

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate January 22, 2020

**FOLEY:** I call to order the ninth day of the One Hundred Sixth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

**CLERK:** I have no corrections.

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

**CLERK:** Mr. President, I do have a Reference report referring LB1022 through LB1052. I also have hearing notices from the following committees: Government-- the Government Committee. That's all that I had, Mr. President,

**FOLEY:** Thank you, Mr. Clerk. Now proceed to the first item on the agenda, motions to withdraw. Mr. Clerk.

**CLERK:** Mr. President, Senator Blood would move to withdraw LB1000.

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

**BLOOD:** Thank you, Mr. President. I'm asking for a withdrawal because the funding mechanism is going away and we didn't want to waste everybody's time in a short session, and so we ask for everybody's green vote to withdraw LB1000.

**FOLEY:** Thank you, Senator Blood. It's a debatable motion. Senate Chambers.

**CHAMBERS:** Thank you, Mr. President. Whenever one of these members of the other branches comes before the Legislature, I feel an obligation to say something. And this is, to use once again the language of my rural friends, my last rodeo. Whatever I want to get into the record, I'd better do it now. So the Chief Justice is coming. He's to be invited at 10:00. I'll be through with what I have to say by then, but I can't say it all in five minutes. You all don't pay attention to your Constitution. It's not mine. You all are citizens. I'm not a citizen of America. If I were a citizen, you wouldn't have to pass special laws, special court decisions for me to enjoy the rights that

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are provided by the Constitution. Since I don't have those rights, I obviously am not a citizen. But when you're a noncitizen, you pay attention to what the rules are that apply to citizenship to see if those who are citizens obey. I'll-- I start by looking at your Constitution, Article I, Section 2, [SIC] clause 8th. This relates to the Oath of Office. You have a Chief Justice of the United States Supreme Court who administered an oath to all the senators, and he did not administer that oath in accord with the Constitution. He did not properly administer the oath for those who are studying and getting ready to vote on the impeachment. I bet nobody other than me caught it. And obviously, the Chief Justice didn't or he wouldn't have done it. When he gave that oath, he said to all of the senators at one time, you're supposed to say, "I swear," and then the rest. Here is the form of the oath that is taken by the President of the United States and is the way that the oath is given to all of them: Before he enter on the Execution of his Office, the President shall take the Oath-- the following Oath or Affirmation. Affirmation is a part of it. Not everybody, when this country was formed, would take an oath. They took seriously what the "Bibble" said about swear or not at all. So because oaths would be administered, they had to give provision for all people who might take such an oath, so oath or affirmation. And here are the words: I do solemnly swear (or affirm). All the Chief Justice had them say was, "I swear." If I had been there, I would have made a comment, just like I make comments here. You all don't pay attention. You don't pay attention to your constitution. Your laws do not apply equally to everybody. So since your top judicial officer is coming, I've got a comment or two to make. And I will be through before he comes in. You all invited him into your house, my house, one 49th of it. And I do not believe that a guest should be treated with discourtesy. He is a person who strongly favors the death penalty. A man is to come before a panel to determine whether or not he will receive the death penalty. He was convicted of murder. And the way they do it in Nebraska is to have a three-judge sentencing panel. The trial judge is one of the judges and will serve as the presiding judge. Two others purportedly, allegedly, are selected by the Chief Justice at random. It just so happens that this death penalty-favoring judge at random--

**FOLEY:** One minute.

**CHAMBERS:** --chose as one of the judges the woman who served as the lawyer for the Department of Correctional Services. And so I won't

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have to cut off in the middle, I'll stop now and finish that when I get recognized. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. You may continue.

**CHAMBERS:** Here is what happened. She wrote that protocol for the execution. The law tells how these kinds of things are to be done pursuant to the Administrative Procedure Act, and that was disregarded. Various documents were not presented. Various papers were not presented. She wrote that thing, supposedly without advice from anybody, without any preliminary writings, with nothing. Well, when time comes to appoint judges, your Governor appoints pro-death penalty judges. So guess who he appointed as a judge? Your Governor appointed the former legal counsel for the Department of Correctional Services a judge. And guess who, at random, chose this person to sit as one of the three judges to determine whether the death penalty would be inflicted? The Chief Justice is going to talk to you. That kind of coincidence doesn't even happen in Walt Disney movies. Whenever you have a series of wrongful actions originating at the same source, moving in the same direction, and impacting on the same target, that is not random, that is not happenstance, that is not accident; that is intentional. And if this Chief Justice had any integrity, he knows that he is required by the Canons that judge or control the judges to avoid all appearances of impropriety, to avoid any appearance of favoritism. What could give that appearance more than him, supposedly at random, selecting to serve on a death penalty panel the former lawyer for the Department of Correctional Services who wrote the death penalty protocol and did not follow the law in doing so. If this judge had any integrity, he would admit he made a mistake and he would tell her she has to be replaced. If she had any integrity, she would recuse herself, but this is Nebraska. This is white Nebraska. This is a bigoted Nebraska. This is Nebraska that salutes the flag but does not practice what it supposedly stands for. So it's for me, the unperson, the noncitizen, the unhuman, to remind my superiors, my betters, of what your Constitution says, what your laws say, what the rules and regulations that govern your judges will say. How your judge is to comport himself. But you don't care because you are privileged. You are not going to be victimized as unnon-citizens such as myself. So you don't have to pay attention to it. Let the judge show favoritism. Let him put in the fix. He has put the fix in on this death penalty proceeding. It is tainted, just as was the execution of Carey Dean

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Moore. I'm going to stop and put on my light. This is the third time on this one and I'll have a chance on a couple of other bills.

**FOLEY:** Thank you, Senator Chambers. Your third opportunity, you may begin.

**CHAMBERS:** This time I'm going to read something that I wrote, and it appeared July 19 in the Omaha World-Herald. They captioned it, Court too hasty in execution ruling. Because I'm going to give a copy of each one of these statements to the transcribers, I'm not going to spell names; I'm not going to make it clear what I'm-- the statement includes dialect. Starting: The Nebraska Catholic bishops' statement opposing the August 14 execution of Carey Dean Moore impels me to comment. Notwithstanding intractable disagreement on other matters, I stand foursquare with the Catholic Church, Pope Francis, and the bishops in opposition to the death penalty in all cases. This piece could be captioned, quote, The Four Horsemen of State Killing, deriving from the four horsemen of the Apocalypse, four allegorical horses in the Bible at Revelation 6-108-- 1 through 8. Verse 8 says, quote, And I looked and beheld a pale horse: and his name that sat on him is Death. Allegorically speaking, the four horsemen of state killing who maintain and operate the machinery of judicial execution are Governor Pete Ricketts, Corrections Director Scott Frakes, Attorney General Doug Peterson, and collectively the Nebraska Supreme Court. Which of the four has such a heavy hand in the grisly activity as to warrant identification as, quote, him that sat upon the pale horse, whose name is Death. One, who hired executioner Frakes; two, vetoed the bill that abolished the death penalty; then three, joined with his dad to spend over a half-million dollars to fund a petition campaign that reversed the Legislature's override of his veto and thereby reinstated the death penalty; and four, appointed the majority of the judges sitting on the Supreme Court bench? Not so fast. Things are not always as they may appear. In my opinion, the court, despite dealing with the most serious and solemn act that the state can undertake, the extinguishment of a human life, made a political decision to abandon its ethical, sworn duty to act judiciously and with due care in all of its proceedings in order to hastily set an execution date prior to the expiration date of one of the death drugs. In effect, the court has essentially predetermined the outcome of pending litigation which it will review on appeal regarding the legality of the execution protocol and the withholding of public records information relative to the origin of the drugs, without having considered the facts and evidence presented at trial. One must

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be indeed naive to believe that the court, after allowing an execution, would rule that the proto-- process is legally flawed. Ironically, the court itself in past cases emphasized its, quote, heightened duty, unquote, to ensure that the constitution and laws are strictly complied with in administering the death penalty. The court's disappointing, precipitate conduct lends credence to the cynical observation of Mr. Dooley (Finley Peter Dunne). Although directed at the U.S. Supreme Court, quote, No matter whether the Constitution follows the flag or not--

**FOLEY:** One minute.

**CHAMBERS:** --the Supreme Court follows the election returns, unquote. If any act of the state deserves to be done, decently and in order, it is the extinguishment of a human life. In this instance, the state fails spectacularly. And this death court, the majority of the judges of which were appointed by the Governor, did and do follow the election returns. The judges on that court follow the election returns and Mr.-- let me give him his title-- Chief Justice of the Nebraska Heavican-- of Nebraska Supreme Court, Michael Heavican, is the ringleader. Thank you, Mr. President.

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

**PANSING BROOKS:** Good morning, Nebraskans. Our state's unique motto is Equality Before the Law, so know that whoever you are, wherever you are on life's journey, and whomever you love, we want you here. You are loved. I am grateful to be able to pronounce that preamble today again, especially as we have the judiciary coming to tell us the State of the Judiciary. They are the guardians of equality before the law. And so we ask that they do their job well and efficiently, and we hope that all judges will come together and work towards equality before the law. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Pansing Brooks. Senator Blood, did you care to close on your motion? Senator Blood? She waives closing. The question before the body is the adoption of the motion to withdraw LB1000. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 34 ayes, 0 nays, Mr. President, on the motion to withdraw the bill.

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**FOLEY:** LB1000 is withdrawn. Do we have some items for the record, please?

**CLERK:** We do, Mr. President, very quickly. New bills: LB1106 is by Senator Scheer. It's a bill for an act relating to revenue and taxation. It eliminates obsolete sales tax provisions. LB1107 is by Senator Scheer. It's a bill for an act relating to revenue and taxation. It changes provisionally a notice of preliminary valuations. LB1108, Senator Gragert, relates to property. It changes provisionally the Uniform Disposition of Unclaimed Property Act and the School Employees Retirement Act. LB1109, Senator Chambers, a bill for an act relating to taxation, provides a sales tax exemption for furnishing of water service. LB1110 is by Senator La Grone, a bill for an act relating to school district bond elections. LB1111, by Senator McDonnell. It's a bill for an act relating to school funding. It creates a grant program; it creates the Nebraska Public-Private Partnership for Common Schools Funds. LB1112, Senator Kolowski. It's a bill for an act relating to forensic testing. It changes provisions relating to payment for sexual assault forensic examinations. LB1113 is Senator Kolowski, relating to crimes and offenses. It changes provisionally an obstruction of a peace officer. LB1114 is Senator Matt Hansen, relating to sanitary and improvement districts. It changes provisions regarding the election of a board of trustees. LB1115, Senator Matt Hansen, relates to real property, changes provisions relating to the revocation of instruments under the Nebraska Uniform Real Property Transfer Act. LB1116, Senator Morfeld, relates to buildings, adopts the School Construction Water Access Act. LB1117, Senator Pansing Brooks, relates to crimes and offenses. It changes provisions relating to certain criminal sentences, requires consideration of certain factors at sentencing. LB1118 is by Senator Scheer, relating to infants and juveniles. It provides for grandparent visitation. LB1119 is by Senator La Grone, relating to special elections. It changes restrictions on special elections under the Election Act. LB1120 is Senator La Grone. It's a bill for an act relating to elections, changes restriction on special elections under-- held under the Election Act. LB1121 is Senator La Grone, relating to elections. It changes certain incumbent filing deadlines. LB1122 is Senator La Grone, relates to the Election Act. It changes provisions regarding early voting. LB1123 is Senator Lindstrom, relating to Public Funds Depository Security Act, redefines the term security to include certain student loans. LB1124, by Senator Howard, relates to public health and welfare, adopts the Opioid Prevention and

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Treatment Act. In addition, Mr. President, your Committee on Banking, Commerce and Insurance reports LB782 to General File. They also offer out a confirmation report. And I-- finally, I have a hearing notice from Natural Resources Committee, signed by Senator Hughes as Chair. That's all that I have, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Senator Geist, you're recognized for a motion.

**GEIST:** Yes. Thank you, Mr. President. I move that a committee of five be appointed to escort the Chief Justice of the Supreme Court and members of the Supreme Court to the Legislative Chamber for the purpose of delivering the State of the Judiciary Address.

**FOLEY:** Thank you, Senator Geist. Members, you've heard the motion. Those in favor say aye. Those opposed say nay. The motion is adopted. The Speaker has informed the desk the following five senators have been appointed to the escort committee: Senators Lathrop, Brandt, Hilgers, Wayne, and Pansing Brooks. Would those five senators please retire to the rear of the Chamber for the purpose of escorting the Chief Justice to the Chamber. Thank you. Speaker Scheer announces some guests visiting with us today. We have with us Judge PaTricia Freeman, Chair of the Nebraska State Bar Association House of Delegates; Susan Sapp, Chair-Elect of the Nebraska State Bar House of Delegates; and Liz Neeley, Executive Director of the Nebraska State Bar. All those guests are with us under the south balcony. Would those guests please rise so we can welcome you to the Nebraska Legislature. The Chair recognizes the Sergeant at Arms.

**SERGEANT AT ARMS:** Mr. President, your committee now escorting the Chief Justice of the Supreme Court of the great state of Nebraska, Mike Heavican, and members of the court.

**FOLEY:** Members of the One Hundred Sixth Legislature and distinguished guests, I present to you the Chief Justice of the Nebraska State Supreme Court, the Honorable Mike Heavican.

**MICHAEL HEAVICAN:** Thank you very much and please be seated. Mr. President, Mr. Speaker, members of the Legislature, fellow justices of the Nebraska Supreme Court and fellow Nebraskans, thank you to the members of this legislative body, particularly Speaker Scheer, for inviting me to address you again this morning. It is once again an honor for me to report on the accomplishments of our judicial branch

and to discuss our upcoming plans with you. First, I will introduce my fellow justices who are-- because a couple of them couldn't make it today, they are in places they would not normally be. So to my immediate right is Justice-- is Justice William Cassel of O'Neill, and to his right is Justice Jonathan Papik of Omaha. To my immediate left is Justice Jeff Funke of Nebraska City, and to his left is Justice John Freudenberg of Rushville. Justices Stephanie Stacy and Lindsey Miller-Lerman were unable to be with us this morning. Today, I will highlight the commitment of Nebraska's judicial branch, including juvenile and adult probation, to access, outreach, and efficiency. A primary goal of the judiciary is access to justice for all Nebraska citizens. To realize that goal, the Nebraska Supreme Court has created an Access to Justice Commission. The purpose of the commission is to provide equal access to expeditious and fair justice for all Nebraskans, regardless of income, race, ethnicity, gender, disability, age, or language. First, I will address language access. In fiscal year 2019, the Supreme Court's Language Access Program provided interpreters in 65 of Nebraska's 93 counties. Collectively, those interpreters communicated in 49 different languages, including the following: Russian; Dinka, spoken in South Sudan; Ewe, spoken in Togo and Ghana; Hindi, spoken in India; Krio, spoken in Sierra Leone; and Tigrinya, spoken in Eritrea and Ethiopia. Spanish, of course, remains the most frequently interpreted language in Nebraska courts. But in addition to Spanish interpreters, last year each district needed interpreters for at least two other languages. One of the challenges we are currently facing is the shortage of certified court interpreters, both in Nebraska and nationally. To address that shortage, this year our Court's Language Access Program collaborated with Northeast Community College in Norfolk to provide a no-cost adult education course for aspiring court interpreters. This program is the first of its kind in the nation and is proving to be very successful. Our Language Access partnership story was broadcast both locally and nationally when it was featured on Nebraska Public Radio. We hope to expand this initiative in the near future. Also, through our Access to Justice Commission, the courts began significant outreach programming with tribal, state, and federal courts. This past fall, grant-funded engagement sessions, directed by Tribal Court Judge Patrick Runge of the Winnebago and Ponca Tribes and State District Court Judge Andrea Miller of Scottsbluff, were held in Omaha, Niobrara, Macy, and Winnebago. These sessions fostered conversations with Nebraska's Native American communities regarding court relationships, jurisdictional issues, and the Indian Child Welfare Act. By organizing

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and hosting these sessions, we hope to strengthen Native American communities conference in our court system. A second public engagement session is planned for later this year in northwestern Nebraska. Details regarding the Access to Justice Commission are available in the Judicial Branch Annual Report provided to you today. The report is also available on the court's website. Our courts remained accessible in all 93 of Nebraska's counties, despite the heavy snows of last winter and the catastrophic flooding we experienced this last spring. I'm pleased to report that with very few exceptions where travel was impossible, we were able to maintain full court services during these devastating weather events. I'm proud to say that our courts, court staff, probation, public guardians, mediators, and interpreters remained Nebraska Strong throughout 2019. Again, we commend these essential staff members for their commitment. The welfare of Nebraska's children and the elderly continues to be an access priority for the judiciary. As part of our commitment to these populations, our Court Improvement Project has been involved in a number of outreach programs across Nebraska. Our Through the Eyes of the Child teams continue to work throughout the state to improve the court's systems-- to improve the court system's response to abused and neglected children. There are 25 teams across Nebraska, each led by a trial court judge working locally to improve our juvenile court system. To enhance those efforts, we also began hosting Children's Summits in 2006 to better the lives of children and their families in our courts. This year, the Court Improvement Project hosted a Children's Summit in Kearney. The summit was attended by nearly 600 participants from the legal community, social services, probation, tribal members, foster parents, and the therapeutic community. Also, in Dawson, Lancaster, and Madison Counties, our Court Improvement Project took the lead in a joint pilot project with the Department of Health and Human Services. The goal of this program is to increase the number of foster children reunited with their parents. The design was prompted by the actions of Judge Jeff Wightman of Lexington and has been implemented by Judge Linda Porter of Lincoln and Judge Ross Stoffer of Norfolk. Annually, I also report on the Office of Public Guardian. The role of the office is twofold, to provide guardianship services for individuals when no private alternative is available, and to develop required education for court-appointed individuals serving as guardians or conservators. Many of Nebraska's court-appointed guardians are family members caring for loved ones who have minimal assets and minimal support. Since its inception in late 2015, the Office of Public Guardian has provided education to nearly 5,000 recently court-appointed private guardians

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in Nebraska, and our associate public guardians have helped over 600 vulnerable individuals. This year to manage the volume of necessary trainings, the Office of Public Guardian added an on-line class to educate Nebraska's private guardians in a quicker, more cost-efficient manner. In August of 2019, an editorial in the Omaha World-Herald credited our Office of Public Guardian with uncovering fraudulent Medicaid billings and financial abuse of an elderly client. The article commended our public guardians for their work in helping vulnerable elderly Nebraskans and pointed out that from 2010 to 2030, the number of Nebraskans aged 65 and above is projected to increase by 160,000 people from 240,000 to 400,000. The editorial called on the state to-- to address current shortcomings in medical, behavioral health, and nursing home services, along with calling for additional public guardians to meet the current need. Unfortunately, our Office of Public Guardian has reached its service capacity in most areas of the state. As a result, nearly 100 cases were necessarily referred to a waiting list. To complement the Office of Public Guardian, in 2015, the Supreme Court established the Commission on Guardianships and Conservatorships. The commission is led by Judge Todd Hutton of Papillon, Judge Holly Parsley of Lincoln, and Judge Sheryl Lohaus of Omaha, and is responsible for the continued analysis and study of statutes, court rules and procedures, and the way laws and procedures often challenge our legal guardians. The Supreme Court recently approved rules to support the commission's recommended changes simplifying over 150 guardianship and conservatorship forms. These rule changes resulted in lessening the burden on family members and others serving as voluntary guardians. In addition to maintaining our regular caseloads, the judiciary is consistently involved in local and regional educational events throughout the year. In 2019, the Supreme Court held oral argument sessions in both of Nebraska's law schools, as well as Boys Town, Scottsbluff High School, and South Sioux City High School. Last year, the Court of Appeals held its Constitution Day arguments at Concordia University in Seward. And for the convenience of our citizens, the Court of Appeals regularly travels to various locations around the state to hold oral arguments. We are grateful for the Court of Appeals continuing efforts to reach out to Nebraska's many communities. Our trial court judges are also engaged in law-related educational programs. Judges often turn their classrooms into-- courtrooms into classrooms when contacted by educated-- educators within their jurisdictions and when participating in activities such as County Government Day, fifth grade Law Day job shadowing, and high school mock trial competitions. Another recent

judicial branch educational initiative involved preparing courts for pandemics. According to national experts, a pandemic is not just possible, it is probable. In May of 2019, Nebraska's judicial branch hosted an innovative National State Court Summit on Pandemic Preparedness at the University of Nebraska Medical Center in Omaha. As you know, UNMC is home to the country's largest biocontainment unit and has treated Ebola patients on three occasions in the past. The summit brought together court leaders, public health officials, legislators, and executive branch officials to discuss the need to plan and prepare for a pandemic. The session included teams from 25 states and 3 territories. The summit brought together court leaders, public health officials, legislators, and executive branch officials to discuss the need to plan and prepare for a pandemic. The session included teams from 25 states and 3 territories. Prior to the summit, with the assistance of UNMC Chancellor Dr. Jeffrey Gold and his management team, a committee chaired by Judge Leigh Ann Retelsdorf of Omaha developed a Bench Book for Nebraska courts to assist judges facing pandemic-related issues. Nebraska judges are now better prepared for the need to respond quickly and efficiently to pandemic quarantines and related legal issues. It was an honor to serve as host for that group. I would like to take this opportunity to thank Governor Pete Ricketts for his welcoming address at the summit, and Chancellor Gold and the UNMC staff for their great work and dedication to the project. Several photos of our session can be seen in the Judicial Branch Annual Report that I referred to earlier. I will now speak to you about efforts we have made to improve the efficiency of our courts in adult and juvenile probation. Most recently, we have worked with four counties to provide county court-- or county court clerk services for both district and county courts. Because district court clerks have traditionally been funded by county property taxes, this option has resulted in cost savings for those participating counties. By utilizing this option, duties within the court system are streamlined and court clerk positions are no longer funded-- district court clerk positions are no longer funded by those local property tax dollars. This is real property tax relief with the potential for expansion with further legislative support. Likewise, in 2019, problem-solving courts continued to be an important and cost-effective judicial resource. These courts operate within the district, county, or juvenile courts in all 12 of Nebraska's judicial districts. Currently, 32 problem-solving courts are operating in Nebraska under the authority of 46 different judges. Nebraska problem-solving court models include drug and DUI courts, veterans treatment courts, reentry

courts, and young adult courts. All of these courts adhere to best-practice standards approved by the Nebraska Supreme Court. In the coming months, the Supreme Court will review best-practice standards for proposed mental health treatment courts. As a result of LB919, introduced in 2016, as well as recent appropriations from last year, the judicial branch added six new problem-solving courts and expanded the capacity of three of its existing-- existing problem-solving courts in 2019. Between 2015 and 2019, the number of problem-solving courts-- court participants has increased by 31 percent. These courts effectively reduce recidivism and increase community safety while being very cost effective. The average cost to supervise a problem-solving court participant is approximately 2,865 taxpayer dollars per year. In comparison, the average cost to incarcerate a prisoner can reach as high as 38,000 taxpayer dollars per year. However, operating problem-solving courts increases judicial workloads. The judicial branch has recently undertaken a judicial workload study which will allow us to better compare judicial caseloads throughout our state. The results of this study will assist us and you in allocating our judicial resources. I will now address you about both adult and juvenile probation. Since the passage of LB605 in 2015, adult probation continues to experience significant growth in the number of the individuals it serves in both felony probation and post-release supervision. In 2019, the felony probation population expanded to over 4,800 individuals. Adult probation provides community corrections through supervision, case management, support services and rehabilitative services, including access to behavioral health. We have probation officers in all 93 counties and 16 regional day and evening reporting centers serving populations-- excuse me-- that are at high risk to reoffend. In 2017, we developed our transitional living assistance program to provide recently released prisoners with short-term, stable, and structured housing in an environment conducive to behavioral change. As the lead agency in a Department of Justice grant known as Project Integrate, Nebraska probation has been able to maximize transitional living services while reducing costs. Project Integrate is a partnership between probation, parole, the Nebraska Department of Correctional Services, and Douglas County. The initiative places individuals in a supportive and sober environment, enabling them to concentrate on treatment, employment, and reintegration into the community. Participants needing transitional living assistance ultimately learn to become self-sufficient and are then able to reimburse the program for their living expenses. Juvenile justice also continues to be an-- an

important priority for the judicial branch. Juvenile probation has made great strides toward best-practice approaches for investigating and supervising youth found to be responsible for delinquencies and/or status offenses. We have emphasized fiscal responsibility while increasing juvenile justice services. A September 2019 Legislative Performance Audit confirms that juvenile probation has increased its use of in-home and community-based alternatives to incarceration, including intensive-care management, case management, and transition planning for youth in out-of-home placements while also reducing costs. Those cost savings have made service expansion efforts possible. One example of such community-based alternatives is victim youth conferencing. With the passage of LB595 in 2019, the Restorative Justice bill, our Office of Dispute Resolution continues to partner with a network of six regional community mediation centers to offer victim youth conferencing throughout the state. This restorative process is significant to youth, their families, victims, communities and the court system. This past year, 300 youth took responsibility for their actions and participated in face-to-face dialogs with their victims in the program. In conclusion, while taking on many challenges, the dynamic judicial branch continued to expand its services and programming over the past year. The Nebraska judicial branch remains committed to the delivery of justice in a fair and timely manner. We will carry out this mission efficiently while continuing to provide equal access for all Nebraska citizens. Thank you for this opportunity to speak with you today, and thank you for your continued support of the judicial branch. Thank you.

**FOLEY:** Thank you, Mr. Chief Justice. Would the escort committee please assist the Chief Justice and members of the court as they depart the Chamber. Thank you. Items for the record, please.

**CLERK:** Thank you, Mr. President. Quickly, Education Committee offers-- or reports LB880 to General File. Hearing notices from Judiciary Committee, all of those reports signed by their respective Chairs. New bills: LB1125, Senator Cavanaugh. It's a bill for an act relating to homestead exemptions, provides a new homestead exemption and authorizes late applications. LB1126 is by Senator Vargas, a bill for an act relating to workers' compensation. It changes provisions relating to award of attorney's fees or assessment of penalties. LB1127 is Senator Vargas, relating to workers' compensation, changes and provides powers relating to contempt power of the Workers' Compensation Court. LB1128, Senator Vargas, relates to workers' compensation, provides an exception for a claim based upon bad faith.

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LB1129, Senator Vargas, relates to workers' compensation. It changes evasion of law provisions to ensure certain coverage under the act. LB1130, Senator Groene, relating to the Natural-- or Mutual Finance Assistance Act. It changes provisions relating to mutual finance organization agreement. It changes certain deadlines for applications. LB1131, by Senator Groene, a bill for an act relating to education, amends numerous sections. It eliminates obsolete provisions, terminology, updates terminology, redefines terms, and eliminates obsolete provisions of the Tax Equity and Educate-- Educational Opportunities Support Act. It changes provisions relating to distributions of school funds from school lands, removes a hearing requirement, reflects boundary changes and the timing of core services. It changes diversity plan requirements, changes reporting obligations, and repeals the original act. That's all that I have, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Members, we'll now move back to our unfinished business with respect to motions to withdraw. Next motion, please, Mr. Clerk.

**ASSISTANT CLERK:** Thank you, Mr. President. Senator Erdman would move to withdraw LB947.

**FOLEY:** Senator Erdman, you're recognized to open on your motion to withdraw LB947.

**ERDMAN:** Thank you, Lieutenant Governor. Good morning. I'll make this brief on the reason for the withdrawal. Been working with the Department of Transportation for over a year on an ATV bill that would allow ATVs to cross divided four-lane highways. Several correspondents went back and forth with emails. I thought that we had sent to Bill Drafting the correct email. We did not, and so the bill, the way it was drafted, would have caused the Department of Roads to figure out every place that the highway was divided to put up a sign, which would have cost thousands of dollars. And that was not intent-- the intent of the law. So I-- I want to withdraw this bill. I've introduced another bill to fix that. I thought it would be easier than making the Road Department go through all that process of figuring out how many there were. That's the reason for the withdrawal. Thank you.

**FOLEY:** Thank you, Senator Erdman. It's a debatable motion. Senator Chambers.

**CHAMBERS:** Thank you. Mr. President, members of the Legislature, as I stated earlier, I'm speaking for the record today. I looked at the agenda. There is time on these bills where the motion is to withdraw for me to say what I want to say. If I were interested in harming a bill, I could save this until such bill came before us. But right now, because I had my quotient of ground up razor blades washed down with hydrochloric acid, my disposition is considerably sweetened this morning, so I'm behaving. But I'm going to say what I intend to say. I didn't have an opportunity to read this statement into the record. It appeared in the Lincoln Journal Star on August 12, 2018. The heading, Death penalty fight will go on. It's one of those items that I wrote that was published. I'm going to read it. And as I stated with the other one, I will give a copy to the transcribers so if there are any names mentioned, or any words, I'm not going to digress, I'm just going to read it through. Why have I so relentlessly fought against the death penalty for more than two more-- two score years? Were I the black racist, as so many white Nebraskans aver, why, rather than labor to save his life, would I not exult at the prospect of a white man being offered up by white people as a living sacrifice on the blood-drenched altar of capital punishment in a macabre experimental lethal injection? If, as happens with experiments, things go horribly wrong, who will be held liable and accountable? Will it be the Attorney General, who managed to draw the Nebraska Supreme Court into the vortex of a violently swirling political maelstrom, the Supreme Court, which ordered an experimental lethal injection comprising a four-drug combination never before used, and whose manufacturers strenuously-- strenuously object to their medicines being misused to kill, or Corrections Director Scott Frakes, the designated executioner who has given assurances all will go well? In the event of a botched execution, will the culpable minions of death attempt as futilely as Lady Macbeth to wash their hands of the guilty stain in the infamous manner of Pilate? For me, this situation boils down to a matter of personal conviction based on unshakable belief in the intrinsic human dignity of every person, regardless of how far he or she may have fallen, which embraces a condemned prisoner like Carey Dean Moore, so dispirited and dehumanized after decades of incarceration that he no longer believes in his own human dignity and worth as a human being, who will submit meekly to being complicit in the state's macabre ritual of death. The matter is summed up masterfully in John Donne's famous transcendental homily that begins, no man is an island, and concludes, any man's death diminishes me because I am involved in

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mankind and therefore never send to know for whom the bell tolls, it tolls for thee.

**FOLEY:** One minute.

**CHAMBERS:** Such principles being ingrained in my psyche, I am imprisoned in an escape-proof moral and ethical obligation to lend a hand to the least, the last, the lost, even though they may not ask for it. I'm going to wait until I am recognized, then I'll complete it.

**FOLEY:** Thank you, Senator Chambers. You're recognized, your second time.

**CHAMBERS:** Thank you, Mr. President. In conclusion, the Nebraska Supreme Court itself proclaimed in a 2007 opinion withdrawing a, quote, prematurely, unquote, issued death warrant for Moore: Quote, It is a natural reaction for some to wish to be rid of an admitted murderer who asks to be executed. We are nonetheless required to ensure the integrity of death sentences in Nebraska. We must adhere to our heightened obligation to ensure the lawful and constitutional administration of the death penalty, unquote. Execution of a never-before-used experimental lethal injection, without factual or evidentiary basis on which to rest an assurance that a botched execution will not occur, violates the court's self-imposed standard. Now I can wing it. Do you know why that first death warrant for Carey Dean Moore was withdrawn? Because he had lost all hope at that time. He had told the Supreme Court of Nebraska that any papers that were pending in his behalf, any motions on his behalf, he wanted them withdrawn. Furthermore, he did not want anybody to be allowed to submit any papers in his behalf trying to delay or overturn his execution. So here was a man prepared to offer himself up. Here was a Supreme Court which had been directed by that man not to allow anything to happen. But until a person that I believe I should try to help has breathed his or her last, I don't quit. So despite what Carey Dean Moore stated, I wrote a letter to the Nebraska Supreme Court and I had argued that there was pending before them a case dealing with electrocution. For the first time in the history of death by electrocution, a trial court had received evidence from scientists, pathologists, other people who could tell in detail what electrocution does to a human being. To make a long story short, I argued in my letter that there was no need to hasten the execution of Carey Dean Moore because when the court took this case, if it decided that

electrocution was unconstitutional, they would have executed a man who ought not to have been executed. I pointed out that what the U.S. Supreme Court has done is to be confronted with a case and while looking at it, another case enters the pipeline. It is more fully developed as far as evidence and facts in the trial court below, and the court will put that case it is currently looking at on hold and take up that case that is behind it, because not only will they resolve that case that is behind it, but the one they currently are putting on hold and every other case that will resolve-- will result. I gave that argument to the court. I said that they can on their own motion, look at what I am presenting to them, that they had what is called inherent authority as a court to do everything necessary to see that justice is done and injustice is avoided--

**FOLEY:** One minute.

**CHAMBERS:** --that even though Carey Dean Moore had said he wanted to die, it is not for this court to be dictated to by an inmate facing death. The court's obligation is to meet that high standard of seeing that when a human life is extended, the most meticulous, careful scrutiny must be given to all of the facts, and they should not allow the execution to occur. I will complete it when I'm recognized.

**FOLEY:** Thank you, Senator Chambers. You are recognized for the third opportunity.

**CHAMBERS:** Thank you, Mr. President. I was coming-- I had parked my car in the parking lot as I do, and I was headed for this building. And one of the judges-- it certainly was not Michael Heavican-- had said to me, Senator, if you hadn't written that letter and talked to a reporter, and had the reporter not written an article about it, and had not the Chief Justice acknowledged receipt of the letter, there is no way that this court could look at Carey Dean Moore's case. But now you brought it before us. I say, well, that's only part of it. So one day I was in Target or one of those stores where they have a lot of television sets, an old-- an elderly white lady came over to me. She said, you saved his life. I said, no, you're mistaken, I wrote a letter asking that the court spare his life. She said, no, no, the court took back the death warrant, he is not going to be executed. And for the first and only time in my life, I felt like somebody hit me in the stomach and all the air went out of me but I didn't collapse. But it was hard for me to believe that she had her facts straight. When I had time to do some inquiring, I found out that she had correctly

stated it. And the Supreme Court virtually, in their opinion, followed all of the points that I had made. They concluded that indeed it would be hasty to carry out an execution when a case was pending that might lead them to strike down the electric chair. And were they to allow an execution and then subsequently say that the method that had been used to kill the man was unconstitutional, it would bring contempt upon the court, and concluded, therefore, our death warrant was entered prematurely and it is hereby withdrawn. Michael Heavican was furious. He dissented and pointed out that such a thing had never been done before, Carey Dean Moore had not asked to be spared, the court beyond-- went beyond what it should do, and on and on. But, see, Michael Heavican knows that I'm like The Hound of Heaven. Once I get on the scent, I don't leave it until I catch the quarry. He knew they would try to kill somebody again. He knew that I would do everything I could to intercede. But he wanted to make sure that I did not have the opportunity because I don't practice law, I can't represent anybody, write a letter, not as a member of any law firm, not as a party to the action, and persuade some judges not to carry out an execution, so he got the rules of the court changed. They cannot accept any ex parte communication, which means a communication in a pending matter from somebody who is not a party to the action or by one of the parties outside of the presence of the other. So when Carey Dean Moore made his statement this last time that he was ready to give up the ghost, I addressed a letter to the court. This time, I got a very courteous letter from the clerk of the court, and it was my first notice of this, that due to Supreme Court rules, such an ex parte communication could not be read. It would not be read by the Chief Justice. It would not be read by any of the judges. So I was not allowed to present an argument to the judges which the Supreme Court had made sure that Carey Dean Moore's lawyer would not present.

**CHAMBERS:** One minute.

**FOLEY:** Moore had said he wanted to die. The lawyer that the court compelled to defend Moore had been told that he could not offer any papers in Moore's behalf. That meant on the one hand the lawyer is bound by his ethics to zealously represent a client, the Supreme Court, on the other hand said, but you're not going to be allowed to do it. That's being between Scylla and Charybdis. If the whirlpool doesn't get you, the monster will. And Carey Dean Moore willingly went to his death. And at the execution time, the curtain was closed for over a dozen minutes because I believe the execution was botched. The public, the witnesses were not allowed to see what happened when the

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actual execution occurred, so something I had anticipated earlier in something I wrote came to pass.

**FOLEY:** Time.

**CHAMBERS:** But this is still a death penalty state. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. Senator Erdman, you're recognized to close if you care-- excuse me, Senator Hunt has her light on. Senator Hunt.

**HUNT:** I was just going to yield time to Senator Chambers if he'd like it. Thank you.

**FOLEY:** Senator Chambers, five minutes if you care to use it.

**CHAMBERS:** Thank you, Senator Hunt. Mr. President, members of the Legislature, you all pray every morning. Well, you-- you stand up here while somebody else prays. And that was a real smooth operator that you had this morning. I watch these guys. See, I know some things that he said that were totally inappropriate about certain members of our community described by the letters LGBTQ. And he continued his status and he calls himself a preacher. Well, the Bible talked about-- Jesus talked about false prophets. They are wolves in sheep's clothing. That's what you all had up there this morning. And if a sucker like that is going to come and pray, he ought to make sure that the life he lives is circumspect, because there are going to be some people like me who will not go along with the program. If he stayed off in his cave, I wouldn't have reached out to get him, but he came here where I operate. I call this you all's home. It's 1/49th mine. When he comes into my house, then he makes himself amenable to anything I have to say. And I don't say it behind my hand, behind closed doors. I say it out in the open. And as I've said on other occasions, I am an easy target. Anybody who doesn't like what I say can approach me directly any way he or she pleases. I just hope they won't come like these white, cowardly Christians do and take me from the back, and I'm not aware of them and will not have an opportunity to respond appropriately. These are dangerous times. They are serious times. There are people going about armed. There were thousands of them, based on the report that I saw on television, down in Virginia with their arms, some in full military gear, flak jackets, helmets, AK-47s, AR-15s, pistols on the back, pistols on their side, strutting,

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preening, and showing how weak the white man, who wants to say he's superior, is. I don't know whether he is an extension of his gun or if his gun is an extension of himself. Take the gun away and you have a coward. They were not coming out in great numbers. They hid under rocks. They hid in caves. They ambush people. But now that they can carry guns, here they come. That's what your country has become. You're now being dominated by a dictator. I had said on this floor that your constitution is the perfect blueprint for establishing a dictatorship and for a dictator to take over. And you have somebody in that Chair who will say in this minute, aye, the next minute, nay, and the next minute, I didn't say that. He is an inveterate liar. He's a pathological denier. Documentation has been given of several thousands of false public statements he has made, but the Christians follow him and love him. He is not the cause of anything. He is the symptom. He is what Christianity, as it's called, has been incubating all of these decades, all of these generations. And now birth has been given to Rosemary's Baby, the one who clutches at women's privates--

**FOLEY:** One minute.

**CHAMBERS:** --clutches their genitalia, then laughs about it, jokes about it, and has a wife and children-- Rosemary's Baby. They didn't know Rosemary's Baby was a man who paints himself orange and makes his hair look like a rag mop. But that's what he came as to show you. He's like something you've never seen in the position he's taken, several times married. The fundamentalist Christians don't believe in divorce. They certainly don't believe in multiple marriages, but they love this devil, this demon, this Rosemary's Baby. You cannot blame anybody for acting in accord with their nature. The Wolf Man did not want to be a victim of lycanthropy. He was bitten by a wolf, but once bitten, that nature took over and that nature led him to do things--

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

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

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

**CAVANAUGH:** Thank you, Mr. President. First, I'd like to thank Senator Chambers for his decades of service to this state and this Legislature. My bill is on the agenda for today, and I was hoping we would get to it, and I know now that we won't. And while I think that my bill is important, as everyone I'm sure feels their bills are

important, I think the conversation that Senator Chambers is having here today is important as well, and significant. And it's important for us, on days like this where we are faced with other branches of the government, to consider how we work together and what that work reflects. I will say that I did not hear the prayer this morning, so I did not know that disparaging things were said about my brothers and sisters in this state and I am disappointed. I've read the rules for what the prayer is supposed to be in this body, and that is shameful. And we should not have people standing at the front of this Chamber speaking on behalf of God to all of us and saying disparaging things about any population in this state. So I'm disappointed that that happened. I thank Senator Chambers for highlighting that that happened. And I hope that moving forward that when we invite someone to come and speak and give the prayer, that we are more thoughtful in communicating to them what that means to this state and this body, because this prayer is supposed to be for everyone, not just the people in this Chamber. And with that, Senator Chambers, if you would like, I'll yield the remainder of my time.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Chambers, 3:20.

**CHAMBERS:** Thank you, Mr. President. Thank you, Senator Cavanaugh. And I'm going to complete what I had started to the extent that I can this morning. And I won't do it on anybody's bill. I have not been provoked to the point where I will do that yet, but it will happen when the session comes and when it comes, you will know it. And when it hits you, you will holler, yes, indeed. I was talking about the man who became the Wolf Man. When the moon would be full, then something came over him and he took on the characteristics of a wolf and behaved in the way that a wolf stereotypically would behave. But this man-- the Wolf Man, was usually played by Lon Chaney, but others had played that role. He was very effective because when he was not even in character, his eyebrows slanted from over his nose downward and always gave him that pitiful, sorrowful look, and it was easy to sympathize with him. And when they wrote the earlier Wolf Man movies, he knew what happened to him, he knew what would happen, and he pleaded with people to constrain and restrain him in such a way that he couldn't do what he knew would happen. Well, naturally, they didn't and bad things happened. This monster, a creation of fiction, although lycanthropy was something that they talk about in the early years and that if you were bitten by a wolf you become a wolf man, but it was not just the werewolf-- the werebear, weretigers, were, w-e-r-e, whatever animal had bitten you. When it comes to the story of Dr. Jekyll and Mr. Hyde,

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Robert Louis Stevenson wrote it, The Strange Case of Dr. Jekyll and Mr. Hyde. Mr. Hyde was that hidden part that Hajji Baba said deep in any soul, carefully hidden, is the desire to be indiscreet. But at any rate, this doctor began to dabble where he shouldn't have been dabbling. He started messing where he shouldn't have been messing. He was playing with compounds, and he put one together that would separate the good, if there was good in him, from the evil, which obviously was in him. When he became Mr. Hyde, he actually changed his appearance.

**FOLEY:** One minute.

**CHAMBERS:** Mr. Hyde took over and Mr. Hyde was small at first. When he became Mr. Hyde, Dr. Jekyll's body shrank and his clothes were too big. So he had to roll up his sleeve, roll up his pant legs. But as time went on, and when Mr. Hyde took over and did more and more evil things, Mr. Hyde physically became larger and Mr. Hyde became more evil. And sometimes Mr. Hyde would struggle and come forth even when Dr. Jekyll didn't want him to. But my time, I'm not going to run over it. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. Senator Erdman, you're recognized to close on your motion. He waives closing. The question before the body is adoption of motion to withdraw LB947. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 35 ayes, 0 nays on the motion to withdraw.

**FOLEY:** LB947 is withdrawn. Next motion, please.

**ASSISTANT CLERK:** Mr. President, Senator Wishart would move to withdraw LB953.

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

**WISHART:** Thank you, Mr President. I rise in support of my motion to withdraw LB5-- LB953. I brought this bill in support of veterans and in support of shelter animals. It's very important that we improve the process for veterans to have access to adoption because there are therapeutic benefits to pet ownership, especially with people suffering from post-traumatic stress disorder. I have decided to go a

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different route and have introduced a different bill, and so I urge the body to allow me to withdraw this bill. Thank you.

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

**CHAMBERS:** Thank you, Mr. President. Some people don't realize that I like all kind of music. I've said, as Ray Charles said, as Louis Armstrong said, there are only two kinds of music, good music and bad music. But there was a song by Sonny and Cher, and it was, The Beat Goes On. The drum keeps pounding rhythm in the brain, but I'm not going to go through that. But this beat that I've started, it goes on. I was talking about Mr. Hyde. Edward Hyde was his first name. Henry Jekyll was the doctor. The doctor knew about Hyde, so in order to have a refuge for Hyde, because he had committed acts that would be considered crimes, Dr. Jekyll, who had-- well, he was a man of means. He told his servant that he was going to install a side entrance and when this individual, Mr. Hyde, came to visit, admit him. No matter what he looked like, no matter what he said, he has admittance at this place. So that's how Mr. Hyde had someplace to go for refuge. But without going into all of the vicious things Hyde did, Hyde was acting in accord with the nature of Edward Hyde. The one who went contrary to what is supposed to be the nature of a rational being was Dr. Jekyll, the Christian. He went messing where he shouldn't have been messing. He acted outside of what his nature was, and he unleashed a monster. But Hyde and Jekyll were part of the same being. Then there's poor old Frankenstein. I wear what I call Frankenstein boots: very large, very heavy. And Frankenstein, I know wore boots because he was what they call a monster. He had been created by a doctor. The doctor's name was Victor Frankenstein. The monster's name was Adam. He was the first creation of this doctor. These body parts were put together and the monster was created, but he was not intellectually a monster when he first came into being. Things happened to him because of what he looked like. He was blamed for things he had not done. He accidentally harmed a child whom he may have been trying to rescue, but they blamed him for something horrible. And he said because Frankenstein the monster, Adam could reason, he was highly intelligent. He warned these people, beware, lest you make me become what you say that I am. They did not beware and he became what they called a monster. But he looked hideous. However, he was very sensitive, highly intelligent, extremely persuasive when he spoke. But to stay on point, when he went haywire, he was acting in accord with the nature that somebody else had given him. When things act in accord with their nature, they cannot be condemned. A tiger has the nature of a tiger. A lamb has the nature of

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a lamb. Some guy had written a poem and he said, did he smile his work to see? Did he who make the lamb make thee? And the "thee" was the tiger. "Tyger Tyger, burning bright--

**FOLEY:** One minute.

**CHAMBERS:** --in the forests of the night." I have one more character that I want to describe, and his name is Dracula. I will wait until I'm recognized.

**FOLEY:** Senator Chambers, you may proceed.

**CHAMBERS:** Thank you. These characters who are produced by lit-- by the way, Mary Shelley wrote Frankenstein, and she was a teenager when she wrote it, and she was pointing out what could happen when science goes haywire, goes astray, and becomes uncontrollable. And the most significant comment that I think in that whole book, and it was a book, the monster said to the doctor at one point: You are my creator, but I am your master. And that's the way it turned out at the end. A fellow named Abraham Stoker, they called him "Bram" Stoker, an Irishman-- and when Irish eyes are smiling, sure, it's like a morn in spring, but when they're angry, you don't want to be around. Dracula was a person who had this problem, and his nature was such that in order to survive, he had to take human blood as sustenance. And I'm collapsing a lot of this so I can get it finished. In order for Dracula to live, others had to be weakened and, in some case, die. But that was the only path available to him. Why would Dracula do these horrible things? To digress, there was a pilot named Francis Gary Powers, and he was flying a U-2 jet, spy plane, over Russian territory. He was shot down and the American Christians were asking why he did not bite into the cyanide capsule and commit suicide, as what's supposed to happen when a pilot was shot down or captured. Then you know what old Godless Khrushchev did? He gave an answer to these Christians, and it applies in all times for all things. Khrushchev said: Living things want to go on living. Dracula wanted to go on living, so he did what was necessary to survive. There's a song by a group called Survivor. It's the Eye of the Tiger, and if you listen to some of the words, it talks about this man with the will to survive. Survival is very critical. I am like an intellectual Dracula. I draw mental sustenance from people who are intelligent, people who can think, and they don't have to be what you call good people. They don't have to be righteous people. They don't have to be holy people. Maybe Jack the Ripper was the greatest mathematician who ever lived, and his

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wicked deeds would not undo the validity of what he had done when he was in the realm of math. But the difference between me and Bram Stoker's Dracula is that while I'm drawing sustenance from the intelligent people that I'm fortunate enough to come in contact with, they are not weakened by me drawing sustenance; they are not lessened by me doing it. So we both benefit. I am strengthened. I am improved. And they have done a good deed, whether they meant it, intended it, or even knew it. So you look at these principles that you can find laid out in literature and they'll carry you down a lot of paths if you're willing to follow them. You all use the gadget, but you become a part of it. It doesn't become a part of you in the sense of you using it as a tool. So what I do in this Legislature is what my mind and my conscience tell me represent my obligation. That's why I say, I think, therefore, I am what I am--

**FOLEY:** One minute.

**CHAMBERS:** --and that's all that I am. Is this my third time, Mr. President?

**FOLEY:** You have one more.

**CHAMBERS:** Then I will finish up on that.

**FOLEY:** You're recognized, Senator Chambers.

**CHAMBERS:** Thank you. People think that you have to have religion, that you have to say you cleave to a God before you can have principles that guide you. When I was very young, I was made to go to church. I went to Sunday school. I listened to things that grown people said. When I developed the ability to read, I read the Bible, and what the Bible said was a lot different from what those people who were talking said that it said. And their life didn't even comport with what they said that it said, so I became distrustful toward adults and didn't believe that they ever told the truth. Now I believed my parents when they told-- told me that I should respect all grown people, and especially teachers. That respect took root. They taught me to respect those teachers, but there was a fatal flaw in my instruction. They didn't warn me that the teachers would do things that would be harmful to me, so I was totally unprepared to deal with those things based on a background of understanding that would equip me so that when these kind of things came, I would know how to duck, dodge, or, at any rate-- rate, survive. So I just had to stumble along to do the best

that I can. I'm not going to mention all the things that these white teachers did to me. I never had a black teacher in my life. But I was a child. I was alone. I had feelings and my feelings were hurt. And there was nobody I could turn to. There was no adult. I didn't tell my parents because they were the ones who told me how good these teachers were, so in that area, I didn't feel I could talk to them. There were times when they would visit the school and the teacher would tell lies about how I comported myself. I was a good child. I was obedient. I did whatever I was told to do. But at any-- not all the time, but I was what would be called a good child. I didn't say anything when the teacher lied. But this is a principle in my child-like mind that I formulated. And it wasn't with these words. I didn't know these words. To the teacher: You can lie to the principal, you can lie to my parents, but you can't lie to me. I know what you did to me. I know what you said to me. But all of those things strengthen me. Nature equips her children to survive in a hostile environment. I've been laboring among people like you for 46 years. You all can hardly make it from one end of the day to the other. You run out of here in frustration. Lobbyists dictate to you. The Governor puts you in fear. Your political party owns you. Nobody owns me, and that's why I can survive being as old as I am. I probably even have more physical vitality than some of these young whippersnappers around here. They walk around like they got the weight of the world on their shoulders. And I pity them. But they don't have to worry about living as long as I do, because nature has a way of dealing with you. If she gives you an ability or a talent and you don't use it, that which is unused become-- it becomes unuseful. If she gives you musculature and she gives you vitality and you don't lose those-- use those things, you lose them. You'll be old before your time. We don't know what our time is. The "Bibble" said the days of a man's life were three score and ten. Well, I learned math from white people. A score is 20 years. Three times 20 is 60, plus ten is 70. I'm 82, so I'm living on borrowed time. And I was told in the middle of the night--

**FOLEY:** One minute.

**CHAMBERS:** --that that time was borrowed from you all. The longer I live, the shorter your lifespan, because a little bit of you is squeezed out and infused into me. So that is the Dracula principle once again. I'll be here after you're gone from this earth, but I will leave this Chamber before most of you will. Will I ever return? There was a song about this guy; he's riding beneath the streets of the-- of Boston. He's the man who never returned. I had said before I'd never

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come this way again, but circumstances alter cases. Maybe I will come back just to spite those of you who are still here. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. Senator Wishart, you're recognized close on your motion. I do not see her on the floor. We'll pass over that opportunity to close. The-- she waives closing. Thank you, Senator Wishart. The question before the body is the adoption of the motion to withdraw LB953. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 31 ayes, 1 nay on the motion to withdraw.

**FOLEY:** The motion to withdraw LB953 is adopted. We'll move on now to General File. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, LB266, introduced by Senator Lindstrom. It's a bill for an act relating to the School Readiness Tax Credit Act. It changes-- redefines the term change provisions relating to a tax credit for childcare and education providers, harmonize provisions, provides an operative date, and repeals the original section. Bill was read for the first time on January 15 of last year and referred to the Revenue Committee. That committee placed the bill on General File with no committee amendments.

**FOLEY:** Thank you, Mr. Clerk. Senator Lindstrom, you're recognized to open on LB266.

**LINDSTROM:** Thank you, Mr. President, and good morning, colleagues. Today, I bring to you LB266, a bill to make changes to the School Readiness Tax Credit Act. In 2017, Nebraska became the second U.S. state and the first in the Midwest to offer tiered tax credits to childcare providers based on their rating in the Step Up to Quality, our state's childcare quality rating system and improvement-- rating and improvement system. The School Readiness Tax Credit was made available in two forms: first, a nonrefundable credit for individuals who own or operate childcare programs rated at Step 3 or higher in the Step Up to Quality system; second, refundable credit was also made available to childcare professionals who had been employed by qualifying programs for at least six months and were enrolled in Nebraska Early Childhood Professional Record System. The purpose of these credits is to incentivize childcare operators to reinvest in their programs and strive for higher levels of quality and

affordability in the services they provide to Nebraska's working parents and their youngest children. Secondly, the credits are intended to encourage more skilled professionals to choose and build careers in this critically important but often overvalued sector in our state's workforce. Unfortunately, current statutory language makes it impossible for a significant portion of Nebraska's quality childcare professionals to take advantage of these tax credits. These statutes prohibit self-employed and in-home childcare providers from utilizing the refundable credit and disqualifying providers who are classified as Subchapter S from utilizing the nonrefundable credit. LB266 clarifies and corrects the relevant statutory language so self-employed individuals and some-- Subchapter S can access these credits, allowing them to fulfill the purpose of originally intended for them in the School Readiness Tax Credit Act. Safe, reliable, and developmentally positive childcare is crucial-- crucial-- excuse me-- crucial to the social and economic infrastructure for our communities. Even so, many areas of our state lack sufficient, quality care options to meet the needs of working parents and their employers. It is in our own best interest to encourage all small business owners and skilled early learning professionals to remain engaged and viable in this industry, which directly and indirectly generates significant revenue for our state and nation. LB266 offers a simple way to incentivize and develop Nebraska's early childhood work force. Thank you, and I ask for your green vote on LB266.

**FOLEY:** Thank you, Senator Lindstrom. Is there any discussion on LB266? Senator Moser.

**MOSER:** Thank you, Mr. President. I was wondering if I could ask Senator Lindstrom a couple of questions about this.

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

**LINDSTROM:** Yes, I will.

**MOSER:** Good morning. How-- this fiscal note talks about the cost of your bill. What's the cost of all the credits we offer to childcare, educators, childcare and education providers?

**LINDSTROM:** Sure. So I have the tax credit information for tax year 2018 and what was processed in 20-- 2019. So the total number of tax credits for the employee applications, 264 people applied. The total dollar amount was 353,430. And then with the childcare provider

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application, there was two, and that was a total of \$1,000. So in the original draft it was-- we did not open this up to in-home providers and the-- kind of the small business owner, if you will. This was just for what I'll call the-- the-- maybe the bigger childcare providers in the state. And so it was an unintended consequences of what we did a couple of years ago. And it-- and just to let you know, there's a cap on it of 5 million.

**MOSER:** Well, and thank you. I guess the reason for my question is, on the one hand we're trying to give tax relief to all Nebraskans and we want revenue to balance the way that we tax our citizens. And then on the other hand, we're giving away \$50,000 here, \$500,000 there. And so I don't think we're being consistent. You know, if we want to provide tax relief, I think we need to quit giving so many tax credits and try to reduce our spending and tax people less in the first place rather than take their money away and then give it back. I just don't think that's philosophically the way to do it. Thank you.

**FOLEY:** Thank you, Senators Moser and Lindstrom. Senator Albrecht.

**ALBRECHT:** Thank you, President Foley, and good morning, colleagues. I would like to have Senator Lindstrom yield to a couple of quick questions.

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

**LINDSTROM:** Yes, I will.

**ALBRECHT:** OK. So you had talked about in 2018, 264 individuals qualified. How much is it per individual?

**LINDSTROM:** Sure. So under the bill, we have two categories. One is for the childcare owners and operators. And then we have one for the individual professionals. Under the individual professionals, there are four different categories. And so based on the quality of education and-- and the individual who is providing that, the number goes up from there. So in an individual, there's four different classifications, rate-- ranging for \$510 to \$1,500. Under the childcare owners and operators we-- there's five different categories. Three, four, and five get the tax credit and it's \$250 per eligible child up to \$750 per eligible child.

**ALBRECHT:** So is that the cap, is 750?

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**LINDSTROM:** That-- and that's at the highest tier, yeah. That's step five.

**ALBRECHT:** Okay. And if I were an operator and I had six people working for me and 30 children-- I don't know what the ratios are. But-- but the people that currently would work for me could qualify for this right now. But you're-- you're basically saying that I as an operator now could also qualify?

**LINDSTROM:** If you're an LLC, Subchapter S trust. We-- we're opening it up to any small business or anybody that's categorized as a small business for tax purposes.

**ALBRECHT:** And what would-- what would I as an owner have to do to-- would I be penalized if I didn't join this?

**LINDSTROM:** No.

**ALBRECHT:** Or if I did decide to join it, what would the qualifications be for me to collect these tax credits?

**LINDSTROM:** So you would not be penalized. You just apply to the Department of Revenue. And then based on the Step Up to Quality categorization, whether or not you're-- you won't get it if you're in one or two, but if you're in three, four, five, then you would be able to apply. And if you hit the criteria, you'd be able to do that. And it comes down to a lot of it's education that the childcare provider has. And then what it does is incentivizes those individuals with regards to the refundable tax credit to go and seek out higher education for the purposes of childcare.

**ALBRECHT:** And let me ask you a question. Do-- do teachers in the state of Nebraska get any tax credits?

**LINDSTROM:** I'm unaware of any tax credit.

**ALBRECHT:** OK. And I guess that's my point. I'm looking at this saying you're going to give these to these partnerships, to limited liability companies, S corps, estate or trusts. They'll get that tax credit?

**LINDSTROM:** They can apply for the tax credit, yes.

**ALBRECHT:** OK. And--

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**LINDSTROM:** We-- we have had-- I'm sorry to interrupt. We have had a few denials over the years. It looked like childcare employee applications, there was 21 denied. And so not everybody-- not everybody gets--

**ALBRECHT:** And why would they be denied, because they didn't meet the qualifications to be able to collect the full tax?

**LINDSTROM:** Correct.

**ALBRECHT:** OK. Thank you. Yield my time back to the President.

**FOLEY:** Thank you, Senator Albrecht and Senator Lindstrom. Senator McCollister.

**McCOLLISTER:** Thank you, Mr. President. Good morning, colleagues. I wonder if Senator Lindstrom would yield to a few questions.

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

**LINDSTROM:** I will.

**McCOLLISTER:** The-- you indicated to a previous question that the maximum amount of money was \$5 million. Is that correct?

**LINDSTROM:** That is the cap on the tax credit program, yes.

**McCOLLISTER:** And what has been the previous experience? Have we been utilizing this program in any way in previous years?

**LINDSTROM:** We have been utilizing it. So for 2017, it was \$164,000 was processed for the tax year of 2018, and then, like I mentioned before, in 2018, processed in 2019, \$353,000. So there is a gap between obviously the \$350,000 and the \$5 million. And what the feedback that I've received from small business owners and individuals who have in-home daycare, is that because of how they're taxed, they're not able to request these tax credits. And so we're-- we're limiting certain sectors, particularly those people in the western part of state that don't have access to those KinderCares, if you will, the bigger operators of child-- child daycare.

**McCOLLISTER:** Well, to finish the conversation about the fiscal note, the fiscal note, the last one that I see indicates \$81,000. So that's

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considerably less than the-- your experience with this program, correct?

**LINDSTROM:** It would be an additional \$81,000 and then the following year I believe it's \$94,000.

**McCOLLISTER:** OK, so--

**LINDSTROM:** So we would see-- because we're opening up the program, we would see an increase in applications, is what-- what I believe the fiscal note represents.

**McCOLLISTER:** Well, you had a fiscal note of-- an experience of, what, \$350,000 in the latest year, is that correct? So it'd be another \$81,000 to that amount, right?

**LINDSTROM:** Right.

**McCOLLISTER:** OK. Thank you. I yield the balance of my time.

**FOLEY:** Thank you, Senator McCollister and Senator Lindstrom. Senator Linehan.

**LINEHAN:** Thank you. I just wanted to rise to say I'm going to support Senator Lindstrom's effort in correcting what I understood, the way it was explained to me, is just some things that should have gotten caught when the bill was originally passed. We seem to be-- if we're going to do this, I don't see why we would leave out certain people. And I would like to ask Senator Lindstrom a question if he would yield.

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

**LINDSTROM:** I will.

**LINEHAN:** Am I right that right now day cares that happen to be in a home have more trouble; even if they're in the Step Up program? There's some hitch as to why they're having difficulty accessing these credits?

**LINDSTROM:** Yeah, and it really comes down to how they file their tax returns. So you typically won't have an in-- in-home day care provider that would not be a Subchapter S or LLC or some type of pass through. They just aren't going to be a big enough entity to-- to, you know, be

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a corporation. So this opens it up to those individuals, what I'll call small business owners.

**LINEHAN:** And-- and many of these types of childcare are what is-- is the only childcare available in many of our smaller rural communities. Isn't that correct?

**LINDSTROM:** Yes, that's correct.

**LINEHAN:** So right now in our smallest communities where you have mostly depend upon in-home childcare, which I think is a wonderful option for people, we're trying to expand it so they could also qualify.

**LINDSTROM:** Right.

**LINEHAN:** Right. OK. I would yield the rest of my time, if Senator Lindstrom wants it, to Senator Lindstrom.

**FOLEY:** Thank you, Senator Linehan. Senator Lindstrom, 3:20, if you care to use it.

**LINDSTROM:** I-- you know, I appreciate the questions today. I don't think I have anything more to add. Again, the original intent of this bill back in 2017 was to have-- to be able to have access from all those individuals that would qualify, no matter how you were structured, and omitting small business owners greatly impacts the ability and access to this. So I would encourage, again encourage your green vote and if anybody has any more questions, I'd be happy to-- to answer them.

**FOLEY:** Thank you, Senator Lindstrom. Senator Clements.

**CLEMENTS:** Thank you, Mr President. I do have a couple of questions if Senator Lindstrom would yield.

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

**LINDSTROM:** Yes, I-- yes, I will.

**CLEMENTS:** Thank you, Senator. And could you restate how long this program has been in effect?

**LINDSTROM:** It has been in effect since 2017. And for the-- you would apply in 2017 and then the tax years would be 2018. Just so-- just so

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folks are aware, this does-- this program does sunset in 2022. So it was-- yeah, 2017 was when this bill was originally passed.

**CLEMENTS:** All right. Thank you. Is there a cost to those going through Step Up to Quality certification?

**LINDSTROM:** I would imagine there-- there would be a filing fee with the Department of Revenue, but I could get back to you on-- on that answer.

**CLEMENTS:** And what-- what do they have to demonstrate to go through the different levels?

**LINDSTROM:** Sorry. Sorry, one second. Oh. Yeah, it goes through Department of Education and the Step Up to Quality System and based on that criteria, then they would be able to access and apply and get those tax credits.

**CLEMENTS:** Is it by number of years of experience that you step up the different levels?

**LINDSTROM:** It's education and also years of experience.

**CLEMENTS:** OK. With education might be some tuition expense. I'm just kind of wondering why the credit was kind of-- why they came up with it. Maybe that it was supposed to try to offset some of the cost of getting these sort of vacations. Do you think that's true?

**LINDSTROM:** I-- I think that's part of it, yeah. I-- with-- because this is both in two-- two separate tiers, one's a nonrefundable tax credit, so that would be, you know, taking your tax liability in that case. And then with the refundable, that would be directed towards individual professionals. So based on that criteria, if you meet-- if you're in the level one through four, you could use those tax credits to invest in higher education in that particular field of childcare and in that profession.

**CLEMENTS:** All right. Thank you. I believe that answers the questions I had. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Clements and Senator Lindstrom. Senator McCollister.

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**McCOLLISTER:** Thank you, Mr. President. Just a few more questions, if I may. Senator Lindstrom, would you yield?

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

**LINDSTROM:** I will.

**McCOLLISTER:** So in order to obtain a credit, do you actually have to attend some kind of institution of higher-- of learning to obtain that credit?

**LINDSTROM:** There are-- there are different criteria. Higher education would be one of those criteria in which-- if you can provide, I guess, better service, greater service, have a knowledge of how to handle childcare and those individuals that are five and under, then you would be able to participate in them.

**McCOLLISTER:** Would Metro Tech supply that kind of education?

**LINDSTROM:** Yeah.

**McCOLLISTER:** And they have to complete that-- that level of education in order to get the credit?

**LINDSTROM:** Right. Correct.

**McCOLLISTER:** Is there a maximum amount per-- per person?

**LINDSTROM:** Per individual, there-- yeah, so there is a level four classification. It's \$1,530. And with the childcare owner and operator, we only provide a tax credit for those that are in the three, four, and five. So if you're in one and two, you cannot get that, and that would be based on your level of education and the service that you can pro-- provide or how we deem it to be

**McCOLLISTER:** Well, childcare providers typically have fairly low incomes. It's not to actually supplement their incomes. It's-- it's-- it's for the training. Is-- is that--

**LINDSTROM:** That would be--

**McCOLLISTER:** Is my understanding correct?

**LINDSTROM:** That would be correct.

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

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

**FRIESEN:** Thank you, Mr. President. Would Senator Lindstrom yield to some questions?

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

**LINDSTROM:** Yes, I will.

**FRIESEN:** So as you know, I didn't vote on the bill when we sent it out of committee. But I'm-- I'm not necessarily opposed to it. I'm just-- a few questions. And I know it's got a very small fiscal note. But is this just a one-time tax credit or is this a yearly once they reach that level? Do they continue to get that or is it a one-time refundable tax credit?

**LINDSTROM:** You could apply every year, but the program would max out at \$5 million. And we haven't-- you know, in the whole scheme of things, we really-- we haven't come close to that. Like I said, the total for the tax year 2019 was \$353,000-- \$353,000 and change. So you can apply every year. But we're-- that's why we're opening it up so that we're potentially capturing some more individuals in that [INAUDIBLE]

**FRIESEN:** So if you'd reached level four, for instance-- and I don't know what dollar amounts. I didn't-- but then you could-- you could apply and continue to get that even though you don't go on and get any more education, you just continue to apply for those credits?

**LINDSTROM:** For that individual professional, yeah, you could do that.

**FRIESEN:** OK. And who in most case gets the credit? Does the actual person that's doing the teaching get the credit or does the company providing day care get the credit? Who ends up with the credit?

**LINDSTROM:** So there's two tiers. The first tier is the childcare owner and operator, and that is based on the five steps. So if you're-- if you're those individuals, you can get-- if you apply in three, four and five, you can get a range of-- at three, \$250, at four, \$500, and at level five, \$750. But that, that's the-- what I'll call tier one with the childcare provider and owner. Then what we have is tier two that is the actual individual professional, then goes back to the--

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the-- you know, one through four classification with the total amount being \$1,530 if you hit number four. If you're in level one, you get \$510, and then there's a range in between.

**FRIESEN:** So that-- the-- the business owner, for instance, would-- would apply for a credit. They could apply every year once they've qualified for the correct tier and then the individual teachers, if there's seven or eight teachers, they could each apply as they reach attainment levels.

**LINDSTROM:** That's correct.

**FRIESEN:** OK. I guess I-- I'll-- do have some more questions and I'll just let you do that off the mike on-- on the education required to reach these levels. I know there's a little bit of confusion there maybe about what kind of education they need to go or classes or continuing ed. So I'll-- I'll talk to you off the mike on that. And so I did-- I was not voting. I'll still be looking at it. I'm not sure where I'm going to be with this, but it is, I think, a worthwhile thing. I'm not going to say that in rural areas, necessarily, that-- the profit margins are so tight, I don't know that any of these people could ever take off and-- and try to reach that attainment level in those small day cares. But it's something I will look at. Thank you, Mr. President.

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

**WAYNE:** Thank you, colleagues. I'm supporting this bill. But as we talk about getting home day care right, something's kind of on my heart that I want to talk about. Yesterday, 27 of our-- my colleagues introduced a legislation for \$300,000-- \$300 million of taxpayer dollars to secure a \$2.3 billion dollar project, 2.6. But my question is, how will this project, located in the heart of north and south Omaha, benefit the people around north and south Omaha? The answer is, simply, it won't. If nothing changes, nothing-- if we don't make changes, nothing will change us. Right now, this is probably going to go to the same players who always get these construction contracts and our community will be left out to continue to go to nonprofits, to beg and choose and beg some more for services to benefit us. This year, I'll be introducing a bill that requires all government agencies and political subdivisions to use historically under-- underutilized businesses. But for this particular project, and I want my colleagues to hear me closely, I'm demanding that 30 percent go to minority and

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women-owned businesses, and we can do this because this is federal dollars. That's 10 percent to black companies, 10 percent to brown companies, 10 percent to women-owned companies and, again, we can do this because it is using federal dollars. For a \$2.6 billion project, that's \$780 million that can go directly back to our community. I'm not asking for a handout. I'm asking for economic opportunity in proportion to our state population. We have prevented-- we have been prevented, my community, from participating in economic development for far too long, and it's this time Nebraska has to get it right. So when we talk about, particularly people who are on my side of the aisle, talk about education, criminal justice reform, we talk about juvenile justice reform and other issues that plague black and brown community, this project is the hallmark of our economic injustice that we have been seeking for years. So to you who support all of these causes to eliminate the problems in my community, my question today is economic justice just as much as important as social justice? Colleagues, are we ready to use our power to utilize tax incentives and tax credits to economically move Nebraska forward for all colleagues or just some of us? As a state senator, I have been fortunate to meet hundreds and thousands of nonprofits and people who are dedicated to serving the community I represent. But I struggle with the idea that a 10 or 15 square mile area still has some of the highest unemployment, the highest crime, the highest murder rates, and the highest-- highest violent tendencies. And that is because we continue as a body, as policymakers, thinking the same way instead of trying to solve the problem differently. To give you a perspective, over the last seven years, city of Omaha, OPS, Nebraska Medicine, Douglas County, the state, and the feds have spent \$7 billion east of 72nd Street. That's \$7 billion, with a "b," east of 72nd street, yet the poverty rates in OPS still tend to rise during that time. The poverty rates in my community and the violence still tend to rise during that time. So one way we're paying for it either way, and to give you an idea of some of these projects, UNMC had a Cancer Center that cost \$400 million; UNO built an arena that cost \$87 million; the city of Omaha did a sewer separation project that cost over \$3.5 billion, all east of 72nd. OPS, which I was a member of, had a bond that has spent in the last seven years over \$500 million--

**FOLEY:** One minute.

**WAYNE:** --east of 72nd. I'm going to push my button one more time because I think we need to make sure we have a conversation about what really goes on in the university and what really goes on in public

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contracting, because this is probably the defining moment for whatever I want to do in my political life, that I'm willing to risk it all for this opportunity to make sure we have an equal opportunity to participate, meaningful participation in a public project that is in the heart of east Omaha. We can no longer allow poverty rates to go up while we spend billions of dollars in our community next-door. It has to stop. And I'm going to give you a couple more examples of why this should stop today and why we have to make it a commitment, especially my 27 colleagues who signed that bill, to make sure we provide equal opportunity to participate in this process--

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

**WAYNE:** --that is proportionate to the state. Thank you.

**FOLEY:** Thank you, Senator Wayne. Senator Groene.

**GROENE:** Thank you, Mr. President. I'm going to ask Senator Lindstrom a-- a question or two, but I'm not standing in opposition. I just want information.

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

**LINDSTROM:** Yes, I will.

**GROENE:** No. I said I will. I am not ready to. I'm giving some background yet, all right? But-- excuse me. But the background information is this. I wanted-- he can answer this when I do ask the question. I just wanted to make sure his ears were perk-- perked up and was listening. But can I go somewhere and get a list of all of the individuals who are in this program, who are in a Step Up to Quality program? I don't know they're licensed, they're registered. And could I find out how many of those individuals west-- live west of Kearney, Nebraska, and how many programs exist in Kearney, Nebraska? The other one that I'm-- I'm concerned about is if-- does this include public employees? If a school district decided to have an early childhood center and they sent their employees off to get-- with tax dollars to get certified or registered through them, the individuals, can they turn around and get an-- also a refundable tax credit? Those are my two questions, Senator Lindstrom. And-- and now I will ask the question, Mr. President.

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

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**LINDSTROM:** Yes, I will. To-- to the last question, yes, you could get that. With regards to the first question, we could-- I would imagine First Five, the group First Five would have some of that information. I don't know if they could specifically give you those individuals, but I-- I'm sure we could find how many are west of North Platte or in North Platte.

**GROENE:** But the Revenue Department can somehow check a list somewhere to make sure this individual is in the process or is-- is in the program, the Step Up program? Can they--

**LINDSTROM:** They-- they can check that. I-- I don't know the answer whether or not we can divulge the individuals that got it. But I would imagine we could find out and we could find out what percentage reside in Omaha, Lincoln, North Platte, Kearney, whatever it might be.

**GROENE:** Do you know how many people have-- have applied for the original one, individual number?

**LINDSTROM:** Yeah. There was-- for-- for tax year 2019, there was 264. And really what this particular bill and the update to it is to allow individuals west of Omaha and Lincoln to have access to these credits for their childcare.

**GROENE:** Thank you.

**LINDSTROM:** Yeah.

**GROENE:** Thank you. The-- I'm fine with the bill, but I am concerned about a public employee who is-- who has no cost to themselves, they're on a salary, being sent to a training and being paid for by the public school. Or let's say it's a community day care run by a city and then we turn around and then-- and let them take credit for something they had absolutely no cost in. I'm not going to fight this bill. I mean, I understand what he's trying to do. It isn't a bad thing, but-- but I just don't want mom and pop and grandma's day-care center to be put out of business eventually because this Step Up to Quality becomes a-- a requirement to even operate a day care. You'll put every-- you will really put a real Nebraskan in a bind if you don't let grandma on the street corner take care of some children for the working moms in the community. So anyway, I-- I'd still like to see maybe an amendment that it has to be-- you got to prove you had an expenditure--

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**FOLEY:** One minute.

**GROENE:** --of your own expenditure to qualify for the-- for the credit and it wasn't paid for by tax dollars, your training. Thank you, Mr. President. And thank you, Senator Lindstrom, for answering the questions.

**FOLEY:** Thank you, Senator Groene. Senator Wayne.

**WAYNE:** Thank you, Mr. President. Colleagues, I handed out an article by KETV that talked about the lack of diversity at the university and particularly also the Med Center. I would encourage you to read that. As you read that, you will have to ask yourself, is this open to everybody? Is Nebraska and the university really open to everybody when the students and the student body don't reflect the leadership within that community or within that organization? What I would tell you, colleagues, is future promises are not enough. Plans to change things in the future will not be enough. And the reason why I know this model works is because it worked in Atlanta. There's an airport down there, Hartsfield-Jackson. The reason that's named Hartsfield-Jackson is because the mayor at the time, Maynard Jackson, stood up to Delta and said-- and FAA and said, we will not turn one piece of dirt, there will be weeds growing, was his exact quote, unless black and brown construction companies are able to participate. So when you look at Atlanta and you look at the strong minority middle class, the strong women-owned businesses, it can be directly traced back to '79, '80, '81, because of a project like our \$2.6 billion project that was happening in the heart of Atlanta, right around Atlanta, that the mayor had the political courage to say economic justice is truly social justice. To my conservative colleagues, if you're tired of social programs, if you're tired of spending things and you believe in "pull yourself up by your own bootstraps," if a person has good-paying jobs, how many of those social ills go away? The only way we can move or remove many of our social ills in our community is by a good-paying job. And \$2.6 billion of federal and state dollars, along with the development around there, puts it at about \$3.6 billion east of not just 72nd Street, but east of 52nd Street, fundamentally changes the community. This model has worked. So I'm asking my colleagues to start thinking about this model and the demand by our federal government, who uses Offutt Air Force Base, to make sure they have a diverse workforce. But from leadership down, right now, based off of this article, I have not the faith that we will be at the table for opportunities to bid and participate in this

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project. Now imagine if we were to build something in a small community and we were going to fly in 3,000 to 4,000 workers and nobody locally got to participate. That's what happens. That's what happens at our Googles. That's what happens at our Facebooks. And at the end of the day, we are providing tax credits while the community around there has no extra benefit. If we are going to fundamentally change the community I represent, Senator Chambers represents, Tony-- Senator Vargas represents, Senator McDonnell represents, east Omaha, This project is our "Maynard" moment. This is our "Maynard" moment. And the question is, will we have the political courage to demand from the university and the Med Center that 10-10-10 be across the board, because if we don't, then we are going to continue to have the same social problems and spend the same money on social issues in a 10 to 12 square mile area that we do right now. That's--

**FOLEY:** One minute.

**WAYNE:** That is smaller than some of the communities you all represent, but yet we can't get it right. This is our time to get it right, Nebraska, and I will do everything I can to hold up tax credit bills, to hold up funding for this until we demand and make sure it's done 10-10-10 across the board. This is our "Maynard" moment and I hope we all have the political courage to demand it from the university, from the Med Center and from ourselves. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Senator Murman.

**MURMAN:** Thank you, Mr. President. I would like to ask Senator Lindstrom a question or two.

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

**LINDSTROM:** Yes, I will.

**MURMAN:** Thank you. I think most of us here would agree that the ideal for raising children, especially small children, is the family, the parents, especially when the children are young, that one or the other of the parents could be at home with the children as much as possible. And of course, the next best thing would be extended family in most cases, grandmother, aunts, and so forth. So my question is, both in the short term and the long term, with the Step Up to Quality, would this bill incentivize parents and extend-- extended family to stay at home or spend more time with their children?

**LINDSTROM:** Thank you for that question, Senator Merman. I don't believe that that's the intent of this bill, not that you couldn't do that. The-- the-- for example, my wife, my wife stays at home with our three kids. If she were to set up, say, an LLC and provide child day care, I suppose she could apply for the tax credit, but that's not the intent of the bill. This is for those organizations and companies that are small business. And so the-- the-- how it's operated before, we're just opening it up to those, those small business. And I don't disagree with you that-- you know, I feel fortunate that-- that my family is able to do that, but not everybody can. And so when we have in-home day care with individuals that are skilled and educated in this field, it only could be good for the-- for the child.

**MURMAN:** Thank you very much. Another question I would have if you would yield.

**LINDSTROM:** Yes, I will.

**MURMAN:** Would the passage of this bill disincentive parents and extended family to care for small children?

**LINDSTROM:** No, I don't believe so, Senator Murman. I think that this bill, again, is-- is just to open up so that those small businesses that operate can provide quality childcare. And so we're really getting at-- we've limited this credit to a very small amount of in-- in-home childcare providers. And so this just makes it fair across the board with regards to the subchapter S LLC-- LLCs, trusts under the tax code. So as long as you're operating as a small business in the state of Nebraska and you provide childcare, then you can access this particular provision.

**MURMAN:** I'd like to ask one more question if you yield.

**LINDSTROM:** Yes, I will.

**MURMAN:** If-- if you're-- we're giving tax incentives to other businesses to take care of small children, does that disincentivize parents and extended family to-- to take care of the small children?

**LINDSTROM:** I don't believe so, Senator.

**MURMAN:** OK. Thank you very much.

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**FOLEY:** Thank you, Senator Murman. Senator Lindstrom, you are recognized to close on the advance of the bill.

**LINDSTROM:** Thank you, Mr. President. And I realize that it's 11:50 and I'm the one keeping you from lunch, so I'll be quick. Just to-- I appreciate Senator Groene's comments and questions and really everybody today. I did want to just touch on the classification chart and answer Senator-- some of Senator Friesen's questions. So it's based on a point structure. And we have three different criteria. One is education, training, and work experience. And then based on how much time you have with regards to training, early childhood education, it steps up from there. So you can be awarded zero to five points. Obviously, five points is the best. And just to touch on kind of the max level for the education, it's a bachelor's degree or above in early childhood education or child development. Under the training, it's 30 clock hours in veri-- verified, approved training. And then workforce experience, it's at least three years' experience of working with children at an early care and education environment, including that six-month base requirement. So again, you have to work in-- in that profession for six months before you can even apply to this. And so that's the top. That's the five points. And then everything-- the four points, three points, zero, is a little bit less experience. And then based on those points, to get to level four, the range on that is 13 to 15 points. And then you can-- if you hit all five points in the education, training, work experience, you'd be at the top of that particular classification level and be able to get the tax credit. So I just wanted to touch on that a little bit. Again, I appreciate it. If you have any more questions between now and Select File, please reach out to me and we'll try to assist in any way. But I'd appreciate your green vote today in support of LB266. Thank you very much, Mr. President.

**FOLEY:** Thank you, Senator Lindstrom. Members, you heard the debate on LB266. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 33 ayes, 0 nays on the advancement of the bill.

**FOLEY:** LB266 advances. Items for the record, please?

**ASSISTANT CLERK:** Thank you, Mr. President. New bills. LB1132, introduced by Senator Wayne, is a bill for an act relating to net

metering, states legislative declarations, redefines net metering and qualified facility, changes and provides powers for a local distribution utility, harmonize provisions and repeals the original section. LB1133, introduced by Senator Wayne. It's a bill for an act relating to the Nebraska Hospital Medical Liability Act; increases caps on medical malpractice liability, changes provisions relating to proof of financial responsibility and the Excess Liability Fund, harmonize provisions and repeals the original section. LB1134, introduced by Senator Wayne, is a bill for an act relating to education; changes enrollment option limits and provisions for part-time enrollment and repeals the original section. LB1135, introduced by Senator Wayne, is a bill for an act relating to cities and villages; provides for duties for a city attorney of a city of the metropolitan class, provides for prosecutorial exceptions for the city attorneys and village attorneys as prescribed, provides a duty for the Revisor of Statutes, and repeals the original section. LB1136, introduced by Senator Williams, is a bill for an act relating to political accountability and disclosure; redefines officer for purposes of prescribing when an interest in a contract is prohibited, eliminates provisions against an interest in the contract by a board member of public power, any irrigation district, harmonize provisions, repeals the original section, and outright repeal Section 70-642.02. LB1137, introduced by Senator Lathrop, is a bill for an act relating to civil procedure; provides for certification of a class of plaintiffs removal-- and removal for education in district court of certain contested cases under the Administrative Procedure Act, provides for a waiver of sovereign immunity, defines terms and provides a duty for the Revisor of Statutes. LB1138, introduced by Senator Wishart, is a bill for an act relating to disease; establishes a dementia registry and provides powers and duties for the Department of Health and Human Services. LB1139, introduced by Senator Wishart, is a bill for an act relating to motor vehicles; provides for pets; for vet plate-- plates, creates the Pets for Vets Cash Fund, and provides powers and duties for the Department of Veterans Affairs, harmonize provisions, and repeals the original section. LB1140, introduced by the Health and Human Services Committee, is a bill for an act relating to Youth Rehabilitation and Treatment Centers; provides requirements for Youth Rehabilitation and Treatment Centers, provides a duty for the Revisor of Statutes. LB1141, introduced by the Health and Human Services Committee, is a bill for an act relating to the Department of Health Human Services; provides for Youth Rehabilitation and Treatment Center operation plans. LB1142,

introduced by the Health and Human Services Committees, is a bill for an act relating to the Department of Health and Human Services; changes provisions relating the Office of Juvenile Services, harmonize provisions, provides for Youth Rehabilitation and Treatment Center emergency plans, repeals the original section and declares an emergency. LB1143, introduced by the Health Human Services Committees, is a bill for an act relating to the Department of Health and Human Services; provides for a needs assessment and cost analysis study and report on the inpatient adolescent psychiatric unit and declares an emergency. LB1144, introduced by the Health and Human Services Committee, is a bill for an act relating to the Office of Public Counsel; provides for notice and reporting to the Office of Inspector General of Nebraska Child Welfare, requires an annual review and physical inspection of and a staffing report on certain state institutions and repeals the original section. LB1145, introduced by the Health and Human Services Committee, is a bill for an act relating to the Office of Juvenile Services; provides for policy on the use of mechanical restraints and transportation of juveniles and repeals the original section. LB1146, introduced by Senator Howard, is a bill for an act relating to appropriations; appropriates funds for the construction of dormitories at the Youth Rehabilitation and Treatment Center-Kearney. LB1147, introduced by Senator Vargas, is a bill for an act relating to Youth Rehabilitation and Treatment Centers; provides powers and duties at Department of Health and Human Services. LB1148, introduced by Senator Vargas, is a bill for an act relating to juveniles; change provisions relating to the Office of Juvenile Services and placements of juveniles at a Youth Rehabilitation and Treatment Center; eliminates obsolete provisions, harmonize provisions, and repeals the original section. LB1149, introduced by Senator Vargas, is a bill for an act relating to the Office of Juvenile Services; changes and eliminates definitions, eliminates obsolete provisions, updates a reference to federal law, changes and provides duties for the Office of Juvenile Services and Department of Health and Human Services; provides for evidence-based policies, practices, procedures, and services; prohibits denial of an in-person visitation and communication as a sanction; harmonize provisions; repeals the original section; outright repeals Sections 43-414, 43-415, 43-416, 43-418, 43-419, 43-421, 43-422, 43-423, 43-4002, and 83-101. LB1150, introduced by Senator Brandt, is a bill for an act relating to juveniles; requires the Youth Rehabilitation and Treatment Centers to be fully operational as prescribed and required to report. LB1151, introduced by Senator Vargas, is a bill for an act relating to

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Nebraska Opportunity Grant Act; redefines eligible student, provides for prioritization of awards, and repeals the original section. LB1152, introduced by Senator Halloran, is a bill for an act relating to hemp; change-- provides changes and eliminates definitions, changes provisions relating to licenses, cultivation, and testing and transportation of hemp violations, Department of Agriculture duties and powers, and appointment to the Nebraska Hemp Commission; provides legislative intent regarding licensing and appropriations; provides a termination date; provides a penalty, harmonize provisions; provides an operative date and repeals the original section and declares an emergency. LB1153, introduced by Senator Vargas, is a bill for an act relating to education; requires approval of alternative tests for-- for a diploma of high school equivalency, allows development of skill-based or competency-based assessments for a diploma of high school equivalency, make testing available to the state; provides duties for the Commissioner of Education, repeals the original section. LB1145, introduced by Senator Hansen, is a bill for an act relating to appropriations; appropriates funds to the State Department of Education for state aid to adult basic education programs, institutions offering high school equivalency programs, and declares an emergency. LB1155, introduced by Senator Vargas, is a bill for an act relating to economic development; adopts the Middle Income Workforce Housing Investment Act, creates a fund, provides for a transfer of funds from the General Fund, provides a civil penalty, and declares an emergency. LB1156, introduced by Senator Vargas, is a bill for an act relating to schools; defines terms, requires development and implementation of a statewide school panic button program, provides powers and duties and states the intent regarding appropriations. LB1157, introduced by Senator Vargas, is a bill for an act relating to redistricting; provides for counting Nebraska residents confined in prison in Nebraska as prescribed. LB1158, introduced by Senator Arch, is a bill for an act relating to the Medical Assistance Act; requires information regarding job skills, programs, and report; provides powers and duties and repeals the original section. LB1159, introduced by Senator Stinner, is a bill for an act relating to the Pesticide Act; changes noncertified applicator pesticide use restrictions; provides for an unlimited license examination attempts, harmonize provisions, repeals the original section. LB1160, introduced by Senator Hansen, Matt Hansen, is a bill for an act relating to labor; adopts the Nebraska Workforce and Education Reporting System Act and declares an emergency. LB1161, introduced by Senator Matt Hansen, is a bill for an act relating to

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appropriations; appropriates funds to the Department of Health and Human Services for competency restoration treatment as prescribed. LB1162, introduced by Senator Wishart, is a bill for an act relating to revenue and taxation; adopts the Fueling Station Tax Credit Act; harmonize-- harmonize provisions and repeals the original section. LR298, introduced by Senator Howard, calls for the Executive Board of the Legislative Council to meet forthright and appoint a special committee of the Legislature to be known as the Youth Rehabilitation and Treatment Center Special Oversight Committee of the Legislature. Pursuant to that, I have a communication from the Speaker referring LR298 to the Reference Committee for referral to the appropriate standing committee. Committee reports: The Urban Affairs Committee reports LB795, LB799, LB821, LB885; those will be placed on General File. Notice of committee hearing from the Revenue Committee; notice of committee hearing from the Health and Human Services Committee as well. Motion to be printed: Senator Blood moves to withdraw LB754; that will be printed. Amendment to be printed: Senator Hunt to LB734. Finally, an announcement: The Government Committee would move to have an Executive Session following-- immediately following their hearing today. Finally, a series of name adds: Senator Howard to LB791; Senator Walz to LB1073; and Senator Hunt to LB1084. Priority motion: Senator Arch would move to adjourn the body until Thursday, January 23, 2020, at 9:00 a.m.

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