

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate August 4, 2020

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

**ARCH:** The prayer for this morning has been attributed to St. Francis of Assisi, but can't be found in any of his writing, so I'm not sure how it got there, but it's appropriate for any-- any day, anytime in history. It's-- it's a prayer to reflect the character of God in our dealings. Let's pray. Lord, make me an instrument of your peace; where there is hatred, let me bring love; where there is offense, let me bring pardon; where there is discord, let me bring union; where there is error, let me bring truth; where there is doubt, let me bring faith; where there is despair, let me bring hope; where there is darkness, let me bring your light; where there is sadness, let me bring joy; oh, master let me not seek as much to be consoled as to console, to be understood as to understand, to be loved as to love. For it is in giving that one receives, it is in self-forgetting that one finds, it is in pardoning that one is pardoned. It is in dying that one is raised to eternal life. We ask that as individuals, we reflect your character to those around us in your son's holy name. Amen.

**FOLEY:** Thanks, Senator Arch. I call to order the fifty-fifth day of the One Hundred Sixth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

**ASSISTANT CLERK:** No corrections.

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

**ASSISTANT CLERK:** There are, Mr. President. The Government Committee reports LB1218 to General File with committee amendments. Additionally, the Natural Resources Committee reports LB367, LB855 and LB856 to General File. That's all I have at this time, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative resolutions: LR431, LR442, LR443, LR444,

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LR447, LR448, LR451, and LR458. Members, we will now proceed to General File, 2020 committee priority bills. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, LB1004, introduced by Senator Lathrop, is a bill for an act relating to the Nebraska Treatment and Corrections Act. It changes provisions relating to eligibility for parole and repeals the original section. The bill was read for the first time on January 15 of this year and referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments.

**FOLEY:** Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB1004.

**LATHROP:** Thank you, Mr. President, and colleagues, good morning. LB1004 comes out of the Judiciary Committee, I believe, unanimously. The bill does something very simple and I might observe that we're about 90 days into an overcrowding emergency. That was declared by-- as the Governor was required to back on July 1, 2020. That's because our Department of Corrections is over 140 percent of designed capacity. In fact, it's-- on the men's side, it's well above 140 percent of designed capacity, and colleagues, the solution to overcrowding ultimately is going to be some thoughtful combination of reforms and building. But we can't possibly build our way out of it. Today, I'm offering LB1004 as a step in the right direction. It is a proposal that was supported by the Omaha Police Officers Association, very rare for these kind of bills, as well as prosecutors. The County Attorneys are in support of this and it does something very simple. And to help you understand what this bill does, let me talk to you about parole eligibility. So when a person receives a sentence, an indeterminate sentence, and that's that-- the sentences which are-- have a range. So if you receive a sentence of four to six years, under current law you would be entitled to or eligible, not entitled to parole because no one's entitled to parole, but you're eligible for parole at half of the lower number. So in a four to six year-- under a four to six year sentence, you'd be eligible for parole at two. What this bill would do would be to add an additional timeframe which would allow for parole eligibility, and that would be half of your mandatory-- pardon me, two years short of your mandatory discharge date. So if you're given a sentence that has a range, your eligibility would be the sooner of half of the smaller number or two years from your mandatory discharge date. Now, you might ask if people are eligible for parole, does that mean they get out? The answer is no. Our parole process basically provides that if you are eligible, you have to go before the parole board, a group of-- whose membership, by

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the way, is-- are appointees of the Governor and approved by the Legislature. That Chairman is Ros Cotton. Ros Cotton actually gave me this idea as a-- as a partial solution for having more individuals to look at for parole eligibility. It is supported by the County Attorneys and the Omaha Police Officers Association, and you might ask, why would they support something that has people eligible for parole sooner? And the answer is simple. The police officers, the County Attorneys and criminal justice science supports the conclusion that people who are paroled have a better chance of successfully transitioning into society. Why is that? If you leave on your mandatory discharge date what we commonly refer to as jamming out, you leave, you say goodbye and you're accountable to no one. If you leave on parole, you are accountable to a parole officer and if you're not living up to the expectations of the parole officer, you can be returned to prison. Now, I want to be really clear about something, very clear about something and that is, parole eligibility is not the same as getting out. Parole eligibility isn't the same as being freed. It means that if you go into the Department of Corrections, you still have to satisfy a number of things in order to be a suitable candidate for parole. That includes completing your clinical programming. So if you need sex offender treatment, inpatient alcohol treatment, substance abuse, those kind of things, they have to be done before parole board will parole you. You also have to behave yourself. So we have even in a state of overcrowding, well over 800 people who are parole eligible, parole eligible, but they're not getting parole. The reason for that is they may have misconducts. They may not have been willing to participate in the clinical program, or they may have gone into the program and not given the effort that was necessary to satisfy the requirements of that. So please understand, parole eligibility isn't the same as getting out. We'll talk about the committee amendment and the amendment to the committee amendment when I speak next. Thank you.

**FOLEY:** Thanks, Senator Lathrop. As the Clerk indicated, there are amendments from Judiciary Committee. Senator Lathrop, you may open on those amendments.

**LATHROP:** Thank you, Mr. President, and colleagues. AM3094 is the committee amendment to LB1004. Both the bill and the amendment were advanced by the committee on 7-0 votes, with one member abstaining. LB-- pardon me, AM3094 is a white copy amendment that combines two bills, LB1004 and LB1036, as well as some additional language regarding caseload standards for parole officers and reports from the parole-- from the parole system. As mentioned in my opening on the bill, LB1004 proposes to change the parole eligibility date by

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establishing that at least two years prior to mandatory discharge you become parole eligible. LB1036 makes changes to the age of majority sections of statute by adding exceptions allowing 18-year-olds to consent to medical treatment. And this will allow those incarcerated and under the age of 19 to consent to medical treatment. Additional language is added to the duties of the Parole Director of Supervision and Services to establish policies regarding parole officer caseloads and the use of electronic monitoring devices. The committee amendment also requires the director to request adequate funding for the staffing of the-- of the division, as well as provide an annual report to the Legislature. I would encourage your adoption of AM3094 and the underlying LB1004. Thank you.

**FOLEY:** Thanks, Senator Lathrop. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator Lathrop would move to amend the committee amendments with AM3224.

**FOLEY:** Senator Lathrop, you're recognized to open an AM3224.

**LATHROP:** Thank you, Mr. President. AM3224 is a simple amendment to clarify that the changes made in Section 3 dealing with parole eligibility apply to sentences imposed after the effective date of the bill. LB1004 does not have an emergency clause so this bill will take effect in mid-November. Section 3 is the main provision of the original bill that makes a person parole eligible two years before their mandatory discharge date. By keeping the normal, effective date and not applying these changes retroactively, it will clear up any concern that the parole board and the Department of Corrections is releasing people without them first getting a pardon. That was a concern brought to us by the Attorney General. I read the cases that they presented, and I appreciate their concern that this Legislature can't reduce someone's sentence. That has to be done by the Board of Pardons and this amendment clears that up. So I would encourage your support of AM3224, the committee amendment, as well as the underlying bill. And I'm happy to answer any questions you may have on the topic. Thank you.

**FOLEY:** Thanks, Senator Lathrop. Debate is now open on LB1004, the committee amendment and the amendment to the committee amendment. Senator Albrecht.

**ALBRECHT:** Thank you, Mr. President. I have some questions, and I know that this is the first start of the bill and I don't want to wait until Final Reading to ask some of my questions, so, Senator Lathrop, would you just yield to a few quick questions?

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

**LATHROP:** I'd be happy to.

**ALBRECHT:** OK. So if this were to take place, how many people would be eligible for parole under the LB1004?

**LATHROP:** So it only-- it only applies prospectively, so no one immediately. But some people coming in in the future would be. I can't tell you how many.

**ALBRECHT:** So this would start from the moment we would say yes, rather than go back to anybody who's been in Corrections for any amount of time? This would be only--

**LATHROP:** Yes. And that's the-- that's the purpose of the Lathrop amendment, AM3224, is to make it apply prospectively and not retroactively. So it would be prospective from the date the bill becomes effective in mid-November.

**ALBRECHT:** OK. Thank you. And will the individuals have enough time remaining on their sentences for a meaningful period of supervision? I mean, to know that we-- I mean, whose decision is it in the bill that basically says, you know, the two year timeframe. But-- but is it true that some-- some of the prisoners just don't want to participate?

**LATHROP:** So that is part of the problem, Senator Albrecht, and it's a good question. We do have some people who are sitting in-- in the Department of Corrections and when the case manager or when parole talked to them, they go, I don't want to get programming and I don't want to parole. I want to wait until my mandatory discharge date and leave here without any programming. What this bill will do is incentivize them to participate. But if they don't, they will not be suitable candidates and the parole board is not going to parole someone until they are a suitable candidate, which would include the completion of their clinical programming.

**ALBRECHT:** OK, thank you very much. Yield the time back to the President.

**FOLEY:** Thanks, Senator Albrecht and Senator Lathrop. Senator Gragert.

**GRAGERT:** Thank you, Mr. President, colleagues. I was wondering if Senator Lathrop would answer a question for me, please.

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

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**LATHROP:** I'd be happy to.

**GRAGERT:** I'm just-- in the amendment, AM3094, page 4, line 14 and 15, and what this is saying here is, "No such reduction of sentence shall be applied to any sentence imposing a mandatory minimum term." So could you just clarify for me that I'm thinking about this right. So if a judge would sentence someone, for example, for a term of not less than four years and not more than eight, is this a mandatory minimum term then and this wouldn't apply to this individual?

**LATHROP:** No. Let me-- let me give you some background, if I can take a little bit of time. So a mandatory minimum, certain crimes come with a mandatory minimum. And they're not mandate-- with mandatory minimum sentences, you can't get good time during that period of time. So if you get a mic-- for example, use of a firearm in the commission of a felony may carry a mandatory minimum of five years. You don't get good time and you don't get parole eligibility on that five years. If in addition to a mandatory minimum, you have a robbery, for example, or something like that, that-- that results in indeterminate sentence. It would apply to that, but for example, in your four- to six-year sentence that you used as a hypothetical, that would be something to which this would apply, but not a mandatory minimum, which are crimes that this Legislature has decided deserved to have people go there for a hard five years and not be eligible for good time during that five years or parole eligibility.

**GRAGERT:** Okay, thanks a lot. Appreciate it. Thank you, Mr. President.

**FOLEY:** Thank you, Senators Gragert and Lathrop. Senator Erdman.

**ERDMAN:** Thank you, Mr. Lieutenant Governor. Good morning. I was reading through the amendment there and I have a few questions that came to mind. I-- I appreciate Senator Gragert asking that question. I was under the impression-- well this is my understanding and I'll ask Senator Lathrop whether I'm correct. So a person has an eight-year sentence, they're generally applicable or available for parole at four, and so if your bill goes into place, would they then be eligible for parole at two years? That's my question. Senator Lathrop, would you try to answer that for me?

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

**LATHROP:** Yes, I'd be happy to. This bill only applies to those offenses to which someone is parole eligible. If you get a flat sentence, you-- you're-- you're not involved in this because these are indeterminate sentences that are imposed on certain offenses. We have

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some flat sentences, for example, in Class IV felonies. Those people get post release supervision. So we follow them. This was some reform that was done maybe four or five years ago where we-- where we have probation follow people with a flat sentence after their release. This would apply to those folks that have an indeterminate sentence. So if you had a four to eight year, if you had a four to eight year, it actually probably wouldn't make any difference because a four to eight would allow you under a current law to be eligible for parole at two and mandatory discharge at four. Your parole eligibility date currently is half of your lower number on an indeterminate sentence and your mandatory discharge date is half of your high number, assuming you don't have any good time taken away.

**ERDMAN:** OK. All right, thank you. The other-- the other question I had is on the very first part of the bill. Let me get the gadget here. On, I think, it's page 2, probably at the top of page 2. It talks about-- line 2 says, 18 years of age or older may make health care decisions for himself or herself without consent of his parent or guardian. Then in line 5, it starts and says, under 18 years of age, who is committed to the Department of Correctional Services. So are you exempting people younger than 18 by this second statement?

**LATHROP:** I think that's for the people-- this-- here's the difficulty that we're trying to answer with that, and I think the answer is going to be yes. We have a-- a prison that is occupied by only young people. So we have some people that are committing terrible things and they're sentenced to adult prison, except we don't put them in with the adult offenders. Down by the Omaha airport, we have the youth Corrections facility and those kids have to get their mom's permission to get a procedure done in the Department of Corrections. And what this is intended to do is allow those youth, young people who are in prison to consent to the medical care they need so we don't have to go out and get mom and dad to consent to care of a prisoner under our-- under our custody.

**ERDMAN:** OK, but let me-- let me try that-- try that again. Do you have that amendment in front of you?

**LATHROP:** I do.

**ERDMAN:** Line 5.

**LATHROP:** Line 5.

**ERDMAN:** "Under nineteen years of age and who is committed to the Department of Correctional Services for secure care may consent to."

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Is that under 19, making the operative or giving the opportunity to someone less age of 18 to make a decision about health care?

**FOLEY:** One minute.

**LATHROP:** Yes, they got to be in the Department of Correctional Services' custody. So we're talking about young people. They may be the shooter in some kind of an offense in-- somewhere in the state. They're charged with it and-- and sentenced as an adult. And they're since-- sentenced to the Department of Corrections, not some youth facility or the YRTC. These kids are sent to prison and we don't mix them in with the adults until they're 21.

**ERDMAN:** OK.

**LATHROP:** So those kids would then be able to consent to care, so the Department of Corrections doesn't have to find mom or dad to consent to care.

**ERDMAN:** OK. I'm about out of time. I have my light on again. I'll wait till I'm recognized again.

**FOLEY:** Senator Erdman, you may continue on your next turn.

**ERDMAN:** Thank you, Lieutenant Governor. Senator Lathrop, continuing. So on the-- on the-- why don't we just eliminate the lines two and three-- two, three and four and just go with line five if you're going to eliminate all those people? If everyone is eligible to do their own-- make their own decisions under 19, why do you need lines two, three and four?

**LATHROP:** Senator Erdman, that's a great question. I have an answer for you. Because they address two different problems. Line 5 through 10 address the concern of a young person who has been sentenced to the Department of Corrections. Line 2, 3 and 4 is a similar problem, but there-- it's effectively addressing college students. So we have kids that come here from all over the country. They come from your-- your area and they get a sinus infection. Now they've got to get mom's or dad's permission to treat a sinus infection. And so the idea behind this, and we had good testimony on it, the idea behind this is to allow those college freshmen who might be 18 years of age to consent to get care they need while they're in college.

**ERDMAN:** So-- so you're saying someone came from a far away country like western Nebraska?

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**LATHROP:** No, I said people from other countries or from your part of the state.

**ERDMAN:** I got that. I got that. I understand. So perhaps this will be my last question.

**LATHROP:** OK.

**ERDMAN:** So when we talk about health care, could that also include a young lady could get an abortion under this policy?

**LATHROP:** I have an answer for you. I don't think this affects it, but let me-- give me just one second.

**ERDMAN:** OK.

**LATHROP:** It's my understanding that for purposes of having an abortion, if that's your question, that the-- the age of consent for that is already 18. So this doesn't change anything.

**ERDMAN:** It would if they were part of the Correctional Services. You just said that it goes clear--

**LATHROP:** If they're in the Department's--

**ERDMAN:** --no matter what age it is, if they're in Correctional Services is what you told me earlier and now you're saying that's not the case.

**LATHROP:** Well, I don't know what the policy is over at the Department of Correctional Services in terms of offering that procedure to people who are incarcerated at the Department of Corrections. I don't know that, but I'd be happy to find an answer for you before Select File.

**ERDMAN:** But that-- that very well could be the case. I'd appreciate an answer to that.

**LATHROP:** I'd be happy to find it for you, Senator Erdman.

**ERDMAN:** All right. Thank you very much. Thank you. That's all I had.

**FOLEY:** Thank you, Senators Erdman and Lathrop. Is there any further discussion on the bill or pending amendments? I see none. Senator Lathrop, you're recognized to close on AM3224. He waives closing. The question for the body is the adoption of that amendment, AM3224. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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**ASSISTANT CLERK:** 29 ayes, 0 nays on the adoption of the amendment.

**FOLEY:** AM3224 is adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator Wayne would move to amend the committee amendments with AM3232.

**FOLEY:** Senator Wayne, you're recognized to open on your amendment.

**WAYNE:** Thank you, Mr. President. Colleagues, this is a simple bill. It's a little technical so I'm going to walk you through how we got here. I believe my-- well, it is my amendment is to the bill and not to the committee amendment, which was properly-- although it displays it on the board, it doesn't matter for purposes of germaneness. What I would tell you is procedurally what happens when you have somebody take the Fifth Amendment. When you have somebody take the Fifth Amendment, which means they are not going to speak or talk about what happened in case they might incriminate themselves. You go through a series of process, and that process includes removing the jury from the courtroom, making sure that the jury can't hear the testimony or that the fact that the person is going to plead the fifth because the United States Supreme Court and Nebraska Supreme Court have ruled taking the fifth unduly prejudices against the defendant because there's-- even though there's a presumption of you being innocent when somebody takes the fifth, jurors naturally conclude that they are guilty. So actually, the jury is removed. You have a conversation with the judge outside of the jury. You can even put that person on the stand or you can show their deposition where they took the fifth, and the judge may or may not ask questions to make sure the person is intending to take the Fifth Amendment. Once the person invokes the Fifth Amendment, that testimony or that person can never be in front of a jury or a judge in the sense of as far as the fact finding. It can't-- it can't happen. So what happens is, and I've only found one case where this has happened and a person is sitting innocently right now in jail. What happened was two co-defendants said they were going to take the fifth. Due to him being arrested first, you have what's called a docket number and the lowest docket number trial always goes first. That's why you have a number. So in this case, this individual was arrested. The jury, according to the Omaha World-Herald and to numerous of people in the room, reported that they did not find this person as the trigger man, the person who pulled the trigger, but instead it was somebody else. One of the co-defendants who decided to plead the fifth. Later on, during his own trial, the person who actually fired the weapon and the other co-defendant, he actually got up and testified. He testified in front of the jury and the jury said, yes, it was self-defense, clearly self-defense, therefore, you can't

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be convicted of murder. He was released. The individual later testified in the next trial of the co-defendant the same story. Yes, clearly self-defense. You can't be convicted. That person was not convicted. The only person that was convicted was the person who-- he initially said to-- he was going to invoke the Fifth Amendment. So that evidence was never entered, or nor did that jury ever see or hear that evidence. Well, our statutes only allow for a motion for a new trial if there is new evidence. One of those particular had been carved out by the Legislature is DNA. Well, this is new evidence, but the Supreme Court ruled, you knew of the evidence, therefore, you can't-- it's not new evidence underneath the statute. Therefore, you can sit in jail for the rest of your life, even though everybody else has been deemed innocent. To add insult to injury, this person was sentenced to life as a juvenile. Well, the United States Supreme Court said you can't do that. So he was resentenced in 2019, and he's still doing another 26 years. And at the resentencing, even the prosecutor said, we are not here to retry this case. We are not here to do anything but resentence. What that means is we clearly have an injustice going on in our prison system. We clearly have a flaw when it comes to Fifth Amendment testimony. And just like DNA, although DNA was there at the time, there wasn't a way for DNA to get in front of the jury. So that's how he carved out a special exception saying there wasn't the technology. Well, in this case, there wasn't the pathway for this testimony to be heard, because as a attorney, I cannot knowingly put a person on the stand who is going to claim the Fifth Amendment. It's unethical for me to do so. It's improper for a judge to do so. So, again, we're stuck in this quagmire where there's evidence out there that later was revealed that the jury never gets to hear, and in the meantime, an innocent man is sitting in Nebraska prison. So this bill will correct that and allow those who have went through the process of determining that a co-defendant or a witness says, I'm pleading the fifth, we are not going to testify, who later says under oath, here's the story, we will treat that as new evidence. This is fair. This is right. This is the just thing to do for those who-- and right now, I've only found one or two. One in particular that this case, Ernest Jackson, is-- is where-- lives in my district or lived in my district. That where I got this information, it was in the World-Herald. It was unjust. And I want to remind everybody, the jury does not believe he even pulled the trigger. He was convicted underneath the felony murder rule, which means if you're there and somebody does something and you're with them, you can be convicted of the underlying crime of murder. But I want to remind people, the other two individuals were innocent by a jury of their peers based off of evidence that could not come into his case because the individual said he was pleading the fifth. So there was no way for this person to

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present that information to a jury. And if we think it's OK for a person to sit in jail when everybody else was found guilty off of new evidence, I think we have a problem. This would correct that. And I would ask for a green vote on the underlining [SIC] AM3232.

**FOLEY:** Thanks, Senator Wayne. Debate is now open on AM3232. Senator La Grone.

**La GRONE:** Thank you, Mr. President. I challenge the germaneness of AM3232. LB1004 deals with Chapter 84, which is a parole bill. The amendment deals with Chapter 29, which is criminal procedure. Thank you, Mr. President.

**FOLEY:** Senator Wayne, would you like to speak to the germaneness question?

**WAYNE:** Yes, I think this is a educational point for the body. The germaneness rule is 7.3-- 7.3(d). And it says specifically, any amendment that is not germane is out of order. Germane amendments relate only to details of the specific subject of the bill and must be natural and logical sequence to the subject matter. I would tell you, Mr. Chair, you would also have to look at the Mason manual, which our rules are based off of Section 42, or Section 402: amendments must be germane. Particularly assessed to be germane, the amendment is not only required to be related to the same subject it may entirely change the effect or be in conflict with the spirit of the original motion or measures and still be germane to the subject. What we have here is a natural, logical consequence or connection to this bill. We are talking about parole and probation. What happens after a person is convicted? A motion for new trial based off of new evidence is exactly that. This is about somebody being sentenced and after the motion to a new trial is granted, their sentence can be taken away. Their sentence can be gone. They could be exonerated. That is no different than somebody being sentenced sitting there and getting out on parole. It is a natural and logical, and it deals with the same subject matter. We're talking about people being sentenced. I think there is a direct connection. I think this is germane. And if we go down the body of doing this and only relating to subjects of a chapter, not the subject matter, then a lot of our bills are not germane and we have not done that previously, nor has that been the history of this body. All it has to be is related to the subject, and this is definitely related to the subject, Your Honor.

**FOLEY:** Thanks, Senator Wayne. After considering the matter, it's the ruling of the Chair that the amendment is not germane. Senator Wayne? Senator Wayne, makes a motion to overrule the Chair. Senator Wayne,

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you're recognized to open on your motion. Members, on an overrule question, each member can speak one time. You may not yield time to another member. Senator Wayne.

**WAYNE:** Again, I think the germaneness rule has always been the committee amendment is always germane, I get that. But the Mason manual was clear that as long as it relates to the subject matter and is a natural, logical connection, it is germane. Our rule does not specifically go farther than that. And so you have to turn to the guidance of the Mason-- Mason manual. And for those who are watching at home, we do not use Robert Rules of Order, we use the Mason manual. And Section 402, amendments must be germane, specifically says that as long as it is a natural and logical sequence to the subject matter, it is germane. I don't know what's more logical and natural when somebody is being sentenced, the next step in the process before you get to parole or probation is a motion for a new trial. Particularly when somebody was sitting on parole and has no other-- or sitting in prison has no other way to get out but for parole. This is a natural, logical sequence. And again, if we are going to start as a body saying that only those things that are related to specific chapters, then we're going to have a long six days, because guess what? There are a lot of bills in front of us that we add amendments to that involve different chapters, but we don't object to them because they're natural and logical sequence to the underlying bill. So I would ask that we overrule the Chair and stick to what we've continually done in this body is that if it is natural and logical to the subject matter, it's germane. Thank you, Mr. President.

**FOLEY:** Thanks, Senator Wayne. Senator La Grone.

**La GRONE:** Thank you, Mr. President. Colleagues, I think Senator Wayne is reading that rule too broadly. Really, when we're dealing with the same subject matter, we're dealing in this bill a narrow subject matter of parole. So it has to deal with that subject, not the entire pod-- not the entire process. Otherwise, we could extrapolate this out to any aspect of the criminal process. I agree with Senator Wayne that historically we have said that any committee-- any committee amendment is germane. Therefore, had his bill been included in that, it would have qualified under our past practice. However, this goes beyond the scope of parole and into actual criminal procedure and to-- to Senator Wayne's point about Mason's manual, I think what that's getting at is you could add-- something that would be germane to this bill, would be to do the reverse of what Senator Lathrop is trying to do. That would-- that would be what Senator Wayne is talking about in undercutting the spirit of the bill, but they would be on the same

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subject matter, which is parole eligibility. Therefore, I do think Senator Wayne's amendment, because it is not part of the committee amendment, is outside of the scope, and I would urge a red vote on the motion to overrule the Chair.

**FOLEY:** Thanks, Senator La Grone. Senator Hilgers.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I also rise in opposition to the motion to overrule the Chair. I think Senator Wayne is right that germaneness should not be read so narrowly to say that it has to be part of the same chapter. I don't think that-- I don't think there's such a binary test. If it's part of the same chapters, if it's germane or if it's not part of the same chapter, then it's not germane. I certainly agree with Senator Wayne that-- with that part of his argument. At the same time, the other argument, which is, well, it's-- it's natural. It's a natural extension of the subject matter of the bill when they're dealing with really two different parts of the criminal process. I don't-- I think this would, if overruling the Chair here would make our germaneness rule really so broad that almost anything could be brought in within it. It is true that-- that Senator Wayne's amendment and the underlying bill both deal with criminal law or criminal procedure, at least to some degree. But really, they're dealing with two totally different subject matters. The underlying bill deals with parole eligibility. Senator Wayne's amendment deals with criminal procedure at trial. Sir, I think whatever our germaneness rule, I don't think it should cover those two things which are connected at a very, very, very high level. But I think there's a lot of things that our body at that level which could be connected and I think ruling to overrule the-- voting to overrule the Chair would result in a far broader rule with far more repercussions than voting to support the Chair's ruling, which I wholeheartedly do. So I'm going to vote red on the motion to overrule the Chair, and I will continue to listen to the debate this morning. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hilgers, Senator Albrecht.

**ALBRECHT:** Thank you, President. I'd like to just-- can I ask Senator Wayne a question, or can I just state my--

**FOLEY:** You may ask a question, yes.

**ALBRECHT:** Would he yield to a question?

**FOLEY:** Senator Wayne, would you yield to some question?

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**WAYNE:** Yes.

**ALBRECHT:** Senator Wayne, was this actually a bill that was heard in Judiciary this year?

**WAYNE:** The specifics, no, we've dealt with criminal procedure and parole and post-conviction release, and so we've dealt with the topic multiple times. I've narrowly focused the amendment to a specific area.

**ALBRECHT:** OK. Thank you.

**FOLEY:** Thank you, Senator Albrecht and Senator Wayne. Senator Chambers.

**CHAMBERS:** Thank you. Mr. President, and members of the Legislature, our germaneness rule is narrower than germaneness when it's interpreted by the court. We all give our opinion here, but many times a person will argue who is against an amendment that it is in a different section of statute. You can take a specific subject and find scattered through the statutes references to that specific issue, but not in the same section of statute in the statute books. That cannot be the determining factor. There is a principle in law in interpreting whether things are related called in *pari materia*, meaning that these items go together, that materially speaking, they are connected. And the court has used that in giving decisions when there were differing sections of statute, not only involved, but even language. The court looked at what the language is aiming at, what the purpose is to be achieved, and we'll say that you must read these things together to get a complete understanding of the issue that's before the court. And the court has made rulings based on that principle. And the principle is found when you're reading how the courts construe or apply or interpret statutory language. I think there is a very close relationship between what Senator Wayne is bringing us and the subject matter of the bill to which it will be attached. I'm trying not to get too technical in the argument that I'm giving. I don't want to lose anybody. My point, to simplify it, is that the two subject matters can be in the same bill and the bill would not be struck down as having two different and distinct subject matters. In other words, the court would find that the amendment is germane to what the bill is deciding or those who voted for the bill wanted the bill to do. When you try to simplify something, you often make it more complicated to the listener because it's harder to explain something than it is to just take the language that is there and read it. But here we have a challenge being made to the relationship between what Senator meant-- Wayne's amendment does and what the underlying bill does. I do think that to

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rule Senator Wayne's amendment to be not germane is to unduly restrict and narrow the germaneness rule. That purpose is not to limit what can be offered, but debate-- be sure that what is offered is related to or connected to that which the amendment attempts to connect it to. So I'm going to vote to overrule the Chair. Thank you, Mr. President.

**FOLEY:** Thanks, Senator Chambers. Senator Wayne, you're recognized to close on your motion to overrule the Chair.

**WAYNE:** This is my closing, or do I get to yield-- ask questions, because I haven't spoke, I only opened.

**FOLEY:** You're allowed to open and close.

**WAYNE:** OK. I don't believe that's in the rules either, but OK, I believe I get to speak one time on this. Chair, I believe I get to speak one time on this, not beyond my opening.

**FOLEY:** No. Pursuant to the rules, you're allowed to speak one time. You opened and now you get to close.

**WAYNE:** OK. What's interesting is this bill is about persons being released. Everybody who knows a motion for new trial based off of new evidence, the purpose is to be released. And I don't think anybody can deny that. That is a natural, logical sequence. In this case that I particularly cited the person on a motion of new trial based off of new evidence will be released because the other two people were found not guilty. I don't know what's more natural or logical than a motion for new trial based off of new evidence and letting people out early for parole or probation. It's about letting people out early, that was the basis of this bill, basis of Senator Lathrop introducing this bill, that is the basis of my motion. It's natural, it's logical, and if we go down this road, then we're going to have a lot more germaneness challenges moving forward. We're going to have a lot more dividing the question on the grand bargaining that's coming up, because those are three separate-- three separate things. Thank you, Mr. President.

**FOLEY:** Thanks, Senator Wayne. The question for the body is whether or not to overrule the Chair. Those in favor of overruling the Chair vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor of placing the house under call vote aye; those opposed vote nay. Record, please.

**ASSISTANT CLERK:** 23 ayes, 5 nays to place the house under call.

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**FOLEY:** The house is under call. All members please return to the Chamber and check in. The house is under call. All members please return to the Chamber and check in. The house is under call. Senator Morfeld, could you check in. Senator Arch. Senator Stinner, please return to the Chamber and check in. The house is under call. All unexcused members are now present. We have 47 members on the floor. In order to overrule the Chair, it takes a majority of those present, which would be 24 votes. A roll call vote has been requested. Mr. Clerk, please call the roll.

**ASSISTANT CLERK:** Senator Albrecht.

**ALBRECHT:** No.

**ASSISTANT CLERK:** Voting no. Senator Arch.

**ARCH:** No.

**ASSISTANT CLERK:** Voting no. Senator Blood.

**BLOOD:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Bolz.

**BOLZ:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Bostelman.

**BOSTELMAN:** No.

**ASSISTANT CLERK:** Voting no. Senator Brandt.

**BRANDT:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator Brewer.

**BREWER:** No.

**ASSISTANT CLERK:** Voting no. Senator Briese. Senator Cavanaugh.

**CAVANAUGH:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Chambers.

**CHAMBERS:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Clements.

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**CLEMENTS:** No.

**ASSISTANT CLERK:** Voting no. Senator Crawford.

**CRAWFORD:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator DeBoer.

**DeBOER:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator Dorn.

**DORN:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator Erdman.

**ERDMAN:** No.

**ASSISTANT CLERK:** Voting no. Senator Friesen.

**FRIESEN:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator Geist.

**GEIST:** No.

**ASSISTANT CLERK:** Voting no. Senator Gragert.

**GRAGERT:** No.

**ASSISTANT CLERK:** Voting no. Senator Groene.

**GROENE:** No.

**ASSISTANT CLERK:** Voting no. Senator Halloran.

**HALLORAN:** No.

**ASSISTANT CLERK:** Voting no. Senator Ben Hansen.

**B. HANSEN:** No.

**ASSISTANT CLERK:** Voting no. Senator Matt Hansen.

**M. HANSEN:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Hilgers.

**HILGERS:** No.

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**ASSISTANT CLERK:** Voting no. Senator Hilkemann.

**HILKEMANN:** No.

**ASSISTANT CLERK:** Voting no. Senator Howard.

**HOWARD:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Hughes.

**HUGHES:** No.

**ASSISTANT CLERK:** Voting no. Senator Hunt.

**HUNT:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Kolowski. Senator Kolterman.

**KOLTERMAN:** No.

**ASSISTANT CLERK:** Voting no. Senator La Grone.

**La GRONE:** No.

**ASSISTANT CLERK:** Voting no. Senator Lathrop.

**LATHROP:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Lindström.

**LINDSTROM:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator Linehan.

**LINEHAN:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator Lowe.

**LOWE:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator McCollister.

**McCOLLISTER:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator McDonnell.

**McDONNELL:** No.

**ASSISTANT CLERK:** Voting no. Senator Morfeld.

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**MORFELD:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Moser.

**MOSER:** No.

**ASSISTANT CLERK:** Voting no. Senator Murman.

**MURMAN:** No.

**ASSISTANT CLERK:** Voting no. Senator Pansing Brooks.

**PANSING BROOKS:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Quick.

**QUICK:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Scheer.

**SCHEER:** No.

**ASSISTANT CLERK:** Voting no. Senator Slama.

**SLAMA:** No.

**ASSISTANT CLERK:** Voting no. Senator Stinner.

**STINNER:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator Vargas.

**VARGAS:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Walz.

**WALZ:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Wayne.

**WAYNE:** Yes.

**ASSISTANT CLERK:** Voting yes. Senator Williams.

**WILLIAMS:** Not voting.

**ASSISTANT CLERK:** Not voting. Senator Wishart.

**WISHART:** Yes.

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**ASSISTANT CLERK:** Voting yes. The vote is 15 ayes. DeBoer voting yes. The vote is 16 ayes, 21 nays, 10 present and not voting to overrule the Chair.

**FOLEY:** The motion to overrule the Chair is not successful. I raise the call. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator La Grone would offer AM3245.

**FOLEY:** Senator La Grone, you're recognized to open on your amendment.

**La GRONE:** Thank you, Mr. President. Colleagues, I didn't initially drop these because I wanted Senator Lathrop to be able to at least put his bill in the form he wanted it before we went into this. I obviously oppose Senator Lathrop's bill. I disagree with it on policy perspective. But as to why I just dropped a bunch of amendments on it, it's because I think this body would be sending the wrong message if we voted to cut criminal sentences without having ever taken a vote to cut property taxes. That is something that I am just not willing to do at this point. I know that they're-- I'm supportive of LB720. I'm supportive of a property tax deal, and I hear there's something coming, which sounds like I'd be absolutely in support of. But until that happens, I cannot in good faith look my constituents in the eye and say that we allowed a vote on cutting criminal sentences without allowing a vote on property taxes. And we've gotten to the point, I think, in this body where the values don't really reflect those, of those that I see in my community. We often keep putting more burdens on taxpayers and don't do anything to take them off. There are some businesses that pay well over half of their profits in some form in taxes. That's not a sustainable model. And that's something that we really need to address. And so I know some folks here don't like filibusters, but that's-- it's a tool that we have to use and so if that's something you don't want to deal with, that's fine. I can understand you taking a pass this morning, but we'll be here up until the noon hour. So just to give an example. We often use imagery to give an example of what we see as a problem. So I was looking for something to tell this story. And I found a great story that I think really speaks to what I'm afraid that the increasing size of government has become. And that is Yertle the Turtle. So I'm going to read that into the record this morning. Yertle the Turtle. On the far away island of Salamasond, Yertle the Turtle was king of the pond. A nice little pond. It was clean. It was neat. The water was warm. There was plenty to eat. The water-- the turtles had everything, turtles might need. They were all happy. Quite happy indeed. They were until Yertle, the king of them all, decided the kingdom, he ruled, was too small. I'm the ruler, said Yertle, of all that I see. But I don't see

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enough. That's the trouble with me. With this stone for a throne, I look down on my pond, but I cannot look down on the places beyond. This throne I sit on is too, too low down. It has to be higher, he said with a frown. If I could sit high, how much greater I'd be. What a king I'd be, ruler of all that I see. So Yertle the Turtle king lifted his hand and Yertle the Turtle King gave a command. He ordered nine turtles to swim to his stone and using these turtles, he built a new throne. He made each turtle stand on one's back. He piled all up in a nine turtle stack and then Yertle climbed up. He sat down on the pile. What a wonderful view. He could see most a mile. All mine, Yertle cried. Oh, the things I now rule. I'm the king of the cow. I'm the king of a mule. I'm the king of a house. And what's more, beyond that, I'm the king of a blueberry bush and a cat. I'm Yertle the Turtle, oh, marvelous me. For I am the ruler of all that I see. And all through the morning, he set up there high, saying over and over, a great king am I. Until long, about noon when he heard a faint sigh. What's that snapped the king? And he looked down at the stack and he saw at the bottom a turtle named Mack. Just a part of his throne and his little-- and this plain little-- plain little turtle looked up and he said, beg your pardon, King Yertle, I've pains in my back and my shoulders and my knees. How long was me-- how long was-- must we stand here your majesty, please? Silence, the King of the Turtles barked back. I'm king and you're only a turtle named Mack. You stay in your place while I sit here and rule. I'm the king of a cow. And I'm the king of a mule. I'm the king of a house and a bush and a cat. That isn't all, I'll do better than that. My throne shall be higher, his royal voice thundered. So pile up more turtles. I want about 200. Turtles, more turtles, he bellowed and brayed, and the turtles way down in the pond were afraid. They trembled. They shook. But they came. They obeyed. From all over the pond, they came swimming by dozens. Whole families of turtles and uncles and cousins, and all of them stepped on the head of poor Mack, one after another, they climbed up the stack. Then Yertle the Turtle was perched up so high, he could see 40 miles from his throne in the sky. Hurray, shouted Yertle. I'm the king of the trees. I'm the king of the birds. I'm the king of the butterflies. King of the air. Ah me, what a throne. What a wonderful chair. I'm Yertle the Turtle. Oh, marvelous me, for I am the ruler of all that I see. Then again, from below-- and then-- excuse me. Then again, from below, in the great heavy stack, came a groan from the plain little turtle named Mack. Your majesty, please. I don't like to complain, but-- but down here below, we are feeling great pain. I know up on top you are seeing great sights, but down here at the bottom, we too should have rights. We turtles can't stand it. Our shells will all crack. Besides, we need food. We're starving, groaned Mack. You hush up your mouth, howled the mighty-- mighty king, Yertle. You've no

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right to talk to the world's highest turtle. I rule the clouds, over the land, over sea. There's nothing, no nothing that's higher than me. But while he was shouting, he saw with surprise that the moon of the evening was starting to rise. Up over his head in the darkening skies, what's that snorted Yertle? Say, what is that thing that dares to be higher than Yertle, the king? I shall not allow it. I'll go higher still. I'll build my throne higher. I can and I will. I'll call some more turtles. I'll stack them to heaven. I need about five thousand six hundred and seven. But as Yertle the Turtle king lifted his hand and started to order and give the command, the plain little turtle below in the stack, that plain little turtle whose name was just Mack, decided he'd taken enough and he had. And that plain little turtle got a bit mad. And the plain little turtle Mack did a plain little thing. He burped and his burp shook the throne of the king. And Yertle the Turtle, the king of the trees, the king of the air and the birds, and the king of a house and a mile-- a cow and a mule, well, that's what the-- that was the end of the Turtle king's rule for Yertle the King of Salamasond fell off his throne and fell plunk in the pond. And to say the great Yertle, that marvelous he, is king of the mud is all he can-- that is all he can see. And the turtles, of course, all the turtles are free, as turtles and maybe all creatures should be. Now, colleagues, I understand that imagery works both ways. So I'm sure there are differing views on what something like this represents. But when I listen to this, I think of the taxpayer who we keep putting burdens on. I think of the people who are just trying to start a business, especially in this incredibly difficult time. I think of families who are struggling and we keep putting more burdens on them. And this type of centralized, large-scale government is what our system was actually set up to prevent.

**FOLEY:** One minute.

**La GRONE:** Thank you, Mr. President. I'll withdraw that motion. I'll withdraw that amendment.

**FOLEY:** The amendment is withdrawn. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President. Mr. President, Senator La Grone would offer AM3247.

**FOLEY:** Senator La Grone, you're recognized to open on AM3247.

**La GRONE:** Thank you, Mr. President. Continuing that line of thought. This is what our system was set up to prevent. And that's why we have three branches of government. It prevents a centralized authority that I think we keep seeing at this point try to creep in. And we talked

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yesterday, obviously, about the differences between the Legislative and the Executive Branch. But something that we haven't gotten into that I think is important, and that both Senator Lathrop's amendment and Senator Wayne's amendment brought up, is the relationship between this body and the Judicial Branch. And I think that we don't spend enough time understanding that, how that relationship works. And I was happy to see-- I would like-- I think it's good to have a discussion on those principles. And the one that Senator Lathrop's amendment brought up, and I'll find it here. So there-- I'll back up a little bit. How we interrelate to the judiciary in terms of laws that we write is, the judiciary looks at statutes under generally agreed upon rules of interpretation. These aren't hard and fast, but they guide the interpretation and they do that to try to apply statutes and laws that we've written to specific situations. And really, that's what this exists for. And there's a great book called *The Reading Law* that tries to compile all of those. And I'm going to go to one that we brought up here today. And this is really what Senator Lathrop's amendment was getting to and that's presumption against retroactivity. And really what that is, is it's the notion that a court presumes that if a statute is passed, it does not apply to nor govern conduct that occurred prior to that statute being passed. So when Senator Lathrop was talking about needing his amendment to ensure that we didn't change criminal sentences, I think that was good. And obviously, I haven't looked at the case law he mentioned from the Attorney General, and so I'm sure in this specific situation it was necessary. But I can also understand why he didn't initially have it, because generally it's presumed by courts that that's not something we do. So I want to read a little bit about that presumption. Presumption against retroactivity. A statute presumptively has no retroactive application. And *United States-- v. United States Ex Rel. Struthers*, the United States Supreme Court said the presumption is very strong that a statute is not meant to act retrospectively and not never to receive such a construction if it is susceptible to any other. So in other words, in order for a court to find that we have acted in a way that edits the conduct, previously of someone prior to the enactment of statute, a couple of things have to happen. It either has to be subject to no other interpretation or we have to do so explicitly and we'll get into that a little more. As a general, almost invariable rule, a legislature makes law for the future, not for the past. Judicial opinions typically pronounce that the law was at the time of-- what the law was at that time of particular happening. And as an aside, this really gets to that core relationship. As the Supreme Court said very early on in our history, it's the Legislature's job to make the law. It's the court's job to say what the law is. In other words, it's their job to apply those laws to specific situations.

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Statutes, by contrast, typically pronounce what the law becomes when the statute takes effect. This point is so basic that our rule-- this is-- this point is so basic of what-- this point is a basic to our rule of law, even when they do not say so. And we-- and they-- and they being the Legislature, rarely do, statutes will not be interpreted to apply to past events. It has long been so as James Kanat recognized in 1826, a retroactive statute would partake in its character of the mischiefs of an ex post facto law as to all cases and crimes and penalties, and in every other case relating to contracts or property, it would be against every sound principle. And Thomas M. Cooley in 1868, retrospective legislation except that designed to cure formal defects or otherwise to operate remedially as commonly objectionable in principle and apt to result in injustice. And we have another great example of this. So yesterday in the Government Committee, we heard a bill that takes care of a bill at Senator Lindstrom had that got messed up since we adjourned and we had some acts that took place under that law before we actually-- it actually went into effect, and so we retroactively went back and ratified those. So that's a great example of that. It's a sound rule of construction which refuses lightly to imply an intent to enact it. The presumption against retroactivity is a guide to interpretation and not a constitutional imperative, because the presumption applies even when the Constitution does not forbid retroactivity. For example, a statute reducing the penalties for a crime will be presumed to apply only to acts occurring after the statute's effective date, even though there is no constitutional difficulty in applying it to prior acts. So the presumption of prospectivity is not the same of the ancient hostility to ex post facto laws. The latter are a particular species of genus of retroactive laws. Those retroactive laws in the words of Justice Story describing New Hampshire's Constitution's prohibition of retrospective laws take away or impair vested rights acquired under existing laws, or create a new obligation, impose a new duty, or attach a new disability in respect to transactions or considerations already passed. Since the presumption is a candidate of interpretation and not a rule of constitutional law, a statute can explicitly or by clear implication, be retroactive. It's retroactive operation may but will not necessarily violate one of the ex post facto clauses, one of the due process clauses, the takings clause or the obligate-- or the obligation of contracts clause, also known as we can't impair contracts of the United States Constitution or similar provisions in state constitutions,. But constitutional violations not being a matter of statutory interpretation, they are beyond the scope of this discussion. The difficult question we're dealing with retroactivity is what does it consist of? All can agree that statutes imposing a new civil or criminal liability are presumptively inapplicable to acts

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engaged before their enactment. What about a change in rules governing an admission of evidence, for instance, elimination of the common law, disability of a spouse to testify against the other spouse? Would it be retroactive and thus presumptively unintended for the new rule to apply to a trial condition-- conducted after its enactment, but dealing with an alleged crime committed before its enactment? This is not the case because retroactivity ought to be judged with regard to the act or event the statute is meant to regulate. Because this law was meant to regulate the admission of trial-- of evidence at a trial. It will be retroactive only if applied to trials completed before it's effective date. Not all cases are straightforward. For example, a statute limiting fees that may be awarded to lawyers who litigate prisoner lawsuits, it could theoretically be considered retroactive if it applied to any of the following events that occurred before its effective date. One, the alleged violation upon which the fee imposed suit is based. Two, the lawyers undertaking to prosecute the suit for which the attorney's fee was-- were provided. Three, the filing of the suit in which the fees are imposed.

**FOLEY:** One minute.

**La GRONE:** Thank you, Mr. President. I'll withdraw that amendment.

**FOLEY:** The amendment is withdrawn. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator Kolterman would move to bracket the bill until August 5, 2020.

**FOLEY:** Senator Kolterman, you're recognized to open on your bracket motion.

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. I put the bracket motion in because I wanted to say a couple of things. Normally, I don't talk on a lot of bills, you all know that. But I just have to-- I have to-- I have to get a few things off my chest this morning. Now, we're sitting here with five days left after today. Five days, what we've got in a session of a 30-day session. We're all getting beat up. We're all getting tired of the fighting, the bickering, the battling that's going on in this body. Now, I've been here six years and I've never seen the contempt that's going on around here. And quite frankly, our state deserves better than this. We were elected to do jobs here. We're elected to put together bills that deal with property taxes and deal with our judicial system. And it's-- and it's gone on from both sides of the aisle. The idea that we're going to stop this bill or stop that bill it's just-- it's just a bunch of nonsense. We're acting like a bunch of kids in fourth grade. So I

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would ask that we drop all these amendments. If you're gonna drop an amendment, make it pertinent. Five days, if you look at the people that are on this list yet, Lowe, Health and Human Services, Bostelman. Friesen, Hilgers, Lowe, Walz, Arch, Hansen, those are important bills to people. They've worked for-- all last summer and during this session to get them put where they're at and we're arguing about reading nursery rhymes. And I know that's legal to do by our rules, but at the same time, we've got to become statesmen. We've got to become the people that we were sent here to be. So I would ask that if we're going to continue this nonsense, many things are important, but there's nothing more important than getting the work of the state done. So I would ask that we show a little respect to each other and move forward with this session. We have five days left. Thank you very much.

**FOLEY:** Thanks, Senator Kolterman. Debate is now open on the bracket motion. First in the queue, Senator Erdman to be followed by Senators Lathrop and Slama. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor, and good morning, again. Listening to the debate this morning, and Senator Kolterman seemed be a little frustrated. In '17 on about the 29th day, I stood up and had that same kind of frustration, and Senator Chambers said, wow, that Senator Erdman seems to be a little frustrated. Just wait till the last 29 days. So, Senator Kolterman, things happen and people get upset. And that's just the way it goes. So deal with it. Here's the other issue. You said it's like going back to fourth grade. You're correct. So we do a germaneness challenge on Senator Wayne, and then he threatens us with all these other germaneness questions and divide the question and all that, that's how it works. It is what it is. We knew that. And it seems to be more contentious this year because we've all been social distancing and we wear masks and we're protective and we haven't had any interaction with people. And then when we do, we get aggressive and abrasive and confrontational. That's what it is. So Senator Kolterman's upset because he wants to get to his incentive package, LB720, which doesn't do anything for anybody anytime. Never has. Never will. All it does is do good for those people who are bankers or the people who receive the money. He talked about property tax. No one's talked about property tax of any significance. The only significant property tax solution is the consumption tax and that's stuck in the Revenue Committee, and they're not interested in bringing anything to the floor that makes any sense about anything to anybody. They're interested in taking little nibbly bites at property tax relief of 3 percent or whatever they come up with. The real solution is to change the whole tax system. It's broken, has been broken since

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1967. We know that. That's why we have TIF. That's why we have incentives. That's why we do all these things because you know we're not competitive with the other states. And so we have to have something to bring people to Nebraska. So that's what we do. So we need to get to LB720 for Senator Kolterman. So you need to turn your lights off and quit talking about things so we can get to that. It is what it is here in the state of Nebraska and we are not, as a body, going to ever make a decision about meaningful tax reform unless the people force us to do that. So don't think for a minute, just because we turn the lights off, something actually constructive is going to happen. It won't. And so I'm probably just speaking to the people at home watching, which is fine. But I can tell you right now, if you want to have a real discussion about what property tax, about income tax, inheritance tax, all the taxes that we pay, we need to have a talk and a discussion about consumption tax. It is the answer. I can explain it to you and so you can understand it. But until we get to that place where we finally say enough is enough, we will never have a conversation like that. And so we'll continue to do what we have to do, and if Senator Chambers wants to waste the rest of the session, that's his choice. If someone else wants to waste time, that's their choice. If you don't like what they do, vote them down or change the rules. But the people that I've seen stand up and do the things they've done have followed the rules and that's what they are. So if you don't like what's happening here, then you figure out a way to change the rules and we've tried that. Didn't work so well. And even when you try to change the rules, you can't think of everything that would stop somebody from doing something.

**FOLEY:** One minute.

**ERDMAN:** So we're going to continue to discuss what we discuss. We'll get past what we get past. And if your bill doesn't make it, so be it. That's the way it works. But I told someone a while back, this is like high school, but I'm wrong. It's like grade school, because when a bill loses or someone doesn't get their way, then they're going to threaten to do-- divide the question or chat-- challenge germaneness or whatever else they can do or throw a tantrum, stomp their feet, or do whatever they can to hold up the session until they get their way. That's the way it works here. I understand it. Thank you for your time.

**FOLEY:** Thank you, Senator Erdman. Senator Lathrop.

**LATHROP:** Thank you, Mr. President. I-- normally I get to the mike and I have my thoughts in order, and they're all over the place right now. I am in my 10th year. Some of you are in your second. Some of you were

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appointed, other than Senator Chambers. Can you stop over there? Some of you were appointed. None of you were here before term limits. I served with people who respect this institution. This morning, a bill that makes modest improvement in our Department of Corrections drew 23 amendments. They were being dropped while we stood here so we could talk a nursery rhyme, withdraw it, take the next one up, withdraw it, take the next one up and he was going to talk for three hours. Three hours we were going to go on something the county attorneys support and law enforcement supports. I served with people who cared about this institution, and you know what I haven't heard since I've been back? They used to stand up in this body, in this room and say, there isn't a Republican way or a Democratic way to solve 90 percent of the problems that come before this place. But that's not what we're doing anymore. Now we have the invisible hand of partisanship. And I say invisible, but it isn't really invisible anymore. We have a reliable group of people that will come in here depending on whose bill it is and filibuster it. Kill it. Senator Vargas had a motion to suspend the rules to offer an amendment. I saw people in this room get a text, they're off of it. All it takes is somebody outside of this place putting a text in your hands and you're off. Nobody's exercising judgment in this place anymore. We don't care. We're waiting for somebody to give us the orders, for God's sake, and they're partisan and the usual suspects will be against the usual senators' bills for no good reason. None. This bill has the support of law enforcement. It has the support of the prosecutors. You can do what you want, but Jesus Christ, you can come over and tell me if you have a problem with it. This is stupid and we're not functioning. And by the way, I've spent about the last three months working on property tax relief, because they have the adults in the room, not the little snipers and the back biters. This is ridiculous. It is ridiculous that we're not functioning. And I know this place can be better. You just have to come here and do what people ask you to do. Exercise some judgment. Use your own brain. You're waiting for a text, well, good job. Yesterday, 20 of you peeled off a bill that would prohibit sex between a teacher and a minor student. Well done. For crying out loud, you guys, you're better than this. You're better than this and this place is important. It's important because it's the last place on this continent where we come together as nonpartisans. And you can't help yourself. We got the numbers, so we're going to do it. Great. We're not functioning. We got five days left and we can't even-- I can't even go to a meeting to talk about property tax relief because I'm stuck here dealing with 25 amendments that no one told me were coming. You guys, this is embarrassing. You know, I got other things to do. I got a law practice. I spent a lot of time coming back here at considerable sacrifices many of you have-- for this? It's nuts.

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**FOLEY:** It's time.

**LATHROP:** Did you say time?

**FOLEY:** That's time, Senator.

**LATHROP:** Probably a good thing.

**FOLEY:** Thanks, Senator. Senator La Grone.

**La GRONE:** Thank you, Mr. President. I've been ensured that we will have a vote on property taxes. And therefore, I will be withdrawing the remaining amendments, but I reserve the right to refile them on Select File. Thank you, Mr. President.

**FOLEY:** Thanks, Senator La Grone. The La Grone amendments are withdrawn. Senator Kolterman.

**KOLTERMAN:** I'd like to withdraw my bracket motion. Thank you very much.

**FOLEY:** Without objection, the motion is withdrawn. We're back on LB1004 and the pending Judiciary Committee amendment. In the queue, Senators Slama, Morfeld, Chambers, Brandt, Ben Hansen, Erdman and Groene. Senator Slama.

**SLAMA:** Thank you, Mr. President. I yield my time to Senator La Grone.

**FOLEY:** Thank you, Senator Slama. Senator La Grone, 4:54. He waives that opportunity. Moving now to Senator Morfeld.

**MORFELD:** Thank you, Mr. President. I'd like to waive the time.

**FOLEY:** Senator Morfeld waives the time. Senator Chambers.

**CHAMBERS:** Thank you. Mr. President, members of the Legislature, I will say something. Down through the years I've talked about the Legislature as an institution. Nobody pays attention. When I take time it's to emphasize and focus on what we should be doing as a Legislature. Since you all will not listen to reason, then I have to beat you over the head with amendments. Now you couldn't expect somebody like Senator La Grone to operate at the level that I do. He operates at the elementary school level where he says on the faraway island of Salamasond, Yertle the Turtle was king of the pond, a nice little pond. It was clean. It was neat. The water was warm. There was plenty to eat. You cannot make people soar like an eagle or have the swoop of a falcon when that one you're dealing with is a snail, a

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slug, or a turtle. I'm going to do what I think is right. If you would look at the record, I believe that I as one person have done more to bring substantive changes to the law than any other person who's been on the floor of this Legislature in its history. Lobbyists don't dictate to me. The Governor doesn't. We know what Senator La Grone is going to do. The Governor appointed him. The Governor appointed Senator Slama. The Governor has given to other people's campaigns and he has withdrawn support from others that he formerly supported. I'm working on something right now to show how he is following the tactic of tricking my Native-American brothers to do what he would like to have done. Then he withdraws his support and I'm talking about Senator Brewer. I'm working on something I'm going to present. Senator Brewer was used as an effective club by the Governor to get rid of a "Repelican" senator who had the gall to not obey the Governor. Senator Brewer is not a flunky for the Governor. Senator Brewer became a member of the Legislature. And you all have listened to the bills that he presented, the way he supports his positions, and I don't think he is a flunky for anybody, but the Governor is through with him. It's like Red Cloud said words to this effect. White man makes many promises. One, he kept. He said he'd take our land and he took it. So now Senator Brewer has been hung out to dry by the Governor. The Governor is a rat in polit-- political terms. He is a chauvinist, sexist pig. He is the one who messed over Senator Slama, not me. He is the one who dictated how that woman who's running, Mrs. Palmtag, is to be massacred as far as her reputation. The Governor did it. Why won't Senator Slama or the Governor's wife point the finger at him as being the chauvinist and the sexist? He's the one who has done things. I use words. Well, everybody on this floor can do his or her business as he or she chooses. It's frustrating. I've probably been frustrated more times and more time-- I said times, plural--

**FOLEY:** One minute.

**CHAMBERS:** --then more time, generally speaking, than anybody who's ever been in the Legislature, because I deal with the issues that nobody else wants to deal with. So I'm not gonna condemn Senator La Grone. He's just dull and he has to read. He doesn't even know that the ex post facto law deals with making something a crime after it was committed. You can't do that or making a punishment harsher than it was at the time a crime was committed. He's bungling it and mixing it up with other things because he's reading from a book that he doesn't understand. But you cannot expect water to rise above its level. Thank you, Mr. President, on this time, and I'm going to turn on my light.

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**FOLEY:** Thanks, Senator Chambers. Senator Brandt to be followed by Senators Ben Hansen and Senator Erdman. Senator Brandt.

**BRANDT:** Thank you, Mr. Lieutenant Governor. As most of you know, I serve on Judiciary. Judiciary has eight members, six juris doctors, a law student and a farmer. Guess which one I am? I'm the farmer. So to the people of the state in Nebraska, this is to be very entertaining this morning, I'm going to do something very unusual. I'm going to speak to the bill. AM3094 is a good amendment. LB1004 is a good bill. We spent hours in the Judiciary Committee hashing this out. You have the best minds in this Chamber on that committee. They forwarded the bill and I stand in support of this bill. And I would yield the rest of my time to Senator Lathrop to hopefully talk about the bill.

**FOLEY:** Thanks, Senator Brandt. Senator Lathrop, 4:00.

**LATHROP:** Senator Brandt, thank you. And I will talk about the bill. As I indicated, this is a simple bill. It makes a simple improvement to the parole eligibility process. It is supported by prosecutors. It is supported by the Omaha Police Officers Association because it will incentivize people who are incarcerated to get programming and then we will follow them after they leave. Some of them will have services. It has-- it will result in better outcomes. It will save the state money and it will lower recidivism. I would encourage your support of the amendment and the bill. Thank you.

**FOLEY:** Thanks, Senator Lathrop. Senator Ben Hansen.

**B. HANSEN:** Thank you, Mr. President. Some stuff that I had written up even before Senator Lathrop's last speech and some legitimate disagreements that I have with the bill in the spirit of debate, which I communicated with Senator Lathrop beforehand. However, I first do want to thank Senator Lathrop with-- for his continued-- what's the word, fervor, and sincerity and effort to improve our Corrections facilities, something he's stuck with for the two years that I've been here. So I do appreciate his effort there. I do believe going back to the bill and why I disagree with it, I do believe the role of government is to use taxpayer money wisely and in a fiscally responsible manner toward a limited and specific set of functions, such as the protection of people and their property, contract law and infrastructure. Just to give a few examples, which is where I think our Corrections facilities and our prisons fall into. I think this is a paramount role of government. And so one of things that I do disagree with Senator Lathrop on, on one point that kind of rings at the heart of why we're even having this bill is, has to do with prison overcrowding. One thing that was mentioned by Senator Lathrop about

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how we fix or address prison overcrowding was a mixture of the building facilities and reform. And this is kind of where I fundamentally disagree with Senator Lathrop. I think reforming our prison sentences or removing law to make more room just because we have prison overcrowding, I disagree with. If we need to make more room, then I believe in building a new prison, because if we're gonna use the taxpayer money for specific small set of functions for government, that's one of them. Or changing the laws and reforming the laws not based on prison overcrowding, but because we believe they are unjust and it's the right thing to do to direct our society in a way that we feel is right and let the people decide through us. So that's just one thing Senator Lathrop mentioned that I just disagree with that he believes we should reform our laws because we have too many people in prison. I believe we should reform our laws because we feel they're fundamentally unjust and not right for our society. And I did-- did have one question for Senator-- a legitimate question for Senator Lathrop, if he would yield, please.

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

**LATHROP:** Yes, I will.

**B. HANSEN:** One of the things you mentioned earlier was-- excuse me, because I'm a little unfamiliar with some of the stuff and the legalese, is the idea of parole. So when somebody gets eligible for parole, they get released into the public under the supervision and direction of the parole board and their set of rules and regulations, right?

**LATHROP:** That's true.

**B. HANSEN:** And just more-- so I can get a better understanding about is, how often-- because you mentioned they can then if they don't follow the rules and recommendations of the parole board, they will be sent back to prison because they did not follow the recommendations, correct?

**LATHROP:** Yes.

**B. HANSEN:** How often does that happen?

**LATHROP:** Frequently.

**B. HANSEN:** OK. That's the one thing I was curious about because I really did not know.

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**LATHROP:** No, there's a significant percentage of people who-- we have probably 850 people right now who are pull-- parole eligible, but not paroled. Many of them are people who had an opportunity, made a mistake, committed another offense, didn't report, had a dirty UA, those kind of things. They're sent back and now they're not candidates. Maybe not a dirty UA, that-- that might not get you sent back. It might get some other sanction before that, but oftentimes they get in other trouble and then they're sent back to complete their sentence.

**B. HANSEN:** OK, good. I appreciate that. Thank you very much. I'll yield the rest of my time back to the Chair. Thank you.

**FOLEY:** Thanks, Senator Ben Hansen. Senator Erdman, Groene, and Clements. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. Good afternoon, again, or morning, I should say. There is a senator that has served this body for over four decades and he has given some advice from now-- from time to time. And one of the things he said, don't get attached to your bills. So a year ago, I brought a bill to change the way we value ag land for taxation purposes. And there was a filibuster led by Senator Lathrop, but he's far better at hiding his filibuster than most, and that's exactly what he did. So don't stand up on the floor here and talk to us about how righteous you are, and you never do things like that because that's exactly what you did. And I'm going to try not to yell like you did, because that's not very professional. So whatever we're doing here on your bill, don't get too excited because you shouldn't get so attached to them. And if you are, then you're in the wrong business. When you stopped my valuation bill from advancing, I didn't throw a temper tantrum. I didn't slap the podium. I didn't use the Lord's name in vain. And I didn't do that to get support from some people in the body like you did. If you look on the board, your name is there and so is mine, you have one vote, I have one vote. My opinion is just as important as your opinion is. And Senator Chambers wastes time and that's his prerogative and he can do that. So if the rest of us want to waste time, it's in the same category as what Senator Chambers does. Deal with it. If your bill got 25 amendments, so what? You stopped my bill from advancing and did I come over and whine to you? Did I stand up on the floor and threaten that I was going to throw amendments on everybody's bill and stall? No, no, no, because I realized that it wasn't going to make the finish line, that's the way it is. You got to live with it and move on. And so if you think standing up and yelling and swearing and slamming the podium is going to change my opinion about your bill, you're wrong. You've

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been here 10 years, you said. Things are different than when you were here before. Society is different than it was 10 years ago. Look at the riots and the things that are happening. That is the environment we're now living in. So if your bill makes it to the finish line, so be it. If it doesn't, you'll still be alive, you'll be fine. But when people want to get their point across they scream and yell and get up their linebacker voice and slap the podium, it's supposed to mean something or stir up some kind of emotion in whoever it is you're trying to influence. This is, I would agree, crazy, but we all signed up for this. It's part of the job. It's the way it is now, and we will get past this and we'll move on.

**SCHEER:** One minute.

**ERDMAN:** Five days left, nothing may get advanced, that's just the way it is. Thank you.

**SCHEER:** Thanks, Senator Erdman. Those waiting in the queue, Senator Groene, Clements, Morfeld, Chambers, and Brooks. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. Bravo, Senator Lathrop. Compassion, expressed your views, called me names, and as far as the Jesus Christ, a few Hail Marys and All Fathers will probably fix that one. But I hold nothing against you. You made your point. That's politics. Read our history. People are passionate. That's why we run. That's why we work for \$12,000 a year. And I loved your speech because, sir, you've seen on this floor what you said done to me, because I am a strong conservative and I express my views. And I really admire how strong you were to keep your commitment to me on a cloture vote on LB147, because I've seen the stress and pressure you were by those who are partisan on your side of the aisle. And so did Senator McCollister, which I admire also. But that's how it works here. Your word-- your word has to mean something. When Senator Lathrop got elected, I called former Senator Flood and I said, what about this Lathrop guy? Well, you're gonna disagree, Groene, but when he gives you his word, it's gold. Some of you younger of his political affiliation might learn from him. His word is gold. Mine is too. It always has been on this floor. I do admire Senator La Grone how he opened on that. He allowed Senator Lathrop to open his bill and his amendment. I asked Senator Chambers, have you ever dropped an amendment on somebody before they opened on their bill and their amendment? He said, not that I recall. He said he'd seen senators do it on their own bill so they could talk first. That wasn't done by the right. That hasn't been done. There's some who have done it, I understand. It's a bad precedent. It needs to stop. LB1021, not one-- my micro-TIF, not one single individual stood

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up against it and opposed it. Came out of committee seven to nothing. Should-- it should be on Select. Why was that bill picked on? I've given speeches on his floor about look at the bill, not the person representing it. No bill I bring is mine or anybody brings. It's the people's. And I'll say it again when that bill passes it in the statute, I can go through all of our statutes and I cannot find a single senator's name in there or even down below on the footnotes who brought it. But we have some who look at the name, more than some sadly. I brought in two bills that I've been told by many if this was 1970 or '60, when Kennedy was around, they would have been Democrat bills. Supporting teachers and children and education. Supporting the poor and the middle-class, lower middle-class to build homes, and who opposed it? And why? Because my name was on it. Can anybody else give a good reason? I don't know why if Senator-- I know nothing about this bill. I've been listening. Doesn't seem like earth-shaking changes, but-- and I understand the process, we were looking to fix overcrowding. But we're also-- and then Senator Hansen made a good point. Public safety is number one. That's our first number one. And then overcrowding is second, we don't do one for the other, but some of these issues are going to come back. Partisanship is, yeah, it has showed its ugly head, and I will tell you this in defense of the Governor.

**SCHEER:** One minute.

**GROENE:** He might have got involved in things the first year, he has not since then. I never get a text from him. None of us do. In fact, I beg him-- a couple of these bills, I said, is rent-- is this bill, do you think you'll veto it? I can't get an answer from him. He will not commit. His staff will not commit and say, no, we do not commit until we look at the final version. And you can't get an answer out of them. So this idea that we're getting texts from the Governor or maybe-- maybe the invisible person who talked to one of the senators here the other day gave him a message while driving home. I don't know. Yes, like-minded people get together on both sides. Is anybody in this body going to deny that? Both sides, and they discuss bills and what they're going to change and how-- do you think what happened on LB1021 wasn't discussed ahead of time by certain people? Talked for three hours on a bill that everybody in this body will probably vote for.

**SCHEER:** Time, Senator. Thank you, Senator Groene. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr.-- thank you, Mr. President. Am I on? Thank you. Looking at this bill, I did have some questions about it, and I would like to ask Senator Lathrop a question if you would yield.

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**SCHEER:** Senator Lathrop, would you please yield?

**LATHROP:** I'd be happy to.

**CLEMENTS:** Thank you, Senator Lathrop. One of the questions I'm wondering about is, is this going to have somebody who's been sentenced to prison to be able to walk in and then be able to be eligible to leave immediately? Would they be--

**LATHROP:** Will they be eligible? The math would allow that to happen, but it won't happen as a practical matter, because when you come in, you're going to spend 90 days at DNE. Something like that, I think is the typical amount of time. You'll be at diagnostic and evaluation. You have to have an assessment when you get there to determine if you need programming. If you need programming, that would happen-- have to happen before you would be a suitable candidate. You might be eligible, but remember, eligibility isn't the same as the parole board allowing you to be paroled.

**CLEMENTS:** And typically then programming would-- would be a requirement that the parole board doesn't--doesn't usually allow a parole without the programming being completed, is that correct?

**LATHROP:** Clinical programming, Senator Clements, so it's the things like sex offender. This probably wouldn't touch sex offenders, but you'd get to a lot of-- a lot of crime that's committed is related to substance abuse as-- at its core. Oftentimes, people have clinical programming requirements that include inpatient substance abuse. So if your assessment showed you needed that type of programming, you would have to complete that historically before the parole board would even consider you for parole. So you may be eligible, but not a good candidate.

**CLEMENTS:** OK. Thank you. Another question. I was seeing, there's very-- a pretty small fiscal note on this, but is-- has anybody considered whether this is going to require more parole officers and increase number of parolees?

**LATHROP:** Yeah, so it's actually going to save money. There-- when we parole people, our cost in-- in Corrections goes down. The cost over a parole goes up by a far lesser amount. It costs less to have somebody on parole than it does to have them incarcerated. So when this fiscal note came up, it actually was a positive fiscal note. The problem is, and you'll appreciate this as an appropriator, they're coming out of different buckets. We're going to save some money at Corrections with more people on parole, but we will require more parole officers, but

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it will be less money than we're saving over on the Corrections side, if that makes sense.

**CLEMENTS:** Thank you, Senator Lathrop. That's all the questions I had. I'm still considering whether I would support this. I'm-- first impression is that we're over-- somewhat overruling the decision of a judge who has given a particular sentence, and this is somewhat modifying what sentence was given. And so I'll continue to listen to the debate, and thank you, Mr. President.

**SCHEER:** Thank you, Senator Clements and Lathrop. Those waiting to speak, Senator Morfeld, Chambers, Pansing Brooks, Brewer, and others. Senator Morfeld, you're recognized.

**MORFELD:** Thank you, Mr. President. Colleagues, I just want to reframe the debate and what we're talking about a little bit here, and I think we've started to get a little bit back on subject. First off, I know that each senator has a different way of dealing and handling their bills and then viewing their bills. But for me, my bills are personal because the relationships that I have with my constituents, my duty to serve them is personal. And so I don't just leave my personal feelings about my legislation at the door simply because I'm a state senator. I bring it with me to this body and to this floor. And I respect that maybe other people like Senator Erdman and other folks approach it from a different perspective and view it from a different perspective. But for me, the legislation I bring is personal because it represents the voices and the people that I work for each and every day. In terms of the importance of this bill, if this bill is not a solution, this bill that was supported by, I believe Senator Lathrop said the county attorneys and law enforcement. I have to double-check the record. It's been a little while since we've had the hearings, but if this bill is not a part of the prison overcrowding solution, then I'm interested in what other people in this body thinks is. We want property tax relief, but we want to build another prison for a few hundred million dollars. That doesn't make any sense, particularly when we have the second most overcrowded prisons in the entire country. And it could be that we don't have enough space, but it also and most likely is, is that we have policy failures. This helps address some of those policy issues and it does it in a way that has the support of law enforcement. So it's not just a bunch of senators with a certain ideological view on one side. It's the committee coming together and finding actual solutions. Here's some other facts. About one in 10 Nebraska kids have a parent in the criminal justice system at some point. Black Nebraskans make up 5 percent of the population and 29 percent of the state prison population. Corrections budget is the second largest part

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of the budget and growing year after year. So if Senator La Grone and other folks care about tax relief, then we should also care about criminal justice reform. Because we're doing it wrong right now, colleagues, we know it. We've known it since I came to this body six years ago. And at every step of the way, there has been opposition, but silence on solutions. Thank you, Mr. President.

**SCHEER:** Thanks, Senator Morfeld. Senator Chambers, you're recognized.

**CHAMBERS:** Thank you. Mr. President, and members of the Legislature, as a general rule for me, no matter what the issue is, if there's debate and there are people on both sides, then I don't have to say anything. I didn't say anything on this bill earlier because it's such a good bill. The opposing forces have come together, so I thought it would just move. Those on the floor who usually will take their signal from law enforcement have been shown that law enforcement supports this bill. Those who pretend to be fiscal conservatives would look at what "Repelicans" at the national level are doing and all over the country, including the Koch brothers-- one of them croaked -- we're pushing for prison reform. They didn't want to see more prisons built. They wanted to reform sentencing practices. They wanted to get rid of mandatory minimums. All of these things that keep people in prison for a long time. That's something being led at the national level and in other states by "Repelican" conservatives. In this state, Nebraska is so far behind that the people don't keep up with trends in the other parts of the country. They hold onto these old hidebound notions, and like Senator La Grone, he had to read from a book and he wasn't even reading what was pertinent, but I didn't attack him for that. People can do whatever their ability allows them to do. The train went off the track this morning. I think this bill is very good. What it's doing is addressing a very serious problem that the Judiciary Committee has worked on down through the years. Overcrowding, and it has nothing to do with vicious people being put out on the streets. Everybody who knows anything about penology, regardless of their political party or philosophy with reference to punishment, have agreed that there were political periods when people said they're going to be tough on crime, so they put all kinds of crazy statutes on the books so that their name would be attached to something that made punishments harsher. And as a result, you have the overcrowding in most prisons all over the country. But in the states where they have put reform in place, they have reduced the need for prisons. Society is not endangered. Even the Pope, when he came out and put the church through the catechism on record as officially opposing the death penalty and calling for its abolition, mentioned that in prior days society felt there was no way to be protected other than long

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sentences and killing people. The church said its own views have modified, modernized, and become more responsive to the realities of society now and the methods that are available to protect society. So as a result, based on the intrinsic human dignity that a person always has, and the possibility that the worst person may seek redemption at some point, killing is no longer allowed by the catechism under the catechism because of the preciousness of every human life, including that of the worst criminal. I'm paraphrasing what the church has said. When we bring it down to a level such as we have in Nebraska, where there is and has been chronic overcrowding, a court is going to introduce a mandate that you cut--

**FOLEY:** One minute.

**CHAMBERS:** --people's sentences or however you want to do it, but you're going to have to release a certain number of people. Senator Lathrop and people on the Judiciary Committee have worked systematically to try to avoid that contingency from taking place. Those who think that they're tough on crime are not being fiscal conservatives, they're being foolish and they're acting on the basis of emotion and a lack of knowledge. I would suggest that you listen to the man who has the knowledge and has the experience and has shown down through the years he can put good programs together, and that's Senator Lathrop. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. Senator Pansing Brooks, to be followed by Senator Brewer, Slama, and Erdman. Senator Pansing Brooks.

**PANSING BROOKS:** Thank you, Mr. President. I stand in favor of the Judiciary amendment, AM3094, as well as LB1004. This-- this bill that Senator Lathrop has brought is something that I've been attempting to bring since I came into this body. I was bringing the one-third rule. Senator Lathrop massaged it and changed it to a one-half rule. That one-third rule was part of our law and secretly changed in the '90s. It went forward and worked very well in our laws and the reason it works is because it helps with the whole overcrowding crisis to avoid and to become a barrier to the ongoing vicious circle that's going on in our prison system. I know I've spoken about it before, but the vicious cycle is we go from overcrowding to understaffing, with people with too many people in the prisons, we don't have enough staff to handle them all or enough rooms to put them in to give them programming. So with that lack of programming, what happens is that when the parole eligibility date comes up, then the inmates don't have the rooms or the ability to go ahead and take the classes that they need to become safer for our communities. So they're sent back in after they go to parole because they haven't had the classes to make

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them safer. They're sent back into prison to jam out. Jamming out is-- is when somebody just gets out at the end of the day because the time has run up. But once you jam out and you haven't had any of the programming or classes that are necessary to help you become a safer inmate, to help you become a safer member of our community, then, of course, you recidivate. And it's the whole vicious cycle starts all over again and we have the overcrowding. It's pretty darn clear. And CSG made it part of their initial suggestions in 2014 that we need to stop that vicious cycle somehow, somewhere. And again, we've heard that sentencing reform is one of the ways to do that. Senator Ben Hansen talked about, well, I think we should just be building extra prisons. I'm interested where he-- why he wants to use property taxes to build a prison that will cost hundreds of millions of dollars, taxpayer dollars. Why is that a better solution? I have a list here of the states that are closing prisons. Colorado, Connecticut, Florida, Georgia, Kentucky, Louisiana, conservative states. Michigan, Minnesota, Nevada, New York, North Carolina, Rhode Island, South Carolina, Texas, Virginia, Washington, but no, our-- our state would like to spend property dollars to build more prisons. And we don't want to worry about the fact that the inmates aren't getting the programming they need. See with this new rule that Senator Lathrop is trying to impose, an inmate will go to parole and the parole board will say at half of his time, you-- you need your anger management training. You need your addiction training. So I-- so we're not going to parole you till you get those classes. That will give incentive to the inmates to get that time, that programming done. Ninety-six percent of inmates come back in the community. The comment by Senator Ben Hansen is it's-- it makes it safer if we keep these really bad people in. No, what is proven to become safer is that we give training and programming and help these people. They are actual people. Help the people become more safe as they enter our community.

**FOLEY:** One minute.

**PANSING BROOKS:** Thank you, Mr. President. So, and I-- I just think that we do have to stop opposing the bills because there's some-- because of the person that's bringing it. And I will speak to Senator Groene's comment that on LB1021, that-- that was a full effort by one side or the other. I came in hot on Monday, really aggravated about what we are not doing for the people that are being evicted and for housing, and that was not anything that was a plan by anybody. I told you I was-- it was the first time I'd stand-- stood up and done something. So that was incorrect. This bill will pass today. I'm not going to speak further on it. But it is incorrect that we came in with a plan to stop the bill because it was Senator Groene. That was not

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the plan. It was unfortunate his bill was up. I would have taken any bill--

**FOLEY:** That's time.

**PANSING BROOKS:** --at that point. Thank you, Mr. President.

**FOLEY:** Thanks, Senator Pansing Brooks. Senator Brewer.

**BREWER:** Thank you, Mr. President. I have made a common practice of going out to the penitentiary for events. And I have to argue, I guess, with Senator Brandt, on who the most qualified people are to discuss issues of judiciary or prisons because if you haven't been there, and you haven't sat down with them in these different environments, I don't think you really understand some of their challenges. And Senator Pansing Brooks stole some of my comments as far as programming. That is the problem. But just to give you a background, my prison experience started in Afghanistan because as soon as we pushed the Taliban out, we found out that the prison at Pul-e-Charkhi, when they left there, they simply went cell to cell and shot everyone and then left them. And it wasn't until months later that we found them and had to clean the prison out. And we had to build a prison and run a prison. And that's not an easy thing to do. And during Katrina, we also ran into a situation where we had to reset the prison down there that had been opened and let everyone out simply to keep them from drowning. Then and I can't-- as I came in as a Senator, I was fortunate to be on the 127 task force where we got to visit all of the facilities across Nebraska. I believe the finest-run facility of all of those is in York. I was very impressed with how everything was just right dress, and it was organized. I had never seen the facility in McCook and I think that's a great opportunity to have facilities like that, the work programs. But as I went out to veterans events, to the lifer events, to the Native-American events, I got to see a little bit different view of the world. When you sit down with them and you talk to them and ask them, you know, what are the challenges? It almost constantly comes back to programming and how frustrated they were. And I understand there's limits in the prison, but I think we've got to think out of the box. We've got to figure out ways to expand that ability to do programming. And if that means putting up tents and running the programming through that, then-- then let's-- let's get the tents and let's get going on it. But to just simply say we can't do it because it's too hard ain't the right answer. I have been impressed with some of the things that have been done at the prison. I think the veterans wing and giving the responsibility to the veterans was a good idea. They embraced it. So their wing is maintained by the veterans, cleaned, the process of

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feeding them, everything, they took responsibility for. I think that can be expanded to other areas. We gotta think out of the box. I think part of the problem with our Department of Corrections is you can change who's in charge, but if you don't change those in the middle, it's just the same old routine. And so that's the challenge I would say we have now is to figure out how to do it better, more efficient. There are some individuals-- there's not many people in this world that run a cold chill down my spine, but there's a few of them I ran into out there that are and those are the ones we've got to make sure stay there. And the ones that-- that actually can contribute back to society and we can figure out how to get them back, we don't need to be paying to put them out there. So I will-- I will ask that you listen closely to the details that Senator Lathrop has, and think through whether that makes Nebraska a safer, better place and whether it's a good use of money, because I believe he does have some very unique skills when it comes to understanding the problems. But also challenge you when the COVID crisis is over--

**FOLEY:** One minute.

**BREWER:** --to go out, participate in activities. I'm-- I'm pretty sure, matter of fact the Lieutenant Governor and I was there just for a veterans event recently and-- and they will welcome you with open arms. They love to have folks come out to just have the opportunity to-- to share their issues. So it's-- it's a scary place for some, but I think once you're there and you break the ice, you understand it's not that terrible of a place. And they'll remember you. Pretty sure if I wanted to, I could run for mayor of the prison. But the-- the opportunity to understand the problem is-- is really the answer to figuring out how we fix the issues with our Department of Corrections. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Brewer. Senator Slama.

**SLAMA:** Thank you, Mr. President. And I won't take up too much time this morning. I rise with concerns on LB1004. I was present, not voting, when this came out of committee. Senator Clements and Erdman have expressed a lot of my concerns on this bill, but I did-- I didn't want to leave this out there because there is a decent amount of hypocrisy on the floor and in debate lately. Yertle the Turtle, for example, has been read on this floor by a member of this body. Senator Chambers, I can guarantee, no one screamed at him for doing it on the floor. No one shouted when Senator Hunt filibustered LB814. I didn't get up and give a talk on the sanctity of the institution when Senator Pansing Brooks filibustered my LB790 this session. I can guarantee also that no one shouted when Tyson Larson, back in the day was

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filibustering for 12 hours at a time, yes, back in the day you had to do a 12-hour filibuster straight through. So if you're going to get upset that taking three hours on a bill is somehow unholy, we can talk about the 12-hour filibuster rule a few years back. Tyson Larson did Mad Libs on the floor. This is nothing new. If we want to talk about the invisible hand of partisanship or partisan shenanigans, there's a lot of hypocrisy there as well. I'd encourage anybody to look at the current property tax relief debate to see some great examples of that. But this just goes to follow some really good advice I got in my first few days in this body, which was, don't take it personal, don't make it personal. Thank you, Mr. President.

**FOLEY:** Thanks, Senator Sláma. Senator Erdman.

**ERDMAN:** Thank you, Mr. Lieutenant Governor. Is this my third attempt?

**FOLEY:** I'm told it's your second attempt.

**ERDMAN:** OK. Thank you. I listened to what Senator Morfeld said about his-- he takes his bills as personal. I do as well. I didn't say that's not the case with me. I have heard over the last 10, 12 years being a county commissioner, now a Senator, I've heard about the burden of this property tax. I take it personally. But I also understand that there are some things you can change and some you can't. So don't leave here thinking that I don't take it personal when Senator Lathrop kills the valuation bill that I had two years ago, I understand that. And Senator Pansing Brooks mentioned about who brings a bill, why it doesn't pass. And that's exactly what I think happened with LB147, Senator Groene's restraint bill. I have a neighbor who is a public school teacher. I spoke with her last night and she shared with me her disappointment that LB147 didn't pass. I told her I agreed with her. Senator Pansing Brooks also made comments about property tax to build prisons. I'm not sure that the state collects property tax, but I don't believe they do. So I don't think a state-built prison would be paid for by property tax. Now, it may have an indirect relationship because the state would take money that they would normally pay other things for to build a prison, so in a roundabout way, I guess it would. So LB1004 has a provision in there that allows people under the age of 19 to do certain things without approval of their parents. I have a problem with that. Senator Lathrop said he would check on that, I understand that. But let me close with this. That comment and that rant by Senator Lathrop this morning, in my opinion, was to save face with those on his side of the aisle that are disappointed that he went to negotiate-- went to negotiate property tax and the incentive package without negotiating something else that they wanted. So plain and simple, that's what it was and it worked. It

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worked quite well. You heard the applause. So you can try to hide those things, but sometimes people can figure them out. So plain and simple, that's what it was, and we have to deal with that and move on. So I'm not sure I'm going to vote to advance this bill. I may, but I need an answer to my question before I vote for it again. Thank you.

**FOLEY:** Thanks, Senator Erdman. Senator Brandt.

**BRANDT:** Lieutenant Governor, I'd like to thank Senator Brewer for bringing up a point. I don't know if he is aware or not, but on the Judiciary Committee, we have the opportunity to tour prisons and most of us have. And I've been to the veterans unit that he talks about and it's an outstanding program. It's self-regulated. If somebody is causing problems in there, those inmates remove that inmate and he goes back to the general population. I wish all of our prisons were as well-run as what that veterans unit is. I've had the opportunity to tour the state penitentiary, DNE, OCC, LCC, OJC, and I look forward to the opportunity to tour the rest. And when we're in there, whatever group I've been with, we make an effort to talk to all the inmates, and he's right. The inmates love to share information with you, and we are there to make things better. Another outstanding program in the prisons is our Cornhusker Industries. When we were up at Omaha and we toured that facility there, the inmates learn a skill and they have a trade when they leave the prison. This is one of the reasons we support this bill. They can learn a trade from the state of Nebraska and now they can get out of incarceration. They're going to be coming back to your community. And I don't know if that number is 85 percent, 90 percent or 95 percent, but virtually all the people in the prison today will be coming back to your community. You want them to have programming. You want them to have a skill. You want them to be a productive member of society. For that reason, I support AM3094, LB1004, and I would encourage your green vote on both of these. Thank you.

**FOLEY:** Thanks, Senator Brandt. Senator Lathrop, you're recognized to close on AM3094, Judiciary Committee amendment.

**LATHROP:** Thank you, Mr. President. I do want to make a couple observations as I close. And one is, you heard Senator Brewer talk about York and the veterans wing. Senator Brandt talked about the veterans wing as well, an inspiring place-- an inspiring place. They have painted the walls with images from their days in service to this country. They do self-regulate. It's an incredible-- an incredible plus on the side of the Department of Corrections. York is, too. When you go to York, you see women who are getting up and going to programming. Women who are using time while incarcerated at York to

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get college degrees, to get educated, to be prepared to succeed on the outside, and in part because they're not so overcrowded that they have difficulty moving around. I do want to respond to a couple of things that I heard. Senator Clements made a comment that we might be overruling judges. Senator Clements, you should understand that this applies going forward. So we're not going to take somebody who got sentenced last week and apply this to them. Judges can take this into account as they sentence, and they do. They take into account good time. They take into account parole eligibility. District court judges that sentence people to periods of incarceration at the Department of Corrections will take not only good time, but this parole eligibility feature into account when they sentence. And then to my friend, Senator Ben Hansen, who suggested that we are-- that we can build our way out of this. Colleagues, we should-- we should incarcerate people for as long as it takes to make them safe to come back into our community. I'm not suggesting that we start letting people out because we have an overcrowding issue. But you should understand that the latest study shows that we're going to grow by an average at the current-- at the current rate by an average of 200 men-- an average population of 200 men a year. So if we want to go about building our way out of this after we get done with 1,600 beds just to stay even and probably right around the-- right around the overcrowding mark, we'd have to build 200 beds a year. And so this is an important conversation to have because it does take resources to build those-- that brick and mortar to staff it and it's expensive. I appreciate the dialog on this bill and the substance and the questions that I've received both on and off the mike. Thank you very much. I would encourage your support of AM3094. Thank you.

**FOLEY:** Thanks, Senator Lathrop. The question for the body is the adoption of committee amendment, AM3094. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 30 ayes, 1 nay on the adoption committee amendments.

**FOLEY:** AM3094 has been adopted. Continuing discussion on the bill. I see none. Senator Lathrop, you're recognized to close on the advance of the bill.

**LATHROP:** Thank you, Mr. President. Colleagues, thank you for your support of the amendment. It makes it a better bill. Senator Erdman, I'll get you the information on that age of consent piece that's in the bill as well. And with that, I would encourage your support of LB1004. Thank you.

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**FOLEY:** Thanks, Senator Lathrop. You've heard the debate on LB1004. The question for the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 29 ayes, 2 nays on the advancement of the bill.

**FOLEY:** LB1004 advances. Proceeding now to LB1004A. Mr. Clerk.

**ASSISTANT CLERK:** LB1004A introduced by Senator Lathrop. It's a bill for an act relating to appropriations. It appropriates funds to aid in the carrying out of the provisions of LB1004. The bill was read for the first time on January 24th of this year.

**FOLEY:** Senator Lathrop, you're recognized to open on your bill.

**LATHROP:** Thank you, Mr. President. Colleagues, this is a-- LB1004 will require that the computer system that keeps track of people's parole eligibility date be reprogrammed. This is coming out of a cash account, Cornhusker Industries. It's necessary. Before you got here, many of you, we had a problem miscalculating sentences so we put that into a computer system which tracks that now. That will need to be reprogrammed to take into account the opportunity for earlier parole eligibility date based upon your discharge date. So that's what this particular bill does and I would encourage your support. Thank you.

**FOLEY:** Thanks, Senator Lathrop. Is there discussion of the bill?  
Senator Bostelman.

**BOSTELMAN:** Thank you, Mr. President. And Senator Lathrop, would you yield to a question so we can talk about--

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

**BOSTELMAN:** --more of a clarification from my point.

**LATHROP:** Be happy to.

**BOSTELMAN:** On the work that's being done on the computer, will that be done by OICs office or is that gonna go out for a contract bid, do you know?

**LATHROP:** I'm not sure who's going to do it, if that's done in-house or if we have an outside person come in to do it, to be honest with you. I can find that out before we get to Select, Senator Bostelman.

**BOSTELMAN:** Thank you. Thank you, Mr. President.

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**FOLEY:** Thank you, Senators Bostelman and Lathrop. Any further discussion? I see none. Senator Lathrop. He waives closing. The question for the body is the advance of LB1004A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 30 ayes, 0 nays on advancement of the bill.

**FOLEY:** LB1004A advances. Proceeding now to General File, 2020 Senator priority bill, LB1089. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, LB1089, introduced by Senator Vargas. It's a bill for an act relating to schools. Adds a graduation requirement and provides for waivers as prescribed, and repeals the original section. The bill was read for the first time on January 21 of this year and referred to the Education Committee. That committee placed the bill on General File with committee amendments.

**FOLEY:** Thank you, Mr. Clerk. Senator Vargas, you're recognized to open on LB1089.

**VARGAS:** Thank you very much, President. Good afternoon, or good morning, colleagues. LB1089 is a fairly straightforward bill, essentially beginning in the 2021-22 school year, all high school students at public schools would be required to complete and submit a free application for Federal Student Aid or FAFSA. This requirement could be waived by completing a simple form. When LB1089 passes, Nebraska will become the fourth state to implement this kind of requirement for high school graduation. The first state, was Louisiana, which passed this law in 2015 and implemented it beginning in the 2017-18 school year. Just last year, both Texas and Illinois passed similar bills. Since Louisiana started requiring FAFSA completion, they now have the highest FAFSA completion in the country, jumping around 50 percent to nearly 80 percent, as well as an increase in both high school graduation and college-- and college attendance following graduation. An annual analysis shows that nationally, the high school class of 2018 missed out on \$2.6 billion of federal financial aid when 661,000 graduates across the country who were eligible for a Pell Grant did not complete the FAFSA. The same analysis shows that over a third of high school graduates did not complete the FAFSA in 2018, missing out on an average of \$4,000 in financial aid. Now the maximum award for a Pell Grant for the 2018-19 academic year was \$6,095. Last year, Nebraska exceeded the national average for the FAFSA incompleteness rates, with 38 percent of students not completing and submitting their FAFSA. Just today, and I handed this out a little earlier, there was a new study published about the

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impact of mandatory FAFSA filing policies like this one. I distributed this copy to each of you just because I want to make sure to hit the main points, because I think it's important that we support evidence-based, proven policies like this one. The report shows that mandatory FAFSA filing policies closed the gap and completed applications between high and low-income school districts by 87 percent in one year and completely closed that gap within two years. The policy also increased FAFSA completion rates overall. Before it was enacted, just one in three public high schools had completion rates of at least 65 percent, which is around the national average. And after the policy was enacted that completion rates increased to four out of every five schools. Now currently, students pursuing postsecondary education have the option to complete and file a FAFSA in order to be considered for federal Pell Grants, subsidized Stafford Loan, federal Perkins Loan, federal work study programs, and state-sponsored Nebraska Opportunity Grant and college-sponsored financial aid. By making FAFSA a completion and requirement, schools would be able to provide more assistance and resources to students who may not otherwise have the assistance to complete a FAFSA application on their own, or who do not know about the financial resources that could become available to them if they did complete one. The vast majority of students do qualify for at least some federal aid. It's available to any-- for any one with a household income below \$250,000, which is 95 percent of all households in the country. Now requiring students to complete the FAFSA under LB1089 will lead to an increase in more affordable student grants and loans and hopefully college enrollment when it becomes more affordable to low-income students and their families. Higher education, which includes college, apprenticeships, and other job and skills training programs, is the best tool we have to spur economic growth in our state. And getting students the help they need to complete the FAFSA is critical to their ability to pursue higher education and ready themselves for successful careers in Nebraska. Finally, I'll note that this bill has no fiscal impact. LB1089 is a no-cost commonsense way to help more students find success after high school. This had no opposition in the-- in the open hearing testimony and it had the support of the Postsecondary Commission and the Latino American Commission. I hope I'll have your green vote. Thank you very much.

**FOLEY:** Thank you, Senator Vargas. As the Clerk indicated, there are amendments from the Education Committee. Senator Groene, you're recognized to open on the committee amendment.

**GROENE:** Thank you. AM3176 is the white copy amendment that came out of committee, five votes in favor, one vote was not in favor. That was

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me. One absent and one present, not voting. AM3176 makes several changes to the bill. First, it specifies that a student can opt out of the FAFSA graduation requirement either by submitting a form signed by their parents or by being authorized by the school's principal. Second, AM3176 tasks the Commissioner of Education with the creation of an opt-out form uniform across the state. Third, AM3176 specifies that a student over the age of majority can submit such an opt-out form on his own behalf or her own behalf, it would be 19 years or older. Fourth, AM3176 requires schools submit anonymous aggregate data to the Nebraska Department of Education. It also requires NDE to create and submit an annual report to the Clerk of the Legislature. Fifth, it allows NDE to create rules necessary to implement this statute. Thank you.

**FOLEY:** Thanks, Senator Groene. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator Vargas would offer AM3318.

**FOLEY:** Senator Vargas, you're recognized to open on your amendment.

**VARGAS:** Thank you very much. This is a very simple change. You're seeing a couple different things here, some changes in ordering. But the real crux of this amendment is to ensure that we are addressing for some language questions that we needed to address in regards to individuals that are over the age of 19. In the original amendment that was-- came out of Exec-- the Education Committee that basically we put it in that a person over the age of 19 would be able to opt out, connect and complete their own FAFSA form, and that's not what the intent was. It's that they can complete their own FAFSA opt-out waiver form. And so we clarified that language in this amendment, AM3318. That's really the crux of what this does, other than reordering some things. Thank you.

**FOLEY:** Thanks, Senator Vargas. Debate is now open on LB1089 and the pending amendments. Senator Bostelman.

**BOSTELMAN:** Thank you, Mr. President. Would Senator Vargas yield to a couple questions?

**FOLEY:** Senator Vargas, would you yield, please?

**VARGAS:** Absolutely.

**BOSTELMAN:** Thank you, Senator Vargas. We-- I talked to you briefly before I got on. I apologize for that, but I think these are questions that you can answer fairly directly here. And I received these

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questions from principals in my district. And so I'll ask the questions as they have had it. And parent income tax information is needed. Students seldom, if ever, know this information. Parents may not be comfortable sending that information to school for us to assist them with that. Practically, unless kids fill out at home with the parental assistance, does that mean that the principal or a guidance counselor are calling home and asking for the net income and other income-related things? They see that as a public relations of-- for them, there'd be a problem for them. Could you speak to that?

**VARGAS:** Yes, happy to. So, one, nothing changes before this bill. If this bill is enacted, nothing changes in regard to any information being shared with guidance counselors or the school in regards to financial information from any parents or guardians. What this will simply do is, the information that will be collected from a school would be on whether or not the individual completed the FAFSA form or if they completed the opt-out waiver form. That is the only information that will be collected on sort of aggregate data from students from each school.

**BOSTELMAN:** OK. The second one was the language that allows the principal to waive this requirement for graduation. If we've-- if we-- if they have good cause. Well, that might be a good thing. They do have no idea what good cause would be to waive requirement. And if every school principal is different, then we could still have a huge discrepancy in how or who does or doesn't fill out the FAFSA.

**VARGAS:** Yeah, and this is a good question. One of the feedback that we received from principals is that, one, parent or guardians would be able to opt out of this and that-- that's the primary waiver exemption. But the second one is having a principal or his or her designee to be able to then determine if for a good cause, this individual student can be waived out of it as well. We put into this language that the rules and regs can then be promulgated by the Department of Ed so that we can make sure that that doesn't happen. In-- in Louisiana, there was not a single student in the last two years that has been held back for a graduation requirement for any reason. And I think that's because, one, the school districts and the schools have been working to make sure that this doesn't become a barrier. And we have no data to suggest at all that anybody is being held back for any reason, and we expect those same outcomes here as well.

**BOSTELMAN:** One final question, and I do support your amendment and I'll still listen on the remainder of the bill. But the other question we talked about briefly, we do have refugees in my district and some

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of them don't speak-- don't speak English, don't understand those type of things. And it could be a real challenge to get that information for them to understand, for them even to be willing to sign the form for the waiver. How has this worked in other states? How do you see to address that?

**VARGAS:** So primarily in other states, there already are mechanisms in place for school districts providing language support for a very-- a lot of different other programs and forms and things like that. What we do have in here is that the Department of Ed, if there is a language spoken in the school district that is over 50 percent, that that would be-- the form would be in that different language. So this way we ensure that we have language translations for the form. But because there are, and that could speak for OPS, for example, there are 100-plus languages spoken. There are programs and support service to help individuals. And so what we've seen in other states is this has not become a barrier for any refugees or--

**FOLEY:** One minute.

**VARGAS:** --individuals of color.

**BOSTELMAN:** OK. Thank you. Thank you, Mr. President. Appreciate it, Senator Vargas.

**VARGAS:** Thank you.

**FOLEY:** Thank you, Senators Bostelman and Vargas. Senator Groene. Senator Groene.

**GROENE:** Mr. Speaker. I will tell you why I was adamantly against this bill coming out of committee, but Senator Vargas had the votes. We are a free country. We make decisions on our own. This is a mandate to parents to fill out a form for a voluntarily-- tary government program. Mandatory application to a voluntary government program. There are a lot of kids who go to college who work as waiters who could qualify for this money, but they don't want it. They don't want to take government payments. I was one of them. So now you're forcibly-- oh, they can opt out. We did get the opt out in there. Now mom and dad have to sign a form to opt out. I think the income tax was voluntary back when you could opt out. You know what happens with these type of deals? The pressure is there to sign a form. There is fear among the immigrants. You take a federal form home to mom and dad who are working in a packing plant and you say we're supposed to fill this out, there's instant fear. Now, you say, well, you don't have to fill it out, you fill out a form and you sign your signature and

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you're not even supposed to be in America. And this form is on file at the school. No, mom and dad said, I'm not signing that. Now this poor kid, who worked their butts off to-- to get a free instruction in our common schools, can't walk across the stage to get his diploma or her diploma, unless he goes to the principal and said, please, will you give me an opt out on this? A lot of numbers got thrown around, but folks, that money isn't not used. They didn't plan to go to college. They wanted to work with their hands. They went right to work at the meatpacking plant. They went right to work in some occupation that paid well, but the family did, and they weren't going to go to college, so they didn't fill out the form. Higher education is big business. They want money. An individual student who in any indication to a school I might go to your community college or your college, let me tell you, their financial aid office, the first thing they throw in front of them is, fill this form out, fill this form out, it would help pay for your education. That's how America works. They don't force them to do it. Also, what are guidance counselors supposed to be doing? I think they are. This is an insult to guidance counselors and administrators across the state because they're not doing their job. They don't care about these kids. They're not going to try to help them get an education. They hate these kids. They want them working in the ditches. They want them on unemployment. I think the schools do the right thing now. This is a mandate. Three states have done it and we're going to be the fourth. One of them, the states, it wasn't a legislative, it was just a Department of Education decision to mandate. So Louisiana has all this extra money that's available to them. That doesn't mean it was used. Kids still went out and did what he was going to do.

**SCHEER:** One minute.

**GROENE:** Joined the army. Went to the military. One administrator told me, he said this is the first time we're putting a burden on the kid to do anything but just do well in class, to walk across the stage and get a diploma. This is absolutely unnecessary. This is social engineering, forcing people to apply for a government program that is voluntary. Means well, means well, but we are a free country. A little bit yet, but we can think for ourselves and I got respect for every parent out there. No matter what their level of education, what they do, they know. They know if they want to help their child, they know what's out there. Guidance counselors help them, social groups do. They help them. We don't need mandates in Nebraska.

**SCHEER:** Time, Senator.

**GROENE:** Thank you.

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**SCHEER:** Thank you, Senator Groene. Senator Arch, you're recognized.

**ARCH:** Thank you, Mr. Speaker. I have some questions for Senator Vargas, if he'd be willing to respond.

**SCHEER:** Senator Vargas, would you please yield?

**VARGAS:** Yes, absolutely.

**ARCH:** Thank you. So, not sitting on Education, I'm just trying to understand here, so these are kind of questions of clarification. Where does the obligation fall to fulfill the requirement?

**VARGAS:** The obligation falls to fill the requirement as part of graduation requirement. And so what we've seen in other states is that putting this as part of a graduation requirement makes it very clear that it's something that we need to complete before you graduate.

**ARCH:** OK. Just a second. So my question is, is it the student's obligation? Is it the school's obligation? Who-- who's-- who is obligated to fulfill this requirement before graduation?

**VARGAS:** The student and the parent or guardian to-- to complete the FAFSA or to complete a form opting or waiving out.

**ARCH:** OK. So it falls on the family. It falls on the student to-- to accomplish that. If-- what if-- what if the school gets neither. What if they get no response, what happens then?

**VARGAS:** And so in Louisiana, what we saw is that, you know, not-- not mincing words, but our guidance counselors in our schools work to make sure that there are no barriers for individuals graduating. And so what we saw in Louisiana is that there's case-by-case basis. You know, they figure out and find and talk to parents and they make sure they're educated and make sure they have the form in front of them. And if they want to opt out, they opt out. And then for extenuating circumstances, there is the ability for a principal or designee to then determine that they don't have to complete the-- they can do-- complete the waiver. And so not a single student in Louisiana in two years was held back because of this graduation requirement provision.

**ARCH:** OK. So it says before graduation. Can that be in their junior year, in their sophomore year? What-- what-- any any conditions on that?

**VARGAS:** So typically, this is all done in their senior year in the first, I would say, six months. Different schools have different

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graduation, different requirements for when to complete the FAFSA. But this is by the time they graduate. So some schools have early deadlines for the FAFSA completion. Others, like some community college and trade schools, don't have early deadlines. So this is to try to make sure we get them into any postsecondary education that can get them into a job.

**ARCH:** OK, and last question. Cost. Cost, I'm assuming to the schools that they would bear the cost of-- of-- of pursuing either an opt out or a completed FAFSA, correct?

**VARGAS:** Based on our fiscal analysis, there would be a minimal cost as basically absorbed from the schools, because ultimately schools and guidance counselors are already engaging these conversations. But now, instead of trying to convince or talk to somebody about doing it, the question is basically, are you going to opt out? This is a requirement and it puts the education up front in front of students and their parents or guardians.

**ARCH:** What I could imagine, though-- though, is-- is-- is the cost is in the chasing. All right. I mean, I would assume that they would stand up and do some type of blanket announcement. Everybody needs to fill this out. And then-- and then a certain percent would come back in automatically and then that-- and then they would have to individually pursue each-- each student. For those that have not responded to that initial little bit, little bit like census and all of that, you have to continue to pursue. Is that a correct assumption, Senator Vargas?

**VARGAS:** You bring up the census. I think it-- I think you'll probably find some similarities with that.

**SCHEER:** One minute.

**ARCH:** I'm not bringing up the census.

**VARGAS:** No, no, no, but I think you'll find some similarities in that. One, you make it a requirement. That means people are going to take-- make sure that it is something that they complete or then talk about with their friends or family, or with their family or parent or guardian. And then, two, schools will then do case-by-case follow up to then make sure that individuals have the information they have to make a decision and then get to a place where everybody completes this requirement or opts out.

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**ARCH:** All right. Thank you, Senator Vargas. I am concerned. I am concerned about the-- I'm concerned about the cost. I'm concerned about the chasing. I'm concerned about the requirement the parents have to share that financial information, that-- that-- that is concerning to me. Thank you.

**SCHEER:** Thank you, Senator Arch and Senator Vargas. Senator Moser, you're recognized.

**MOSER:** Well, I share some of the concerns of Senator Arch. The extra expense of filling this out is going to be-- not the extra expense, but the extra work of filling this out is going to be a pain. Probably 25, 30 percent of those kids don't want to go to college. They shouldn't have to fill out a FAFSA. I don't think you should be required to apply for a government program. If the school you apply to includes a FAFSA form in their financial aid request, then you have to fill it out and send it in. If you want to go to that school, send it to the school, and then they send you a financial aid package and you can decide which school has the best package, which has the best program for what you want to study. And, you know, I think the way it's done now, I think is fine. I think this is a solution looking for a problem. I-- the-- in the case of our children, the guidance counselors at the school sent home a letter suggesting that we look at getting that information together and we as a family did it. But I think requiring it, I think is-- it goes too far. I think we should just let the schools handle this. Either the school, the high school they are attending or the college they want to go to. One or the other is going to tell them they need to face it or not, and at that point, then the parents can decide if they want to fill it out. Thank you.

**SCHEER:** Thank you, Senator Moser. Senator Groene, you're recognized.

**GROENE:** Thank you. I'm not filibustering this, by the way. I'm going to talk my three times. If that's it, then I'm going home. I wish I was going home, but I'm not. Freudian slip. It says here each public high school student shall complete and submit to the United States Department of Education a free application for federal student aid prior to graduating. And what does that language indicate to you? The onus, the burden is on the student, 17-year-old kid. He's got mom and dad don't like public education. He's got a dysfunctional home. Oh, my gosh, I got to show this to them. They're gonna yell at me. I want to go to school, all right. So now he talks to the guidance counselor and he's got a-- he's got an innermarri-- intermediate who may help him with his parents. This is not necessary. This is government overreach. We know what's best for you. We know what's best for mom and dad. We know what's best for the student. And we're gonna mandate it. We're

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going to mandate to an immigrant family, that this shows up at home, and I think you'd have instant fear of government document. Mom, you have to sign this out-- fill this out. Or if you don't sign it, you got to sign this document that said you want to opt out, which puts your name on a document that's in a government entity. Now you can argue about immigration as much you want, but that kid's trying to get an education. And if he's going to be here, I want him to get one. We're going to stick government forms in his face, or hers. And then at the end of the day, here's what happened. You got a principal who is overworked and it's getting towards April graduation and he's got 500 kids in the senior class and he's got 100 that didn't fill out the form. You know what he's gonna do? The school principal-- school principal doesn't he authorize the student to decline to complete it and submit a free application for federal student aid, because he knows these kids. They worked hard and they want a degree. He's gonna sign a form and hand it and say, you're exempt. That's what he would do. That's what I would do. Because we have a mandate in this state, free instruction in our community school, but we're saying you have to fill this form out. Is that who we are? Is that what we have become in Nebraska? We're going to mandate, you do this, you do that--

**SCHEER:** One minute.

**GROENE:** --for voluntary program. More headaches. I happen to trust the guidance counselors. I happen to trust the administration that they want to do what's best for the kids. They'll identify those kids. I trust the system. The community colleges and the colleges that are recruiting these kids that they're going to make sure they fill it out. If they qualify for college, and they think that's what's best for them, they will help them pursue that dream. We don't need mandates. We absolutely don't need mandates in this state. We don't need them. One superintendent told me it's the first time ever that he knows of that we put a burden besides just doing hard work in the classroom to getting that degree, put an additional burden on them. Thank you.

**SCHEER:** Thank you, Senator Groene. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker. Good morning. So I look at the committee statement, it was a five to three vote. Senator Linehan was absent, but I think Senator Groene described it quite well when he said, we're going to have to opt out of a volunteer program. You know, we have done things since I've been here that have tried to put things in place for graduation, like taking the citizenship test and a few other things, and those all failed. So we're going to now force families and young people to do something to graduate. Well, what

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about being able to read and write? What about that requirement? So I think this is a bill that needs to die and I'm gonna vote red. Thank you.

**SCHEER:** Thank you, Senator Erdman. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Your Committee on Enrollment and Review reports LB963 and LB963A as correctly engrossed. Those will be placed on Final Reading. Amendments to be printed. Senator Murman to LB920. Senator Hilkemann introduces LR467. That will be read and laid over. Two announcements. The Revenue Committee will meet today, Tuesday, August 4, 2020, in Executive Session at 12:00, noon in Room 1113; Revenue, noon, 1113. Education Committee will meet in Exec Session today at 1:20 in Room 1113; Education, 1:20, Room 1113. Finally, Mr. President, Senator Wayne would move to recess the body until 11:30 p.m.-- 1:30, excuse me.

**SCHEER:** Thank you, Mr. Clerk. Colleagues, you've heard the motion. All those in favor please say aye. All those opposed. We are in recess.

[RECESS]

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

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

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

**ASSISTANT CLERK:** No items at this time, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Members, we'll pick up where we left off at-- at noontime. Pending before us is LB1089, the committee amendment, and AM3318, Senator Vargas' amendment. In the speaking queue, Senator Groene, you're recognized.

**GROENE:** As I-- thank you, Mr. President. As I said, I'm not filibustering this. I think this is my third time, and then I'll close on the amendment or whatever.

**FOLEY:** Yes, I'm told that's your third time, Senator.

**GROENE:** You heard what I had to say about it. I'm going to vote for the amendment because it's like anything. It-- it makes a bad bill better. But I'm not going to vote for the bill. It's-- oh, by the way,

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I wanted to straighten a couple things out. These immigrant kids, they don't qualify for FAFSA anyway. If you're a green card or from one of the territories, Guam, Puerto Rico, you do qualify. But if you're a DACA kid or a child of an illegal immigrant, you don't qualify. But you're sent home with a form that your folks have to fill this out. There's a lot of reasons not to like this bill. That's one of them. The mandate, as I said, it's un-- unnecessary. We don't need to tell people what to do, not on a voluntary program, not a federal program. State of Nebraska is telling parents-- well, it doesn't-- it doesn't tell parents. It tells the student that they must fill it out-- read the language, a student must do it-- that they have to apply for a federal program to get a degree from a local Nebraska school. Put all that together. Who do we think we are sometimes around here? We know what's best for others-- that isn't why we're here. We're here to facilitate things. That means help people, not force them, in a free society. This is-- you know, you say it's a minor little thing, Groene, let's just let it go. It's a little chip here and a little chip there, and Big Brother tells us how to live our lives. You got to say no to these things. Like I said, I'm using my third time because, as Chairman of the committee, I'm no-- I'm not going to talk negative about it on closing, if I even do close on the committee amendment. Committee wanted it out. It's out. Chip, chip, chip, chip away people's freedoms, the constitutional right, Nebraska constitutional right to free public education. But you fill out this form. But we know what's best for you. It's good for you. It's going to help you go to school if you-- if you get the federal money. Well, that's none of our business, is it, when a child pursues their higher education or applies for a government program, a federal program? It's not-- nobody's business in that public school. It's a federal program and a state school. Can they encourage-- guidance counselor encourage them, tell them about it? That's facilitating, not telling, and I think most guidance counselors do that. I-- if they aren't, then administrators should alleviate them of their duties. But let them decide, let them dec-- them decide if they want to pursue a higher education and then they-- let them decide if they want to pursue how they fund that public higher education. That's their decision, not mine or yours. I do not fault Senator Vargas at all. He comes from a different area of the world than I do-- grew up. And he believes in this. He truly believes in this. He's helping students. I don't fault him at all.

**FOLEY:** One minute.

**GROENE:** But my beliefs in freedom and the trust in my neighbor to do the right thing, to do what's best for their kids or a community college to make sure guidance counselors do the right thing in a free

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society, I trust them to do that. So I encourage-- I'm going to vote green to get the amendment through, but I'm going to vote red on-- on LB1089. Thank you.

**FOLEY:** Thank you, Senator Groene. Senator Vargas, you're recognized to close on AM3318.

**VARGAS:** Thank you very much, President. Appreciate the dialog. I'm asking you to vote on AM3318. Again, this is a simple change. We're reordering some things, but primarily we wanted to make sure that it was really clear that individuals that are over the age of 19 are-- have the ability to then sign their own waiver to then opt out of completing the FAFSA form. And the only other things I'll say on the underlying bill is, once again, if a kid doesn't want to go to college, all they need to do is say-- complete the simple form and then they don't have to complete the FAFSA. We're not sharing financial information with anybody. That's still between an individual family, parent or guardian, and the student and FAFSA and the federal government. As a reminder, the very clear problem that we're solving-- we're trying to solve here is that students and schools--we're all trying to make sure our workforce is prepared. LB1089 will help address that. More than 70 percent of the jobs in Nebraska require some postsecondary education or training. Postsecondary Commission-- Coordinating Commission for Postsecondary Education came in strong support of this because it's going to help address our future workforce needs by making sure more individuals can then afford to go to higher education trades and community college. So for this amendment, which is a very simple amendment, please vote yes on AM3318. Thank you.

**FOLEY:** Thank you, Senator Vargas. Members, you've heard the debate on LB30-- excuse me, on AM3318. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 32 ayes, 0 nays on the adoption of the amendment.

**FOLEY:** AM3318 is adopted. Is there further discussion on LB1089 with the committee amendment pending? I see none. Senator Groene, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of AM3176, Education Committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 30 ayes, 0 nays on the adoption of the committee amendment.

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**FOLEY:** AM3176, committee amendment, has been adopted. Further discussion on the bill as amended? Members, I'm going to pause debate on-- just for a moment. My apologies to the Speaker. He had asked to be recognized after the opening formalities. Speaker Scheer, you're recognized.

**SCHEER:** Thank you, Mr.-- thank [RECORDER MALFUNCTION] thank you. Colleagues, just a heads up, we're at the point in the year where the agenda is what you see for the day. Many people have asked me how late we're going to go today. The answer is you tell me, because the agenda that we have in front of us really sort of needs to be done today to sort of stay on track. So people can have as much conversation as they want, but when we will be done is when we will be done, so I just wanted everybody to have a heads up. That's sort of what I'm-- I'm looking for. So fair warning, you know, enjoy the conversation. It's good debate, but we still have to get stuff done. So thank you very much.

**FOLEY:** Thank you, Mr. Speaker. Continuing discussion on LB1089, Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. According to what the Speaker just said, I'll make this very brief. A vote for this bill is forcing someone to sign up for a voluntary program. A vote green on LB1089 is forcing people to sign up for a voluntary program. Vote no. Thank you.

**FOLEY:** Thank you, Senator Erdman. Further discussion? I see none. Senator Vargas, you're recognized to close on the advance of the bill.

**VARGAS:** Thank you very much. A couple points that I want to make, and I-- and I had a good conversation with a few senators off-- off the floor. One thing we're going to look into is whether or not we can make a-- one point of contact at the school so that we're not creating some more, you know, inefficiencies with who's talking to who and making it easier for, let's say, an individual to talk to one person at a school site. So I'm going to look into that because I don't-- I don't think that's an unreasonable ask. Ultimately, we have a question about workforce. We don't have a ton amount of money to go around, and that's part of the conversations we have. Every single year, there's \$2.1 billion in just federal Pell Grant money that is not being picked up. And then on the back end, we always hear that there are individuals trying to afford to go to community college, trade schools, higher ed in our state. And so there's a disconnect. How can we make sure to get \$2.1 billion dollars in federal Pell Grants to our lowest income families to then have some more options for going to postsecondary education? And this is one of those pathways and

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solutions to do that. FAFSA completion was introduced in Illinois and Texas and in Louisiana; that's passed by their board of ed. Several other states are going down this route because they don't want to leave any money on the table, and specifically because every single time-- and in our state, 60 percent of our Nebraska students are filling out the FAFSA, but less are-- less than 60 percent of our Nebraska students are filling out the FAFSA, but more than 70 percent of the jobs in Nebraska require at least some postsecondary education. Colleagues, this is a very commonsense way that we can ensure that there are options in front of our students, there's options in front of them; and by doing this, if we see what happened in Louisiana, not a single student did not graduate. Graduation actually increased. College-going rates increased, especially for first-generation college students and individuals of color and individuals from low-income backgrounds. Every single sector that we want to see go into a good job went into some postsecondary education options across the board. It is why it's being passed in other states, and I hope we can be the next state because this is a commonsense way to make sure that we are being effective and efficient with our dollars and also making sure that we're utilizing existing programs at our disposal to make sure that students-- students can get jobs and contribute to our communities and our society. With that, I ask for your support for LB1089. Thank you very much.

**FOLEY:** Thank you Senator Vargas. Members, you've heard the debate on LB1089. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

**ASSISTANT CLERK:** 25 ayes, 5 nays to place the house under call.

**FOLEY:** The house is under call. All members please return to the Chamber, check in. The house is under call. Senator Vargas, we had-- you had 23 votes on the board. Did you want to accept call-in votes? Oh, roll-call vote has been request-- OK. Roll-call vote will be conducted when we have all members present, reverse order. All unexcused members are now present. A roll-call vote in reverse order will be conducted. Mr. Clerk,

**ASSISTANT CLERK:** Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne voting yes. Senator Walz voting yes. Senator Vargas voting yes. Senator Stinner. Senator Slama not voting. Senator Scheer voting yes. Senator Quick voting yes. Senator Pansing Brooks voting yes. Senator Murman not voting. Senator Moser voting no. Senator

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Morfeld voting yes. Senator McDonell voting yes. Senator McCollister voting yes. Senator Lowe not voting. Senator Linehan voting yes. Senator Lindstrom voting yes. Senator Lathrop voting yes. Senator La Grone voting yes. Senator Kolterman voting yes. Senator Kolowski. Senator Hunt voting yes. Senator Hughes not voting. Senator Howard voting yes. Senator Hilkemann not voting. Senator Hilgers voting no. Senator Matt Hansen voting yes. Senator Ben Hansen not voting. Senator Halloran voting no. Senator Groene voting no. Senator Gragert not voting. Senator Geist voting no. Senator Friesen not voting. Senator Erdman voting no. Senator Dorn voting yes. Senator DeBoer voting yes. Senator Crawford voting yes. Senator Clements voting no. Senator Chambers voting yes. Senator Cavanaugh voting yes. Senator Briese. Senator Brewer not voting. Senator Brandt voting yes. Senator Bostelman voting yes. Senator Bolz voting yes. Senator Blood voting yes. Senator Arch voting no. Senator Albrecht voting no. Vote is 28 ayes, 9 nays, Mr. President.

**FOLEY:** LB1089 advances. I raise the call. Proceeding now to General File 2020 senator priority bill LB1021, Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, LB1021, introduced by Senator Groene, is a bill for an act relating to cities and villages; provides for an expedited review of certain redevelopment plans under the community development law; exempts such redevelopment plans from certain requirements; harmonizes provisions and repeals the original section. Bill was read for the first time on January 15 of this year and referred to the Urban Affairs Committee. That committee placed the bill on General File with committee amendments. When we left the bill, there was an amendment pending from Senator Chambers to recommit the bill.

**FOLEY:** Members, in light of the fact that the bill has been on the floor previously, we'll ask some senators to just give us a brief refresh. Senator Groene, it's your bill. Would you like to refresh us first, please?

**GROENE:** I won't spend a lot of time. Everybody knows what this is. This is a-- I call it a micro-TIF, so the-- the little guy, the young family wants to build a-- rebuild a home in an older part of town can have some help without a lot of cost in doing it, helping revitalize the old main streets in our older neighborhoods. It's an infusion of-- of allowing them not to have to-- a refund on their taxes, basically, property taxes, for the improvements for ten years. When we went around the first time, I accept Senator Pansing Brooks's comment, then Senator Chambers talked to me. There was nothing they disliked about the bill. It was just a venue they had to discuss other issues they

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didn't think was on the floor, and I fully understand that. That's what we do here. But the Speaker said there's absolutely no one stood up in opposition to this bill. There was no negative comments, questions which were answered fully on it. This is a good bill for Nebraska. This is workforce housing at its best, workforce affordable housing at its best, without input from state dollars. It works, and it's been a collaboration with the League of Municipalities and-- and the Urban Affairs Committee to come up with very good language. So what I would-- I would appreciate a yes vote on AM2988 and a yes vote on the-- that's the committee amendment, AM2988, and then LB1021, advance it on to Select. I've had a discussion with Senator Chambers. He-- he has a couple of comments he wants to make yet, but he's assured me he's-- he actually likes the bill, and we will go forward with it without wasting the Speaker's time. Thank you.

**FOLEY:** Thank you, Senator Groene. Senator Wayne, if you'd like to refresh us on the Urban Affairs Committee amendment, it's your option.

**WAYNE:** Thank you, Mr. President. Shortly, there was opposition to this bill. We worked with everybody. We-- we removed Omaha and Lincoln from this bill. Specifically, they had opposition. And so this is one of the times-- what we do a lot in Urban Affairs is we try to make a blanket approach at the beginning and it doesn't always work out. So this particular bill, we removed Omaha and Lincoln, and now we're just dealing with the counties that are under 100,000 or less for them to use this tool or be able to, if they choose, to use this tool, and we removed all opposition. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Senator Chambers, if you'd like to refresh us on your motion.

**CHAMBERS:** Thank you. Mr. President, members of the Legislature, I did tell Senator Groene that I'm not going to carry this bill any amount of time this afternoon. And as I've pointed out before, when we are sworn in, as they call it, I put my hand up, but I say "affirm." I don't need a promise of heaven or a threat of hell to make me do what I voluntarily say I'm going to do. My word binds me more than that, so if this bill is carried a great length this afternoon, it won't be because of me. I hope I can finish what I want to say on this time that I'm speaking. I don't like tax increment financing, and I call what the Governor's father did in getting TIF from Omaha for TD Ameritrade, a multibillion-dollar-- dollar operation which old man Ricketts wound up selling not long ago for I think \$25 billion to Schwab, who's headquartered in California, but I start mine by saying "Stiffing TIF-ing by Joe ("Grab-and-go") Ricketts. Now there was an article in the Omaha World-Herald, February 6, 2019. It says the

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following: Joe Ricketts lives near Jackson Hole, Wyoming, rather than in his native Nebraska, because Wyoming has no income tax. He didn't want to pay any taxes in Nebraska. Then my comment to that: "Grab-and-go" Joe, while taking up residency in another state to avoid paying Nebraska taxes, Joe Ricketts contrived to stiff TIF in order to get money from Nebraska taxpayers to benefit his business project. And around that time, not too long ago, TD trade-- Amer-- TD Ameritrade founder Joe Ricketts expressed his "deep regret" for racist anti-Muslim emails. That article would appear in the World-Herald, February 5, 2018. And Joe Ricketts is a racist. It's clear he is. He had put these things on his website. So he is blatant, he is unrepentant, and the only reason he took the stuff down was because he began to put-- be put on. And on February 25, 2015, a man was quoted by the Omaha World-Herald in a discussion. Jack Dunne, of the Omaha-based advocacy group Policy, Research & Innovation, said Omaha is a good example of TIF run amok. He cited the declaration of the Old Mill area of Omaha as blighted so that TIF funds could be used to deal with traffic problems caused by the TD Ameritrade project. "It had nothing to do with improving a blighted area," Dunn said. The use of tax increment financing to pay for a roads project near TD Ameritrade's headquarters near 108th and Dodge, under construction, above-- and they had a picture-- is a particularly sore point for some who questioned the development strategy. How much time do I have, Mr. President?

**FOLEY:** Senator, this was actually just a refresh but--

**CHAMBERS:** You said what?

**FOLEY:** One minute.

**CHAMBERS:** Oh, OK. I'm going to put my light on one more time so that I can finish this whenever I'm called. Thank you.

**FOLEY:** Senator Chambers, you're next in the queue. You may continue.

**CHAMBERS:** And I know I can finish it in this amount of time. Old man Ricketts put his thumb on the Omaha City Council. He's got a multibillion-dollar business. The people who had businesses, and to some extent it bled into residential areas, he had it declared blighted, an out-- an I-- out-and-out lie and fabrication, and the Omaha City Council went along with it. This is something like what's happening with that CARES money. The big shots get it; the ones who should, won't. Senator Groene's bill is aimed at letting some of this that was intended to help people accomplish that on a narrower scale. And when the amendment of the committee is adopted, then I think the

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bill will go ahead and move. But anyway, there was a city council resolution June 19, whatever that date is, but what they said was that, whereas the reso-- this resolution seeks approval of TD Ameritrade HOTC building tax increment financing redevelopment project plan, which recommends the city's participation through the allocation of tax increment financing, TIF, in an amount up to-- now this is what they're giving TD Ameritrade, this benefit-- \$5,048,875 to offset the costs of roadway improvements in the commercial office district area. That's how much TD Ameritrade got. Nobody in state government criticized it or complained about it. Senator Groene and I have had-- we didn't even talk about where each other was-- misuse of the TIF money. Joe Ricketts is a racist. He put up those 12 stations of the cross. But when it came out what a racist he is, a bakery that was going to allow certain amount of money from a certain bread of bread go to that project withdrew it. Others who had hooked up with him broke the connection. So Pete Ricketts comes by his racism "honestly," and I put that word in quotation marks, and I'm going to show you where that racist made what amounts to a declaration of war against me before he even was elected Governor. Former Mayor Kay Orr described him as a man of faith, Catholic faith, but he disagrees with what the Pope said the Catholic Church catechism is relative to the death penalty. I'm not going to go into all of that on Senator Groene's bill, but before the afternoon is over, you all won't have to wait with bated breath all day and then into tomorrow because I'll go into other things. That's all I have to say on this bill. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. Your motion is pending to recommit to committee. Was it your intention to take that motion down, Senator Chambers? Senator Chambers?

**CHAMBERS:** Oh, I want to withdraw that motion I have.

**FOLEY:** Yes. Thank you, Senator Chambers. The motion is withdrawn. We're now back onto LB1021 and the pending Urban Affairs Committee amendment. Is there anyone wishing to speak? I see none. Senator Wayne, you're recognized to close on the committee amendment. Is Senator Wayne on the floor? Senator Hunt, as Vice Chair of the committee, you're recognized to close on the committee amendment.

**HUNT:** Thank you, Mr. President. This committee amendment was done in collaboration with Senator Groene and the committee, and we worked over the last couple months to get all the opponents off of the bill. During the period when the body was adjourned, committee legal counsel worked with all the interested parties, including everybody who was opposed to the bill, as well as Senator Groene's office, to address

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the concerns that were raised at the hearing. So this is, again, just an example of kind of how our committee process is supposed to work, and I'm proud of the work we did on this bill and I urge your green vote on AM2988. Thank you.

**FOLEY:** Thank you, Senator Hunt. The question before the body is the adoption of the committee amendment, AM2988. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 40 ayes, 0 nays on the adoption of the committee amendments.

\_\_\_\_\_ : I didn't get-- my vote didn't show up. I pushed it.

**FOLEY:** Further discussion on LB1021 as amended? I see none. Senator Groene, you're recognized to close on L-- on the advance of the bill. He waives closing. The question before the body is the advance of LB1021 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 41 ayes, 0 nays on advancement of the bill.

**FOLEY:** LB1021 advances. Proceeding now to Select File 2020 priority bills. Members, please be attentive to voice votes. LB632, Mr. Clerk.

**CLERK:** Mr. President, with respect to LB632, Senator, I have E&R amendments, first of all.

**FOLEY:** Senator Slama.

**SLAMA:** I move that the E&R amendments to LB632 be adopted.

**FOLEY:** You've heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

**CLERK:** Mr. President, I do have amendments. I have a priority motion. Senator Pansing Brooks would move to bracket the bill until August 13 of 2020.

**FOLEY:** Senator Pansing Brooks, you're recognized to open on your motion.

**PANSING BROOKS:** Thank you, Mr. President. I did give Senator Hughes a quick heads-up. I just felt like it was necessary. Senator Slama today earlier talked a bit about hypocrisy. And I just wanted to maybe point

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out a few very interesting and, in my opinion, hypocritic-- hypocritical things on this. I do support LB632. I appreciate that that has come out of the committee, and I will not extend debate on this until cloture, but I did want to get a few things said on the record. Remember we just recently had on LB283 many discussions where people couldn't figure out the difference between a plan and a study on extreme weather events? Remember that? This was actually late last week. We had all of these discussions. There was all sorts of consternation by people in the body here who could not understand the difference between a plan or a study. What are we doing here? Would Senator Hughes answer a couple questions?

**FOLEY:** Senator Hughes, would you yield, please?

**HUGHES:** My apologies. Of course.

**PANSING BROOKS:** Thank you. Thank you, Senator Hughes. So is this a plan or a study?

**HUGHES:** This is a bill, so it will become law.

**PANSING BROOKS:** Oh. Yes. But does it call for a plan to look at water, extreme water events, or what does it do?

**HUGHES:** No, it is not a plan, Senator Pansing Brooks.

**PANSING BROOKS:** Oh, excuse me.

**HUGHES:** It is-- it will be a law.

**PANSING BROOKS:** So-- but excuse me, because the-- the-- the two-liner does read: and to develop a st-- state flood mitigation plan. So is that incorrect?

**HUGHES:** What-- what this bill originally was, LB632 was a shell bill that was introduced by me in the Natural Resources Committee as a placeholder so we had the opportunity to move forward. So the-- the one-liner or the two-liner on the original does not mean anything. That has been amended out, and these four other bills have been amended into that--

**PANSING BROOKS:** Oh, it was my under--

**HUGHES:** --LB632.

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**PANSING BROOKS:** OK, excuse me. Thank you. It's my understanding that this included Senator Bostelman's bill that did have a plan, a flood mitigation plan. What has happened to that bill?

**HUGHES:** I-- that is correct. It is in this bill. I thought you were talking about the original.

**PANSING BROOKS:** No.

**HUGHES:** My apologies. LB1201, which is Senator Bostelman's bill, does direct the Department of Natural Resources to conduct a study, I believe--

**PANSING BROOKS:** Well, I'm--

**HUGHES:** --and Senator Bostelman can correct me if I'm not right-- of where we are at in this state with our levee system to make sure that they are up to snuff, to make sure that--

**PANSING BROOKS:** Thank you.

**HUGHES:** --that we-- we are in-- where we need to be with our levees for our communities.

**PANSING BROOKS:** OK. Thank you. Yes. And I will ask-- thank you for your input, Senator Hughes. I will try to talk to Senator Bostelman in just a second. Of course, we did have a committee last year that Senator Bostelman and I cochaired to look at the flooding and what was going on. Senator Bostelman was amazing in that-- in that effort that we had. His knowledge, his ability to deal with the people that are experiencing all the trauma-- traumatic events from this flood was nothing short of miraculous. He was an amazing leader in this effort and I really applaud him. So I will ask him a couple questions, but I'm not done showing how ironic all of this is. Senator Bostelman, could you please talk about-- that bill was to create a plan so that we know where the levees are or what's going on, because whenever we looked around the state, there was not an exact list or map of where the levees are in the state, correct?

**FOLEY:** Senator Bostelman, would you yield, please?

**PANSING BROOKS:** Oh. Thank you.

**BOSTELMAN:** Yes, I will. Thank you. Thank you, Senator Pansing Brooks, for asking the question. Yes, exactly, what-- what we're looking at is to have a comprehensive statewide overview of our entire water system, if you will, groundwater and surface water, and integrate that into a

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compre-- eventually into a comprehensive plan that the DNR is responsible for, but it will eventually reside, I believe, with NEMA. I'd have to go back and look. I can read it here in a minute. But it does-- it does-- you know, we went throughout the state, from the Lincoln wellfields in Ashland up to Spencer Dam, over to Grand Island, up to north of Fremont, up through there. So we went across the area. We-- we took a lot of time to look, and staff went down to-- on the Missouri River, as well, and-- and looked down there. So there-- we went across the state, in the Kearney area and that, as well, to-- to look at what happened from the spring flooding of 2019.

**PANSING BROOKS:** Thank-- thank you, Senator Bostelman. So it really was an amazing study that we were on together, for those of you who think studies are of no value. And, yes, this is for a plan, just like my LB283 was for a plan, a plan to look at extreme weather events, including flooding, including droughts, including extreme years of pests. We had all that, but all-- so many of you stood up and were not able to support a plan. How could we have a plan? This doesn't make any sense. And then it's interesting because this is coming out of the General Fund. Now it's going to-- Senator Bostelman does have an amendment to move it off for next year. But I was told by Appropriations that there was no money for this kind of plan that the Legislature directed us to have in the year when Senator Larson and Senator Haar led this effort. But now the General Fund is going to be used. I was told by Appropriations to find a fund and I asked, which fund? And I worked with Fiscal and with Appropriations, and they agreed the-- on the fund that we needed to use, which was the ethanol fund, the ethanol tank fund. So I guess my interest-- my-- my question to you all is, how is this different than the bill that I just brought last week? There's consternation again on the plan last week, and now we have a plan. And I guess we now think that plans are-- that are-- and being prepared is good, is that right? So could Senator La Grone answer a couple questions?

**FOLEY:** Senator La Grone, could you yield, please?

**La GRONE:** Absolutely.

**PANSING BROOKS:** Thank you. Senator La Grone, you were really not in support of LB283 and stood up a few times. So are you in favor of this plan, this plan to prepare for future water-- extreme water events?

**La GRONE:** Am I in favor of LB632?

**PANSING BROOKS:** Yes.

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**La GRONE:** Yes.

**PANSING BROOKS:** Yes. Thank you. So could you explain the difference of-- is-- you were talking about a plan versus a study. This is also a plan. Can you tell me what the differential is on that?

**La GRONE:** I had no problem with the-- the plan or the study in LB283. My problem was the funding source.

**PANSING BROOKS:** OK. Did you have a better funding source?

**La GRONE:** Well, I'd be open to hearing other funds it could come from. I don't think it should be from that fund.

**PANSING BROOKS:** Well, thank you. It's what the Appropriations Committee decided was the funding source that we should use. So, again, the theory is it's better to fund through the General Fund, rather than finding a cash fund that Fiscal, Policy Office, and the Appropriations Committee thinks is better. It's-- it's good to know for the future that-- that we should just forget the funds that are out there that replenish themselves by millions of dollars. So I just find it very interesting. I had to bring it up, couldn't let this go. I also want to say that while I am disappointed about where LB283 ended up, and Senator McCollister-- McCollister prioritized that bill, I am not going to use this opportunity or any other opportunity to place LB283, my bill, back on-- onto the discussion or onto any other bill.

**FOLEY:** One minute.

**PANSING BROOKS:** The body has spoken. I have accepted it not moving forward this session, and I think we would all do well to think about that. As far as preparing and planning, it is good to do that. It is important to do that. I appreciate Senator Bostelman for his vision and amazing work that we did together in regards to the underlying bill that does create a plan. Floods and droughts and pandemics will always exist, but we need to prepare plans. Let's be consistent, my friends. Thank you.

**FOLEY:** Thank you, Senator Pansing Brooks. In the speaking queue are Senators Chambers--

**PANSING BROOKS:** Bracket.

**FOLEY:** I didn't hear you, Senator.

**PANSING BROOKS:** Pull-- may-- I would--

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**FOLEY:** Remove-- remove the bracket bill-- motion?

**PANSING BROOKS:** Yes, please. I'm pulling the bracket. Thank you.

**FOLEY:** The motion is withdrawn. Thank you, Senator Pansing Brooks.  
Back to LB632.

**CLERK:** Mr. President, I have amendments. First, Senator Bostelman,  
AM3183.

**FOLEY:** Senator Bostelman, you're recognized to open on your amendment.

**BOSTELMAN:** Thank you, Mr. President. Good afternoon, Nebraskans. Good afternoon, colleagues. AM3183 is a technical date change that would push the required completion and report date for the flood mitigation plan back from December 31, 2021, to July 1, 2022. And the reason for that is the delay of the legislative session stemming from COVID-19. The planning group would have-- would have had substantially less time in developing this comprehensive plan. AM3183 simply moves the completion date back. And they need 18 months. That's what it was figured when we started the bill and when we started to look at the process and we just took that time off the front end of it. So we really need to move it out that five, six months so they have the time to complete the plan. So how that figures in-- within a fiscal will be-- you know, it's really the plan, not necessarily the fiscal end of it that we're looking at, to allow the group time to effectively create an evidence-based and comprehensive flood mitigation plan. This bill will be very beneficial to all Nebraskans and I ask for your green vote on AM3183 and the underlying bill. I will-- like to take a couple more minutes maybe to speak on this a little bit and if I need to. I've really not had an opportunity to open on this bill because when it was on General File, it went very quick. I didn't have the time to do that. We really moved it along. So I may push my button here in just a couple of minutes just so I can explain a little bit more what's going on. But we did do a study last year through the summer. Senator Pansing Brooks-- Brooks and myself co-chaired it. We did spend a lot of time, a great deal of time, ourselves and staff, going across the state, looking at what happened, looking at infrastructure, looking at levee systems. One thing we found was there was no catalogue, if you will, of levee systems in the state, who owned them, who didn't-- who-- whose were the Corps', whose were NRDs', if they had any, or counties' or irrigation districts'. We really didn't have that. So one of the things we wanted to do with this is make sure we had a catalogue, I'll call it, or a registry of where all those were at so we kind of knew where those were. Remember, we had one bridge, one bridge. Highway 79 at Morse Bluff in North Bend

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was the only bridge that you could go north and south across the Platte River, basically from Omaha to Grand Island. So what this-- what we need to do is we need to take a look at the entire state, all of the river systems put together, to see how that affects. If you do something in one part of the-- of the-- on the Loup River, how does that affect the Platte River? If you do something on Elkhorn, likewise. If you do something on the Republican, how does that affect downstream? We're really not doing that, necessarily, and that's what this will provide us. So we're looking at critical infrastructure. We're looking at bridges. We're looking at gas pipelines, if you will, that go across. We're looking at our cities' water systems, their-- their wastewater systems. We're looking at homes, where homes are developed, towns, those type of things. It's really to put a comprehensive look across the state, which the NRDs do a good job right now within their districts, but it's to pull that all together into one area so that we really take a good look across the state. So we plan ahead. And when we look for federal funding, that's another area that we need to look at because we're not always set in the best place. We don't have a process or plan in place to know, to-- when these funds become available, to just then apply for them, because we already have something established in place. We don't always have that, so this provides those opportunities. So with that, I think I've talked a little bit about it, but I would appreciate your green vote on AM3183. And again, we really need that 18 months, is what this is about, to get-- to get it done and do it the right way. I thank you for this opportunity and for your green vote on AM3183 and the under bill-- underlying bill, LB632. Thank you.

**FOLEY:** Thank you, Senator Bostelman. Debate is now open on LB632 and the pending Bostelman amendment. In the speaking queue are Senators Chambers and McCollister. Senator Chambers.

**CHAMBERS:** Thank you. Mr. President, members of the Legislature, I would like to ask Senator Hughes a question if he will yield.

**FOLEY:** Senator Hughes, would you yield, please?

**HUGHES:** No.

**FOLEY:** Senator Hughes, would you yield to a question?

**HUGHES:** Of course.

**CHAMBERS:** Senator Hughes, does this bill contain that provision that preempts the cities from doing anything along the lines of banning plastic grocery bags?

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**HUGHES:** Yes.

**CHAMBERS:** Thank you. Members of the Legislature, I don't like this bill, so this is the bill of my choice today to say a lot of things on, take some time. The Speaker said, when somebody-- that people were wondering how long we'll be here, he said, you tell me, and he was looking in my direction, not at me. But I'm going to make a suggestion by the way I conduct myself this afternoon. There are any number of issues that trouble me which can be discussed, at least tangentially, relevant to this bill. I'd like to start by asking Senator Kolterman a question, if he is here, if he would yield.

**FOLEY:** Senator Kolterman, would you yield, please?

**KOLTERMAN:** Yes, I would.

**CHAMBERS:** Senator Kolterman, have you led this august body in the Pledge of Allegiance or the salute to the flag, as it's called?

**KOLTERMAN:** Yes, I did, sir.

**CHAMBERS:** Senator Kolterman, do you have great respect for that flag?

**KOLTERMAN:** I have great respect for what it stands for.

**CHAMBERS:** Senator Kolterman, you've heard me, on a number of occasions, refer to it as a rag. Is that true?

**KOLTERMAN:** Yes, it's true, and that bothers me, but you're entitled to your opinion.

**CHAMBERS:** I didn't hear all you said, but I think you said that's true, you've heard me say it. Does it trouble you when I refer to that flag as a rag?

**KOLTERMAN:** Yes, it does.

**CHAMBERS:** Do you think respect ought to be shown to that flag?

**KOLTERMAN:** I think respect should be shown to the flag and for what it stands for. Yes, sir.

**CHAMBERS:** That's all that I have to ask you. I believe in going to sources. When you want to talk about the American flag, you ought to go to United States Code Title IV and its headline: "Flag and Seal, Seat of Government, and the States, Chapter 1--The Flag." We're going to get down today, and we're going to get down and dirty, and I'm

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going to show that a lot of you don't respect that flag. Reading, "The flag of the United States for the purpose of this chapter shall be defined according to sections 1 and 2 of this title and Executive Order 10834 issued pursuant thereto." I-- I-- departing from that, I feel something coming over me. I'm going to have to be just like Old Man River. I do have the "old." Now I have to just keep rolling along so that the metaphor is correct. The definition of flag in Sections 1 and 2, Section 1: flag; stripes and stars on. The flag of the United States shall be 13 horizontal stripes, alternate red and white; and the union of the flag shall be 48 stars, white in a blue field. Some of you now will have been instructed on what that blue panel is known as. It's known as the union. The 13 stripes represent the 13 original colonies--

**FOLEY:** One minute.

**CHAMBERS:** --most of them which were slaveholding, and the blue field is the union. Every time another state joins, another star is added. And I'm not in a hurry because we have plenty of time. Section 2: Same; additional stars. On the admission of a new state into the Union one star shall be added to the Union of the flag; and such additions shall take effect on the fourth day of July then next succeeding such admission. And I'm going to continue reading when I'm recognized again, but I'm going to comment. You all and your friends disre--  
[RECORDER MALFUNCTION] Was that time?

**FOLEY:** That's time, Senator.

**CHAMBERS:** OK.

**FOLEY:** I apologize for having had the microphone turned off. I should not have done that. Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Good afternoon, colleagues. Would Senator Hughes yield to a question or three?

**HUGHES:** It's Governor-- Governor to you.

**FOLEY:** Senator Hughes, would you yield, please?

**HUGHES:** Of course.

**McCOLLISTER:** Senator Hughes, I understand this particular bill is a Christmas tree bill. Can you list out to me the-- the components of the bill?

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**HUGHES:** Yes, I can, abs-- absolutely. LB933 was a bill by Senator Crawford, and it's dealing with people who are disconnected from their utility service, their electric service. It provides that the electric provider cannot charge more than their actual cost to reconnect people when they are disconnected for-- or-- for being delinquent on their bill. And it also gives some grace time for those individuals--

**McCOLLISTER:** Thank you.

**HUGHES:** --if they have a medical reason, if they have a medical--

**McCOLLISTER:** Is that the only component?

**HUGHES:** No, there were-- there are three other components. There are four total: LB1201, we've talked a little bit about, Senator Bostelman's bill creating-- directing the Department of Natural Resources to develop a plan dealing with the levees in the state of Nebraska; LB769 deals with the Natural Resource Commission, dealing with the residence requirements in order to be on the Natural Resource Commission; and my bill, LB861, dealing with the preemption issue.

**McCOLLISTER:** Thank you. Senator Bostelman, would you yield to a few questions?

**FOLEY:** Senator Bostelman, would you yield, please?

**BOSTELMAN:** Yes.

**McCOLLISTER:** Your bill was bill LB1222, is that correct?

**BOSTELMAN:** No. No, it was not.

**McCOLLISTER:** What was your bill number?

**BOSTELMAN:** LB1201.

**McCOLLISTER:** LB1201, I see. And that was based on the-- the task force that you led with Senator Pansing Brooks?

**BOSTELMAN:** Yeah, from the study that we did, yes, from the committee.

**McCOLLISTER:** Yeah. What was that task force number, do you recall?

**BOSTELMAN:** Was it LR294?

**McCOLLISTER:** OK.

**BOSTELMAN:** I don't remember. I don't remember

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**McCOLLISTER:** Well, I would argue, Senator Bostelman-- you correct me if you disagree-- that LB283 was so similar to what you're doing in your bill. Would it be a problem for us to amend viable parts of LB283 into your bill to make it better?

**BOSTELMAN:** I don't know that it would, because we would have to talk to the DNR first and see because it-- it heavily reply-- lies-- relies upon the Department of Natural Resources and what they have and how they're funded. So before I could agree to that, I would definitely have to speak with-- with them about any changes or any amendments to this bill, because it does affect-- affect them.

**McCOLLISTER:** Well, I'd argue that the current funding for LB283 is more than adequate. If you'd look back at that fund over the last five years, you'll see that it keeps building up. And some of the operators that used to require the use of some of that money, they're no longer in business and we've corrected those funds. The crummy operators that would pollute those fuel tanks, they've been gone for 10 or 20 years. And so the need for that, that fund, is perhaps much less than-- than before. So with that, I would-- I would argue that we could easily amend LB283, make that a much better bill, and go from there. Thank you, Mr. President.

**FOLEY:** Thank you. Senator Hughes, you're recognized.

**HUGHES:** Thank you, Mr. President. Good afternoon, colleagues. I appreciate the discussion on this bill. We are on Select File. We've-- we've had extensive debate on it, especially the preemption part, on General File. I-- I do want to talk about a couple of things. There are additional things in place that the state has preemption over, villages, municipalities, and cities. You talk about speed limits, this age of being able to buy cigarettes. There's just a lot of places that the state has oversight over our cities and villages, and uniformity across the state is a good thing. This is a very business-friendly bill. The groups that brought this idea to me are, you know, business, the grocers, the State Chamber, you know, a lot of groups like that, the convenience store owners. I do want to point out the map that has been handed out to you. It is a colored map of the United States and there are gray, red and blue, and some crosshatch states on that. This is the-- the uniformity statute, the preemption, if you will, dealing with-- we'll call it the bag ban, if you will, just for ease of talking. You can see that there are quite a few states that have already enacted this, those states in red, the states in blue, other than South Dakota, which has passed this, my understanding, so it is very business friendly that is going across the nation. So I would certainly encourage us to do this. But probably

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more important is Senator Crawford's bill. You know, this is extremely important right now when we're talking about individuals who are being disconnected for not paying their electric bills. If-- if I need to, I've got information from NPPD, OPPD, LES of the number of people who have fallen delinquent on their electric bills because of the COVID crisis. So, you know, this is important information, and we certainly need to make sure that our electric utilities are not taking advantage of those individuals who are disconnected and that reconnect fee because these are individuals who are struggling to pay their bills and we need to make sure that they are not taken advantage of. And also, a big portion of that is if you have a medical condition that requires that you have equipment, be it a home dialysis or oxygen machine or some other thing like that, that you can't be cut off. So that's a very, very important component within LB632. I do have an amendment down the way. And I want to thank Senator McCollister on the mike. We had extensive discussion on this bill on first round, and he-- and I committed to him that we would work together to try and make this a better bill. Senator McCollister brought me language. We agreed on it. That's what the amendment is, my amendment that's a couple down. So I thank you, Senator McCollister, that we're trying to make this better legislation. So read the bill. Look at everything that's in there. I think Senator Bostelman's bill is a very good bill. It's something that we need to be done. There was some exposure that was identified for us last year during the flood along some of our rivers, not all of our rivers, so that's an issue that needs to be looked at by a state agency that has the manpower and hopefully the resources to do that and do it correctly.

**FOLEY:** One minute.

**HUGHES:** So take a-- take a look at all of the components in here. Like I say, there's a whole bunch of issues where the state has overruled or taken control of issues that are dealing with things that are-- are going through our communities. So I would appreciate a green vote on LB632. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. Mr. Clerk.

**CLERK:** Mr. President, Senator Chambers would move to bracket the bill.

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

**CHAMBERS:** Thank you. Mr. President, some people think that I'm rigid. I learn from everybody. When somebody sets a good example, then I will learn from that, and I think Senator Pansing Brooks's bracket motion

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set a good example for me. I wasn't prepared for that motion to be withdrawn because I will vote to bracket this bill. But it was her motion, and since it had not been voted on, there'd been no change to it, the offeror of a motion can withdraw it, which she did. But that does not prevent anybody else from offering it. And I understand some shenanigans are being attempted by Senator Groene on the hair bill. Now his bill failed on cloture. I'm going to see if the Speaker allows it to be brought up again on-- as an amendment to another bill. That would violate what is said about a bill that fails on cloture. It's supposed to be dead. Well, we're going to have a chance to see a lot these last few days. And if that is allowed, say goodbye to the rest of this session and get ready for a special session and we're going to go into it. Now I want Senator Groene to know that if he even tries that, then it would be a mistake. But he can try anything he wants to. But I'm going to teach you all something about this flag, you ignoramuses when it comes to the flag. Section 8, and this is from Title 4 of the United States Code, which deals with flag and seal, seat of government, and the states. Section 8: Respect for the flag, all you hypocrites who-- who salute that rag. Subsection (b) The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise. How many of you all have seen the flag touching merchandise and placed on merchandise? I call it a rag. Why don't you all object when it's associated with merchandise? It should not even touch merchandise if you want to respect it according to you all's federal law put in place by white people like the rest of you, and you condemn people who don't like it and say what they really believe it is. Subsection (c) The flag should never be carried flat or horizontally, but always aloft and free. Horizontally means flat. Any of you all who watch these football games where they want everybody to stand for the national anthem, you know what they will do? They get servicemen and cops, who you all say are dishonored when somebody doesn't stand for the flag. This, in telling you how to respect the flag, it should never be carried flat or horizontally. What those people do is get a huge flag and they unfurl it horizontally and they carry it flat and horizontally. Now, some of you Christians, some of you strong, dynamic females, go tell them to stop unfurling that flag and carrying it horizontally. That's for the soldiers and the cops. I know you didn't know anything about it because you all don't read. You don't go to the source. But I do. And that's why I say white people are either ignorant or they're hypocrites. Subsection (d) The flag should never be used as wearing apparel, bedding, or drapery. How many of you all have seen these bikers wear bandanas? How many of you all have seen people today, in demonstrations of various kinds, especially the neo-Nazis, with flag headdress, flag shirts, flag shorts? All these things disrespect the flag and you white people go for it, and I

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call it a rag and you get upset because you don't know anything. The flag should never be used for advertising purposes in any manner whatsoever. How many of you all have seen these big refuse trucks with a flag on it? People who do yard work, who fix roofs, who refurbish houses, have flags advertising their business. Are you going to say something about it? Are you going to offer a resolution based on what the United States Code says about how you re-- you respect the flag? I'm forthright and honest in mine. It has been nothing but a rag to black people and sometimes formed in the shape of a noose. I'm teaching you all something, but you're not going to accept it because you're hardheaded. (d) The flag should never be used as wearing apparel. Sub-- sub (i) The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. You all do all of it. You hate that rag, just like me. And down inside, you say, thank God he will say what I'm thinking. You know you think of it as a rag. (j) No part of the flag should ever be used as a costume or athletic uniform. How many of you all have seen the helmets with the flag on it? Huh? How many of you all have seen the referees with a flag emblem on their shirt? That's a uniform. That's apparel. It should not be worn that way. And something else you all don't know, you geniuses, you supreme people, that this inferior black man found the truth out about by reading English, which I understand: If you have an establishment and you're going to put a flag in the window, you always have the union, or that blue field, to the left of the observer. It's always to the left. When you look at many uniforms, they've got it reversed. And it's on military aircraft backwards. It's on military uniforms at Offutt Air Force Base backward. Why don't you say something about that? You think the military itself does not know how the flag should be displayed? And you all condemn me for calling it a rag and you don't even know how to display it. That flag, whenever it's facing the viewer, the blue union should be to the left of the viewer. It should be to the left. So when you look at the sleeve of these referees or these military people, that flag, the stars should be toward the back of that person's arm, because that's to the left of the viewer. You all didn't know that. Senator Murman didn't know that. And if I go around here and question all of you, you would not know. Do you know how I found out? I read the law, your law, your white people's law. You put the flag together. You designed and defined the flag. That's how I know. I read it. It tells you how to respect the flag and you don't do that. You put it on trash trucks.

**FOLEY:** One minute.

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**CHAMBERS:** It should not be associated with any advertising whatsoever. And that's why I condemn your ignorant Governor. He joined the governor of Colorado [SIC] in condemning Nike for taking those shoes off the market that had the flag on those shoes. First of all, it never should have been on the shoes. Shoes touch the ground. So I wrote a letter to the Governor and said, you attacked them for the wrong reason, you should have attacked Nike for putting it on a shoe in the first place. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. In the speaking queue are Senators Bostelman, Chambers, DeBoer, and Hunt. Senator Bostelman.

**BOSTELMAN:** Thank you, Mr. President. Let's talk a little bit about my amendment and the bill that-- that I have out there that we're-- we need to talk a bit more about. The amend-- amended version of LB1201 was placed into LB632 and it appears in Sections 9 through 13 of the bill. The original bill would have created a flood task force to review current flood mitigation planning efforts and make recommendations on future flood and mitigation planning. The amended version, instead, creates a plan development group, which both reduces the fiscal note because that plan, the original one, was almost a million dollars. What this does is-- that look-- create a \$650,000 fiscal note, I believe it was. Now it's far less and makes the planning process more inclusive. It-- I introduced this bill because the state currently does not have a coordinated strategy to reduce future flooding risk. My intention to intro-- introducing the bill was to ensure that the state create a collaborative and coordinated statewide strategy for flood mitigation. As you know, last summer I cochaired the LR241 interim study with Senator-- Senator Pansing Brooks, which created a select committee to study the-- the development of an environmental action plan for the state, including assessments for-- of vulnerability, risk, economic impacts, and mitigate-- mitigation strategies. The study focused on the state's response during the 2019 flooding at all levels of government and how the state is moving forward with recovery efforts. Senators and staff spent countless hours touring and held meetings in affected areas and spent time speaking with individuals, emergency managers, first responders, county supervisors, county highway superintendents, Corps of Engineers, engineers, University of Nebraska, public power, FEMA and NEMA representatives, to name a few. The biggest takeaway from the study that the LR241 Committee found was that Nebraska does not at this time have a coordinated strategy for reducing flood risk. I introduced this bill on behalf of the committee for this very reason. The LR241 study recommended that the state develop a coordinated strategy, starting with an updated state flood mitigation plan. The

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committee found that such a plan must include a flood risk adaptive measure and nonstructural solutions, and it must include planning because counties, especially the smaller ones, can't afford to do this on their own. The state must help counties make use of all the available funding. NEMA's focus is on emergency response, which means risk is not proactively addressed. NEMA wants to increase funding for mitigation, but it needs experts to ensure the best outcomes for mitigation activities. The ability to score and prioritize projects is vital. The depth of that analysis has to go much deeper than what FEMA requires. Resources must be maximized in the process inclusive to ensure everyone is on the same page and that efforts are not duplicated. The state does not have a flood mitigation plan that was updated-- that has been updated in the last four or five years. We need to take it to the next level. After discussing the bill with-- with NEMA and the Department of Natural Resources is it-- it was agreed that the state needs a comprehensive plan, but a different approach was suggested, which is what you see in the amendment, which is in Sections 9 through 13. The bill requires that Department of Natural Resources do the following: develop a state flood mitigation plan to be integrated into the state hazard mitigation plan; convene a plan development group which is to include a number of stakeholders as listed in the amendment; identify cost-effective flood mitigation strategies; opportunities to implement flood hazard mitigation strategies; to improve knowledge of available recovery resources; to identify available funding sources--

**FOLEY:** One minute.

**BOSTELMAN:** --to compile a centralized list of cri-- critical infrastructure with the highest risk of flooding; take a comprehensive look at laws and policies and recommend changes if needed to ensure collaborative and coordinated best state and local entities in mitigation planning; and to hold two public hearings before the plan is completed, which now needs to be moved out for this reason to July of 2022. There is a few more things I will talk about if I need to come back on the mike, but this is a very focused, very narrow look at flooding specific. So with that, I ask for your vote, a green vote on AM3183 and LB632. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Bostelman. Senator Chambers.

**CHAMBERS:** Thank you, Mr. President, members of the Legislature. Those of you who watch football know what a helmet is. It's a very hard head covering to protect the skull and what's inside of it, but it's been found that it doesn't serve that purpose. Brains have been scrambled anyway. But those helmets have flags on them. The helmet, when a

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person is tackled, comes in contact with the ground. The flag should never come in contact with the ground. When they have a flag on their shoulders or their arms or their shoulder pads or any part of their jersey, they are violating the respect for the flag, first of all, by having it as a part of apparel; secondly, as a part of an athletic outfit, uniform, costume. It's not supposed to be. But when they have it on their jersey and they get tackled, the flag then comes in contact with the ground, which is specifically verboten. Now I'm going to read to you all something I wrote to your Governor. Shoe company pulls patriotic shoe-- this is from the Lincoln Journal Star, July 3, 2019: Ricketts weighs in on Nike controversy. Shoe company pulls patriotic shoe. Yet another social media storm blew in Tuesday over the United States flag just in time for Independence Day, and Governor Pete Ricketts on Tuesday wrote himself into the controversy, this one over whether Nike should have yanked a newly issued pair of USA-themed sneakers with a Betsy Ross flag on the back of each shoe. And this is the U.S. flag. The company chose not to release the Air Max 1 Quick Strike Fourth of July because it featured an old version of the American flag, Nike spikes-- spike-- Nike spokeswoman Sandra Carreon-Johnson [SIC] said in a statement. The flag has a circle of stars representing the colonies. The Wall Street Journal reported the decision was made after NFL star and social activist Colin Kaepernick, who is a Nike spokesperson, told the company it shouldn't sell a shoe with a symbol that he and others consider offensive. Now, although his motive was something you all won't like, he was right. The shoes should not have had the United States flag. Ricketts tweeted, "Our flag is the symbol of our country's freedom, which Americans across the country will proudly celebrate this week on #IndependenceDay. Nike's decision not only disrespects our flag, but also the free enterprise system that made this brand great." That's the end of his tweet. He said he stood with Arizona Governor Doug Ducey, D-u-c-e-y, who withdrew state financial incentives from Nike. Now here's your ignorant Governor, who doesn't even know the flag should not be on a shoe. Ducey tweeted this at 4:00 a.m.: Nike has made its decision and now we're making ours. I've ordered the Arizona Commerce Authority to withdraw all financial incentive dollars under their discretion that the state was providing for the company to locate here.

**FOLEY:** One minute.

**CHAMBERS:** I had said Colorado. It's Arizona. And later Ducey said, Arizona's economy is doing just fine without Nike, we don't need to suck up to companies that consciously denigrate our nation's history. He's too dumb to realize that putting the flag on the shoe denigrated the flag. Thank you, Mr. President.

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**FOLEY:** Thank you, Senator Chambers. Senator DeBoer.

**DeBOER:** Thank you, Mr. Lieutenant Governor. I talked with Senator Hughes and told him that I wanted to have a conversation today with him about the portion of his bill that involves preemption, and so that's what I would like to talk about. I had anticipated having perhaps a little more time to discuss it, but I think that we might have another chance later to do that. So I wanted to talk about the idea of preemption and as it appears in this bill. Preemption is a doctrine that could either apply from the federal government, which could preempt our state laws, or from our state laws, which could preempt local municipality laws, and there are cases when it makes sense. I remember in law school, now that was 20 years ago, but I remember reading about a case about mud flaps, you know, the mud flaps that go behind the wheels on a-- on a truck. And either Florida or Georgia had made a law different than the other one, and the court decided that preemption was OK in that case. Actually, it was about-- in that particular case, they were talking about the commerce clause, but the same idea applies. And the court said that it was OK because it would be very bad for commerce to have someone stop at the border between Florida and Georgia and have to change their mud flap-- flaps in order to meet with another jurisdiction's requirements. In that case, there was an interest for the federal government to involve and say, look, we're going to get involved here. That's the kind of consistency situation in which preemption might be appropriate. But I think we have a very different situation here, and I think there are situations where preemption is very clearly problematic. In those cases, we should let local governments decide what's best for their people. We know that the entirety of the state of Nebraska isn't all homogenous. We're not all the same. We don't have the same local situation in Omaha that we have in Ord, Nebraska, that we have in Bruning, that we have in Hastings, I don't know, wherever in the state. There are vast differences in the sorts of things that we might need to do to regulate. So how do we come to this situation where we have this sort of a preemption question in front of us? Well, I looked at the committee statement, I looked at who was testifying on behalf of the original preemption bill, and it turns out it's people like the grocery lobby; it's people like the convenience store lobby. It makes sense because paper bags cost more than plastic bags. Paper bags cost more than plastic bags. If you get rid of plastic bags, then the stores which have to give out free bags-- that's part of what they do, they give them out for free-- then it costs some more money. So if I am a grocery store, I don't want to have to be forced to give out paper bags to people who would prefer plastic bags. It costs me more money. Now there was a little scare for the grocers and the other

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folks who were interested the other-- last year, I think it was, when the Omaha City Council passed one of these plastic bag bans. And when they did, it was vetoed, so it didn't go into effect. But they said, hmm, we might lose our case in the local government, let's try and go somewhere where we know we have a better chance of winning. So then they came, very logically, to Senator Hughes and us here at the state government and they said, let's try our hands with them, we think we might have a better chance with these guys. And it looks like they probably did have a better chance with us.

**FOLEY:** One minute.

**DeBOER:** I'd really like to finish explaining this, but it looks like I'm not going to have time. My point is, I think it's dangerous to allow folks to forum shop for the most favorable level of government for what they want to do. I think there's a difference between the people who are supporting their business and the lobbyists who, of course, should try to make themselves as whole as possible, should look out for their interests. But we in this body, we have to worry about setting precedent. We in this body have to think about what's best for all of Nebraska, not just one particular interest. And in this case, if we set an example for preemption, I think it's dangerous. I think we not just need consistency, we need consistency about our consistency. And for that reason, I think this is not at all the case. We could talk about what happened last year with my radon bill where we said-- where Senator Hughes said to me, one size doesn't fit all--

**FOLEY:** That's time, Senator.

**DeBOER:** --and I said, you're right, it made the bill better to make it more tailored to the local situation. Thank you, Mr. President.

**FOLEY:** Thank you, Senator DeBoer. In the speaking queue, Senator Hughes, Chambers, and Hunt. Senator Hughes.

**HUGHES:** Thank you, Mr. President. Going back to a few of the other things that the state provides oversight to local municipalities, zoning is one of those things that the-- such as the three-mile jurisdictional zoning limit for municipalities and cities. There is local sales tax authority so that we do put a limit on the amount of sales tax that cities and municipalities can charge. There's a whole bunch of occupation tax, developmental zones, levy and spending limitations that we put on local government, concealed carry. There's a lot of professional licensure that we do. It is uniformity that this bill provides for business, and we are a very business-friendly state,

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and we need to be because that is a huge portion of our economy. You know, that sales tax revenue, the income tax that is generated from business, you know, that's how we have money to spend on K-12 education, which is the single largest item in our budget, we have money to spend on Health and Human Services, which is the second largest item in our budget. Those are for kids and needy and those who are needy, you know, so it frustrates me a little bit when, you know, we talk about we're not doing enough for children and the poor in our state. Maybe not, but we are doing a heck of a lot. They are the top two items in our budget every year. So I-- you know, the discussion we're having about preemption, it's not anything new. This is just the next step that we need to do that provides uniformity and commonality for industry in the state of Nebraska in order to be more streamlined. You know, it-- it-- it's interesting to me, and another example, that, you know, why do you think, you know, McDonald's and Kentucky Fried Chicken and Burger King and all of those restaurants have been so popular? It's not because their food's better than the local mom-and-pop diner, that's for sure. It's because there's uniformity. You know, we have become a society where we want to expect the same thing. We don't want surprises, you know. So if you go to Chicago and you go to McDonald's, you're going to get the same hamburger that you get in Omaha or you get in North Platte. You know, that uniformity is a comfort level for us citizens. Now there are quite a few of us who enjoy going the back roads and finding the mom-and-pop diner. You know, I've never had a bad plate of meatloaf or the meatloaf special at a mom-and-pop diner in a small town. They're all different. They're all good. But for the mass majority of us, especially those of us living in more concentrated population areas, that uniformity is what our society is today. So this is just the next step. Senator DeBoer had made the comment that it was easier to go to the Legislature to do this rather than the city council.

**FOLEY:** One minute.

**HUGHES:** I guess I will argue the opposite of that. If those who want to ban plastic bags in the state of Nebraska, there's a lot fewer of us, you know, 25 is all you need in the Legislature to get anything done, rather than 100 different communities across the state. Now I hesitate to plant that seed in your head, but if you look at it, that's a lot easier to do. You know, there-- there are just a lot of things that this body deals with that we need to think about very seriously, and there are a lot of different things that need to be weighed when we do enact legislation, so I appreciate the conversation we're having today. Thank you, Mr. President.

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**FOLEY:** Thank you, Senator Hughes. Senator Chambers, you're recognized, your third opportunity.

**CHAMBERS:** Thank you, Mr. President. And I should be able to finish up what I'm saying on the flag this time, but I will have other opportunities to speak, one time for sure when I close on my motion before withdrawing it. Anyway, Ricketts is tailgating the governor of Arizona. Ricketts responded-- oh, here's what that governor had said. It shouldn't take a controversy over a shoe for our kids to know who Betsy Ross is, he tweeted, a founding mother. Her story should be taught in all American schools. In the meantime, it's worth Googling her. Ricketts responded, I stand with Governor Doug Ducey and agree that the history of our founding, including Betsy Ross, should be taught in all our-- in all our schools. That's what he tweeted. Then I continue in this letter to Governor: You and Governor Ducey are the "heavies" in this melodrama which, borrowing from Shakespeare, could be titled Much Ado About Nothing. Both of you are off the beam with your respective screeds against Nike. Apropos are two verses-- two verses. St. Luke, Chapter 6, 39th verse: And he, meaning Jesus, spake a parable onto them. Can the blind lead the blind? Shall they not both fall into the ditch? St. Matthew, 15 chapter, 14th verse: Let them alone. They be blind leaders of the blind, and if the blind lead the blind, both shall fall into the ditch. Ducey is the leader, you the follower, and as foretold by Jesus, you both fell into the ditch of ignorance. Your relationship to him by analogy is like that between Svengali and the Lady Trilby, who was subject to his control. While I'm at it, let me provide some terms that fittingly describe your opinion shadowing or echoing that of Ducey: Svengali, a person who completely dominate-- this is from the dictionary definition-- a person who completely dominates another, usually with selfish or sinister motives, named after the evil hypnotist of the same name in the novel Trilby by George du Maurier; tagalong, a person or thing that follows the lead or initia-- initiative of another; Tweedledum and Tweedledee, two persons or things nominally different but practically the same, a nearly identical pair, between 1715 and 1725, humorous coinage appear, apparently first applied as nicknames to Giovanni Bononcini and Handel with reference to their musical rivalry. Then I continue: I resisted the almost overpowering urge to label Ducey and you "Tweedledumb" and "Tweedledumber." Obviously, neither of you is conversant with the relevant provisions of the U.S. Code pertaining to respect for the flag. Permit me to improve your education on the subject and you will see that the shoes should not have been put on the market in the first place. The conservative's financial bible, The Wall Street Journal, missed the point, too; however, once on the market, they ought to have been recalled, and

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both of you, if you were going to enter the fray, ought to have led the hue and cry for their expeditious removal, if your true intent was to prevent disrespect for the flag--

**FOLEY:** One minute.

**CHAMBERS:** --etcetera. I promised documentation and then I gave it as I read to you all. That's all I'll say on the flag, but I have much to say on other matters, including your Governor, who is trying his best to become a miniature Trump. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. Senator Hunt and then Senator DeBoer. Senator Hunt.

**HUNT:** Thank you, Mr. President. Colleagues, I introduced an amendment to this bill, if you all recall the-- the conversation we had on General File where we divided the question and then we had a germaneness argument and then we had a vote and all of that. My whole problem with this bill is the preemption issue. Senator Hughes says that the preemption argument is nothing new, that this is something that we debate all the time, and that's true. There have been many times in the history of the Legislature, in the recent history of the Legislature, where we've talked about these preemption arguments and what that means for local control. I think there are a lot of great things in this bill. It's a Christmas tree bill that contains a lot of pieces of legislation that I support and that I would like to see passed. But this piece that-- that my amendment, which is AM3153, it's not been read across yet so it's not up for debate yet, but I still wanted to speak on it to make sure that we get time to get my objections into the record, as well as the merits of my amendment, which I would like to see passed if we can get that read across. So my AM3153, it takes out the provisions of LB861, which is the preemption bill that is the source of all the consternation here. I think that if we could get this amendment passed and get the provisions of LB861 out of the bill, this would pass very smoothly because that's my chief objection to it. And it's not just my objection. You know, I'm bringing the opposition that you can read from the testimony in the hearing on LB861. But other groups that were opposed were the League of Municipalities, the American Cancer Society, the Cancer Action Network, the Nebraska Recycling Council, as well as the city of Omaha and the city of Lincoln. So I'm carrying this amendment because this is speaking to an issue that's very important to my constituents, that my office has received lots and lots of feedback about. And we haven't really heard a compelling reason for why LB861, as amended into LB632, should pass. We haven't heard a compelling reason about why that needs to be in the bill. The language that we have an issue with, which you

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can see in the bill says a county, municipality, or agency shall not-- shall not adopt, enforce or otherwise administer an ordinance or a resolution that prohibits the use or that sets standards, fees, prohibitions or requirements regarding the sale, use, or marketing of containers. That's like not very juicy language, but what that basically means is that if this bill passes, what we're doing is we're talking about local control and we're basically giving a mandate to our cities and towns and all of our municipalities saying you cannot put any taxes, regulations, ordinances on containers. What does that mean? That means plastic bags. And that's what this is all about. I am not coming to all of you with an environmentalist argument. I'm not taking a position on plastic bags on this bill. My greatest concern is that preemption and the precedent that this bill sets in the Legislature for future bills that could deal with preemption that you might not like so much. My whole thing and my-- the thing I love most about my job is I am really, really into state and local control. I have some leftist ideas. That's no secret. But one thing that is very consistent across all of my beliefs is that I really believe in local control and the right of cities to do what they want based on what the people who live in those cities are telling them that they want. So this is overstepping local authority. What if cities want to have a plastic bag ban? What if that's something that the-- the citizens of Omaha or Lincoln or Broken Bow or Grand Island or North Platte decide that they want? Then the Legislature, with no reason, no-- no evidence to show that this is actually a widespread problem--

**FOLEY:** One minute.

**HUNT:** --thank you, Mr. President-- is taking that choice away from them. It takes the rights away from counties and municipalities to restrict any container types. And that's just something that I don't believe in setting a precedent for. So for that reason, I would like to get to my amendment. I would like to vote it in so that it's taken out of this bill, and then we can move forward with the rest of the bill and pass the really good things that are actually contained in it. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hunt. Senator DeBoer.

**DeBOER:** Thank you, Mr. President. I didn't think I would have another shot talking, I thought I was going to run out of time, so-- but that's great because I kind of went really quickly the last time. So I do want to mention that I also agree with the other parts of this bill. I think there are a lot of good bills within this Christmas tree. It is just the preemption piece. And Senator Hughes suggested that the reason for the preemption was that there needs to be

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consistency. But I was thinking about this and I was trying to figure out what is so difficult for a retailer if they just have fees in local areas. Right? We have some cities in Nebraska have local sales taxes, some don't, right? There are some places that have different fees for different kinds of-- I can't say the word. Anyway, so what is the difficulty in a fee, right? Because the municipality would collect it. If what we were really concerned about was having consistency, then we would just get rid of the bans and not ready-- get rid of the fees because the fee part, that's not going to be difficult. There's no administrative labor that's required for someone who has-- in Lincoln, let's say, there's a fee required, but nowhere else. That doesn't make it more difficult for our businesses to run their business because of some administrative concerns. So Senator Hughes's argument that we have to do this because of consistency, I'm a little concerned about that argument. It doesn't make sense to me because it's not just banning bans but also banning fees. Now I was starting to say this my last time on the mike, and I tried to say it very, very quickly after time. I apologize. Last year, I brought a bill on radon remediation and Senator Hughes objected on the microphone because the bill was going to go to the entire state and treat the entire state the same way. Actually, Senator Bostelman also objected to that. And between General and Select File, I created a mechanism, with their help, to restrict the bill from applying a one-size-fits-all solution. And it was great. The bill went through. There we go. That's a little different than local control, but it suggests the point that there is not just a one-size-fits-all solution. And when we have as our reasoning for trying to apply a one-size-fits-all solution consistency, this vague idea that somehow retailers are going to be burdened by the inconsistency between rules, I really-- I begin to wonder if it's just when it's convenient we want it to be locally controlled, and when it's inconvenient we don't. So I'm a little concerned about that. We just did micro-TIFs a minute ago and they had specifically removed Omaha and Lincoln so that they would be treated differently. We do this all the time where we say one size does not fit all in Nebraska. So here we are trying to preempt the locals from being able to handle their own requirements for containers, whether they would assess a fee or something like that, because of, I guess, the very tenuous idea that there is some sort of--

**FOLEY:** One minute.

**DeBOER:** --inconsistency that that might cause trouble for business. Look, I appreciate that we need to be a pro-business state. That's great. But being pro-business doesn't mean that we use that as our refrain for doing some preemption that is going to lead to a long-term

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precedent of preempting in situations where there's no controlling state interest, where there's no strong state interest for that preemption. If we do that, we are giving away the power of those local entities to create the solutions that are best for their citizens, and I'm against that. I think that when we can, we should let the locals make the decisions that are best for their situation. It's not always going to be possible. Sometimes we will need to do something as a body for the entire state. But if there is not a strong interest why we would take preempting that whole area, we shouldn't do it.

**FOLEY:** That's time.

**DeBOER:** Thank you, Mr. President.

**FOLEY:** Thank you, Senator DeBoer. Senator Hunt.

**HUNT:** Thank you, Mr. President. Senator DeBoer said one size doesn't fit all, and I think that that is sort of the point of so many disagreements that we're having in this body and in this state, whether that's between the city of Omaha or the city of Lincoln and Governor Ricketts about a mask mandate that they want to put into place to keep our kids safe as they have to return to school, to keep people in our-- our long-term care and nursing home care facilities safe as they're in there with this growing pandemic. That's a local control issue. I feel like so much of us talk about small government and local control up to a point, you know, up to a point where it's about controlling somebody else's body. There's no one-size-fits-all when it comes to types of reproductive healthcare either, and we'll have time to talk about that tomorrow as LB814, the abortion ban bill, has its own hallowed time slot yet again for discussion, so tomorrow is shot, so you need to know that the whole day is going to be taken up tomorrow on that. But there is no one-size-fits-all preemption bill, either, and that's what we're talking about today with-- with the provisions of-- what is it, LB814-- in LB632. This bill is-- is a model bill that's brought by a division of the Plastics Industry Association. This bill didn't arise because there was some big local outcry, because so many convenience stores and grocery stores and all these people were saying, please, we're really being threatened by these bag bans. There's no such threat. Omaha tried a ban on plastic bags and the city council actually passed it, but then it got vetoed, so that's the most beautiful example of local control working. That's when local control and local government is really at its best, when citizens from a state or citizens from a city are able to make an argument before their elected officials and say why something matters to them, and then people can also choose to participate in that community or not. You know, if you don't want to live in a-- in a city

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with a bag ban, right now, there's no cities in Nebraska that have a bag ban, but if-- if anybody ever passed one, which this bill would make impossible-- this bill would actually create a mandate saying no city in Nebraska can ever do it. But if one did, you wouldn't have to live there, although it's getting increasingly difficult to find a place to live where they haven't taken more measures to have more environmentally friendly practices. And I'll also say this is the same thing many women do, and an increasing number of men, when they look at a place to live. They say, am I moving to a state that has an abortion ban, because that's something that-- that prohibits economic growth. That's something that makes young people not want to live somewhere. And if you don't believe me, you can look in your inbox and you can read all the emails from people who are opposing the abortion ban that we're discussing tomorrow. I believe in growing the economy. But I also believe in local control, and I'm against any kind of preemption that would take local control away. This bill is just not needed when Nebraskans have so many other important issues that they're grappling with right now during a pandemic. That's something that we continue to talk about on the floor as well, because the minority of people in this body who care about the outcry that we've heard from Nebraskans about unemployment ending, about evictions, about unconstitutional bans on women's healthcare that we're-- that we're ramming through the session for some reason as we have five days left. Senator Vargas' bill, or a motion to suspend the rules to even just have a hearing on protections for workers in meatpacking plants--

**FOLEY:** One minute.

**HUNT:** --you didn't even give him the courtesy of that. LB632 is great. There's a lot in there where compromise was found, where consensus was-- was created, and good things happened with that bill, but not this part. We have to take this part out, and once we do that, I think the bill will have a better chance of moving. Thank you, Mr. President.

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

**CHAMBERS:** Thank you, Mr. President. Members of the Legislature, Senator La Grone should be here so he can learn how to deal with multiple motions. He should talk about something of substance, in my opinion, but that's just my opinion. I always add this proviso: Each person can conduct his or her business or affairs as he or she sees fit. Some people like Mother Goose. Maybe I like Shakespeare. Somebody might say, like Clarence Darrow, I don't believe in God for the same reason that I don't believe in Mother Goose. Well, some people would

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be scandalized by that, but others would not. It would be ho-hum. If you believe in God, God does not exist because you believe in God, and if there is a God, that God would not cease to exist because you don't believe in that God. But if, in fact, your God is a creation of your mind, then if you change your mind, then that God goes by the boards and disappears. If you are to be an evangelist and go out and convert people, or a disciple or an apostle, whatever you want to call yourself when you go out and try to turn people into the Christian way of looking at things, then you ought to be an example of what it is you're talking about. Jesus suggested that you lead by an example. He said a city set upon a hill cannot be hid. He told you all, instead of saying these public prayers, he said, the hypocrites say their prayers in public that they may be seen of men, but I say unto you, go into your closet and pray to your father in secret who will reward you openly, for he knows what you have need of before you ask him. So you all tell Jesus, oh, forget you, we're going to do what we want to do, we're the Nebraska Legislature and we want to pray out here in public. Jesus even condemned them for standing in the synagogue praying out loud. Now you all don't believe in Jesus, so I should not invoke his name, but you pretend to do that. You pretend to believe. So if I'm going to communicate with you, I have to use the language that you purportedly understand. Now I want to ask Senator Hughes a question about this bill before I complete this segment of my presentation, if he will yield.

**FOLEY:** Senator Hughes, would you yield, please?

**HUGHES:** Of course.

**CHAMBERS:** Senator Hughes, in the discussion that some people have had about uniformity, this language originated in this effort with ALEC. Isn't that true?

**HUGHES:** I'm not aware of that. This was brought to me by the Nebraska grocers association and the State Chamber of Commerce and the convenience store owners association.

**CHAMBERS:** OK. Once you said you're not aware of it, that would have answered the question that I asked you. Thank you. Uniformity is not always the best thing. But I heard Senator Groene yackety-yakking this morning about the reach of big government. I heard Senator Erdman talking about a similar thing. He likes small, centralized government, and Senator La Grone. Well, this is the state doing the very thing you all said you didn't want to see. And the reason I don't take you seriously is because it depends on what issue--

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**FOLEY:** One minute.

**CHAMBERS:** --is before us in determining what it is you say. Mr. President, in my one minute, I want to come up there to the desk and then I'm going to withdraw that motion. Mr. President, true to my promise, I withdraw that pending motion to bracket.

**FOLEY:** The bracket motion has been withdrawn. Mr. Clerk.

**CLERK:** [RECORDER MALFUNCTION] actually, can I read a couple of things, Mr. President?

**FOLEY:** Please-- please do so, yes.

**CLERK:** Then we'll proceed to the next motion. I have a motion with respect to LB1107 by Senator Wayne. Enrollment and Review reports LB781 and LB1064 as correctly engrossed. I have a communication from the Executive Board regarding the designation of LB1107 as a major proposal and Education Committee confirmation reports signed by Senator Groene. Mr. President, with respect to LB632, Senator Chambers would move to recommit the bill.

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

**CHAMBERS:** Thank you. Mr. President, members of the Legislature, those of you who may want to have successive motions, this is the way you do it. This is one way of doing it. I could have taken that one to a vote and then moved to reconsider and I'd have a chance to talk. But in my last days with you in this Legislature, as a member of it, I want to give you some cards to play. On a warm summer evening, on a train bound for nowhere, he met up with a gambler. We were both too tired to sleep. So we took turns a-gazing out the window at the darkness. And as darkness overcame us, he began to speak. And then the refrain: You got to know when to hold 'em, know when to fold 'em. Now I did that to learn from Senator La Grone this morning. He chose to recite Yertle the Turtle, and I chose to give a few lines from "The Gambler" that Kenny Rogers made famous. What I want to get across to you all, as far as my continuing to have negative things to say about Governor Ricketts, in the same way that that rascalion drew my name into that legislative race in the 1st District, he threw the first stone there. He put me onto that scandalous, lying, defamatory flier to help his chosen candidate, Senator Slama, win. And they felt the only way they could lift Senator Slama up, not on her merit, but by trying to tear another woman down. This woman had a good reputation in that area as a lifelong Republican, one who had worked for various Republican

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candidates' campaigns, and they won. I don't know if all of them, but some of them did. And she is a Catholic, and the Governor's henchpersons suggested that she may be an atheist, and the one in whose behalf it's being done will not disavow it. I said the Governor threw the first stone in that brouhaha, and I'm going to show you how he threw the first stone at me. This is an excerpt from the Lex-- the Lexington Clipper-Herald. The headline: Orr, Barrett stump for Ricketts in Lexington, Kevin's Zelaya, Z-e-l-a-y-a, staff writer, posted Saturday, May 10, 2014. I like to document mine, not tell lies like Senator Slama's campaign did on Ms. Palmtag. Lexington, Nebraska-- If local voters need a seal of approval, they got two on Thursday afternoon in the form of former Nebraska Governor Kay Orr and former Nebraska Congressman Bill Barrett, who both endorsed Republican gubernatorial candidate Pete Ricketts. I guess that might be why so many of those people are working for the Governor, Sen-- Governor-- former-Governor Orr's relatives. Going back to the article: Both former public servants were on hand at the Lexington Grand Generation Center Thursday as Ricketts sought to seal some local votes before the Tuesday primary. During a question and answer session with residents after his talk, Ricketts said, if elected, he would not allow the tactics of Omaha Senator Ernie Chambers hijack the agenda of the Legislature. "Ernie is a smart man but he is one man. You have to have a coalition to set the legislative agenda. I want to grow that coalition." He's going to grow a coalition against me? He never saw me, never met me. He's not being elected to the Legislature. He was going to be elected to Governor and yet he said that-- he's talking about setting the legislative-- the Legislature's agenda. So I guess he felt the way to do that and have his influence is to purchase Senators. Some he will appoint; others he will give money to. But thus far, he hasn't been able to control me. He started it. I never heard of Ricketts before he ran, but he had heard of me. And so, like all these other racists who misuse my name, they perceive that white people are racist throughout the state and they make it clear by holding me up as the one they should fear. And in addition to my superior intelligence, the only difference between me and the rest of you all is that I'm black. He has misused my name to scare white people as they are-- as though they're a covey of quail. Omaha World-Herald, May 27, 2015: The Governor used the veto signing to make another appeal to lawmakers he hopes to flip on the repeal bill. "This is a matter of public safety," he said. "It's also a matter of making sure our prosecutors have the tools they need to be able to put these dangerous, hardened criminals behind bars." Well, the death penalty didn't put people behind bars. It put them, in those days long ago, in the electric chair, and then when he came along, on the gurney. Listen to what this rat did. Several times Tuesday, the Governor linked

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supporters of repeal with Omaha Senator Ernie Chambers. He linked Senator Slama's opponent with Senator Ernie Chambers. He does that. He knows you all are racists out there and you're scared of your shadow. I got to go back. Several times Tuesday, the Governor linked supporters of repeal with Omaha Senator Ernie Chambers, who introduced LB268 and has worked for decades to abolish capital punishment. Quote, a vote with Senator Chambers to repeal the death penalty sends the message to criminals that Nebraska will go soft on crime, Ricketts said. Do you see the lie, the lie that this man tells? He's like the devil. He is the father of lies and was a liar from the beginning. The same lies that he told back there in 2017-- in 2015 to scare the senators, he had put on that flier to support Senator Slama against her opponent. I'm going to read that again. "A vote with Senator Chambers to repeal the death penalty sends the message to criminals that Nebraska will be soft on crime," Ricketts said. Chambers said Tuesday he believes senators who supported his bill through three rounds of debate did so as a matter of principle. I gave these white men and women credit, but your Governor said they're sending a message to criminals that you're soft on crime. He said that the Pope, by calling for the abolition of the death penalty, is sending a message to criminals that the Pope is soft on crime. He said, no, I didn't mean that. All right, you liar, in which instance were you telling the truth? You can't say both statements. If what you say about the Pope, that he's not sending the message by being for the abolition of the death penalty, then you're lying when you say those who support Senator Chambers' bill are sending a message to be soft on criminals. That's what that rascal over there says. But you know white people-- you all are white-- your modus operandi.

**FOLEY:** One minute.

**CHAMBERS:** Lincoln Journal, May 27, 2015: Chambers said supporters of repeal will not be voting with him, as Ricketts suggested several times Tuesday. "They're voting on the basis of their conscience, they're voting with the conservative movement around the country. They're voting with Pope Francis and the Catholic Church, and with their colleagues who are the same party and persuasion," he said, and also the Catholic bishops in this state. I'm going to turn on my light. I'm not through. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. Speaker Scheer.

**SCHEER:** Thank you, Mr. President. We've reached allotted time on [RECORDER MALFUNCTION]

**FOLEY:** Speaker Scheer.

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**SCHEER:** Thank you. Mr. President, we've reached the allotted time on LB632. We'll move to the next item on the agenda, please.

**FOLEY:** Thank you, Mr. Speaker. We'll proceed down the list on Select File, LB1056. Mr. Clerk.

**CLERK:** I have E&R amendments first of all, Senator.

**FOLEY:** Senator Slama.

**SLAMA:** [RECORDER MALFUNCTION] I move that the E&R amendments to LB1056 be adopted.

**FOLEY:** That is a debatable motion. Senator Chambers, your light is on.

**CHAMBERS:** Oh, I-- I don't mean my light to be on here.

**FOLEY:** Very good. Thank you, Senator Chambers. Members, you heard the motion to-- to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

**CLERK:** Senator Lowe would move to amend, AM3158.

**FOLEY:** Senator Lowe, you're recognized to open on your amendment.

**LOWE:** Thank you, Lieutenant Governor. AM3158 makes two changes to LB1056. First, it adds an emergency--

**FOLEY:** Senator Lowe, we're having a problem with the microphones here. Just one moment. Let's try again, Senator Lowe.

**LOWE:** All right. Thank you, Lieutenant Governor.

**FOLEY:** Excuse me, Senator Lowe. Senator Lowe.

**LOWE:** Better? Thank you, Mr. Lieutenant Governor. AM3158 makes two changes to LB1056. First, it adds an emergency clause so that the necessary changes can go into effect immediately. Second, for the calendar year 2020, the number of possible temporary extensions is increased from 15 days to 50 days. In 2021 and beyond, the extensions will be maxed out again at 15 days. This is a simple change that I have discussed with the Liquor Control Commission, the League of Municipalities, as well as different elements of the three-tiered system. There is no opposition to this change as long as it is limited to 2020. Thank you.

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**FOLEY:** Thank you, Senator Lowe. Debate is now open on the amendment. I see none. Senator Lowe, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM3158, Senator Lowe's amendment. Those in favor vote aye; those opposed vote nay. Record, please.

**CLERK:** 31 ayes, 0 nays, Mr. President, on the adoption of Senator Lowe's amendment.

**FOLEY:** AM3158 has been adopted. Mr. Clerk.

**CLERK:** Senator Wayne would-- had AM3154, but I have a note he wishes to withdraw, Mr. President.

**FOLEY:** Withdrawn.

**CLERK:** I have nothing further on the bill.

**FOLEY:** Senator Slama for a motion.

**SLAMA:** Mr. President, I move that LB1056 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. LB1056 advances. Proceeding now to LB1053, Mr. Clerk.

**CLERK:** I have E&Rs, first of all, Senator.

**FOLEY:** Senator Slama.

**SLAMA:** Mr. President, I remember that the E&R amendments to LB1053 be adopted.

**FOLEY:** You've heard the motion to adopt the E&R amendments. Those in favor say ay. Those opposed say nay. The E&R amendments are adopted.

**CLERK:** Senator Hunt would move to amend, AM3319.

**FOLEY:** Senator Hunt, you're recognized to open on AM3319.

**HUNT:** Thank you, Mr. President. This amendment I intend to withdraw. And this has gotten some attention from Nebraskans who are desperate for the ability-- for the ability to protect themselves and their communities by having a mask mandate. A lot of people don't know that out of 100 largest cities in the country, out of the 100 largest cities in the country, Omaha is the only one that doesn't have a mask

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mandate. Besides that, Omaha is now the largest city in the whole country that doesn't have a mask mandate. And it's not because they haven't tried to do it. Dr. Adi Pour from the Douglas County Health Department wanted to initiate a mask mandate, and then Governor Ricketts said that they would sue Omaha if they tried to go forward with it. And this has created an uproar in my city and in my community, in my district, and it goes back to that local control issue. I introduced this amendment on this bill because this is relevant to nursing homes, because COVID-19 has been devastating to nursing homes. They've really struggled with how to best handle this pandemic for the people who are most vulnerable. Year to date, there have been 261 outbreaks in 196 nursing home facilities. And since we started testing protocol for staff, which happened about a month ago, we've had a significant escalation in cases, which includes 15 new facilities in just the past two weeks. In the past two weeks, a total of 62 facilities have had new outbreaks, so that means that a lot of facilities are on their second and third outbreaks now. And what we know from public health experts, what we know from experts at UNMC, our pandemic experts, our infectious disease experts, which, colleagues, we know that in Nebraska we have some of the best in the world here, so why is Omaha still the biggest city in the entire country that doesn't have a mask mandate, and not for lack of trying, but because of the Governor putting himself in my city's business for no reason other than to hurt people? These numbers are really staggering that we're seeing in long-term care facilities. And that's part of the reason that I introduced this amendment on this bill. It's not just the long-term care facilities that are crying out for leadership either. We're not seeing leadership at the federal government. They said it's going to be up to the states. If you want to get testing, if you want to get tracing, if you want ventilators, states, you're going to have to get that together. In Maryland, the governor even had to get the tests that they were able to receive from Korea and put them away in-- in like a storage facility so that the President wouldn't come in and have the federal government come in and take those resources. It's been a battle through this whole pandemic. And in Nebraska, I'm afraid that we've given up on that battle. So the federal government says, states, it's up to you. At the state level, we're saying we're trusting the-- the health departments; we're trusting the mayors and the-- the local governments. But when my local government passed a mask ordinance, when my local government wanted to have masks required, the Governor said, we'll sue you if you try to do that. The whole country and the whole world is laughing at Nebraska. They are laughing at how we are handling this pandemic. And in the next few weeks, schools and institutions of higher learning across Nebraska are going to be trying to reopen because they have to--

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because they have to during a pandemic. And usually at this time, educators are eagerly setting up their spaces. They're putting their bulletin boards together. They're eager for the first week of classes. But this year, that eagerness and excitement has turned into fear, deep-seated fear, not just for themselves and their colleagues but for the students and their families, the homes they have to go back to where their grandparents live with them. We know that we are going to have outbreaks when these kids go back to school. Being an educator is more than a profession. It's a vocation. And I know that Nebraska teachers want to return to their classrooms. They want to see their students. But with cases rising in Nebraska, over the past week, we've had an average of 291 cases per day, an increase of 33 percent from the average two weeks earlier. We really need to slow the state's transmission now, especially if we want Nebraska children to learn safely and remain healthy and come home and be able to keep their parents and grandparents and their loved ones healthy. All of the brightest minds who are working on this, all of our infectious disease experts, all of the people that Governor Ricketts says that he's trusting and taking cues from, say that the way to do this, the way to stay safe, is to mandate masks in public. And about half of you in here won't even wear a mask when you're in here out of courtesy for your colleagues either. University of Iowa researchers, you know what they found? Obviously, that the states that had mask mandates saw significant decline in COVID-19 growth after the mandates took effect. Some Nebraska schools are going to require masks in the buildings. However, what happens when all these students go out into the community? They may not want to contract COVID-19 while at school-- they might not-- they might not get sick at school, but then they might go out to the grocery store or a restaurant that doesn't require masks, and that's putting educators at risk too. That's putting kids at risk. Kids are dying of this disease. You want to talk about anti-abortion? You want to talk about pro-life, this and that? The loudest voices in this body about anti-abortion are the ones not wearing masks. And if Nebraskans could see this whole body, they would see that. The Lieutenant Governor sits up there with his mask under his nose all day talking about pro-life, goes for a lot of you. The Governor preaches local control, yet he is actively in-- intervening into local politics. He's actively saying that he's going to sue my city if they do what they can to protect their people. According to him and the Attorney General's Office, state law trumps city code, and that's what pushed the Douglas County Health Board to reverse their decision for a mandate. Our Governor is putting his political agenda in front of the health and safety of Nebraskans, specifically the workers that are serving all of us, that are serving our children. Our teachers are struggling to figure out what to do. They're retiring

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early because they don't want to go teach in a school that won't keep them safe. And that's not even on the schools, like the superintendents are doing everything they can. But without leadership at the top, what are they supposed to do? They're doing the best that they can, but we have to do more for Nebraska and we have the power to do that in this body. We have to protect our most vulnerable teachers. We have to protect the people in these long-term care facilities. We have to protect kids and students who we know are getting sick and dying of this illness. They are finding fetuses in pregnant women who have COVID-19. They are born with COVID-19. So wear a mask and let local boards of health, city councils, mayors put that mask mandate in place if that's what's best for their communities, because it is. Nebraskans, I want to say, I introduced this amendment and I'm going to withdraw it and I want to tell you why. It's because we don't have the votes for it, and if I don't withdraw this amendment, the way it works in here is it'll be filibustered and then the underlying bill will die. And the underlying bill is important for long-term care facilities; it's important for the people who are relying on those services, who are already in more danger, who are already more vulnerable than-- than other people in our communities. And I'm not going to jeopardize the good that we can do for them because my colleagues are not valuing the lives of Nebraskans by following the Governor wherever he goes. When he says local control until you try to do something to keep your people safe and then I'll sue you, it is embarrassing. The whole world is laughing at us and they should because we earned it. I'll withdraw my amendment. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hunt. The amendment is withdrawn. Mr. Clerk.

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

**FOLEY:** Senator Howard, can you make the motion for us, please?

**HOWARD:** I move that we advance LB1053 for E&R engrossing. Thank you.

**FOLEY:** Members, you heard motion to advance the bill. Those in favor say aye. Those opposed say nay. LB1053 advances. Proceeding now to LB1002.

**CLERK:** LB1002 has E&R amendments, Mr. President.

**FOLEY:** Senator Slama.

**SLAMA:** Mr. President, I move that the E&R amendments to LB1002 be adopted.

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**FOLEY:** You've heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

**CLERK:** I have nothing further on that bill.

**FOLEY:** Senator Slama.

**SLAMA:** Mr. President, I move that LB1002 be advanced to E&R for engrossing.

**FOLEY:** You've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB1002 advances. Proceeding now to LB992.

**CLERK:** LB992, Senator, I have E&Rs, first of all.

**FOLEY:** Senator Slama.

**SLAMA:** Mr. President, I move that the E&R amendments to LB992 be adopted.

**FOLEY:** That is a debatable motion. Senator Pansing Brooks.

**PANSING BROOKS:** Thank you, Mr. President. I just had a couple questions for Senator Friesen, if he wouldn't mind.

**FOLEY:** Senator Friesen, would you yield, please?

**FRIESEN:** Yes, I would.

**PANSING BROOKS:** Thank you, Senator Friesen. So in light of the fact that broadband is-- and broadband development is arguably the most important economic and community development issue for our state, especially in light of the pandemic, I am won-- I'm wondering whether this bill actually does protect carriers from competition who are not providing good services to their communities.

**FRIESEN:** I don't-- I don't think it's designed to protect anyone. It's designed to kind of open up possibilities of public power and private industry working together to facilitate the broadband in rural areas.

**PANSING BROOKS:** So how does it-- how does it help promote that competition for broadband?

**FRIESEN:** Well, right-- right now, you-- power districts cannot put communication cables in their easements, and that is probably the one biggest thing that this bill does, is that it allows power districts

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now to-- there's a process to where easements may contain communication lines.

**PANSING BROOKS:** OK. So do you believe it helps the new-- it helps new com-- competition of delivery of broadband to those communities who critically need it?

**FRIESEN:** Well, this-- this-- this bill doesn't deal a lot with communities. It's more for rural broadband, which is outside of city limits, and so that's-- that's the major focus that we have-- the task force has focused on is customers that are outside of a city or village limits.

**PANSING BROOKS:** So what I'm-- but many of the rural communities are 5,000 people and less, so--

**FRIESEN:** Yes, and-- and the task force didn't address any of those. And that is-- you know, you have good companies, bad companies. A lot of our smaller companies have done a great job of providing broadband out there. And I agree that not all communities have what we would consider broadband right now, but this bill, if I recall correctly, really doesn't address those types of issues.

**PANSING BROOKS:** OK. I guess I'm just rising because I've heard concern that this is-- this is actually protecting some carriers who are not providing good services to communities, protecting them from competition from others who would come in.

**FRIESEN:** That's not really how I look at it. The Public Service Commission has a-- what we passed last year. It's called the reverse auction to-- and they are implementing those currently. There's a federal-- RDOF, it's called. Can't think of what it stands for right now, but that's another process to where exchanges probably are going to change hands to where someone else can provide broadband in those areas. And so there's-- there's numerous other programs addressing some of those issues inside of communities, but we are focused pretty well on what we call the rural, hard-to-reach customers.

**PANSING BROOKS:** Well, as you know, due to my connections with broadband in our law firm, I will be not voting on this, but I wanted to get some things on the record. Thank you, Senator Friesen.

**FOLEY:** Senator Cavanaugh, you're recognized.

**CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. I rise in support of LB992. But I wanted to speak to

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Senator Hunt's comments just a little bit ago about the mask situation in Omaha and the Governor's move to pursue legal action against my hometown, my home county, local control. Schools are starting up in just a couple of weeks, and we are seeing cases in Douglas County on the rise. And I am very concerned about sending my children to school and everyone in the-- in our community sending their children to school. Our city government is wanting to issue a mandate on masks in our community. Our county health public official wants to issue a mandate. She is a very well-respected epidemiologist and she has done an amazing job in her-- in her role as the public health official for Douglas County, and I think we are very lucky in Douglas County to have Dr. Adi Pour serving our community and our state. And so it is extremely disappointing that as a medical professional and a public health professional, that we are not allowing her to do her job. And it has been proven that wearing a mask decreases transmission of this disease, and so as we are on the rise and people-- the-- the-- the notion that Nebraskans should just do the right thing, well, clearly we're not doing the right thing if we are continuing to have an increase in cases, and so it is time for us to issue a mandate. And since, from our role as the Legislature, we are not able to make that change at this point in time to statute, I encourage our school boards to close schools. I encourage our school boards to not reopen schools in the Omaha area until we are allowed to have a mandate to keep our students safe. Until we are allowed to have a communitywide mandate for a mask, we should not be putting children in school, period. Thank you. I yield my time.

**FOLEY:** Thank you, Senator Cavanaugh. The motion before the body is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

**CLERK:** Senator Friesen would move to amend, AM3180.

**FOLEY:** Senator Friesen, you're recognized to open on your amendment.

**FRIESEN:** Thank you, Mr. President. Just a short clarifying thing, AM3180 clarifies Section 12 of the committee amendment relating to the allocation by the Public Service Commission of dark fiber leases between served and unserved area. This amendment clarifies that the allocation of all or a portion of a dark fiber lease to an exclusively unserved area is not subject to the provision that requires 50 percent of an agency or political subdivision's profits to be paid to the Nebraska Universal Service Fund. So it's kind of a technical change that somebody wanted a little bit different wording to clarify that language, and that's basically all this is, and I'd urge your adoption of this amendment and passing of LB992. Thank you, Mr. President.

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**FOLEY:** Thank you, Senator Friesen, Is there any debate on-- on the amendment? Senator McCollister.

**McCOLLISTER:** Thank you, Mr. President. Would Senator Friesen stand for a question or two?

**FOLEY:** Senator Friesen, would you yield, please?

**FRIESEN:** Yes, I would.

**McCOLLISTER:** I just heard your comments on the amendment, Senator. Can you say that again? So those areas that are underserved, they would not be paying the Universal Service Fund charge. Is that correct?

**FRIESEN:** No, it's-- it's the unserved.

**McCOLLISTER:** Say that again?

**FRIESEN:** Unserved.

**McCOLLISTER:** Unserved areas.

**FRIESEN:** There's a difference between unserved and underserved.

**McCOLLISTER:** I understand.

**FRIESEN:** This would be in the unserved area.

**McCOLLISTER:** I-- it was my understanding that area-- every area in the state of Nebraska paid the USF charge. Is that not true?

**FRIESEN:** This-- this does not have anything to do with that. This is if you would lease dark fiber and it is in a served area, then you would have to pay 50 percent of your profits into the NUSF fund. This is different than I think what you're talking about.

**McCOLLISTER:** So in your view, there's no area in Nebraska, no urban area in Nebraska, that would qualify under this provision, correct?

**FRIESEN:** That's correct. This is meant for rural, which is, when I talk about rural, it's always outside of a city or village limits.

**McCOLLISTER:** And how much a part of Nebraska-- what percentage of the state would that include of the rural areas?

**FRIESEN:** You talking land mass or population or--

**McCOLLISTER:** Land mass.

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**FRIESEN:** Probably a pretty good-sized chunk of Nebraska.

**McCOLLISTER:** OK. OK, thank you, Senator.

**FRIESEN:** It's 78 percent maybe.

**McCOLLISTER:** Seventy-eight percent, is that correct?

**FRIESEN:** Seventy to 80.

**McCOLLISTER:** Goodness. Thank you, Senator.

**FRIESEN:** Thank you, Senator McCollister and Senator Friesen. Senator Linehan.

**LINEHAN:** Thank you, Mr. President. Senator Friesen, I would just like to offer you some time to talk about this bill. Thank you.

**FRIESEN:** So, you know, we have-- we have worked on trying to get broadband out into rural areas, and I know there's-- there's some on both sides now that don't think we're doing enough. There are some that think we're not doing-- or doing too much. And I think this bill has kind of brought us to the middle. Nobody loves it, but it gets done as much as I think we can. Does that mean we're done working on this issue forever? No. Right now, I mean, the amount of capital it would take to bring broadband to all of rural Nebraska, and when I-- again, when I say rural Nebraska, I'm-- I'm talking of all those areas that are outside of a city or village limit. So in my area even, I've got a small community of 420 residents. The-- the local exchange carrier has put in fiber to the home. They have made that commitment. They-- they did it over a four-year period to all of their rural customers. I think they're on the last leg of doing that. So we've got a community out there now of 420 people where a business actually made the case to go in and put fiber. And I'm sure they applied for some NUSF funds or something. I'm not even sure. I won't say. But even after they had fiber to the home, we had another company come in there and offer wireless communications, high-speed Internet to those customers also. So we're-- we're starting to see competition actually show up in communities as small as 420 people. It can happen out there. Do we have large carriers who have not stepped up and put broadband out into rural-- rural areas or into the small cities and villages? Yes, and I-- I think that's where the Public Service Commission and what we passed last year is going to address those issues. And so there-- there are ways of-- of getting that done. But right now, I think there's-- there's miles and miles of fiber being added every year. Are we going to get it done in the next two to three

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years? No. If you look at the miles of fiber that it would take to hook up all of our rural customers, I don't-- you know, I don't know what the potential is of getting that done. But when we talked at the Rural Broadband Task Force, we talked a lot about we didn't want to be technology specific, but I don't want to subsidize something that is, I guess, inferior to what I would consider fiber to be. Fiber is what we call future proof. Speed and the amount of data that it can carry has multiplied many times over, whereas in some areas of the state, the delivery of high-speed broadband might be wireless because we just economically cannot get fiber to every location in-- in the Sandhills where maybe you're going to pull fiber 20-some miles to pick up one customer and they may not even want it and sign up for it. So it-- it is a-- it is a process that we're going through that we've worked on. The task force has come up with some good recommendations that we're adopting and they're in this bill. And I think it will help speed up that process and it opens it up to the idea that we can have public-private partnerships between our power districts and our private Internet suppliers. This process has been put in place. And I think, as they've started to talk and communicate with each other, they've found that there's a lot of things they can do currently under current law.

**FOLEY:** One minute.

**FRIESEN:** And so I'm-- I'm-- been telling people over and over, as they run into examples where we-- we cannot get that fiber out to that-- or high-speed broadband out into rural areas, if we need to make further changes to law down the road, we will. We will continue to address this issue until we get it done. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Senator Cavanaugh.

**CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Senator Friesen, would you yield to a question?

**FOLEY:** Senator Friesen, would you yield, please?

**FRIESEN:** Yes, I would.

**CAVANAUGH:** I apologize. I am just trying to figure out the bill, the amendment. So is-- could you-- could you just go into that again? It's dark fiber, leased, a portion--

**FRIESEN:** Well, if-- if-- if, for instance, you were-- you were putting dark fiber-- there is dark fiber out there. Let's say that there is a public-private partnership and now that you have dark fiber out there,

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it's going to be lit. And so if that fiber is passing through a served area so that you'd be competition--

**CAVANAUGH:** Yes.

**FRIESEN:** --then all you're required is 50 percent of your profits would go into the NUSF fund, which goes to further help with building cell towers and they-- they do numerous things with that fund. And so if you're into the unserved area, that requirement would be lifted and there would be no requirement that you put it into that NUSF fund. And the Public Service Commission is going to decide-- I guess, if there is a dispute on what is served and what's unserved, the Public Service Commission will decide how much is allocated to the unserved and served areas.

**CAVANAUGH:** So does this expand to the partial-- it says partial-- sorry, one second. Let me pull back up your amendment-- the partial-- so we're going from "dark fiber leased to" to "or a portion of the leased dark fiber." So are we giving a-- waiving the-- the-- the fees if it's partially served?

**FRIESEN:** If it's unserved.

**CAVANAUGH:** If it's unserved, we're waiving the fees. But does this amendment--

**FRIESEN:** Yes. This-- this-- this helps-- in the committee amendment, it-- it defines what served and unserved is.

**CAVANAUGH:** OK.

**FRIESEN:** And this clarifies that language so that makes it a little more clear in what is-- that allocation is to each by the Public Service Commission.

**CAVANAUGH:** OK. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Friesen, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM3180. Those in favor vote aye; those opposed vote nay. Record, please.

**CLERK:** 34 ayes, 0 nays, Mr. President, on the adoption of Senator Friesen's amendment.

**FOLEY:** AM3180 is adopted. Mr. Clerk.

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**CLERK:** Mr. President, Senator Brewer, AM3327.

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

**BREWER:** Thank you, Mr. President. I would like at this time to withdraw AM3327.

**FOLEY:** Amendment withdrawn.

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

**FOLEY:** Senator Slama.

**SLAMA:** Mr. President, I move that LB992 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. LB992 advances. Members, we're now going to proceed to Final Reading. Pursuant to the rules, if you could all please be at your desks for Final Reading. We'll now commence Final Reading. First bill is LB681, Mr. Clerk.

**ASSISTANT CLERK:** [Read LB681 on Final Reading.]

**FOLEY:** All provisions of law relative to procedure having been complied with, the question is, shall LB681 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, 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, Walz, Wayne, and Williams. Voting nay: none. Not voting: Senators Bolz, Chambers, Vargas, Wishart, Groene, Kolowski, and Stinner. Vote is 42 ayes, 0 nays, 4 present and not voting, 3 excused and not voting, Mr. President.

**FOLEY:** LB681 passes. Proceeding now to LB783, Mr. Clerk.

**ASSISTANT CLERK:** [Read LB783 on Final Reading.]

**FOLEY:** All provisions of law relative to procedure having been complied with, the question is, shall LB783 pass? Those in favor vote aye; those opposed vote nay. Record, please.

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**ASSISTANT CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bolz, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, 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, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Groene, Kolowski, and Stinner. Vote is 46 ayes, 0 nays, 3 excused and not voting.

**FOLEY:** LB783 passes. Proceeding now to LB956, Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor of dispensing with the reading vote aye; those opposed vote nay. Record, please.

**ASSISTANT CLERK:** 36 ayes, 5 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 LB956.]

**FOLEY:** All provisions of law relative to procedure having been complied with, the question is, shall LB956 pass? Those in favor vote aye; those opposed vote nay. Record, please.

**ASSISTANT CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bolz, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, 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 Groene and Kolowski. Vote is 47 ayes, 0 nays, 2 excused and not voting.

**FOLEY:** LB956 passes. Proceeding now to LB1158e.

**ASSISTANT CLERK:** [Read LB1158 on Final Reading.]

**FOLEY:** All provisions of law relative to procedure having been complied with, the question is, shall LB1158e pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

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**ASSISTANT CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bolz, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, 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 Groene and Kolowski. Vote is 47 ayes, 0 nays, 2 excused and not voting.

**FOLEY:** LB1158e passes with the emergency clause attached. Now proceeding to 11-- excuse me, LB1160e.

**ASSISTANT CLERK:** [Read LB1160 on Final Reading.]

**FOLEY:** All provisions of law relative to procedure having been complied with, the question is, shall LB1160e pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** Voting aye: Senators Arch, Blood, Bolz, Brandt, Cavanaugh, Chambers, Crawford, DeBoer, Dorn, Geist, Gragert, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hunt, Kolterman, La Grone, Lathrop, Lindstrom, McCollister, McDonnell, Morfeld, Pansing Brooks, Quick, Scheer, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: Senators Albrecht, Bostelman, Clements, Erdman, and Lowe. Not voting: Senators Brewer, Briese, Friesen, Halloran, Hughes, Linehan, Moser, Murman, Slama, Groene, and Kolowski. Vote is 33 ayes, 5 nays, 9 present and not voting, 2 excused and not voting, Mr. President.

**FOLEY:** LB1160e passes with the emergency clause attached. And finally, LB518.

**ASSISTANT CLERK:** Mr. President, a motion is pending on LB518. Senator Chambers would move to return the bill to Select File for a specific amendment, that amendment AM2588.

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

**CHAMBERS:** Mr. President, members of the Legislature, I'm not leaving the mike permanently, but I have to go on a consult-- consultation for a second. Do I have to leave that amendment up there or can I withdraw it if I choose to?

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**FOLEY:** You can withdraw.

**CHAMBERS:** I withdraw that amendment.

**FOLEY:** The motion to return has been withdrawn and the amendment is withdrawn. Mr. Clerk.

**ASSISTANT CLERK:** Senator Linehan would move to return the bill for AM3023.

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

**LINEHAN:** Thank you, colleagues. And thank you, Mr. President. I'm asking for your support for this motion to return the bill to Select File for specific amendment in order that we may strike the provisions of the bill that have a financial impact. As you recall, LB518, the Support for Trafficking Survivors Act, is to prevent, identify, and respond to the crime of sex trafficking in Nebraska, and to support the safety, well-being, and economic stability of its victims. LB518 intended to formalize a statewide plan for trafficking services, provide funding for this plan, and support law enforcement to more successfully investigate and prosecute sex traffickers. Unfortunately, those things come at a cost, and this is not a time our state is able to take on those costs. Because of that, I am suggesting an amendment to the bill that will strike these provisions. Once amended, the bill will retain only the provisions of the bill that pertain to law enforcement investigations of trafficking, sexual assault, and other violent crimes, providing more uniformity and guidelines when process-- pro-- excuse me-- processing federal forms. Even after the amendment, I will be asking for-- in a few minutes after the-- excuse me. The bill will still be a meaningful step in supporting victims of sex trafficking and abuse. I appreciate your support, both of this motion to return it to Select File and your support of the amendment. Thank you.

**FOLEY:** Thank you, Senator Linehan. Is there any discussion on the motion to return the bill to Select File for specific amendment?  
Senator Wayne.

**WAYNE:** Thank you, Mr. President. I will never tell somebody, with their own bill, what to do. I'm just confused. And everybody knows she's like my mom, so this is very hard, but I'm confused on why we can't spend \$87,000 for sex trafficking, but we can spend millions for property taxes, property tax relief. I'm--

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**FOLEY:** Thank you, Senator Wayne. Senator Linehan. She waives the opportunity. Senator McCollister.

**McCOLLISTER:** Thank you, Mr. President. Question for Senator Linehan if she'd yield.

**FOLEY:** Senator Linehan, would you yield, please?

**LINEHAN:** Yes.

**McCOLLISTER:** Senator, are we simply shifting the financial obligations of this bill into future years, or are we going to dispel or dispense with them entirely?

**LINEHAN:** Well, to be completely honest with all of you, I didn't prepare very well for this conversation. And I think we're pushing into the future, but I am not certain. And I also owe Senator Chambers a conversation because he asked me something that I'm not aware of and I want to give him an opportunity to discuss that before we move forward.

**McCOLLISTER:** Thank you, Senator. Would Senator Blood yield to a question?

**FOLEY:** Senator Blood, would you yield, please?

**BLOOD:** Yes, I'm happy to yield.

**McCOLLISTER:** Senator Blood, do you have some thoughts on this bill that you wish to share?

**BLOOD:** I-- I do. It's my understanding-- and Senator Linehan can correct me if I'm not saying this correctly. That's kind of redundant. So initially, everybody was kind enough to approve the amendment that helps to codify a policy that would be statewide for law enforcement to help these victims, and that part of the bill did not have a fiscal note. And Sen-- Senator Linehan was kind enough to understand the importance of that and the fact that she and I were going in the same direction, but unfortunately hers had a big fiscal note. And so it was my understanding that the remedy was that we would move forward the amendment that you did approve on this floor and was kicked out of committee without any opposition, and then apparently she's also going to be negotiating something with Senator Chambers that I'm not privy to, but that's my understanding.

**McCOLLISTER:** So we simply put this bill back on Select File for further amendments. Is that correct?

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**BLOOD:** She's-- it's going back on Select because her bill becomes the amendment.

**McCOLLISTER:** OK.

**BLOOD:** Does that make sense? So originally it was her bill with my amendment. Her bill has a fiscal note. Unfortunately, with the budget what it is now, that's not something that can move forward. So to make sure that the part of the bill that does not have the fiscal note-- note dies, it's got to go back to Select and then come back to Final.

**McCOLLISTER:** Thank you. Thank you, Mr. President.

**FOLEY:** Thank you, Senator McCollister and Senator Blood. Any further discussion? Senator Linehan, you're recognized to close on your motion to return the bill to Select. She waives the opportunity. Question before the body is whether or not to return this bill to Select File. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 39 ayes, 0 nays on the motion to return the bill.

**FOLEY:** The bill has been returned to Select File. Senator Linehan, you're recognized to open on your amendment.

**LINEHAN:** Thank you, colleagues. Now I'm asking you for your vote on the actual amendment, AM3023, that will strike the portions of LB518 that create a fiscal note. Once this amendment-- amendment is adopted and the bill is moved back to Final Reading, there no long-- there will no longer be an A bill attached. The remaining provisions that appear in this amendment-- amendment are from LB745, which was advanced unanimously out of Judiciary Committee, as Senator Blood just said, and amended to LB518 with 38 green votes on February 6. Again, this amendment retains those provisions, and I appreciate your vote in support of amendment and to advance the bill again to Final Reading. I hesitate here because clearly Senator Chambers had a concern and I don't see him. Senator Blood, do you know?

**HOWARD:** Lou Ann, his concern was on your original bill, not on this amendment.

**LINEHAN:** So he doesn't really have one.

**HOWARD:** Uh-uh, no--

**LINEHAN:** OK.

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**HOWARD:** --so with the replacement, you shouldn't have a problem.

**LINEHAN:** So I should ask for a green vote and we should move forward. OK. That's what I'll do. Thank you, Sara Howard-- Senator Howard.

**FOLEY:** Thank you, Senator Linehan. Senator Cavanaugh.

**CAVANAUGH:** Thank you, Mr. Lieutenant Governor. I support LB518 as it is. I do not support removing the fiscal note. If we can't afford \$87,000 for victims of sex trafficking, then we shouldn't be able to afford anything. We have Nebraskans that are suffering every single day because of this pandemic, and the only thing this body seems to care about discussing is property tax relief. I will not support gutting bills on Final Reading for appropriations when we have the money for that. Property tax relief is important. It is not the most important thing. Victims of sex trafficking are victims. They have been taken from their homes. They have been transported places. Sometimes they are not from here. Sometimes they are from here, a-- all walks of life, of vulnerable populations, and we can't afford \$87,000 but we can afford-- I'm sitting here during Final Reading with my 100-and-whatever pages of a document that I'm supposed to vote on, I think, tomorrow, and I just got it like two hours ago. So I'm sitting here trying to quickly read through this, hundreds of millions of dollars in property tax relief, but we can't support \$87,000 for victims of sex trafficking. Wow. Awesome. That is mind-boggling to me. This bill should have passed on Final Reading ten minutes ago, and we should all be supporting \$87,000 for victims of sex trafficking, because you certainly aren't going to get my vote on \$300 or \$400, \$500 million if you can't support victims of sex trafficking. That is ludicrous. That is absolutely ludicrous. How much time do I have?

**FOLEY:** 2:45.

**CAVANAUGH:** Senator Linehan, would you yield to a question?

**FOLEY:** Senator Linehan, would you yield, please?

**LINEHAN:** Certainly.

**CAVANAUGH:** Thank you, Senator Linehan. Were you told that you didn't have the votes for this?

**LINEHAN:** I don't think I was told I didn't have the votes for this. I was trying to work with everybody to make sure that we got the ideas of this pushed forward so we can come back to it next year and make sure that we do, as you just most eloquently said, put this as a top

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priority. I understand-- I've talked to Sheriff Dunning. I've talked-- I can't remember her name, she lives in my district-- who has worked on this for years. I understand how important this is. I really hope that we can all kind of-- I know we're all tired and we've got a lot of stress going on, but I hope we can move this forward so we can help victims of trafficking.

**CAVANAUGH:** Thank you, Senator Linehan. I appreciate that. Maybe we can get a show of hands. Do we have 33 people here who would support \$87,000 for victims of sex trafficking? No? Anybody against \$87,000 for victims of sex trafficking? OK, well, apparently, we have millions and millions and millions of dollars for property tax relief but not vulnerable populations. Understood. Tomorrow should be interesting, everybody. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator-- Senator Howard.

**HOWARD:** Thank you, Mr. President. I just want to clarify what's sort of going on here procedurally and what you're being asked to vote on. And mind you, this was not a plan that I came up with. It was something that I was presented with-- with just earlier this morning. So LB518 created a grant program for nonprofits who work with victims of sex trafficking, but unfortunately it had a fiscal note. And LB745, Senator Blood's bill, it aligns our statutes in regards to T visas, which are visas specific to victims who have been sexually trafficked. It doesn't have a fiscal note. And so in order to move the ball forward on something relative to victims of sex trafficking during this difficult session, in a difficult fiscal session, these two women, Senator Linehan and Senator Blood, made a strategic decision to gut out LB518, which had some problematic language for Senator Chambers, and replace it with LB745 in order to just move that ball forward for victims of-- of this type of crime. And so, you know, I would urge the body to vote green on AM3023. I always say that when you can make an incremental change, at least you are still moving forward. And then I'm certain that Senator Linehan will ask the body to consider the grant program next year because it does have a lot of merit and it will especially provide a lot of support for our law enforcement as they work with victims of sex trafficking. So I would urge the adoption of AM3023 today, as well as moving LB518 off of Select and back to Final after that. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Howard. Senator Cavanaugh.

**CAVANAUGH:** Thank you, Mr. President. Senator Moser brought over a fiscal note, and I actually just want to correct. That is the previous fiscal note. The most recent one is \$87,000. And I can-- I'll-- I can

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show that to you later. I am not going to vote for this amendment. I will vote for it if it's adopted on Final Reading, I will absolutely vote for it, but I will vote for LB518 as it is right now because this is a very important piece of legislation that Senator Linehan has worked on diligently. For two years, she's worked on this bill, and the fact that we can't come together with \$87,000 for victims of sex trafficking is unbelievable to me, and unconscionable. I don't support doing this, but I will support it on Final Reading. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Linehan, you're recognized to close on the amendment.

**LINEHAN:** I would just like to thank Sara-- excuse me-- Senator Howard and Senator Blood for their help on this, and I'd appreciate your support. Thank you both very much.

**FOLEY:** Thank you, Senator Linehan. The question before the body is the adoption of AM3023, Senator Linehan's amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 40 ayes, 0 nays on adoption of the amendment, Mr. President,

**FOLEY:** AM3023 is adopted. Mr. Clerk, is there anything further on this bill?

**ASSISTANT CLERK:** Nothing further, Mr. President.

**FOLEY:** Senator Slama.

**SLAMA:** Mr. President, I move that LB518 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. LB518 advances. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills: LB681, LB783, LB956, LB1158e, LB1160e, and LB518 [SIC]. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, some items. Your Committee on Revenue, who's Chairperson is Senator Linehan, to whom was referred LB1107, instructs me to report the same back to the Legislature, the same be placed on General File with committee amendments attached. In addition to that, amendments-- motions to be printed to LB1107, both by Senator Wayne; Senator Lathrop, an amendment to LB1004. A name add: Senator

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Lowe to LR373. And finally, a priority motion: Senator Ben Hansen would move to adjourn the body until Wednesday, August 5, 2020, at 9:00 a.m.

**FOLEY:** Members, you heard the motion to adjourn. Those in favor say aye. Those opposed say nay. We are adjourned.