should think about our self-ability, the ability within ourselves to go further. If you find somebody that doesn't like your hair because it is--

FOLEY: One minute.

LOWE: --dreadlocks-- thank you, Lieutenant Governor-- because it is a Mohawk-- and by the way, I can't picture Senator Erdman in a Mohawk, and I hope I don't have to-- then find a better place to work. It's very simple. We have a free-market society. We should let it be free. Thank you, Lieutenant Governor.

FOLEY: Thanks, Senator Lowe. Senator Halloran.

HALLORAN: Thank you, Lieutenant Governor. Colleagues, Senator Hansen kind of stole some of my thunder a little bit. The question I had in my mind was whether or not we have enough laws protecting-- protecting against discrimination. And apparently, and I respect this that Senator Cavanaugh doesn't think that we do. But since the civil rights

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

movement of 1960s, federal and state governments have enacted a number of laws that bar an employer from discriminating against employees on almost any grounds, aside from the quality of the employee's work or the nature of his or her personality. Best known of employment antidiscrimination laws, Title VII of the Civil Rights Act of 1964, prohibiting an employer with 15 or more employees from discriminating on the basis of race, national origin, gender, or religion. Under Title VII, it is illegal for an employer to take any of the following actions against an employee based upon his or her race, national origin, gender, or religion: (1) refuse to hire; (2) discipline; (3) fire; (4) deny training; (5) fail to promote; (6) pay less or demote; or (7) harass. In addition, it is illegal for an employer to adopt a policy currently under law or a practice that has disparate impact on a protected class, such-- such as by adopting hiring criteria that tend to screen out women or minority group members. Would Senator Lathrop yield to a question, please?

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: Yes, I will.

HALLORAN: Senator Lathrop, thank you. There are some characteristics that are immutable. And my question is, for example, skin, we cannot change the color of our skin. And obviously under this subject matter, hair, we cannot change the texture of our hair. So if the texture of hair is characteristic of people of color, would not that be sufficient to draw the conclusion that if someone discriminated based upon the texture of their hair under current law that it would be discrimination against that race?

LATHROP: This is a question I would have been-- I was prepared to answer and did talk about in committee when this bill came out, because I had read the case that Senator Cavanaugh provided and--

HALLORAN: I should have given you a heads up. I apologize for that, Senator.

LATHROP: Yeah, I'm really not-- I wish I could remember everything about that case that I read. But I did see where this covered a base. So this is how discrimination cases work generally, and maybe this is useful to you. But when you establish discrimination, you can have somebody come in and go, you know what, I don't like you because you're black, you're fired. OK. That's-- that's an obvious case you prove and you don't need any other evidence but that statement. But if you have a large business and you notice that all the people that work

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

there are black, or they have all races that work there, but for whatever reason, we keep finding excuses to let the people of color go. They can go for a number of reasons. We call that a pretext. You can establish discrimination in those circumstances by showing a pattern. Every time you look at how many people, for example, let's say they fire somebody because they're late and they only do that to black people, but not white people. You can establish a pattern and generally those cases are proven by showing a pattern or practice--

FOLEY: One minute.

LATHROP: --with a dissimilar treatment of similarly situated people who have differences based on race. And that's generally how they're established. Now you would think that if you have a particular hair texture, that you would get caught up in that sort of process. But I think it's possible to be discriminated against based on a hair texture where another, say, African American person that doesn't have a big Afro or dreadlocks or some other hairstyle characteristic of-- of that group. So this may be more than just overlapping racial discrimination. It may be a subset of that form that's not as easily identified as what I've described before.

HALLORAN: Thank you, Senator Lathrop. I do feel that current laws are probably adequate to attend to or deal with that situation.

FOLEY: That's time, Senator.

HALLORAN: Thank you.

FOLEY: Thanks, Senator Halloran. Next in the queue are Senators Murman, Hughes, Friesen, Matt Hansen, Chambers, Groene, and Ben Hansen. Senator Murman.

MURMAN: Thank you, Mr. President. I don't think I've spoken to this bill yet. I did vote no all the way through. So I want to take this opportunity to explain why I've been voting no. First of all, I'm absolutely opposed to-- to discrimination because of race. And I totally agree with the Nebraska Fair Employment Practice Act in this Section 48-1102. But at the same time-- well, to continue about the amendment, I do think the amendment does make a tremendous improvement to this bill, but I am still opposed to the underlying bill. And there are some reasons that I do that. First of all, you know, I've got three main reasons I've been voting against it. I do believe in limited government and we do have the Nebraska Fair Employment Practice Act and I think that goes far enough in preventing

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

discrimination because of race. So limited government is the first reason. Safety is another one. And government-- limiting government overreach is another reason. And I'll talk about all-- all three of those. As Senator Lowe mentioned, I think the employer ought to have some freedoms as to the appearance of the employee that they hire. An employee can change their hair. Race is something that can't be changed, so I'm totally opposed to discrimination because of race. But hair, if it's too long or the employer doesn't like a certain hairstyle, he should be able-- the employer should be able to hire a person that appears-- has the right appearance for the job. Now to-- to address safety. My background is farming, and I'm most familiar with that. One of the first things that you're taught when you are a young child learning-- or young-- young person learning to farm is to be careful around power takeoffs. You can get clothing caught in there real easy. So you're always encouraged to wear-- not wear real loose-fitting clothing and hair can get caught in power takeoffs also. I do know of a situation that happened years ago, a very tragic situation. A young girl, I think she was about seven, if I remember right, bringing a lunch out to her father. She had real long hair and it got caught in a PTO and sadly, she was killed. So there are reasons for hiring because of hair. Of course, you can keep your hair under a hat or in a bun or some way to try and alleviate that situation, but that doesn't always work either. You know, like in farming, you're out in the wind, it's difficult to keep hats on or hair tied up in a certain way. So-- so that's a good reason to-- for the employer to-- to hire a person for safety. Of course, I'm against government overreach. You know, some employers may--

FOLEY: One minute.

MURMAN: --man-- thank you, Mr. President-- may mandate that a employee dresses a certain way. And I think that's at the prerogative of the employer. You know, some races even have a tendency to maybe be shorter than-- than I'd guess you'd call average or taller than average even, have a certain hair color. I don't think those-- those things ought to be mandated by the government that a-- that a person can only hire someone that has-- dresses a certain way or has a certain hairstyle. So I think this goes way too far in-- in defining race. And, of course, race-- racial discrimination is illegal here, and I totally support that. Thank you, Mr. President.

FOLEY: Thank you, Senator Murman. Senator Hughes.

HUGHES: Thank you, Mr. President. Good afternoon, colleagues. I was wondering if Senator Cavanaugh would yield to a question.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: Senator Cavanaugh, would you yield, please?

CAVANAUGH: Yes.

HUGHES: Thank you, Senator Cavanaugh. You and I had a conversation earlier today about this bill, and I'd-- I'd like to walk the rest of the body through, you know, some things that we've talked about. One thing we did not talk about was the AG's Opinion or the coming of an AG's Opinion, I guess. Can you tell me a little bit more about what an AG's Opinion was asked for and what you have now that precipitated this amendment? I-- I wasn't quite clear on that in your opening.

CAVANAUGH: Yes. So the AG's Office sent a email, not an official opinion. I'm not even sure, I'm trying to see what word they used, but it's not an official opinion. An official opinion would be much more formal and public. But they did state that as Section (19)(a) of LB1060 defines race to include color and thus conflates the two longstanding, separate protected classifications, it would be advisable to strike Section (19)(a). So that is what I did. But then others in the body had concerns over additional under (19)(b), so I struck some of the language there, too, to make it just more concise.

HUGHES: So--

CAVANAUGH: Does that answer your question? Sorry.

HUGHES: Well, kind of. The AG just said they had problems with that one section?

CAVANAUGH: What the AG actually said is that there was no legal question to be asked and answered and there was no constitutionality question to be asked and answered. But in their review of the bill, they thought that the removal of that language would be helpful in the execution of it.

HUGHES: OK. Thank you. That-- I can-- that was a little clearer for me to understand. So we're talking, it's-- it's about texture. I mean, it's not about color or length or anything like that. And your concern is mostly African American blacks that have a texture that is different than any other race in the world. Is that-- is that correct?

CAVANAUGH: Well, it's not just for our African American population, but that is predominantly who is, I guess, who-- who are facing this type of discrimination, especially women of color. But it's-- it's really to protect an immutable trait, which is your hair.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

HUGHES: So what other-- what other race would have a hair texture that could be discriminated against?

CAVANAUGH: Well, the cases that I received from the Department of Equal Opportunity, one of the cases that they had was for a Native American complainant. That's another pretty regular one.

HUGHES: OK. So I guess and not having gone to the hearing, can you give us some examples of-- when we talked there were several-- there was-- I looked at the committee statement and there were several testifiers. So could you give me example of the one that stood out the most of why I'm assuming it was a lady that felt she was discriminated against?

CAVANAUGH: Yes, I actually have an example of a man and a woman, but I'll start with the woman quickly. She worked in hospitality and she had curly hair and she was asked to put chemicals in her hair to relax her hair so that it was no longer curly. And those chemicals are, first of all, very harsh on her hair. And she'd previously tried it and they burned her scalp. And so she said that she did not want to do that, but they really wanted her to do that and so they--

FOLEY: One minute.

CAVANAUGH: --stopped scheduling her time. And then there was a gentleman who worked in County-- Douglas County Corrections who had dreads pulled back in a ponytail, interviewed for a job at the Sarpy County Corrections, was offered the job, but told after the fact that he could only have the job if he cut his hair. And so he said, well, no, I'm not going to do that. I'll just stay with the job that I have. But that was-- again, his hair was pulled back. So and there are others that worked there that had the same length of hair pulled back. And so that-- those were some examples.

HUGHES: So walk me through the process of-- of someone has a-- someone has a complaint, where do they go and how does it get adjudicated?

CAVANAUGH: They go-- they go to the Nebraska Equal Opportunity Commission and they open a case on it and they determine whether or not there are merits to pursue it further. And with hair, they-- they oftentimes have to dismiss those cases because it doesn't fall under the current description of discrimination.

HUGHES: So is-- is this--

FOLEY: That's time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

HUGHES: Thank you. Thank you.

FOLEY: Thank you, Senator Hughes and Senator Cavanaugh. Senator Friesen.

FRIESEN: Thank you, Mr. President. Being hair follicle challenged, I did at one point in my life have a-- a 'fro that would have matched Senator Chambers back in '76, but that's been a while back and now it's gone. So, Senator Cavanaugh, I've got a couple of questions for you. And we've had this-- a good discussion. I'll let her yield.

FOLEY: Senator Cavanaugh, would you yield, please?

CAVANAUGH: Yes.

FRIESEN: So you remember us-- the discussions and-- and I appreciate you've made some major changes to what you first had. I do appreciate that. But I was-- my point was I thought the employer should have some control. And, you know, if-- if you had a business, for instance, and reception is the first person that the public is going to greet, you expect them, I take it, to be dressed in a certain way. Businesses are different, legal firms versus, you know, hard rock music place or something. I mean, so would you say that you have any control over that person and how they might appear at your front desk?

CAVANAUGH: Absolutely. You-- this bill-- this piece of legislation does not affect a company's grooming policies as long as those policies are applied equally to all employees. It also does not supersede any health and safety policies. Again, as long as those policies are applied equally across all employees. So if you require a hairnet, then you require a hairnet no matter what. If you require no visible tattoos, then you require no visible tattoos, like a reception would probably have. If you have a certain standard of-- of cleanliness and outward appearance as far as can be controlled, then as long as you apply that equally and you have a policy that is applied equally, then you're fine.

FRIESEN: So I-- I get the portion about texture because my hair, too, back in the day I-- there was nothing-- I could straighten it. But the style was to wear-- everybody had shoulder length hair. So I had mine straightened sometimes, but it didn't last very long and pretty soon it was back to where it was. So I mean, I-- I can understand the texture portion. But when you talk about protective hair styles and-- and I know you get into dreads and some of those. That's where I guess is, I, as a businessman, if I'm-- there are certain hairstyles and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

presentations you want. And now I can no longer dictate, I guess, what you're going to present yourself as. Is that--

CAVANAUGH: Well, dreadlocks for individuals with a certain texture of hair are a common way of maintaining that hair and-- and keeping it healthy and out of the way. And so if you are a person of color who has that type of hair, then this is a very common way to have your hair. And I think the misnomer is that your hair is dirty if you have dreadlocks, which is not the case. And so as long as you have a standard that you apply equally, then that should be fine. But this would allow for dreadlocks for a person of color if that-- as long as they maintain the other statuses of-- of the office policy.

FRIESEN: So when you say, but not limited to, what do you-- what are you trying to cover there?

CAVANAUGH: I'm not trying to cover anything. I just didn't think and it was the advice of the department, the Nebraska Equal Opportunity Commission, to just have it stated that way, because they really do make very detailed determinations as to whether or not something is discrimination. And so they-- they wanted that part in statute, but like a Mohawk or other things that might arise that are important to a race that I have not considered, that does give them the opportunity to still consider that.

FRIESEN: So if-- if, for instance--

FOLEY: One minute.

FRIESEN: --I-- I had a receptionist, was a male and had the Mohawk, and I kind of preferred not to have that. I mean, could-- does this fall under that protected class that I could not?

CAVANAUGH: Your receptionist would have to have standing for that being tied to their race.

FRIESEN: OK.

CAVANAUGH: So--

FRIESEN: So one-sixteenth Native American?

CAVANAUGH: I don't think that that would necessarily qualify as standing, but-- but they would file a complaint with the-- with the agency and the agency would review it and determine if that was being discriminatory based on their race, or if that was a policy that you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

were applying equally across everyone and that this was not a-- an attribute that was attributed to their race. So the agency, the Nebraska Equal Opportunity Agency, would be determining that. This just gives them the-- the standing to determine it based on hair, which they currently cannot.

FOLEY: That's time, Senators.

FRIESEN: Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen and Senator Cavanaugh. In the speaking queue are Senators Matt Hansen, Chambers, Groene, and others. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President. And good afternoon, colleagues. I wanted to address a few points here quick. For one, I appreciate Senator Cavanaugh bringing this amendment and giving us the opportunity. The point discussed in the email that wasn't an Attorney General's Opinion, I would just want to be really clear for the record it isn't a like constitutional concern or it isn't a conflict with existing law. It was actually something that was raised at the hearing. And Marna Munn, the director of the Nebraska Equal Opportunity Commission who enforces this act, noted it was something we were doing and said it provided no problem for her agency. As a matter of policy drafting, I think being more clear and concise with Cavanaugh is certainly a benefit we can consider. But I think there is kind of from a perspective, no statutory problem with the underlying bill. That's more a policy decision of the Legislature. Do we want to have this or not? This amendment isn't required to say, like fix a flaw. It's something that we as a Legislature can decide this is more clear than the previous version. So I just want to put that out. She specifically said-- noted that color is a-- is already a separate existing basis. And this bill wouldn't change that. Related to that, I'm gonna rely on her testimony a little bit extra here. Related to that, she talked about how the agency already and would continue with this bill and their enforcement of the Nebraska Fair Employment Practices Act looks at safety precautions and other kind of bona fide employment requirements. We've mentioned some of them today earlier, like working around, you know, loose-- loose hair around heavy machinery or hairnets in like food preparation. If those are genuine job requirements and are applied fairly, that's not an issue under current law or under this new law. We're not fundamentally changing anything there. And they said it would not impact their enforcement and interpretation. It really is that pretext for I-- we're trying to catch that group where it really is that pretext of-- of there is a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

discrimination based on hair that really is only attached to one race. And I appreciate Senator Cavanaugh bringing it up. I want to clarify, just like the word "race" exist in beginning that protects all races, including-- including white, Caucasian, every race is currently protected under race. Every race would be protected under this provision and their hairstyle. So in theory-- in theory, although I think we know day to day this wouldn't be as a practice. You couldn't necessarily discriminate against somebody for not being able to maintain dreadlocks or a style that their hair couldn't maintain. So it would go both ways. It's just that kind of commonly the allegations and complaints we see and we hear are from primarily black and African American constituents. So I-- I wanted to say that it's not just for them. It would apply to any race potentially, but it is a problem that's more probably acute to one or the other. And then with that, the main thing that the NEOC and I will clarify, they did testify neutral, but they testified neutral to make sure that they were clear in that their enforcement powers. The one thing they said this would really help was clarity. So already, you know, as we've talked about racial discrimination is prohibited and having a clearer definition of race and a clearer definition of some of these edge cases would really help them in terms of their outreach. They would be able to talk to employers and make publications and have things and have a clear statute to cite and say, hey, specific, you know, specific styles, you know, of hairstyle discrimination, fall under racial discrimination. You know, be conscious to do that. If you're doing something about employees' hair, make sure it's consistent or tied to bona fide job requirements. And that was the real benefit they saw with this law. So, again, I appreciate Senator Cavanaugh and all of her work on this. This has obviously been an issue that's come up and we've had some good discussions, both on multiple rounds. And with that, if she needs it, I would yield the remainder of my time to Senator Cavanaugh.

FOLEY: Thank you, Senator Hansen. Senator Cavanaugh, 1:00.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. And thank you, Senator Hansen. There-- there seem to be the same sort of questions coming-- arising over and over again. I-- I introduced this amendment to clarify the bill and to make it easier for the agency to implement it. I-- I am concerned about time here. And so I-- I'm happy to continue having these conversations. I'm happy to address anyone's concerns. I feel like we've already addressed the concerns as fully as possible. And so I'm going to leave this amendment here until we get closer on time. But if-- if we are-- are actually trying to kill this, I will pull my amendment and I will bring it back to Final Reading because I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

do have the votes to pass this bill. And I-- I wanted to make it better. I wanted to take the feedback of my colleagues.

FOLEY: That's time, Senator.

CAVANAUGH: Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Chambers.

CHAMBERS: This is one of the most demeaning, insulting sessions I have attended. I'm not gonna answer any of these white people simple-minded questions. This is racism pure and simple. Somebody wrote that statement for Senator Clements. He read it. There are bigots outside this Chamber who get you to do their dirty work. Senator Muram, Murman, whatever his name is, I listened to him and I watched the other things they do when they say they're against big government. Then they come here asking the government to do something for them. You think I as a black man am gonna account to some white racists why I look the way I look or I'm gonna change it to satisfy him or her? You're out of your mind and you show that there has been no progress in this state. Nebraska is particularly racist and it's mentioned all around the country in terms of its backwardness and racism. I'm not gonna change a thing. Let me tell you one thing. When I went to Creighton, I was the only black student in the law school. I was working at the post office. I work all night. I didn't go to class. The white kids and the instructors were sure I'd flunk out. You know what I did? This inferior black man who didn't go to class, I was number four on the dean's academic list. I've never had trouble learning white people's material. I can read your books. I can write your language. And I understand it when I hear it spoken. And I know all of the verbal racial codes that you white people have. And I would not lower myself to be a part of this discussion, but you need to hear it from me. It's demeaning, it's degrading. You can have nuns wearing habits in public schools because the Catholics have power in this state. And you're gonna say that you and your arrogance and ignorance, how black people ought to wear their hair. If you had come to the hearing, you would have seen how many black women had different styles and had problems on their job because of it. The hair was not dirty. It was not unkempt. It was a style that white people can't wear. You all have that long, dog-like hair. So you want everybody to have that long, dog-like hair. And that's why some racist would tell a black woman, put chemicals in your hair so it'll look long and dog-like like white people. You don't like that, do you? There's a lot that you all say and do that I don't like. Do what you will with this bill and I will do what I will with the rest of this session. I'm sick and tired

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

of being sick and tired. I do appreciate those white people who try because they know their brothers and sisters to bring a bit of justice. But there are things discussed on this floor and floors of other legislatures that are highly insulting, demeaning, degrading. I was the best debater in law school at Creighton. We had what they call a moot court where you're given an assignment. You do the research, write a brief, then argue it before practicing lawyers and judges. In my contest, I was far and away the best. The one that I beat came from a family of lawyers. When they were selecting somebody to represent Creighton at the nationals, they selected the man that I beat. His name was Gordon Miles [PHONETIC]. You think I can't see what's going on? You think I can't see I'm superior to a lot of white people?

FOLEY: One minute.

CHAMBERS: And it's not genetics. I work hard. I read. I study. I read the dictionary. And you all don't, and you don't have to. All you have to be is white. So say what you want to, do what you please. And don't talk to me about respect or anything else. In fact, I don't care if you don't talk to me at all. But I plan the rest of this session to talk to you all a great deal. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. In the queue are Senators Groene, Ben Hansen, and McCollister. Senator Groene.

GROENE: Thank you, Mr. President. I will say this amendment makes this bill a lot better. I was in opposition the first time around because of things like historical association with race and that's all races. I never understood how far back in history you want to go, 10 years ago because a fad started in a hairstyle or 100 years, 1,000 years. But that's gone. But I am confused, it's kind of redundant, I believe, when you say race includes but is not limited to hair texture. That's part of your genetic makeup. That's what race is. It's what your flesh is, color, height, hair texture. It looks redundant to me why it needs to be in there. And then I'm confused about protective hairstyles. The example of Senator Erdman with a Mohawk, I don't believe he'd be covered here because he couldn't claim he was a Vik-- ancestor of a Viking or a Moh-- Mohican Indian, he-- because it's not covered here anymore. So he would not be able to be covered by that protective hairstyle. The example Senator Cavanaugh gave about the individual with a ponytail, he wouldn't be covered either unless somehow-- I'm confused with protective hairstyle. So you are fired because when you were hired, apparently you didn't have this hairstyle or also you wouldn't be hired at all because you had the hairstyle. So now you go to court. Do you have to bring a doctor's dermatologist medical that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

says in order to protect your scalp or their hair, they need to wear their hair in one of these styles? Or is it just I say it's my protective hairstyle and therefore it is? I don't understand this thing. I mean, really, it-- it's-- I don't think it's necessary. But protective hairstyles-- Senator Cavanaugh, I'm really looking for answers here. Could-- would you answer a question?

FOLEY: Senator Cavanaugh, would you yield, please?

CAVANAUGH: Yes.

GROENE: How do you define legally a protective hairstyle?

CAVANAUGH: I'm sorry. Can you repeat the question?

GROENE: How do you legally if this ends up in a court of law or a hearing in front of the Department of Labor or something, how do you define a protective hairstyle?

CAVANAUGH: It's a hairstyle that is related to your race, but it's also protected if you're being discriminated against because of your race. So having dreadlocks or a Mohawk, Mohawk's not really a great example, having dreadlocks when you are white is not really related to your race. And so you would not be protected.

GROENE: Excuse me. Excuse me, that isn't what it says here. It doesn't say protected is-- is braids, locks, and twist and, therefore, they are protected under the law. It says the protective hairstyles.

CAVANAUGH: Those are protected hairstyles. We outlined three specific common protected hairstyles for people of color.

GROENE: Doesn't say color here. It says if-- if I claim I'm a Viking, it's what it says here, and we used to wear braids a thousand years ago, it's protected if I want to wear a braid. It doesn't say anything about color here.

CAVANAUGH: So, so if you-- if you're a Viking and you associate with being a Viking and you have braids as a part of your heritage, first of all, the onus would be on you to prove that you have that as part of your heritage. But also you would have to prove that you're being discriminated against because of that. So if other people that you work with have long hair and have braids and they're not told to cut them or do something different with them--

FOLEY: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CAVANAUGH: --but you are--

GROENE: Thank you. Anyway, I-- I-- I don't know how this thing helps anybody be discriminated-- not be discriminated against. I really don't. If you-- if you aren't hired because of your hair, I don't know how you prove that was the reason. I-- I'm fully aware of the hair texture. I, 100 percent agree with that, but that's under race, that's under your genetic makeup. That's already covered. It's redundant. I just really think it's a feel-good law. And that's not racist to say that. I think there's protections out there already. This is-- I really appreciate you made the changes you did because that previously I could never have supported. But anyway, I'm just a little bit confused what the purpose of this bill is. Thank you.

FOLEY: Thanks, Senator Groene. Senator McCollister.

MCCOLLISTER: Question.

FOLEY: That will not-- that will not be necessary, Senator. There is no one else in the queue. Senator Cavanaugh, you're recognized to close on AM3288.

CAVANAUGH: Well, thank you, Senator McCollister. I appreciate that. Thank you, colleagues, for this discussion. And I hope that this has brought some clarification to-- to everyone as around what the intention is here. I-- I would-- I would disagree with Senator Groene that this is not a feel-good bill because it does not feel good to-- to continually stand up here and-- and describe discrimination to my colleagues doesn't-- doesn't actually feel good. I think it's important to do. I think it is important for us to continue to have these uncomfortable conversations about race and discrimination. That's the only way that we can work to dismantle systems of racism in our culture. This is one thing that is ingrained in our culture as a system of racism when we have women of color who make less in the work force than any other demographic. Anything we can do to lift them up and to provide them a foundation for a strong, healthy work force, I think is really important. This isn't a do nothing bill. This does something very significant. This clarifies our current laws. It does not define race because race is not defined. It expands what discrimination based on race includes. So it doesn't define being a Viking or any other race. It-- it just says that if your race has these-- these characteristics associated with hair, that you are protected against discrimination. You are not discriminating against an employee if you have a policy on workplace safety, if you have a policy on grooming, and you apply that policy equally across your

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

employees. That is not discrimination. That is just having an office policy, just like any other policy. But just like with pregnancy, there's only a few of us in this body that could even potentially know about that. It is important to put protections in to protect vulnerable populations, and women of color are a vulnerable population. Look around this body. They're extinct in this body. That is a vulnerable, vulnerable population. So I hope that my colleagues today will consider supporting this amendment. I am happy to have brought this amendment. I think that it makes the bill stronger, clearer, and more effective to implement. I am grateful to Marna Munn and the Nebraska Equal Opportunity Commission for their work on this issue. And I am grateful to the AG's Office for sharing their insights into how to make this bill better. I encourage you all to give this serious consideration and a green vote. Thank you.

FOLEY: Thanks, Senator Cavanaugh. Members, you've heard the debate on AM3288. 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.

CLERK: 34 ayes, 0 nays on the adoption of the amendment.

FOLEY: The amendment is adopted. Is there anything further on the bill, Mr. Clerk?

CLERK: Nothing further.

FOLEY: Senator Slama, you're recognized for a motion.

SLAMA: Mr. President, I move that LB1060 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB1060 advances. Back on Final Reading, LB1080. Mr. Clerk.

ASSISTANT CLERK: [READ LB1080 ON FINAL READING]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1080 pass? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

Hunt, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Kolowski and Bolz. Vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused not voting, Mr. President.

FOLEY: LB1080 passes. Proceeding now to LB1124.

ASSISTANT CLERK: [READ LB1124 ON FINAL READING]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1124 pass? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senator Bolz. Vote is 48 ayes, 0 nays, 1 excused and not voting.

FOLEY: LB1124 passes. Proceeding now to LB1130. Senator Kolterman, for what purpose do you rise?

KOLTERMAN: Point of personal privilege.

FOLEY: Please proceed.

KOLTERMAN: Colleagues, I would be remiss-- thank you, Mr. President-- I would be remiss if at this point in time we didn't stop and congratulate our colleague, Sara Howard, on this, her last eight years in this body and this is an important bill to her. I think she deserves a round of applause.

FOLEY: LB1130. Mr. Clerk.

ASSISTANT CLERK: [READ LB1130 ON FINAL READING]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1130 pass? Those in favor vote aye; those opposed vote nay. Record, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Bolz and Matt Hansen. Vote is 47 ayes, 0 nays, 2 excused and not voting.

FOLEY: LB1130 passes. Proceeding now to LB1152e. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor of dispensing of the reading vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 34 ayes, 8 nays to dispense with the at-large reading.

FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title.

ASSISTANT CLERK: [READ TITLE OF LB1152]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1152e pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: Senators Albrecht, Erdman, and Lowe. Not voting: Senators Bolz and Matt Hansen. Vote is 44 ayes, 3 nays, 2 excused and not voting, Mr. President.

FOLEY: LB1152e passes with the emergency clause attached. Proceeding now to LB1166e.

ASSISTANT CLERK: [READ LB1166 ON FINAL READING]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1166e pass with the emergency

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Kolowski and Bolz. Vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

FOLEY: LB1166e passes with the emergency clause attached. Proceeding now to LB1183e. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 34 ayes, 6 nays to dispense with the at-large reading, Mr President.

FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title.

ASSISTANT CLERK: [READ TITLE OF LB1183]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1183e pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators DeBoer and Bolz. Vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

FOLEY: LB1183e passes with the emergency clause attached. Proceeding now to LB1185. Mr. Clerk, the first vote is to dispense with the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

at-large reading. Those in favor of dispensing with the reading vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 35 ayes, 3 nays to dispense with the at-large reading.

FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title.

ASSISTANT CLERK: [READ TITLE OF LB1185]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1185 pass? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senator Bolz. Vote is 48 ayes, 0 nays, 1 excused and not voting.

FOLEY: LB1185 passes. Proceeding to LB1185A.

ASSISTANT CLERK: [READ LB1185A ON FINAL READING]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1185A pass? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senator Bolz. Vote is 48 ayes, 0 nays, 1 excused and not voting.

FOLEY: LB1185A passes. Next bill is LB1186.

ASSISTANT CLERK: [READ LB1186 ON FINAL READING]

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1186 pass? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senator Bolz. Vote is 48 ayes, 0 nays, 1 excused and not voting.

FOLEY: LB1186 passes. Next bill is LB881. Mr. Clerk, the first vote is to dispense with the at-large reading. Mr. Clerk.

ASSISTANT CLERK: Mr. President, motion on the bill, Senator Albrecht would move to return LB881 to Select File for a specific amendment. That amendment is AM3170.

FOLEY: Senator Albrecht, you're recognized to open on your motion to return the bill to Select File.

ALBRECHT: Thank you, Mr. President. Colleagues, and Senator Wayne, I apologize for bringing this on Final Reading, but when this was on Select File last Monday, the 20th, I was still working my way through the ten bills that were in the bill at the time when Senator Lathrop introduced his amendment. His amendment made sense, but the entire day moved very quickly. I don't want to filibuster this bill, but I do want to talk about some concerns that I have. Since Select, my office has been in contact about a couple of issues within this bill. And my review of some of the bills contained in it gave me pause. In particular, I'm most concerned about two bills that put criminals back out into the community. I become more and more aware of that concern with the protests, vandalism, and related activities. The expansion of the no cash bill is my focus on AM3170 to follow, and we'll talk about that separately. In this amendment, AM3171, I am proposing to strike Section 22 of LB881, which says: A defendant charged with any offense or offenses shall not be held in custody awaiting trial or sentencing for a period of time longer than the maximum possible sentence for that crime. That seems to make sense, but there does not seem to be any exception for people being held and treated because they have been found incompetent to stand trial or to stand for sentencing. It does say, though, that: On the next judicial day after such deadline, the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

defendant shall be released on his or her signature. My concern is the requirement that an individual shall be released on that next day would mean those getting medication or treatment to restore their competency would have to be released before it is restored in some cases. So if a person in custody is not competent to stand trial, he or she doesn't understand the role of the judge, may not understand why he or she is even there. And a defendant logically cannot pay a debt to society if he or she doesn't even understand that they owe a debt or why they do. This past Tuesday, Senator Lathrop stood during debate on LB1008 and told this body that people waiting to be restored to competency spend an average of 100 days in custody while waiting to get to the Regional Center for treatment. He also said that during 100 days, meds are being administered to defendants in an effort to restore them to competency if possible. Senator Lathrop stated that when found incompetent, it is because a defendant does not understand why the judge is there, the defendant's role in what is happening and so forth. So now let's think about a requirement to release these folks who are incompetent back into the community without them understanding why they must return. That's what I'm concerned about in Section 22 of LB881. Section 22 does not seem to make the person's release discretionary. We've been told over and over that "shall" means it must happen. I think we need more time to really consider potential unintended consequences of this bill. If this is a substantial issue, it can be reintroduced and discussed in the next session. I realize I should have probably spent more time on this bill on General File, and I'm sorry that I did not discuss it then. This senator priority bill had an additional nine bills in it when put on General File. Ten bills total, and that was unexpected. The Speaker told us pretty early on to try to keep additional bills down to around four. I wasn't really expecting ten bills on a senator priority bill. I have to tell you that as I look through LB881, I see much that concerns me. In addition to this subject, LB881 increases the frequency of competency evaluations and lets incompetent defendants try to have their charges dismissed altogether. That's concerning. LB881 lets some people with felonies request their conviction to be set aside and go through the pardon process. It also adds to change some of the rules of evidence. And LB881 requires public release of grand jury testimony if the grand jury refuses to indict an accused. And that may really be concerning to people unjustly accused or who have been exonerated despite the public believing that they should have been charged. And there's more. Of course, I don't want to overwhelm and I do recognize that there is a lot more that we probably should have talked about earlier in this process so I'm asking to strike two different provisions with two separate motions. People in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

Nebraska deserve to know if and how many defendants in this circumstance would be released into the community without standing trial or being sentenced. Most importantly to release them from a place where they've been getting treatment into the community where they cannot or do not understand what is lawful seems more questionable. I'm asking to return LB881 to Select to strike Section 22, which is LB1181. And I hope that you'll join me with a green vote on my motion to send it back to Select for a specific amendment and then vote green on AM3170.

CLERK: Senator, can I interrupt for just a moment? I want to-- I don't think you and I are on the same amendment. You want your amendment that strikes Section 22, that's the one you just talked about. All right.

ALBRECHT: Um-hum.

CLERK: Mr. President, the amendment that is being debated is AM3171, AM3171.

FOLEY: Thank you, Mr. Clerk. Members, the immediate motion, motion is whether or not to return the bill to Select File. It's open to debate. Senator Lathrop.

LATHROP: Thank you, Mr. President, and colleagues, good afternoon. I have to tell you, I'm disappointed this amendment has been filed on Select File. This bill has been with this amendment and these sections on General File since February 27. This-- these sections aren't new. They're not a surprise. There are a number of bills in this particular bill in the amendment, but that's a consequence of not having a consent calendar. And I'm not standing here critical of that decision. But understand, all but one of the bills contained in this bill, all of the bills that were incorporated into LB881, had no opposition. Many of them were consent calendar worthy, probably half of them. They were incorporated, which explains the number of bills found. The volume of paper to read, 50 pages, just over 50 pages, pales in comparison to some of the bills that have been passed, like LB944 from Transportation Committee had about six, seven bills incorporated into it and was probably three times larger than this. I'm puzzled. I'm really puzzled by this motion and disappointed. But let me talk about Senator Albrecht's expressed concern, which is a Senator Wayne piece to this bill. Senator Wayne offered a bill in Judiciary Committee that dealt with bail reform in a larger sense. One element was incorporated into LB881 and here is the subject of Senator Albrecht's motion to return to Select File. If I am charged and placed in jail and someone

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

sets a \$500 bond and the worst that can happen to me in jail, the longest I can get when I go to court and I'm punished and I get the maximum jail sentence in my example, say it's six months. If I sit in jail six months, this portion that Senator Albrecht would like to strike would require that I'd be brought before a judge and released. Now, I still face trial. I still got to go back and-- and have my case tried. And I can still be found guilty. But I can't do any more time because I've-- I've already done the maximum amount waiting. The reality is I could probably as a defendant if I sat there for six months ask the court for a habeas corpus and bring me before the court and-- and show cause why I shouldn't have to be released because I've sat around longer than I could possibly be punished for. This bill makes eminent sense. It's a small-- it is a small improvement to our bail system, which has a number of problems. Now Senator Albrecht suggests what if the person is incompetent? Now we've got to take it back because the incompetent person might be released after they've spent the longest they could possibly get in jail. Well, Senator Albrecht and others, I will tell you, the county jail is no place for those people that have mental health problems. Those people should be getting mental health care somewhere, but we don't lock up people in the county jail because they need mental health care. That is no reason-- no reason to leave somebody in jail in the county court beyond the worst that could happen to them if they went to trial and were convicted. This illustrates a problem that we have in our system, which is with bail. We have a lot of people that can't make a small sum of money in the hundreds of dollars and they sit in county jails. They fill up the county jail in Douglas County. They fill them up in Lancaster, Sarpy County, and across the state waiting for a trial date. And sometimes they'll pull those guys out and say, well, you got-- you've-- you've done six months, come on to the courthouse and then they enter a plea and they get time served and they leave. All we're doing with this piece of legislation is saying if you have been in jail awaiting a trial date and you've spent as much time as the judge could actually give you, you should be brought before the judge and allowed to go home. And still, you would have to have your trial. It doesn't avoid, you're not-- not guilty. The charges aren't dismissed. You still have a trial. But why would we make somebody sit in county jail longer than they could possibly get from a judge and then to suggest that if somebody has a mental illness, we should leave them in there longer than somebody who doesn't have a mental illness makes no sense. It makes no sense. This bill, and we have another amendment after this--

FOLEY: That's time, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

LATHROP: Thank you.

FOLEY: Thank you, Senator Lathrop. Senator Erdman, to be followed by Senators Wayne and Albrecht. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor, and good afternoon. I was wondering if Senator Lathrop would yield to a question.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: I'd be happy to.

ERDMAN: Senator Lathrop, you had made a comment in your statements that these bills that would be on this Christmas tree bill would have been eligible for the consent calendar. Is that correct?

LATHROP: I did say that.

ERDMAN: OK. This bill, LB1181, was never execed on, was it? Did you have a vote on this?

LATHROP: I'm sure we did, because we vote on the-- on-- on either the amendment that includes this or the particular bills when we incorporate them into an amendment and then move the-- the amended bill to the floor.

ERDMAN: OK. So let me see if I understand what you said. You-- you as a committee may have voted to place this bill in the Christmas tree bill, but you did not maybe vote on this specific bill alone. Is that correct?

LATHROP: I didn't say that. I said I'm not sure whether we voted on it. Generally, our practice is to vote on each bill and then an amendment that includes those bills and then move the amended bill to the floor.

ERDMAN: OK. Well, on-- on my gadget, it doesn't show that there was a committee vote on this bill. There may have been, I don't know, maybe I haven't refreshed. I just refreshed it, but it doesn't show that there was a vote on LB1181 in committee.

LATHROP: Well, we have 250 bills and I can't tell you. I can't stand here right now. I can tell you what our usual practice is, Senator Erdman, but I can't tell you--

ERDMAN: Right. I understand.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

LATHROP: --that I remember it.

ERDMAN: I understand. It's hard-- it's hard to say that this bill would be a candidate for the consent calendar if you never had a vote on it. That was my point. Thank you.

FOLEY: Thank you, Senators Erdman and Lathrop. Senator Wayne.

WAYNE: Thank you, colleagues. So Senator Lathrop said it best in this regard, that by removing this, we are actually penalizing those who maybe have mental health issues because we don't have a place for them. But what this bill is talking about is there are numerous people who get a 90-day sentence who spend 100 days in jail. In what world is it OK to spend more time in jail than your actual sentence? And in fact, it's a liability. And if those people would have been there in the committee hearing when this was asked to our Attorney General's Office, he kind of just struck his shoulder and put his head down and said, yes, we are aware this does happen. This is a problem. Now, in the situation that Senator Albrecht is describing, let me explain what would happen. If it's one of these small misdemeanor tickets with 60 days or something like that, at that point, they've already served their time and they're released anyway. And they still, as Senator Lathrop said, have to go through a trial. If it is a hardened criminal or somebody who has committed a felony, there is an option today for the county attorney to address that issue. They can file a petition to commit that person. If they feel that their mental health is in such incompetency that they cannot understand what's going on in the process, which is different than mental help, but if they feel that they cannot establish competency for a judicial or a criminal proceeding and that they're still that big of a danger to society because of their mental health issue or to themselves, every county attorney across the state can file a petition to commit that person. That is still a tool that we have not taken away. That is a current tool that happens all the time, at least in Douglas County, when we deal with these types of issues where they're not committing crimes, but they are a harm to themselves or to-- to the community due to mental health issues. I think if for this committee that I've served on for two years and watched for four years, one of the biggest problems we have at the local level, particularly Douglas County, is mental health issue. You talk to any corrections officer or any county sheriff, we have people sitting in jail over a mental health issue. What we are saying is it is a fundamental problem, your due process problem, your fundamental right to life and liberty to be convicted and sit in jail longer than your crime. And if we went across the state and started collecting that liability, we're gonna have a huge

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

state claim. You cannot convict somebody and keep them in jail for longer than your crime. Now understand, misdemeanors are anything underneath a year. City ordinances are typically 30 to 60, sometimes 90 days. The criminal in which-- or the alleged criminal in which Senator Albrecht is talking about is a felony. That's over a year. If somebody is sitting for a competency evaluation, which sometimes takes 60 days, sometimes 90 days, that is only on typically a felony case of which the county attorney has always had that right to-- to put them-- to commit them. They have that right. We gave them that right 100 years ago. So this really is a solution not in search of a problem that doesn't exist because right now they can go to trial and they'll say time served. Even if they were deemed incompetent for six months, they'll get time served and they're back out on the street. We're talking about two different things. I would ask you to vote red on AM3171 and green on the underlying bill. It is unconscionable that we will allow somebody to sit in jail longer than their sentence. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Senator Albrecht.

ALBRECHT: Thank you, Mr. President. I guess this is the conversation that should have been had on General File and on Select. We're now on Final Reading. And Senator Lathrop, I can absolutely understand you have 250 bills, you have to get them put out somewhere, somehow. But when there's so much and if I'm not an attorney and I have questions, I believe it-- it is my right to stand up and ask the questions. And-- and here's the deal. If-- I'd like to know, and I'll give you the mike here in just a minute, but I'd like to know, how many people are we talking about? I mean, how many people in the state of Nebraska serve more time, you know, sitting there waiting for trial? That seems like a completely different set of circumstances. Maybe we should be giving them a priority since we don't have a place to put them. But wouldn't they already be in custody if they're assigned to the Regional Center and hopefully getting help and getting their medication and-- and getting to understand why they're in jail in the first place and why they need to go stand trial? You know, and again, you-- you know the situation better than I do because it's something that you do every day. But while I understand mental health is a great issue here in our state and overcrowding is an issue, but I'm very much concerned that if they are let out and hopefully they'll come back to go stand trial, but if they don't, what-- what are they doing while they're in that waiting period? So I'll yield the rest of my time to Senator Lathrop if he'd-- if-- if he'd like to talk more about that for us.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: Thank you, Senator Albrecht. Senator Lathrop, you've been yielded 3:10.

LATHROP: Thank you. And thank you for the time, Senator Albrecht. And I'll try to answer your question. The concern that you've expressed is how many people does this has happen to that are incompetent and who-- who we would then be releasing. The answer is, I don't know. But I-- but I have this answer for you. If it's one person it's too many. Like, no one should have to sit in county jail because they're insane. No one. That's not the place for the mentally ill. They should be in a hospital. They should be in some form of treatment. And as Senator Wayne suggested, if they are a danger to themselves or another person, the county attorney before releasing them, when they see that time coming up, they can file an emergency protective custody proceeding and have them put in involuntarily into some mental health facility for evaluation and treatment. So I hope that answers your question. This is really a-- an important-- an important improvement in our law. People can't come up with a couple hundred bucks to get out of jail and they end up spending more time in there than they could possibly get if they bailed out, went to trial and lost and got the maximum sentence. I would ask you to vote red on the motion to return to Select File and support LB881. Thank you.

FOLEY: Thank you, Senator Lathrop. Senator Hilgers and Senator Groene. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I appreciate the conversation that's happening on the floor, and I appreciate Senator Albrecht bringing this. I completely understand where Senator Lathrop is coming from. I think on Final Reading we-- we hope that all of our-- all of our bills are-- are fully baked. But the reality is, when you only have three rounds of debate and the Select File oftentimes goes through very quickly, sometimes things do pop up. And ultimately as in a Unicameral system and a one-body system, I think it's incumbent on us to make sure that nothing gets passed Final Reading without the opportunity to fully vet it. So, Senator Albrecht, I appreciate you raising an issue that you saw and I think any member here ought to feel empowered to bring an issue on-- on Final Reading, even though I understand, Senator Lathrop, where Senator Lathrop's coming from. It is certainly my hope on-- on the issue, on the bills that I review, that I'd find any issue that I-- that I'm gonna identify on General File and bring it early. And I get it. So I do understand Senator Lathrop's point. But at the same time, if there's an issue, we ought to discuss it, even if it's on Final Reading. So I heard Senator Wayne's point. There were two points that I've heard.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

One-- the one point which I agree with and I don't see how anyone could disagree with it, is the idea that someone should be able to be held in-- in jail longer than the maximum term of their sentence. That seems to be a very straightforward point, one I agree with, and one I don't think can be argued with. Senator Wayne and I just had a conversation off the mike and I'd like to just pick it up on the mike here in a second about the second piece that he said, which is this-- that, that-- which I think goes to the heart of Senator Albrecht's argument, which is what happens if someone has some mental health issues and we might be releasing people before maybe taking them away from the opportunity to have the health care or meds and maybe not allowing to that discretion might be an issue. And so if-- would Senator Wayne yield to a question?

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes. Yes.

HILGERS: Thank you. Thank you, Senator Wayne. So you and I were just discussing and can you just repeat what it is that you said would happen in the instance that-- that we just-- I just described?

WAYNE: So what would happen is if a-- if a person has a 90-day sentence and they're harmful to themselves or society or a felony sentence, in which is only the maximum is two years, we would hope-- and the point of this is the county attorney would have to file a petition to commit that person. And note, Nebraska is to their county hospital where that person would be committed-- committed for mental health reasons. And then you would postpone your petition or-- or-- or withdraw it and then refile it once that person is deemed to be treated. We're trying to make them treat-- if it's a mental health issue, treat the mental health. Don't use jail as a way to hold them.

HILGERS: So on-- on section-- I'm gonna read this, this language. We're making a record here so I want to make sure this-- this-- there's some legislative history on this particular point. So I'm gonna read this part of Section 22 and just tell me-- and just harmonize what you just said with this-- this sentence. And this is the last sentence in the proposed new Section 22. I'm reading from line 7 through 10. "On the next judicial day after expiration of such deadline, the defendant shall be released on such defendant's personal recognizance, subject to conditions of release the court may impose after a hearing." So can you harmonize that sentence with what you just described?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

WAYNE: Yes. We are telling city prosecutors and counties-- county attorneys file a petition to commit somebody if they have mental health issues, do not use jail time or extending their jail time to-- to do that. So once they hit their maximum sentence, they shall be released because you are denying them of life, liberty, and due process without due process. So it's a constitutional issue.

HILGERS: So-- but under that hypothetical, they would be released from prison, but they would be made potentially committed but to a hospital-- to a healthcare facility.

WAYNE: Well, not prison, jail.

HILGERS: I'm sorry, jail.

WAYNE: Yeah.

HILGERS: You're right. My wife's a former felony prosecutor, she would have corrected me the moment I said that. So you're right. I'm sorry, released from jail. And-- but they would still be-- they-- they-- but they'd have--

FOLEY: One minute.

HILGERS: --there would be due process on the petition to have them committed, right?

WAYNE: Correct. And that's underneath the Nebraska Mental Health Act. I think it's 71-908.

HILGERS: OK. Well, I-- thank you, Senator Wayne. I only got a-- I'm not gonna speak again on this. I appreciate Senator Albrecht bringing the issue. Again, understanding Senator Lathrop's point on Final Reading, I think it's a good point. At the same time, this doesn't happen very often and I think it's worthwhile to have these discussions. Based on that conversation I've had with Senator Wayne, understanding there's another mechanism for the issue that Senator Albrecht has raised, I won't be supporting, I probably just will not vote, but will not support, I think, the motion to return to Select File unless there's further discussion or something else I'm missing. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Senator Groene.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

GROENE: Thank you, Mr. President. I, as a layperson here, I'm-- I'm trying to-- simple questions. Senator Wayne, would you answer a question?

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes.

GROENE: Is drunkenness, is that a crime that can-- has a jail sentence?

WAYNE: It has a jail sentence. But drunkenness cannot be used to-- cannot be used as a defense to-- to intent. So you--

GROENE: So what about minor in possession or if they're 18 years old or whatever, 19? What about-- I don't know, vagrancy. Are those-- do they have jail sentences?

WAYNE: Minor, no. If you are a minor in possession-- well, it depends. If you're-- we have a weird 18-, 19-year-old statutes that conflict. But--

GROENE: Thank you. My confusion is this. North Platte, Nebraska, Friday night, Saturday night, people are picked up for drunkenness, vagrancy, partying too much, they're put in jail. And if nobody bails them out or if nobody-- they're there until Monday morning till the hearing. So does this say that since there is no imprisonment, that they have to be released right away or-- I'm trying to figure out the language about the hearing. How do you hold anybody in jail for vagrancy if there's no-- at all because how can you serve time that doesn't exist, I guess? Could you explain that to me?

WAYNE: Yes. Yes. All those crimes in which you just described has a jail sentence or a fine within the statute. So there's always a potential of a jail. In fact, you can't be arrested and taken to jail if it's only a tickenable-- ticketable offense. That would be a violation of your constitutional rights.

GROENE: So if somebody is picked up for DWI, they-- and they're, they're an adult, 18-- or not-- I mean, excuse me, a minor in possession, they could spend the weekend there and it wouldn't-- and that would be under the amount of time that their jail sentence would be?

WAYNE: Yeah. But the-- the offenses you talk about are jailable. For a-- for a DUI, you can get up to 60 days.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

GROENE: Well, a minor in possession?

WAYNE: Minor in possession. Yes, that's a jailable offense.

GROENE: So everything, vagrancy?

WAYNE: It depends on the misdemeanor. Vagrancy, no that one's not.

GROENE: Indecent exposure? All of those has a jail sentence?

WAYNE: Depends on the number of times you are doing indecent exposure. But at some point, every crime we have becomes the third or fourth could be jailable. Yes.

GROENE: So that would-- they would-- they wouldn't have to be released then because they have a jail sentence?

WAYNE: No, because they shouldn't have been arrested if it's just a ticketable offense. If it's a ticketable offense, like a speeding ticket, you write the ticket and you let them go. If it's a jailable offense, it's up to the officer, but then they can always book you.

GROENE: All right. Thank you.

FOLEY: Thank you, Senator Groene and Senator Wayne. Seeing no one else in the queue, Senator Albrecht, you're recognized to close on your motion to return the bill to Select File.

ALBRECHT: Thank you, Mr. President. I'd just like to-- to say that we're not just talking about people that are getting picked up for a DUI or indecent exposure or something like that. We're talking about people who have either harmed someone or had an offense strong enough for them to be sent to the Regional Center, which means they're in custody. Are they safe to be out on the streets? You know, the laws-- we-- we have to-- to take care of this and we have to make the right decisions. But when you want to stand here and say that it's-- it's OK, you know, it's not OK for them to be in-- in a-- the Regional Center with a mental health issue, because that's one too many people that have to do that when they have an issue. But if they have that issue and they're being treated with medication and be able to stand ready for trial, hopefully that's the gain is-- is that we have that and we're gonna help to fix that problem. But to let that person out because we, you know, we don't know if they're gonna take their meds when they leave. We don't know if they're gonna come back and stand trial. I mean, I certainly hope that however this is written that these county attorneys and-- and-- people slip through the cracks. And

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

those are the ones that come out into the public and make it a little bit concerning for all of us and our families and our communities. So that's the reason it's here. That's the reason we're having the conversation. I appreciate all of the-- the folks that spoke on this, and I'll go on to the next one. But I'd like to see a green vote on my motion to send this back to Select.

FOLEY: Thank you, Senator Albrecht. Members, you've heard the debate on whether or not to return the bill to Select File for a specific amendment. Those in favor of returning the bill to Select File vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 11 ayes, 27 nays on the motion to return, Mr. President.

FOLEY: The motion is not adopted.

CLERK: Mr. President, I have a second motion. Senator Albrecht would move to return for AM3170.

FOLEY: Senator Albrecht, you're recognized to open on your motion to return the bill.

ALBRECHT: Again, thank you, Mr. President. I'll be brief on this one. Not quite as long. Once again, I'm not gonna apologize. I think we need to have some conversation on this particular one as well. When Senator Lathrop added yet another bill to LB881, the 11 bills were a lot to wade through. As I said before, having so many in one single senator priority bill was unexpected. AM3170 strikes from LB881 the provision of LB282, which in its current form creates a presumption that someone who violates one or more city or county ordinance and commits most of their misdemeanors will be released back into the population on their signature alone. This is the equivalent of a no cash bail that the public and this body have stood against for years. No surprise, we've heard about how this has not worked for so many jurisdictions where there is no bail. New York's revolving door comes to mind. The recent protests and calls for those arrested during-- during them and to be released without bail or have charges dismissed comes to mind. In New York under the no cash bail, we've heard more and more about cases of suspects set free, a serial bank robber, a repeat burglar, a man accused of manslaughter. People rightfully worrying about this shows how doing away with bail allows dangerous criminals to remain on the streets. Perhaps the most notorious case is that of the Tiffany Harris, a Brooklyn woman who was released after she was alleged to have hit three Jewish-- Jewish women in a biased

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

attack, only to be arrested the next day and accused of an assault on another woman. We recently had local riots in the midst of peaceful protests. People broke out windows and set fires and they destroyed property. If arrested by local police, they were likely charged with a violation of city ordinances. Section 14 of LB881 would presume that they should be set free without bail, which would put them back out on the streets. I'm concerned with those who commit crimes, knowing that they'll be released back into the population to recommit an impunity. Also known, sometimes women struggling to raise their children without help from their fathers to get child support, if only if it comes out of an offender's bond. I do think that that, too, is important. No bail equals no child support for some. I also wonder if defendants already in jail on cash bail will now be asking to get released immediately or see a judge again. So what happens to defendants who currently are in custody? Will judges be able to consider more evidence or be stuck with the previous decision? All of this deserves more conversation and exploration by this body, in my opinion. There's no reason that this has to happen today or in this session. Please join me in voting green to return LB881 to Select for a specific amendment, AM3170, and I ask for your green vote on AM3170.

FOLEY: Thank you, Senator Albrecht. Debate is now open on the motion to return the bill. Senator Lathrop.

LATHROP: Thank you, Mr. President, and colleagues, once again. As I listened to the introduction on this motion, there are again, three concerns. One is that it's a long bill and it has a number of bills amended into it. I've already explained that on the last attempt to pull this back to Select File. But it is also a criticism and it's-- and it's-- we're gonna get rid of bail and also a child support consideration. I want to talk about those in turn, starting with the no bail. So Senator Albrecht said, well, we've seen this around the country. People don't want this no bail situation or we're gonna have robbers and burglars and people guilty of hate crimes back out on the street. This doesn't apply to felonies. OK. What she's listed are serious crimes that we generally refer as felonies, things that carry more than a year in prison. We're talking about Class IIIA misdemeanors, maximum of seven days in jail; Class IV misdemeanors, no jail; Class V misdemeanors, no jail; and some city ordinances for minor offenses. So understand what this-- what this section that she's attempting to strike from the bill relates only to very minor offenses. And be assured, colleagues, be assured that not everybody gets out. Right? So if you come in front of the judge, the judge says you're charged with a Class V, normally you get out. You don't get out if your victim is an intimate partner. You don't get out if the judge

makes a determination that for the safety of society, the witness, the victim, the evidence, then the judge can set a bail. So we're not doing anything wild and crazy here. We're just saying in the run of the mill and without particular exceptional circumstances. And by the way, if you're charged with multiple misdemeanors, doesn't apply. So this isn't the person that goes out and protests and throws a bottle at a cop, probably a felony; break some windows, probably not one of these misdemeanors; but something more serious. So if we're trying to equate this with people who are causing problems in the peaceful protests, it misses the mark. These are very minor misdemeanors and the judge still has discretion in the appropriate circumstance to set a bail or a bond. I also want to talk about the child support. So Senator Albrecht suggested that some mothers who can't get child support will go and attach a bond. And so we should have everybody get a bond so that mothers who aren't getting child support can go attach the bond and at least get some money. Not really how it works, but even if that were the case, this doesn't affect that process. So if you're a mom and you get a bond and you-- you lien the bond, you can still do that. But generally what happens is the county attorney responsible for collecting, if I'm on public assistance and I'm supposed to be getting child support, my job as the county attorney, besides prosecuting people, is to collect child support. If I see somebody has a bond, charged with a crime, they've got a bond, they owe child support, I, the county attorney, can go lien that and say Lathrop isn't getting his money back because he owes the state child support for the benefits we've been paying for to his ex-wife or the-- the mother of his children that he hasn't been paying. Doesn't change any of that. That can still happen. So Senator Albrecht's concern that the people that could go lien these bonds for child support--

FOLEY: One minute.

LATHROP: --can't do it going forward, bill doesn't affect that. So that-- that argument misses the mark. And just to be clear, just to be clear, if the court believes that this person presents a danger to the evidence, the victim, witnesses, anyone else, anyone else, the judge can set a bond. So what we're-- all we're doing is saying in the run of the mill, absent exceptional circumstances or circumstances that we detail, public safety, then they get out on their own recognizance. And why is that important? Because in the big cities, we have too many people who are sitting in county jails because they can't come up with 200 bucks, can't come up with 200 bucks, and they sit in county jail on something that might draw seven days or no time. And it makes no sense. This is something I believe came-- had no opposition in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

committee if I'm remembering correctly. It came out of committee without any opposition.

FOLEY: That's time, Senator.

LATHROP: And it moved from General File without opposition.

FOLEY: Thank you, Senator Lathrop.

LATHROP: Did you say time?

FOLEY: That's time. Thank you, Senator Lathrop. In the queue are Senators Matt Hansen, Halloran, Chambers, Groene, and Albrecht. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President. And good afternoon, colleagues. As this is my priority bill, I would encourage you to support the copy we've already advanced to Final Reading and reject Senator Albrecht's motion. That being said, I am happy to kind of talk about this and why it's an issue important to me and why it's my priority bill. The section that's being discussed here, LB282 is a bill that I considered as a priority bill last year and ultimately worked on longer and harder to get to this point this year. Senator Lathrop did a-- did a good-- did a good coverage of what we're dealing with here. This bill, as described, is Class IIIA lower misdemeanors from the state level. So that's seven days or less in jail or city-- city and county ordinances. And so I don't have a better way to describe it. This isn't like the scary crimes. This is the knucklehead stuff. And the case that brought me to this and why I've been working on this issue, and I should point out, I've done a couple of bail bills, a couple interim studies. We've worked at this extensively. The issue that has happened multiple times and have had multiple county defense attorneys share with me is somebody gets arrested and taken to jail for loitering. They sit in jail because they can't afford bond. Maybe they're from out of town. They're seen as a flight risk, bond is a little high. All fair. And then they sit in jail for six weeks or so and they get sentenced to a \$100 fine, which is time served of one day. And so that is, you know, 42, you know, 50 days the jail is holding this person for ultimately to get sentenced for 1 day that had they not been-- had they been able to afford the bail, had they been able to afford their bond, they would have not been sitting there. And that's that kind of financial thing is a lot of times the judge and the officer has the discretion at the beginning to a cite and release or take them to jail. It's really trying to catch those situations and those-- and those-- and those kind of-- very kind of, for me, clear

injustices where somebody is denied access to bail because of financial reasons for what is ultimately a very minor crime that kind of similar to the Wayne bill prior to this bill end up serving more time in jail than they would have had they just pled guilty day one. I'm locked out of my computer, if you'll forgive me for one second. Thank you, colleagues. So I did want to point out that we had an interim study on this, just kind of the overall concept of bail. There were multiple versions of bail reform presented to the committee. And I would say mine was probably the most limited and most tailored. And I worked extensively with the county attorneys, the prosecutors on this, such that they didn't testify on it. And I'm gonna read a quote of the letter they passed out in September. I apologize, I'm up here, I don't have a good way of handing it out, otherwise I would, so. Our association had concerns with how LB282 was originally introduced but Senator Hansen worked with the NECAA, that's the county attorneys, our prosecutors, and others in order to amend LB282 into the bill amendment now attached, which is the language here in LB881. We are hopeful your committee will use this language to move our bail-- bond and bail reform forward in the next session, rather than entirely changing our current session. The Nebraska County Attorneys Association appreciates the opportunity to be involved in this conversation and wish to continue to participate in the discussions as Senator Hansen and your committee work on legislation in this area. And it's signed by Sara Kay, the executive director of the County Attorneys Association. And I bring that up just to say that this bill has been vetted by those in the system. We have worked extensively and talked multiple times with the county attorneys, our prosecutors, as well as our defense attorneys. And this is just kind of a very bureaucratic people get lost in the machine. People get lost in the gears of kind of the criminal justice system that don't need to be there, that are sitting in the county jail, taking up space in our county jail when they're really not a threat to the community and not a-- not a big issue. I will say, Senator Lathrop, I just want to--

FOLEY: One minute.

M. HANSEN: Thank you, Mr. President. I want to highlight Mr. Lathrop-- Senator Lathrop, excuse me, highlighted it. There is some catchall provisions we did-- we did add that such if there is a public safety issue or the crime is against an intimate partner and somehow falls into this exception, that the judge does have discretion kind of in the interest of public safety or in the interest of the victim to still deny it. It's a presumption, but it doesn't necessarily force the judge's hands by any means entirely. So with that, I would

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

encourage you to support LB881 as is now on the board. And thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Halloran.

HALLORAN: Thank you, Mr. Lieutenant Governor, colleagues. Senator Hansen and I had a conversation. It's a little difficult when you're in the "COVID choir," but with a gizmo we had a little conversation about this. And I asked Senator Hansen, gave him a heads up a little bit, but I asked him if this part of LB881, Section 14 specifically, apply to people already being held in local jails or only to those picked up for violations after the bill goes into effect? So would Senator Hansen yield to that question?

FOLEY: Senator Hansen, would you yield, please?

M. HANSEN: Yes, I would yield. And to answer your question, the bill would apply to everyone, but the people already sitting on judge's orders, those orders would stay the same unless they got in front of the judge and the judge amended them. And that-- so in theory, they could ask for a bail review under this new statute. And it really would only be the issue for the handful of people in jail on the enactment date. But it would not override the judge's initial determination, if that's as clear as I could be.

HALLORAN: OK. Thank you, Senator Hansen. And this-- this is probably a hard one to quantify, but maybe you've had a chance to look into it. If-- how many people will this-- will need to be released under this section that are already being held in jail?

M. HANSEN: Sure. So that's a little bit of a moving target in the sense of it's not always the same jail population. Looking at the interim study I referenced beforehand, had this bill been in effect last September in Lancaster County, would have been about 20 people. That was 20 people, though, over a course of weeks. So I would say with the rate our trial was up, my guess would be in Lancaster County would be about three people a week maybe.

HALLORAN: OK. Thank you, Senator Hansen.

M. HANSEN: Of course.

HALLORAN: I yield the balance of my time back to the Chair.

FOLEY: Thank you, Senator Halloran and Senator Hansen. Senator Chambers.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CHAMBERS: Thank you, Mr. President. Members of the Legislature, my problem is that I'm just too intelligent to be in a Legislature and I take too seriously white people's constitution and I take too seriously the presumptions therein. Every person charged is presumed innocent until proved guilty. Is presumed-- so Senator Albrecht and others are saying this person is presumed innocent based on the constitution should be locked up anyway. Well, let's say a bond is set, there's a step before that. Let's say a judge looks at the matter and he doesn't set a bond. Then this person is out on a signature and a lot of people get out on a signature. The judge sets a bond. The person pays the bond and that person is out. The only one Senator Albrecht is upset about are the poor people who cannot post the bond. Everybody else can get out. But because this person can't post a bond, he or she is projected as a dangerous criminal. What becomes of the presumption of innocence? You've got these white people running around here and don't know the constitution, don't know the law, and I believe this is prosecutors bringing this stuff. Senator Hilgers is absolutely right. Anybody can make a motion to return a bill to Select File from Final Reading for any reason whatsoever. But you offer an amendment or to strike the enacting clause. But it boggles my mind because I've never done this because it's beneath me. I didn't pay attention and I didn't know what was in the bill. So I want a chance to discuss it. So take it off Final Reading because I was not attentive. I didn't do my job, or I did my job but there are other people who need to discuss it. They didn't do their job. This needs more discussion. That's been the argument. I am not in favor of poor people being punished because they are poor. I believe in the presumption of innocence. I tell people I have an extensive arrest record. But I never spent a night in jail, either I'd be let out on my signature or in those days they had a bondsman and you put up-- you pay that bondsman 10 percent of whatever the bond is and the bondsman puts it up. And if the bondsman knows you, he will stand your bond and not charge you anything. Why do you think I never spent a day in jail? And I'm telling you, I suffered more arrests than Jesse James, Frank James, and Al Capone put together. If I had been convicted, I couldn't be in this Legislature and that would make you all happy. I'm sure Senator Albrecht, if she was charged, wouldn't want to be presumed guilty. I think some prosecutor is behind this. But regardless of that, now is the time you ought to look at process. This bill is on Final Reading. There are bills I voted for today. And if you ask me to explain everything in every one of those bills, I could not do it. There are some bills that are not worthy of my consideration because they are simple bills. They don't do much of anything. They don't help anybody. They don't hurt anybody. They don't cost anything. They don't

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

do anything. So if it makes to-- makes it to Final Reading, push it on. I think this bill ought not be brought back. There's been no substantive argument given. And if Senator Albrecht is admitting that she doesn't pay attention to bills, then that's something that she can correct.

FOLEY: One minute.

CHAMBERS: But it shouldn't alter or skew the process. And if I sound cruel, that's too bad. That's too bad. We're all adults. I feel like I've discharged my duty. So I say, thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Groene.

GROENE: Thank you, Mr. President. I understand where Senator Albrecht is coming from. When you see a bill with 10 or 11 amendments in it, bills that had hearings and the committee heard the hearing, but we out here don't because we don't continue to debate out here. I applaud her for-- because these are a couple I looked at, too, and wondered. I guess here's where I start from. There is a reason our predecessors put into law the existing bail system. What drove them to do it? Was there a problem out there with people showing up for their court cases or were they just mean spirited? I would assume there was a senator that was Judiciary Committee Chairman who pushed these bills through about bail, about bailable defendants. I guess I got a question for Senator Lathrop. I-- I guess you'd be the right one to ask.

FOLEY: Senator Lathrop, would you yield, please?

LATHROP: I'd be happy to.

GROENE: Presently, it says our predecessors put in the statute any bailable defendant shall be ordered released from custody pending judgment on his or her personal recognizance unless the judge determines. Does that mean that when it's a bailable, a bailable defendant, that the judge is forced to give bail? Or do-- do-- do they have discretion now to say, nah, this guy doesn't need bail, he'll show up.

LATHROP: Right now, the court has discretion to let people out on their own recognizance. They can set a bail. And then if it's a really, really serious thing they can--

GROENE: So then why do we need this law if the judge already has that ability to say-- the person who is still in jail, the judge has

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

already determined that they are a risk not to show up for court. Is that not true?

LATHROP: No, that's not. And that's the problem. And I think maybe look at it like this, and Senator Hansen can weigh in if he disagrees with my-- my take on this, but think of it as a presumption. If these people are charged with these very low-level sort of knucklehead sort of offenses, they should be released on their own recognizance unless certain circumstances exist or the court finds that the evidence or--

GROENE: But that is the case now, correct? Says that the bailable--

LATHROP: Right now, the court does have discretion to let some of these knucklehead offenses out on their own recognizance.

GROENE: But if there's somebody in jail, excuse me, but if there's somebody in jail right now but can't afford bail, there was a reason the judge decided they needed bail. Is that not correct?

LATHROP: Maybe not. These people may be in there because on Friday night, they-- there's no judge around. They put-- the guy comes in, there's a schedule.

GROENE: That's the other question I have. All right. Thank you. Could you just give the public out there some examples of what this-- we're talking about these misdemeanors, just a few of the most common misdemeanors we're talking about.

LATHROP: I think Senator Wayne or Senator Hansen might be better able to do it. It's been a long time since I did criminal stuff. But it would be a really low-level infraction.

GROENE: All right. Thank you. That's what I don't understand. We have it in words now that the judge may do by his discretion, but then all of a sudden, you get to on page 26, line 10, the judge determines in the excess of it-- exercise of his or her discretion that such a release will not reasonably assure. That seems like double-talk. It seems like a duplication of what's already in statute. Reasonably assure that the appearance of the defendant as required or that such a release could jeopardize the safety. That's already in statute that they have a-- so, Senator Wayne, would you answer a question?

FOLEY: Senator Wayne, would you yield, please?

GROENE: Is he here? Well, he's apparently not here. Anyway, I-- you know, we watch TV police shows--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: One minute.

GROENE: --and you see where they'll put-- they have a suspicion this individual has-- has done a more serious crime and they'll say, well, let's-- all we got on him is he was drunk, so let's put him in jail so we know where he's at while we finish our investigation. Now, Senator Lathrop, would-- I've heard this done and locally, too, now the-- the county attorney could go to the judge and say, we want him in jail. We've got a problem here. He's only on drunkenness. Would that suffice, Senator Lathrop, that the judge would say, no, I have a reason not to give him bail? Would you answer a question, Senator Lathrop?

FOLEY: Senator Lathrop, would you yield further, please?

LATHROP: Yes. That shouldn't. Being drunk-- being drunk isn't a reason to have the county attorney go to the judge and say, don't give him bail.

GROENE: Because we--

LATHROP: Everybody should have bail set. And what we're doing is trying to clear out from our county jails people that ought to get a ticket. Like, we don't put people in jail--

FOLEY: That's time.

LATHROP: --and make them bond out for a driving offense.

FOLEY: That's time, Senators. That's time, Senators. Thank you, Senator Groene and Senator Lathrop. Senator Albrecht.

ALBRECHT: You know, I-- I appreciate the conversation we're having and I'm so sorry we didn't do it before but people do have concerns. And Senator Chambers, you have taught me better than anyone here to read the bills. But when you have the number of bills coming at us and I have other things going on, too, in my day besides this and I do have staff, so we are looking at these bills. We're looking at all of them. And I certainly hope everyone is. But I'm not going to stand up here and be criticized because I'm bringing this now and asking questions. I think we're having a good conversation. But you know what, I feel like when I've gone and sat in different courthouses in my district and I've watched what these judges do with these little, many little things that you think are not a big deal. You know what? Whether you have the money or not, you know, if you are guilty of the crime and you can't pay for it, I mean, I watched them put people back in jail

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

after they came before him and-- and they were supposed to do what they were supposed to do and they didn't do it, so he sent them right to jail. And he said, you'll figure out how you're gonna pay for this or you're gonna figure out what you're gonna do while you sit in jail. And-- and that's, I mean, let the judges do their work. If you can't put a number or quantify how many people we're talking about to change a bill like this, you know, our forefathers put it-- enacted the language before for a reason. I have to be convinced that this is a good bill to put forward. And I will ask as many questions as I need to. And I'm talking about the bill. I'm not standing up here talking about things that don't matter or-- or putting people down or criticizing something that you don't like. I just want some answers on this. I simply want a vote, yes or no. And that's all we need to do today. So I yield the rest of my time back.

FOLEY: Thank you, Senator Albrecht. In the speaking queue are Senators DeBoer, Lathrop, and Groene. Senator DeBoer.

DeBOER: I will yield my time to Senator Lathrop.

FOLEY: Thank you, Senator DeBoer. Senator Lathrop, 4:50.

LATHROP: Very briefly. I know we want to move along. I do too. I got things that we haven't gotten to. But I want to-- I want to clarify. These are like just the criminal equivalent of a traffic infraction. OK. They're small things. And this is sort of a-- a presumption that these people will get out without sitting in jail. Now, it costs us money to keep them in jail. Why are we doing that? Some of these people, their bond is set by a schedule and they sit there and it's-- the judge will retain discretion but we start out with a presumption that they should be released on their own recognizance. Now, if they're guilty and they don't do what they're told, judge can put them in jail if he wants to. But that's different than the people who are presumed innocent of a small offense. And then we spend our taxpayer dollars supporting them while they sit in county jail. The judge will still have discretion. This is effectively creates a presumption that they will be released on their own recognizance so that we're not spending taxpayer dollars incarcerating them in county jails. I would encourage you to vote no on the motion to return to Select File. Thank you.

FOLEY: Thank you, Senator Lathrop. Senator Groene.

GROENE: Gonna turn the mike on? Thank you, Mr. President. No, I will say this. This debate has convinced me that Senator Wayne is correct

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

on Section 22. Because we had this debate, I am fully in favor of Section 22. If somebody is in there for six months and their sentences only could be three months, that's not right. So I am in favor of that because we had this debate. This one still bothers me. It says the defendant has previously failed to appear in the instant case or any other case in the previous six months. Let's say this guy's in North Platte, Nebraska, and he goes off the wagon every year and he never shows up for court. But it's been over six months. So this guy is gonna get out without bail and he has a history and the judge knows he has a history. But I guess the judge-- judge can determine at his discretion and know he's gonna have bail. I also have this problem. We're not talking about the 20, I don't believe, not only the 20 that Senator Hansen mentioned that this would apply to, we're talking about everybody else also that did pay bail. There was a whole bunch of them that paid bail that will not pay bail now. What-- do we know the delinquency then of those folks? How many people are gonna skip trial now? How many of those people actually showed up in the past because they wanted to get their bail money back? All those folks are gonna be out free too. So are we gonna have more instances of people not showing up for their-- for their court appearance? I could see that happening. It's what-- what my sheriff-- sheriff-- Senator Wayne, he'll know what I'm talking about. But anyway, he said now we're just rotating and we're sending them out. At least we could keep them calm. Dry them out or whatever we did if they-- if they couldn't afford. Now we're just releasing them and I'm arresting them the next weekend or-- or three days later. And it's costing me, the county, and my jail more money now than it did when we-- when we held the individual. So I have a concern about this part. I really do and-- and I'm not filibustering because I'm gonna disappear here after this time. But I'm gonna support Senator Albrecht because-- Albrecht because this-- we are gonna turn a lot more people out with no accountability at all that they're gonna show up for court because they don't have to worry about getting their bail money back, not just the 20 in Lancaster County that Senator Hansen mentioned, we're talking a lot more. There's a reason our predecessors set up the bail system. It wasn't just to be mean. Judges, I'm sure back then and people-- human instinct haven't changed or behavior hasn't changed, weren't showing up for-- for their court cases. Bail was an incentive to make them show up. That is why we have bail, not to punish them, an incentive to show up. Thank you, Mr.--

FOLEY: Thank you, Senator Groene. Senator Wayne. He waives the opportunity. Senator Albrecht, you're recognized to close on your motion to return the bill to Select File.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

ALBRECHT: Again, I'd just like a green vote on AM3170 to send it back to Select. Thank you.

FOLEY: Thank you, Senator Albrecht. The question before us is whether or not to return the bill to Select File for a specific amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 13 ayes, 25 nays to return the bill.

FOLEY: The motion is not successful. Returning now to Final Reading. The first vote, Mr. Clerk, is to dispense with the at-large reading. Those in favor of dispensing of the reading vote aye; those opposed vote nay. Record, please.

CLERK: 32 ayes, 7 nays, Mr. President, to dispense with the at-large reading.

FOLEY: The at-large reading has been dispensed with. Mr. Clerk, please read the title.

CLERK: [READ TITLE OF LB881]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB881 pass? Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: Voting aye: Senators Arch, Blood, Brandt, Briese, Cavanaugh, Chambers, Crawford DeBoer, Dorn, Gragert, Matt Hansen, Hilkemann, Howard, Hunt, Kolowski, Kolterman, Lathrop, Lindstrom, McCollister, McDonnell, Morfeld, Pansing Brooks, Quick, Scheer, Stinner, Vargas, Walz, Wayne, Williams, Wishart. Voting no: Senators Albrecht, Bostelman, Clements, Erdman, Groene, Halloran, Lowe, Murman. Not voting: Senators Brewer, Friesen, Geist, Ben Hansen, Hilgers, Hughes, La Grone, Linehan, Moser, Slama, and Bolz. 30 ayes, 8 nays, 10 present and not voting, 1 excused and not voting.

FOLEY: LB881 passes. Proceeding now to LB963.

CLERK: Mr. President, with respect to LB963, Senator Brewer would move to return the bill for a specific amendment, AM3294.

FOLEY: Senator Brewer, you're recognized to open on your motion to return the bill to Select File.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

BREWER: Thank you, Mr. President. Good afternoon, colleagues. Just as a quick reminder, LB963 was our first responder PTSD bill. AM3294 to LB963 was filed in an effort to comply with the Speaker's requirement regarding the legislation with a General Fund appropriation not be brought forward this fiscal year. The amendment would simply extend the relevant days by one year and into the '21-22 fiscal year. The primary focus of LB963 is to provide resiliency training to our first responders. Beginning with the advancement of the bill to General File by the Business and Labor Committee to the placement of LB963 on Final Reading, the bill has had overwhelming support with no opposition prior to our abrupt recess in March. Given the scope of events which have transpired since that time, I feel that it is even more important that we advance and adopt this legislation and move forward to support our first responders. I'd also like to thank Senator McDonnell for providing the priority for this bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. Is there any discussion on the motion? I see none. Senator Brewer, you're recognized to close on your motion. He waives closing. The question for the body is the return of the bill to Select File for a specific amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 45 ayes, 0 nays on the motion to return the bill.

FOLEY: The motion to return the bill to Select File is successful. Mr. Clerk.

CLERK: Senator Brewer would offer AM3294.

FOLEY: Senator Brewer, you're recognized to open on AM3294.

BREWER: Thank you again, Mr. President. AM3299 [SIC] relates to the elimination of any fiscal fund impact for fiscal year 2020-2021 as it relates to LB963. Would appreciate and encourage your support. Thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. Is there any discussion on the amendment? I see none. Senator Brewer, you're recognized to close on the amendment. He waives closing. The question for the body is the adoption of AM3294. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 44 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

FOLEY: AM3294 has been adopted. Is there anything further on the bill, Mr. Clerk?

CLERK: Nothing further.

FOLEY: Senator Slama for motion.

SLAMA: Mr. President, I move that LB963 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB963 is advanced. Next bill is LB963A. Mr. Clerk.

CLERK: Mr. President, Senator Brewer would move to return for consideration of AM3299.

FOLEY: Senator Brewer, you're recognized to open on your motion to return the bill to Select File.

BREWER: OK, again the AM3299 relates to the elimination of the General Fund impact for 2020 and 2021, and would appreciate your support.

FOLEY: Thank you, Senator Brewer. Is there any discussion on the motion to return the bill to Select File for a specific amendment? I see none. Senator Brewer, you're recognized to close on your motion. He waives closing. The question before the body is the adoption of the motion to return the bill to Select File. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 42 ayes, 0 nays, Mr. President, on the motion to return.

FOLEY: The bill has been returned to Select File. Mr. Clerk.

CLERK: AM3299.

FOLEY: Senator Brewer, you're recognized to open on AM3299.

BREWER: That would be the same. So, again, just ask for your support that it's just eliminating the General impact for fiscal year '20-21 for LB963.

FOLEY: Thank you, Senator Brewer. Is there any discussion on the amendment? I see none. Senator Brewer, you're recognized to close. He waives closing. The question before the body is the adoption of AM3299. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CLERK: 43 ayes, 0 nays on the adoption of the amendment.

FOLEY: AM3299 has been adopted. Is there anything further on the bill?

CLERK: Nothing further.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB963A be advanced to E&R for engrossing.

FOLEY: Members, you've heard the motion to advance the bill to E&R for engrossing. Those in favor say aye. Those opposed say nay. The bill advances. While the Legislature is in session and capable of transacting business, I propose to sign, and do hereby sign the following legislative bills: LB1028, LB1042e, LB1042Ae, LB1052, LB1055, LB1080, LB1124, LB1130, LB1152e, LB1166e, LB1183e, LB1185, LB1185A, LB1186, and LB881. Proceeding now to Select File 2020 priority bills, the first of which is LB1064. Mr. Clerk.

CLERK: Mr. President, LB1064, no E&Rs. Senator Linehan would move to amend the bill with AM3175.

FOLEY: Senator Linehan, you're recognized to open on AM3175.

LINEHAN: Thank you, Mr. President. Good afternoon, colleagues. I'm going to pull this amendment, but I do want to talk about it for a second. There's-- there's issues with this that came up last year, and it's a matter of us having someone come to us, whether it's the Attorney General or the Department of Education or the Department of Revenue. This kind of situation has happened to me three times since I've been here, where they tell you it's just a little cleanup, fix-it bill, don't worry. And in one instance, Senator Moser got the brunt of it because we didn't have a Revenue Committee prioritized and we thought it was just a fix-it bill so no big deal, and then many of his constituents had to file a report every quarter instead of every annually. So Senator Moser, I think this was the first year he was here, starts getting calls from constituents as to why he prioritized the bill. And we didn't-- we didn't know what the situation was. This year, Senator Pansing Brooks and I think Senator Groene could both say, when we got that fix-it bill from the Department of Education, there was language in it to basically strip the third grade reading bill. On this, I'm not a lawyer, there's different opinions, Attorney General has Opinion, other people have an opinion, Department of Revenue. But the point is, when we pass the bill, nobody explained to us the consequences of what we were doing. And we have to be able to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

trust departments, other elected officials, that when they come they're the experts and they come and ask us to do something, they explain exactly what we're doing. So with that, I will pull my amendment. Thank you.

FOLEY: The amendment is withdrawn.

CLERK: Mr. President, Senator Crawford would move to amend, AM3161.

FOLEY: Senator Crawford, you're recognized to open on AM3161.

CRAWFORD: Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. Good afternoon, Nebraskans. AM3161 is language from LB322, which is language that clarifies tobacco compliance. We passed LB322 way back in January, 38-0. It has language in it that it-- it-- that includes tobacco language. And so the original LB322 was written for age 19. And then we knew that we were going to change the age to 21 with LB1064. So although it passed on General File in early January, it has just been sitting on Select File waiting for LB1064 to get on to Select File. So I appreciate Senator Briese allowing this bill to be added so that we can make all the age language concerning tobacco consistent at once. Thank you.

HILGERS: Thank you, Senator Crawford. Debate is now open on the amendment. Senator Briese, you are recognized.

BRIESE: Thank you, Mr.-- thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM3161. Part of the reasons for LB1064 is to ensure that there are no negative consequences for the state for not complying with the federal law for the age of use of tobacco products such as losing federal block grants and others. One of the ways to do this is by ensuring that the state is enforcing its age limit of 21, and one way to show enforcement is through these compliance checks. Therefore, Senator Crawford's bill works well with LB1064. I'd encourage your support. Thank you, Mr. President.

HILGERS: Thank you, Senator Briese. Seeing no one else in the queue, Senator Crawford, you're recognized to close. Senator Crawford waives closing. The question before the body is the adoption of AM3161. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

CLERK: 45 ayes, 0 nays, Mr. President, on the adoption of Senator Crawford's amendment.

HILGERS: The amendment is adopted.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

CLERK: Senator Briese would move to amend, AM3228.

HILGERS: Senator Briese, you're recognized to open on your amendment.

BRIESE: Thank you, Mr. President. And good afternoon again, colleagues. I'm introducing AM3228 to LB1064. The amendment is a simple amendment that provides that individuals currently employed in tobacco specialty stores may continue to work there after the passage of LB1064. LB1064 raises the legal age for tobacco and related products from 19 to 21 years of age in all the necessary statutes to match federal law. One of those statutes is 28-1418.01, Section (5), which defines a tobacco specialty store. Tobacco specialty stores cannot have patrons or employees under 19 now and won't be able to have employees or patrons under 21 in the store after LB1064 passes if they want to continue to qualify as such. My amendment to LB1064 would ensure that current employees who are 19 years of age and legally working in a tobacco specialty store could continue to do so until January 1, 2022, when they should be of legal age, while maintaining that the general public is not allowed into those stores until 21 years of age unless accompanied by a legal guardian or parent. This will not change the other qualifications for being considered tobacco specialty store, but simply ensures that the folks that are under the age of 21 currently working in a tobacco specialty store can continue to do so. I would urge your green vote on AM3228 and LB1064. Thank you, Mr. President.

HILGERS: Thank you, Senator Briese. Debate is now open on AM3228. Senator Chambers, you are recognized.

CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Briese a question.

HILGERS: Senator Briese, would you yield?

BRIESE: Yes.

CHAMBERS: Senator Briese, may somebody below the age where alcohol can be consumed be allowed to handle alcohol when it's being purchased?

BRIESE: Yes, I believe so. I don't recall what the age limit is. Tobacco sales can be conducted, I believe, by someone of any age. Alcohol sales, probably 19.

CHAMBERS: OK, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

HILGERS: Thank you, Senator Briese and Senator Chambers. Seeing no one else in the queue, Senator Briese, you're recognized to close. Senator Briese waives closing. The question before the body is the adoption of AM3228. All those in favor vote aye; all those opposed vote nay. Have all those voted to wish to? Record, Mr. Clerk.

CLERK: 43 ayes, 0 nays on the adoption of Senator Briese's amendment.

HILGERS: The amendment is adopted.

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

HILGERS: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB1064 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The bill is advanced. Next bill.

CLERK: Mr. President, LB781. I have E&Rs first of all, Senator.

HILGERS: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB781 be adopted.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The amendments are adopted.

CLERK: Senator Brewer would move to amend, AM3177.

HILGERS: Senator Brewer, you're recognized to open on your amendment.

BREWER: Mr. President, I do not have AM3177 here.

CLERK: Senator, it looks like a date change to me, but I-- it shows page 9, line 19, strike 2011 and insert 2018. But that's all.

BREWER: That's exactly what I was gonna say. All right, well, let's see just so we're good when I get a new LA. [LAUGHTER] OK, on page 9, line 19, strike 2011 and show it as stricken and insert 2018.

HILGERS: Thank-- your opening, Senator Brewer?

BREWER: That's all I got.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

HILGERS: Thanks for your opening, Senator Brewer. Senator-- debate is now open on AM3177. Senator Friesen, you are recognized.

FRIESEN: Thank you, Mr. President. As you recall, there was a portion in this bill that was added by Senator Brewer dealing with notices and papers and stuff. And I just wanted to make a clarifying point that would be on the record that LB1074 that is now part of LB781 is not intended to ever allow a County Treasurer's statement to not be published in a newspaper. It simply ensures that the public notice will occur by website if a mistake is made and the newspaper is published too late to meet the deadline. Thank you, Mr. President.

HILGERS: Thank you, Senator Friesen. Senator La Grone, you are recognized.

La GRONE: Thank you, Mr. President. Just about a little bit of cleanup on that date change. So in the bill is included an update of the auditing standards from the 2011 standards to 2018 standards. Apparently, there is one spot where that was missed so that's all that's doing there. Thank you, Mr. President.

HILGERS: Thank you, Senator La Grone. Seeing no one else in the queue, Senator Brewer, you're recognized to close on your amendment.

BREWER: I think I'm going to waive that.

HILGERS: Senator Brewer waives closing. The question before the body is the adoption of AM3177. All those in favor vote aye; all those opposed vote nay. All those voted who wish to? Record, Mr. Clerk.

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

HILGERS: The amendment is adopted.

CLERK: I have nothing further on the bill.

HILGERS: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB781 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. The bill is advanced. Items, Mr. Clerk.

CLERK: I do, Mr. President, thank you. Enrollment and Review reports LB866 to Select File. Enrollment and Review also reports LB755,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate August 3, 2020

LB808-- LB755A, LB808A, and LB1060 as correctly engrossed. Government Committee reports LB857 to General File with committee amendments attached. Bills read on Final Reading this afternoon were presented to the Governor at 4:37 (LB1028, LB1042e, LB1042Ae, LB1052, LB1055, LB1080, LB1124, LB1130, LB1152e, LB1166e, LB1183e, LB1185, LB1185A, LB1186, and LB881). Two amendments to be printed: Senator Hunt to LB1053; Senator Wayne to LB1004. New resolutions: Senator Wishart offers LR465; Senator Pansing Brooks, LR466. And Mr. President, Senator Vargas would move to adjourn the body until Tuesday, August 4, at 9:00 a.m.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. We are adjourned.