

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 27, 2023

KELLY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventeenth day of the One Hundred Eighth Legislature, First Session. Our chaplain today is Deacon Tom Deall, St. Matthew the Evangelical Catholic Church, Bellevue, Nebraska. He is a guest of Senator Sanders.

DEACON DEALL: Today we come before you, Lord, to pray for the members of our Nebraska Legislature, our Governor and their staffs. We ask that you reveal yourself to them and bring them closer to you, each in their own unique way, that they may hear your voice clearly and distinctly. Speak to them of truth, integrity, justice and fairness. Give each one of them strength to reach out to each other, regardless of party, so as to work together. We boldly pray that you bring their hearts together in ways they could not imagine. Let them declare, as King David did, how good and pleasant it is when God's people live together in unity. Let them see the good works done by people of faith across the state and in their districts. Let their eyes be open to what you are doing through your people and all believers across the state and throughout the country, knowing our reach goes well beyond the state of Nebraska. Give them a desire to promote things that honor you, not just their own political careers. Cut through the clutter of politics as usual and self-promotion. Let them hear your voice as you speak to them of honor, sacrifice and purity. As Jesus was born in a little town, so, too, are many in our state. Like Him, we live under the authority of local leaders and officials who manage the majority of our daily life. And so we lift up our local leaders today. We pray for our legislators, our Governors, and all who serve our local communities. Strengthen them with wisdom and grace for the heavy burdens they carry. May they manage their teams and projects with love. We are grateful to live in a country where we can openly pray for our leaders. One of Paul's very first instructions to his protege, Timothy, was to pray for kings and all those in authority that we may live peaceful and quiet lives in all godliness and holiness. And we close asking that you return them, we pray, to the good and lofty aspirations they had when they ran for office in the first place, to help others, to right wrongs and to make the world a more beautiful place grounded in faith. May God bless and keep you always. As we close today, saying in unified voice, Amen.

KELLY: Thank you, Deacon Deall. I recognize Senator Hansen for the Pledge of Allegiance.

HANSEN: Please join me in the Pledge of Allegiance. I pledge allegiance to the Flag of the United States of America, and to the

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Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

KELLY: Thank you. I call to order the seventeenth day of the One Hundred Eighth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: There are no corrections this morning.

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

CLERK: There are, Mr. President. Agency reports electronically filed with the Legislature can be found on the Nebraska Legislature's website. Additionally, a report of registered lobbyists is on file from January 26, 2023, in the Clerk's Office. Communication from the Governor concerning an appointment to the State Fire Marshal. An additional communication from the Governor concerning the appointment of the Director of Policy Research. Reference Report from the Referencing Committee referring LB813 through LB820, as well as a rereference of LB763 to Appropriations. Notice of committee hearings from the Natural Resources Committee. An amendment to be printed, Senator DeKay to LB782. That's all I have at this time, Mr. President.

KELLY: Thank you, Mr. Clerk. Mr. Speaker, for an announcement.

ARCH: Thank you, Mr. President. Colleagues, I want to talk about the next couple of weeks, if I could. So for the next two weeks, January 30 through February 10, committees will hold public hearings both morning and afternoon following a 9:00 a.m. check-in on the floor. For the first couple of days of our all-day hearings, I know some committees have scheduled their public hearing to begin at 9:00 a.m. If you serve on one of those committees, I ask that you come to the floor and check in prior to going to the public hearing. We will need a quorum to convene each morning. For the next two weeks, time on the floor will be minimal once we convene so that the committees can meet. If you are a committee chair and your committee clerk has a hearing notice to file with the Clerk of the Legislature, you'll want to have your staff deliver the notice to, to Kennedy Zuroff or Carol Koranda on the floor a few minutes prior to the session starting each day, just to make sure that that gets into the record. So with that, thank you very much, Mr. President.

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KELLY: Thank you, Mr. Speaker. Senator Moser would like to recognize Dr. Kip Anderson and his wife, Dr. Deb Anderson of Columbus, both serving as family physicians of the day. Please recognize the doctors. First item, Mr. Clerk.

CLERK: Mr. President, the first item, a committee report from the Banking, Commerce and Insurance Committee concerning the gubernatorial appointment to the Department of Economic Development.

KELLY: Senator Slama, you're recognized to open.

SLAMA: Thank you, Mr. President, and good morning, colleagues. This morning I present to the Legislature for its consideration the appointment by the Governor of Mr. Anthony Goins as Director of our Nebraska Department of Economic Development. The Banking, Commerce and Insurance Committee conducted a public hearing on this appointment on Monday, January 23. Mr. Goins appeared at the hearing and I believe impressed the committee, as he has historically done, with his statements and his answers to all of our questions. Accordingly, the committee advanced the confirmation report with a unanimous vote for Mr. Goins. At the hearing, the committee learned that Mr. Goins is a native of Greensboro, North Carolina. After service in the United States Marine Corps, he graduated from North Carolina A&T State University, having majored in business management. Mr. Goins has worked for American Express, KeyBank, Ford Motor Credit Company, USAA and JPMorgan Chase. In 2014, he came to Nebraska to become chief operating officer of Cabela's World's Foremost Bank. Mr. Goins has been on the job as director of DED since October of 2019 and has received favorable reviews for his performance. At the hearing, he was endorsed by way of testimony and letters from the Nebraska State Dairy Association and Renewable Fuels Nebraska. During his past confirmation hearings, he has been endorsed by the Nebraska State Conver-- Nebraska State Chamber of Commerce, the Lincoln Chamber of Commerce and the Nebraska Bankers Association. Mr. Goins has worked to create opportunities in the urban and rural areas of Nebraska that haven't always shared in our state's growth. In April 2021, Mr. Goins and the Department of Economic Development celebrated the official ribbon cutting of the state of Nebraska's new north Omaha economic development field office. His department has also had success growing rural Nebraska through value-added agriculture by supporting Sustainable Beef, a rancher-owned beef processing facility in North Platte, the expansion of Wholestone Farms processing capacity in Fremont and the Heartwell Renewables, renewable diesel plant on the east edge of Hastings. Mr. Goins presented his goals for the department if he is confirmed as Director of the Department of

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Economic Development. His first goal is to continue his focus on growing Nebraska through business retention and recruitment and by expanding international trade opportunities for Nebraska businesses. His second goal is to develop, retain and recruit talent to the state of Nebraska. His third goal is to build our brand. Nebraska's story has been undertold and undersold. Nebraska is a special place. His fourth goal is to successfully execute the entire ARPA plan. The Unicameral passed historic legislation last year to make strategic investments in our state. DED is administering these programs. And Mr. Goins wants to optimize every dollar entrusted to his and the department's oversight. So on behalf of the Banking, Commerce and Insurance Committee, I would urge a favorable vote by the Legislature to confirm the appointment by the Governor of Mr. Anthony Goins as Director of our Department of Economic Development. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. No one in the queue. Senator Slama to close. She waives. Senators, please record your votes. The, the question is the adoption of the confirmation report from the Banking Committee. All those in favor record aye; those opposed record nay. Have you all voted? Record, Mr. Clerk.

CLERK: 39 ayes, 0 nays on the adoption of the committee report.

KELLY: Thank you, Mr. Clerk. That report is adopted. Senator Slama, with another report. Mr. Clerk.

CLERK: Mr. President, the next committee report from the Banking, Commerce and Insurance Committee concerns the appointment of Kelly J. Lammers to the Department of Banking and Finance.

KELLY: Senator Slama, to open.

SLAMA: Thank you, Mr. President. And good morning, again, colleagues. Today, I bring forward for legislative confirmation the Governor's appointment of Kelly Lammers as the Director of the Department of Banking and Finance. Mr. Lammers was first appointed as Director on September 8, 2020, but his service at the department goes back much, much further. For the past 39 years, he has worked across Nebraska at all examiner levels of the Department of Banking and Finance. He has had the opportunity to work with bankers, credit unions, trust companies and numerous other financial service providers, observing firsthand the details of the lending exchange and the act of running a financial institution. Mr. Lammers is a fourth-generation Nebraskan from Sherman County, growing up on a, on a farm outside of Hazard,

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Nebraska. While attending Ravenna High School, Mr. Lammers was a student intern at Ravenna Bank. While at the University of Nebraska-Lincoln, he worked at First National Lincoln. After college, Mr. Lammers worked in the private sector and then joined the Department of Banking and Finance in 1984. He began as a field examiner for the department in the Kearney District. In the 1990's, he transferred to Lincoln as a review examiner. Mr. Lammers eventually and some might say inevitably, began serving as the deputy director of the Department's Financial Institutions Division. Mr. Lammers also has an MBA from UNL and is an alum of the Colorado Graduate School of Banking. Mr. Lammers holds the highest examiner designation of a certified examination manager from the Conference of State Bank Supervisors. He is chair of the Conference of State Bank Supervisors Education Foundation, Board of Trustees and serves on the Conference of State Bank Supervisors Board of Directors. In 2019, he earned a UNL Executive Certificate in Leadership sponsored through the Governor's Leadership Academy. Under the leadership of Mr. Lammers, the department has recently implemented the Nebraska Financial Innovation Act and began accepting applications on December 30, 2022. This has provided Nebraska with the incredible opportunity of becoming a leader in the chartering of digital asset depositories institutions within our state. Mr. Lammers brings a wealth of education and years of experience to the position of Director of the Department of Banking and Finance. The Banking, Commerce and Insurance Committee met and advanced his nomination favorably on an 8-0 vote. On behalf of the committee, I would urge the Legislature to confirm the Governor's nomination of Kelly Lammers as our Director of Banking and Finance. Thank you, Mr. President.

KELLY: Thank you. Senator Slama, there being no-- Machaela Ca-- yeah. Senator Machaela Cavanaugh, you are recognized.

M. CAVANAUGH: Thank you, Mr. President. Good morning, colleagues. I'm not opposed to this nomination. I just wanted to take a moment. I didn't vote on the last nomination and wanted to kind of explain to those of you that are new to the body that we've had some issues with gubernatorial nominations in the past, a lack of diversity, equity, transparency in the process. I don't typically vote against a nomination for a head of an agency, because I do think that that is really the Governor's purview. Some of these other things, like boards, I might vote against people for those, but unless I have very, very, very grave concerns, I'm not going to vote against an agency head. And if I had very grave concerns, they probably would be shared by more than just me. So, so I will be voting not-- present not voting, probably, on this nomination, as well. I haven't had the

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opportunity and this is on me because I should have looked at the agenda last night and looked up both this nominee and the previous nominees accountability and disclosure, but I wanted to let members of the body know that you can look these things up through our website and you can see if there's any conflicts of interest that raise concerns for you. It's kind of hard when you're not on the committee to, to know and to do your due diligence on these things. And also, as you will come to realize, being on committees, that we are oftentimes drinking from a fire hose. So even keeping up with these nominations, if you're new, is challenging. But I would encourage individuals to go to the Accountability and Disclosures website so that you can look up-- if it's somebody who's being renominated, you could-- they should have filed and even new nominees should have filed accountability and disclosure statements. So you can see if there's any conflicts of interest that raise concerns for you, especially with a Banking confirmation. That's probably a good one to do. I'm not going to hold us up until I have the time to do that this morning. That's, again, on me that I didn't do it last night. You know, busy with, with kids, but I, I did want to bring that to everyone's attention this morning and that I will be present not voting on this, not against anything against Kelly Lammers, but just because I don't feel comfortable voting for or against somebody that I haven't done my due diligence on. And I will attempt to do my due diligence on the rest while we are sitting here this morning. You will see, on our agenda, that it says-- sorry, can I look at yours-- steal yours for a second? On our agenda, it has where you can find these on the Journal page. And so, if you do want to look online at the Journal page, on the-- if you, if you go to legislative calendar, January 26, and you click on the full Journal, then you can just put in the Journal page at the top of the PDF. So 396 is the Journal page where what we are currently on will be listed. And then, when we get to Natural Resources, it's 402-203. I'm not sure. That doesn't make sense. Maybe it's pages 402 and 203, but that's where those nomination-- names will be listed. Unfortunately, we've never listed the nominees on our agenda, which I, frankly, would find very helpful. But, but instead, we just put the Journal page and so you have to go to the Journal page to see who it is we're actually discussing. But I wanted to make that clear to everyone this morning, because it's something I didn't learn until like my third year, as to how to find the names. And again, that's on me. I should have asked those questions on my first year. But now that I know, I want to share that information with those who are in their first year or in their third year and, and didn't know.

KELLY: One minute.

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M. CAVANAUGH: Thank you. So if you go to our legislative website, you go to the full Journal page, not the daily Journal page, because that will only have that day's pages and you put in the page number at the top, it'll take you to the list of who we are discussing today. And so when you go right now to page 4-- or 396, it has not only Kelly Lammers, but it, it should have the additional-- it has Anthony Goins. And perhaps, that is it for Senator Slama's committee. It looks like it is, but I'm sure if it's not, she'll be talking. So thank you and I yield the remainder of my time.

KELLY: Thank you, Senator Cavanaugh. Does anyone else wish to be heard on this report? I don't see any names. Senator Slama, to close. She waives closing. Senators, please record your votes on this report from Banking and Commerce. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 40 ayes, 0 nays on adoption of the committee report.

KELLY: The committee report is adopted. Mr. Clerk, next item.

CLERK: Mr. President, the next item, committee report concerning the gubernatorial appointment of Eric Dunning as Director of Department of Insurance from the Banking, Commerce and Insurance Committee.

KELLY: Senator Slama, to open.

SLAMA: Thank you, Mr. President. And good morning, again, colleagues. This is the last one from me this morning. Today, I bring forward for legislative confirmation the Governor's appointment of Eric Dunning as the Director of the Nebraska Department of Insurance. Mr. Dunning is a sixth-generation Nebraskan and was born and raised in Lincoln. He's a graduate of the University of Nebraska and the University of Notre Dame Law School. After law school, he spent three years working at the Colorado General Assembly drafting insurance and banking regulation. In 1998, Mr. Dunning returned to Nebraska to work for the legal division of the Nebraska Department of Insurance and continued to do so for the next 15 years. Following that, he worked for seven and a half years as a government, government affairs leader for Blue Cross Blue Shield of Nebraska. At his hearing, Mr. Dunning was endorsed enthusiastically by the Independent Insurance Agents of Nebraska, an organization consisting of more than 500 members statewide. Mr. Dunning brings a wealth of knowledge and years of experience to the position of Director of the Department of Insurance. The Banking, Commerce and Insurance Committee met and advanced his nomination favorably on an 8-0 vote. On behalf of the committee, I would urge the

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Legislature to confirm the Governor's nomination of Eric Dunning as our Director of the Nebraska Department of Insurance. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. Does anyone else wish to be heard on this Banking report? I don't see any names. Senator Slama to-- Senator Machaela Cavanaugh, you are recognized.

M. CAVANAUGH: Thank you. Sorry, slow on the button. I just wanted to say a correction from what I said previously, I never vote for directors. I will be voting for Eric Dunning. I think he is an excellent candidate to be renominated. And I've really appreciated the work that he's done in the healthcare industry, so there, there is always an exception to the rule, right? So here is, here is-- Eric Dunning is my exception. Thank you.

KELLY: Thank you, Senator Cavanaugh. Senator Slama, to close. Senator Slama waives closing. Senators, we'll vote on the report from the Banking, Commerce and Industry Committee. All those in favor vote aye; those opposed vote nay. Have you all voted? Mr. Clerk, please record.

CLERK: 41 ayes, 0 nays on the adoption of the committee report.

KELLY: The committee report is adopted. Mr. Clerk, next item.

CLERK: Next item, Mr. President. Committee report from Natural Resources Committee concerning the gubernatorial appointment of Thomas E. Riley as Director of the Department of Natural Resources.

KELLY: Senator Bostelman, to open.

BOSTELMAN: Thank you, Mr. President. Good morning, Nebraska. Good morning, colleagues. This morning, I rise to-- for the reappointment of-- to the Natural-- report from the Natural Resource Committee for the reappointment of Director Riley. And our Natural Resource Committee held a confirmation hearing on July-- or January 25, 2023, to consider gubernatorial appointment of Thomas Riley. Mr. Riley is a reappointed appointment to the Director of the Nebraska Department of Natural Resources, to serve beginning January 5, 2023. Director Riley has extensive experience in hydrology, hydraulics, project management, habitat restoration evaluation, irrigation, water supply management, litigation support, hazardous waste management, solid waste management, surveying and database management. He has a bachelor's and a master's degree from the University of Nebraska in civil engineering. He is currently completing his doctorate degree at the University of Nebraska in biological systems engineering. Director

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Riley is from Eagle and has served as the director of the department since 2020. The Department of Natural Resources has responsibilities that include management of surface water, groundwater, floodplain management, dam safety, water planning, administration of state funds and more. Director Riley appeared in person at the hearing and the committee voted 8-0 to advance the-- his confirmation. I ask for your green vote on the confirmation. Thank you, Mr. President.

KELLY: Thank you, Senator Bostelman. Senator John Cavanaugh, you are recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Thank you, Chairman Bostelman, for your work on these confirmations. I rise in support of the renomination of Director Riley. And I just want to let you know I was going to explain my vote on all of the nominees who have come out of Natural Resources. And one of them, I wanted to explain Director Riley. Last session, if you were paying attention or if you were here, I was probably the harshest critic or, or attempted to provide the most oversight of the actions of the department. And Director Riley was always there, willing to meet, meet with me, come to the committee, take me to show me the projects they're working on, come down here and answer any question, always making himself available to make sure that, that any question I had, no matter how harsh or maybe ridiculous, was answered as thoroughly and completely as possible. So Director Riley is doing a great job. He's been a great resource for me, in terms of my criticisms of his department and, and some of their actions and procedures. And so-- which is something we should strive for in all of these directors of every department, is somebody who can take criticism, can provide information objectively, personably-- he's always been very kind-- and to help us make the decisions that we're asking them to do. And additionally, Director Riley has tremendous experience as it pertains to water law and water policy. And we are undertaking some major water projects going forward in the state. Potentially, this canal, which he and I have butted heads about and disagreed about and continue to disagree about and we continue to speak about it and he continues to answer every question that I have on that. But we want somebody in that position who is as thoughtful as-- and experienced as Director Riley, to continue to, to oversee those projects, as well as the potential Lake Mike out in Gretna. I don't think anybody's called it that yet this year, so I get the credit for the first one. But it-- the department would have to undertake that project, as well. So they're taking on these new massive projects that are the kind of the-- this department hasn't undertaken, at least in recent years. And so having somebody with his experience, expertise to steward the department through those tough

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times and somebody who really-- I mean, the biggest thing, the reason I'm in support of Director Riley is though we have disagreed, is that he's always been willing to take my criticism in stride and to try to answer my questions and to continue to come back and look for more questions, look for more ways to improve. And that's how I see our roles here. Our role is an oversight role of these departments. We should be holding them all accountable. We should be asking them the tough questions and they should recognize that and not see that as a personal attack. And he has never done it-- treated it in that way. And so I do appreciate that about him. And so I would support-- do I have a time limit? I feel like I've been talking forever. But-- so I will sit back down and if anybody has any questions, I'd be happy to take them about that. But Director Riley, that's why I'm supporting Director Riley and I voted him out of committee. Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Machaela Cavanaugh, you are recognized to speak.

M. CAVANAUGH: Apologies. I was fixing a paper jam actually, over the side. But everyone, that printer is now working again, if you were having problems. So I, I, I didn't know that I was coming up this quickly. Senator John Cavanaugh, would you yield to a question?

KELLY: Senator John Cavanaugh, will you yield to a question?

J. CAVANAUGH: Yes.

M. CAVANAUGH: Thank you, Senator Cavanaugh. So you-- I was trying to listen while also fixing the printer. So you've worked with Director Riley now for two years?

J. CAVANAUGH: Yes.

M. CAVANAUGH: OK. And so you, you didn't support him initially, two years ago?

J. CAVANAUGH: No, I think I did support his nomination two years ago. But that was an initial nomination. I didn't have any experience working with him. And so I don't regret that vote, but I just rose in support of his nomination at this point, because of the experience I had. And I think that people would-- I-- if I knew somebody was a harsh critic of a department, I would want to hear their thoughts on the renomination of the director. And so that's why I wanted everybody to understand why I'm supporting Director Riley, despite the fact that he and I have had our differences in the last two years. And so, I

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guess, maybe I feel like that lends extra weight to his nomination, but that's just my opinion.

M. CAVANAUGH: And he-- what have some of your differences been about?

J. CAVANAUGH: Well, specifically about the Perkins County Canal project. We've had a difference of interpretation about the Missouri or the Platte River Compact with Colorado. And we've had difference of opinions about the order of priority of water rights and how they'll be called out and the amount of water that would be available. And he's admittedly taught me a lot about those issues that then allowed me to ask him even harder questions the next time. And so I appreciate that, especially, about him.

M. CAVANAUGH: Knowledge is dangerous, sometimes. So to that end, about the canal, where do you feel like we are now with that issue?

J. CAVANAUGH: Well, I think it's progressing. And, you know, he and I, conversations with him, talked about the authority we gave them last year to put options on land, but not necessarily purchase land. And they might be looking to purchase land and there, of course, can be looking for some money to start construction going forward. And he has always and that's the other thing I like about him is that he continues to keep the conversation going with his counterparts in Colorado, to-- if there is an option to assert our water rights without building the canal, I think he is willing and continuing to pursue that option, as well, which, if he was successful, would save us hundreds of millions of dollars.

M. CAVANAUGH: That was going to be my next question. If we were to pursue different options other than building a canal, that would be an extraordinary cost savings, correct?

J. CAVANAUGH: I assume so, yeah. If we didn't, if we didn't have to spend the \$500 million to build the canal and still got access-- assurances that we'd get access to our water rights, then yeah, that would save us money.

M. CAVANAUGH: OK, well, I like his fiscal responsibility then. Thank you for answering my questions. How much time do I have left?

KELLY: 1:16.

M. CAVANAUGH: OK. So I have met Tom Riley a couple of times, once in the elevator earlier this week and then again, yesterday. And I've always-- I've had very pleasant interactions with him.

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KELLY: One minute.

M. CAVANAUGH: And, and one thing that I try to do in here is that there are so many committees, find somebody on a committee who you really trust. And fortunately, I have 40-plus years of trusting one member of the Natural Resources Committee. So I am going to not oppose this nomination because it sounds like he's doing a good job and working with everyone appropriately. Thank you.

KELLY: Thank you, Senator Cavanaugh. Does anyone else wish to speak on this committee report? Senators, we'll proceed to a vote on the con-- Senator Bostelman, to close. Senator Bostelman waives closing. Proceed to a vote on the committee report from the Natural Resources Committee. All those in favor say aye-- vote aye; all those opposed, nay. Have you all voted? Mr. Clerk.

CLERK: 40 ayes, 0 nays on adoption of the Natural Resources Committee report.

KELLY: Thank you, Mr. Clerk. Next item.

CLERK: Mr. President, the next item concerns the committee report from the Natural Resources, Resources Committee on the gubernatorial appointment of Kristen Gottschalk to the Nebraska Power Review Board.

KELLY: Senator Bostelman, to open.

BOSTELMAN: Thank you, Mr. President. The Natural Resource Committee held a confirmation hearing on January 25, 2023, to consider a gubernatorial appointment of Kristen Gottschalk. Ms. Gottschalk is a new appointment to the Nebraska Power Review Board to serve a term from August 30, 2022 until January 1, 2026. She will serve as a lay member of the board. The Nebraska Power Review Board is a state agency created in 1963 to regulate Nebraska's electric-- electrical utility industry. Nebraska is unique in that it `is the only state in the country served at retail, entirely by consume-- consumer-owned electric utilities. These utilities include public power district cooperatives and municipalities. The board is responsible for maintaining the retail service area boundaries of the various electrical power suppliers throughout Nebraska. Ms. Gottschalk is from Colon. She has a Bachelor of Science in agriculture and natural resources in wildlife management. She has extensive knowledge regarding the electric industry in Nebraska and has represented the electric industry on various state and national organizations. She appeared in person at the hearing and the committee voted 7-0, with

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one present and not voting, to advance her confirmation. I ask for your green vote for the confirmation of Kristen Gottschalk. Thank you, Mr. President.

KELLY: Thank you, Senator Bostelman. Senator John Cavanaugh, you are recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. And again, thank you, Chairman Bostelman, for your work on the committee. So, Ms. Gottschalk, I actually missed the very beginning of her hearing because I was introducing a bill in another committee, but I vote-- I was the present not voting, the non-voting member on that. And the reason was we had a letter of opposition that mentioned that Ms. Gottschalk had been a lobbyist for the Nebraska Rural Electrical Association not that long ago, which, according to her resume, was from 20-- or 2001 to 2021. And the Power Review Board has up to this point, been pretty well-insulated from politics, I think. It's been an-- a-- just really done their job based off of what the data shows in front of them. Apolitical, not preferencing one type of electric generation over another, just making sure that we have reliability, we have the infrastructure we need and all those things. I did-- the part of her hearing I did hear, I was extremely impressed with her knowledge, presentation. So for the layperson position, especially, I think we'd be lucky to have somebody with this-- the knowledge and the way she answered the questions. And she did answer those questions about the impartiality of the board, I think, satisfactorily. Senator Jacobson asked her about it and I think she gave a, a very good answer on that. And so, I don't have an opposition to her at this point because she's not currently an active lobbyist. But I do have concerns about going down this path where we start having people go for that kind of, what do you call it, a revolving door of political, you know, policy people into enforcement jobs. And so, the Power Review Board has been one place that that hasn't crept in and so I think it's important to keep that going. But she did answer those questions in the way that demonstrated that, that she recognizes that's important to do. So I just wanted to make sure, you understood, explained those answers, but she did give-- I think she answered all the questions appropriately. She was very knowledgeable, as Senator Bostelman said. But that was why I voted the way I did in that hearing. And I don't have-- I guess I haven't decided how I was going to vote yet. I thought she was going to come up a little later so I was thinking about it. So I guess I don't know where I'm going to be. Maybe I'll still be a present not voting on this, but I don't, I wouldn't, I'm not advocating for anybody else to not vote that way. But I have those reservations about appointing lobbyists to these sorts of positions. But like I said, she

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hasn't been a lobbyist for two years now and she is serving in that lay position. I guess I would, just for that purpose, I was reading the standard for the Power Review Board and no one, let's see, no person who has been within the last four years preceding of his or her appointment been a director, officer or employee of an electric utility or other elected office. And I guess, as I was sitting here reading that, I'm looking at the Rural Electrical Association, I don't think that that qualifies under that statute as one of those dis-- disqualifying characteristics, but I just wanted to put that on everyone's radar so we knew that, that was a disqualifying requirement and that we have the NREA employment within the last four years. So that's why I-- I'm, at this point, I guess, be undecided on where I'm voting. But that's that. And if you have any questions, I'd be happy to answer them. Thank you.

KELLY: Thank you, Senator Cavanaugh. Senator Machaela Cavanaugh, you are recognized to speak.

M. CAVANAUGH: Thank you, Mr. President, colleagues. I was going to ask if Senator Bostelman will yield to a question. It's just a technical question to clean up some, some really just housekeeping. And I see he's talking to somebody. But would you yield to a question, Senator Bostelman?

KELLY: Senator Bostelman, would you yield to a question?

BOSTELMAN: Yes.

M. CAVANAUGH: Thank you, Senator Bostelman. So on the agenda for today, it says Journal pages 402-203. I believe that was a typo. It's supposed to be dash 403. So I just wanted to first of all confirm that for the record, but I'm looking at page 403 and for those that are following at home, I realize we're not going in the exact same order. Would you mind telling us what order we can anticipate the rest of these this morning?

BOSTELMAN: Oh, certainly. Sure. So next is Nebraska Natural Resource Commission. The next is Nebraska Ethanol Board. The next is Nebraska Department of Environment and Energy.

M. CAVANAUGH: OK, so Environment and Energy is last. Resources is next. And what, what was after Resources? I'm sorry.

BOSTELMAN: I'm sorry. Say that again.

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M. CAVANAUGH: What was after the Resources Board, oh the Ethanol Board. OK. Correct?

BOSTELMAN: I'm sorry. I still didn't under-- so we have, we have Nebraska Resource Commission, Resource Commission next, then Nebraska Ethanol Board and then, Nebraska Department of Environment and Energy.

M. CAVANAUGH: OK.

BOSTELMAN: Does that answer your question?

M. CAVANAUGH: That does. Thank you very much. So, again, for those in the Chamber that are, are following and for those at home who are following, on page 403, the order is number five, James Macy is going to be our fifth item up. The next item, the Ethanol Board is going to be item four. The Power Review Board is item two, which we are currently on. The Nebraska Natural Resources Commission is item three, which we will be on next. And our first item is at the bottom, Director Riley. I just-- I was having trouble following along, so I wanted to make sure that I was clear on where we are and that everyone else is, as well. I agree with many of the points that Senator John Cavanaugh made on all sides of the issue. I have a great deal of respect for Kristen Gottschalk. I think she is extremely knowledgeable on a, a, a wide variety of issues. I have concerns about the lobbyist relationship with boards, but I do think that she's an extraordinary asset to not only, probably, this board, but to our state. And so I'm not going to stand in opposition to Ms. Gottschalk. I just won't be supporting voting green, purely because of that previous relationship that Senator John Cavanaugh had mentioned. But I appreciate her willingness to serve and all of the work that she's done for our state, so far. Thank you.

KELLY: Thank you, Senator Cavanaugh. Does anyone else wish to speak on this committee report? Senator Bostelman, to close. Senator Bostelman waives closing. Senators, please record your vote on the Natural Resources Committee report. All those in favor, aye; all those opposed, nay. Has everyone voted who cares to vote on this? Mr. Clerk, please record.

CLERK: 36 ayes, 0 nays on the adoption of the committee report.

KELLY: Committee report is approved. Next item, Mr. Clerk.

CLERK: Mr. President, before we go there, an announcement. The Performance Audit Committee will meet under the north balcony at 10:00. Performance Audit Committee under the north balcony at 10:00.

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Next item, Mr. President, committee report from the Natural Resources Committee concerning the gubernatorial appointment of several members of the Natural Resources Commission.

KELLY: Senator Machaela Cavanaugh, for what purpose do you rise?

M. CAVANAUGH: I would like to divide this report by individual.

KELLY: Senator Cavanaugh and Senator Bostelman, would you please approach. Mr. Clerk.

CLERK: Mr. President. After the division, the first committee report is from the Natural Resources, Resources Committee concerning the appointment of Devin Brundage to the Nebraska Natural Resources Commission.

KELLY: Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. Natural Resources Committee held a confirmation hearing on January 25, 2023, to consider a gubernatorial appointment of Dennis, oh, sorry, wrong one. This is Brundage, correct? Sorry. The-- consider the gubernatorial appointment of Devin Brundage. Mr. Brundage is a new appointment to the Nebraska Natural Resources Commission, to serve a term from August 30, 2022 until May 31, 2026. He is the Public Power and Irrigation District representative on the commission. The Nebraska Natural Resource Commission is comprised of 27 members. Thirteen are elected by the Natural Resources, Resource District caucuses and 14 are appointed by the Governor. The Natural Resource Commission oversees seven grant programs of the water sus-- of the water sus-- of the, one of the [INAUDIBLE] Water Sustainability Fund, which is a source of financial support to help the local project sponsors achieve the goals set out in Nebraska Revised Statutes, Section 2-1506. The Nebraska Natural Resource Commission oversees water sustainability fund operations, including application, review, scoring and ranking and awarding funding to successful applicants. The Department of Natural Resources administers the Water Sustainability Fund by initially reviewing the newly filed applications and forwarding those that meet minimum statutory requirements to the Natural Resource Commission. Once NRC awards funding to a project, the Department of Natural Resources enters into a contract with a project sponsor, receives and reviews reimbursement requests, disburses funds and monitors-- monitor project progress. Of the annual funding appropriated by the Nebraska Legislature, 10 percent is designated by statute for projects, separating storm and sewer water. The NRC, the Nebraska Resource

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Commission also reserves 10 percent for projects requesting \$250,000 or less. Mr. Brundage is from Gothenburg and let's-- he has a-- where'd it go-- he has a Bachelor of Science with distinction in electrical engineering from the University of Nebraska, a physics from Has-- physics degree from Hastings College and a minor studies in psychology and economics. Mr. Brund-- he is-- currently works for the Central Nebraska Public Power and Irrigation District as a general manager. He appeared in person at the hearing and the committee voted 8-0 to advance his confirmation. And I'd ask for your green light in support of Mr. David-- Devin Brundage to the Natural Resource Commission.

KELLY: Thank you, Senator Bostelman. Senator John Cavanaugh, you're recognized to speak to the first division.

J. CAVANAUGH: Thank you, Mr. President. And again, thank you, Chairman Bostelman. I'm gonna try and be brief on these. I didn't expect to talk on them separately, but Mr. Brundage is a new appointee. I have actually had the fortunate-- been fortunate enough to have interaction with him before in his role with Central Power and Irrigation. He's another person who, very knowledgeable, had a-- he's always been willing to help me, answer my questions, give me information when I need it and work with me to answer-- help me understand these complicated issues we have in the state of Nebraska. So he's a person we're lucky to have serving on this board. And so, I would-- I plan to vote yes on him and encourage anyone else to do so, as well. Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Does anyone else wish-- Senator Blood, you are recognized.

BLOOD: Excuse me. Thank you, Mr. President. Fellow Senators, friends all, I just have a general question. I would ask that Senator Bostelman yield to a question.

KELLY: Senator Bostelman, will you yield to a question?

BOSTELMAN: Yes.

BLOOD: Thank you, Senator. I have-- I know we've divided the question and I'm not going to ask you this on every single person, so I'm going to ask this one time to make it easier on you. I found it interesting that there weren't a lot of females on this list. I was looking at the list. Is, is it because they didn't apply or do you know? It's just

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seems odd that it's, it's male oriented. Nothing against the guys, but I found that curious. Is there an explanation?

BOSTELMAN: Senator Blood, what we receive is what we receive from the Governor's Office, so applications--

BLOOD: OK. So we don't know who has applied.

BOSTELMAN: --right. The applications go in to the Governor. The Governor's Office is the one who sorts through those and then appoints from there. Those appointments then come to our committee. So I don't. I don't know if there's one or two or--

BLOOD: 100.

BOSTELMAN: --twenty applicants. That's not part of what we do.

BLOOD: Do you feel that we could maybe have more rounded committees if we brought in more diversity?

BOSTELMAN: Brought in more what?

BLOOD: Diversity.

BOSTELMAN: Oh.

BLOOD: Different.

BOSTELMAN: Again, our, our committee looks at applicants--

BLOOD: I, I-- you just approve. I understand that.

BOSTELMAN: --that we receive and we make sure that they meet the, the requirements, I guess, or the qualifications of that specific commission or board. We don't have a, another person to look at.

BLOOD: Right.

BOSTELMAN: So that really goes back to the Governor's Office, I would say.

BLOOD: I appreciate that clarification. And that allows me to speak on what I want to speak on now. Thank you very much, Senator.

BOSTELMAN: You're welcome.

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BLOOD: So here's the concern, is that I know that the vast majority of appointments that we vote on are, are volunteer positions. And of course, we're also talking about people's livelihoods on some of these other appointments. And it's really tragic that people aren't more enthusiastic about wanting to be on these committees. And I always encourage the freshman senators, when you get an email and hopefully it's you actually looking at your email and not your staff, and they say that there are openings on particular committees, share that on your social media. Share that in your town halls, because we need better diversity, we need different faces, we need young people because our committees would be more well-rounded then. And that's a benefit to all Nebraskans. And I really believe that the reason we don't see more diversity and the reason we don't see more people apply is because they simply don't know about it. Instead, lots of times what you get are people who were donors to some of the bigger campaigns or who worked on campaigns for some of the bigger campaigns. And I don't know that that's beneficial to all Nebraskans. And so, all I, I wanted to put on record today, and I'm only speaking on this once, Senator, don't worry, is that this is an opportunity for us to use this as a learning experience to make sure that we, as state senators, share this information. We pass it on to our local paper, we pass it on to our local radio station. We put it on our social media. Every time I catch wind of any appointments, potential appointments or when they're looking for people on committees, I put it up on our Facebook immediately, sometimes on our Twitter, depending on how busy we are that day. If it's something really important, I make sure that our local media knows about it. It takes us seconds to do that. So although the vast majority of you are looking down and not looking at the person talking, I hope you're actually listening. And I ask you to take that extra effort. Don't depend on your staff to do it. You need to do it. You need to make sure that Nebraska is well-represented, especially from your districts. Thank you, Mr. President.

KELLY: Thank you, Senator Blood. Does anyone else wish to be heard on this adoption of the first division? Senator Bostelman, to close. Senator Bostelman waives. We'll proceed to a vote on the first-- on the adoption of the first division of the Natural Resources Commission report regarding Devin Brundage. Senators, please record your votes. All those in favor, aye; all those opposed, nay. Has everyone voted who wishes to vote? Does anyone else wish to re-- vote? Mr. Clerk, please record.

CLERK: 40 ayes, 0 nays on adoption of the committee report.

KELLY: Committee report, first division, is adopted. Mr. Clerk.

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CLERK: Mr. President, the next committee report is from the Natural Resources Committee concerning the gubernatorial appointment of Mark Czaplewski to the Natural Resources Commission.

KELLY: Senator Bostelman, to open.

BOSTELMAN: Thank you, Mr. President. The Natural Resource Committee held a confirmation hearing on January 25, 2023, to consider a gubernatorial appointment of Mark Czaplewski. Mr. Czaplewski is a reappointment to the Nebraska Natural Resources Commission to serve a term from June 1, 2022 until May 31, 2026. He is a wildlife conservation representative on the Commission. He has also previously served on the Environmental Quality Council as a biologist and also previously served on the Riparian Vegetation Management Task Force. Mr. Czaplewski is from Grand Island. He is a retired biologist who has been involved in water and other natural resource issues for over 40 years. He has previously served, as I had said, on the Environmental Quality Council and the Riparian Vegetation Management Task Force. Mr. Czaplewski came before the committee and answered all our questions. I thought he did a very good job. He appeared in person and the committee voted 8-0 to advance for his confirmation. Mr. President, I ask for a green vote for the confirmation of Mr. Mark Czaplewski to the Natural Resource Commission, Commission.

KELLY: Thank you, Senator Bostelman. Senator John Cavanaugh, you are recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. And thanks again, Chairman Bostelman. And I agree with everything Chairman Bostelman just said there. I just want to be consistent, rise and talk about all these. Mr. Czaplewski was-- did answer all the questions and he is a-- will be a good asset to continue on the Natural Resources Board-- Natural Resources Commission. We talked with all of these folks about issues coming down the pipe, as it were, about water quality. It's going to become a bigger and bigger issue going forward. And this is something that the Commission is going to face. And I think Mr. Czaplewski is well-positioned to help us address that issue constructively, going forward. So I'd encourage a green vote on this nomination. Thank you.

KELLY: Thank you, Senator Cavanaugh. Does anyone else wish to speak? Senator Bostelman, to close. Senator Bostelman waives closing. We'll proceed to a vote on this second division regarding Mark Czaplewski from the Natural Resource Commission report. Senators, all those in favor record aye; all those opposed vote nay. Have you all voted? Mr. Clerk.

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CLERK: Mr. President, 39 ayes, 0 nays on adoption of the committee report.

KELLY: The committee report is adopted. Mr. Clerk, next item.

CLERK: Mr. President, the next item, committee report from the gubernatorial appointment of Daniel Steinkruger to the Nebraska Natural Resources Commission.

KELLY: Senator Bostelman, to open.

BOSTELMAN: Thank you, Mr. President. The Natural Resource Committee held a confirmation hearing on January 25, 2023, to consider the gubernatorial appointment of Daniel Steinkruger. Mr. Steinkruger is a new appointment to the Nebraska Natural Resource Commission to serve a term from December 21, 2022 until May 31, 2026. He represents agri-- agribusinesses on the Commission. He has previously served on the Lower Platte Basin. He has a bachelor's degree on agriculture economics from the University of Nebraska. Mr. Steinkruger is from Lincoln. He is retired after 40 years at the United States Department of Agriculture. I will say, on his resume, colleagues, that he has extensive work to-- through the Farm Service Agency here, statewide, within the state and others. He had a very impressive resume, I think. And I think the hearing with him went very well. He appeared in person at the hearing and the committee voted 8-0 to advance his confirmation. I ask for your green vote to advance-- to confirm Mr. Daniel Steinkruger to the Natural Resource Commission.

KELLY: Thank you, Senator Bostelman. Senator John Cavanaugh, you are recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. I just rise in support of this nomination. I, again, thank you, Senator-- Chairman Bostelman. I did note when Chairman Bostelman was talking about that Mr. Steinkruger came in person and that was a great thing about all of these hearings. Everybody came in person. And I know it is a chore for people to drive some distances, not Mr. Steinkruger particularly, but it is very helpful to have people, easier to talk to them, have questions when they're in person. So I appreciate the Senator-- Chairman Bostelman has asked everybody to do that. And I do appreciate all these folks willingness to come in person. But-- so I, again, rise in support of Mr. Steinkruger's nomination. I agree with everything Senator Bostelman just said. Thank you.

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KELLY: Thank you, Senator Cavanaugh. Does anyone else wish to be heard? Senator Bostelman, to close. Senator Bostelman waives closing. Senators, we will proceed to a vote on the committee report from the Natural Resources Committee on Daniel Steinkruger's confirmation. Please record your votes. All those in favor, aye; all those opposed, nay. Does anyone else wish to vote? Mr. Clerk, please record.

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

KELLY: The committee report is adopted. Mr. Clerk, next item.

CLERK: Mr. President, the Natural Resources Committee has a committee report concerning the gubernatorial appointment of Dennis Strauch to the Nebraska Natural Resources Commission.

KELLY: Senator Bostelman, to open.

BOSTELMAN: Thank you, Mr. President. The Natural Resources Committee held a confirmation hearing on January 25, 2023, to consider the gubernatorial, gubernatorial appointee, Dennis Strauch. Mr. Strauch is a reappointment to the Nebraska Natural Resources Commission to serve a term from June 1, 2022 until May 31, 2026. He is the irrigation district representative on the Commission. Mr. Strauch has extensive background in water research and advisory across the state of Nebraska, especially out in the Panhandle region and Nebraska Water Funding Task Force, as well. So he served on that. He has extensive, as I said, background in, in water management and that. Mr. Strauch is from Mitchell and has over 40 years experience in water resource management. He is current executive director of the North Platte Valley Irrigators Association, as well as Secretary-Treasurer from the Nebraska State Irrigation Association. He appeared in person at the hearing and the committee voted 8-0 to advance his confirmation. I ask you for your green vote to confirm Mr. Dennis Strauch to the Nebraska Resources Commission.

KELLY: Thank you, Senator Bostelman. Senator John Cavanaugh, you are recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Again, thank you, Chairman Bostelman. This was a great hearing. Mr. Strauch was a real pleasure to have in the hearing. We had a lot of classic natural resources conversations that went far afield and was very educational. So I appreciate his knowledge on these subjects and his willingness to kind of engage in a conversation about what the future of the Natural Resources Commission might look like and ways in which they could

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think outside of the current process to address the issues that were, that are coming down, especially with the water quality. So I think that Mr. Strauch, his experience and his expertise and his willingness to continue to serve is an asset. And so, I would encourage a green vote on Mr. Strauch's appointment. And with that, thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Erdman, you're recognized to speak.

ERDMAN: Thank you, Mr. President. Good morning. I want to speak about Mr. Strauch. I've known Dennis probably 50 years or more. I was, at one time, attending Mitchell High School and that's where he grew up. That's where he still lives. I get irrigation water from the Pathfinder Irrigation District and Mr. Strauch was the manager of that district. Did a fair job, a tremendously fair job. By that I mean everybody got the water they were supposed to get. He was very approachable, did an outstanding job as the manager there. He's doing a good job in his appointment here. And I would recommend that we vote to advance or to confirm Dennis Strauch. Thank you.

KELLY: Thank you, Senator Erdman. Senator Hardin, you're recognized to speak.

HARDIN: I echo Senator Erdman's sentiments. And Mr. Strauch is an absolute walking encyclopedia of water knowledge in western Nebraska. He is who everyone turns to for the answers and so cannot recommend him highly enough, so definitely encourage his vote.

KELLY: Thank you, Senator Hardin. Senator Machaela Cavanaugh, you are recognized to speak.

M. CAVANAUGH: Thank you, Mr. President, colleagues. This is more of a broader comment about this whole process. I think it was Senator Day that asked earlier on, on perhaps, Mr. Brundage's nomination about, about the other candidates. And this is one of the issues I have. One thing you will come to realize very quickly about me is I am an avid fan of transparency in government and oversight. I think that it is our job to serve the people and to be judicious with their tax dollars. And if we are not doing that and if our other branches of government are not doing that, then we should be sunning-- shining a sunlight on that. Sorry, I did not sleep last night. So not about any of these candidates in particular, but more the broader issue that we don't know who applies for these positions. We don't know what the vetting process is for these positions, not just these, all positions,

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appointments. There is accountability and disclosure oftentimes in them, but sometimes you have to request those. You have to go straight to the Accountability and Disclosure Agency and ask for them specifically. So there's a lot of due diligence that we should be doing as a Legislature on all of these. And I appreciate that we have the time today and that these appointments are, are being moved forward, but it does cause me heartburn at how quickly we move forward gubernatorial appointments writ large. They oftentimes are just-- the hearing is scheduled and then it is voted out of committee immediately. And then it's on the floor within 48, 72 hours, as, as soon as possible, because it feels perfunctory, but it's not. It is an essential function of our job here to ensure that the people that are being put in these positions, because every single one of these positions is a position of power, overseeing some part of government. And it is our responsibility on behalf of the people of Nebraska to vet those things. So this is more of a global commentary on, on our entire approval, approval process and the lack of transparency. I also will just note that it is disappointing to see that today, most of our nominations are men. And even beyond that, I don't know what diversity there is offered amongst this group, socioeconomical, racial, ethnic. But I can tell that these are all men, with the exception of one. And, and while she is an outstanding candidate for public service, one woman is not enough. And so, it is frustrating, it is frustrating that we just sort of rubberstamp these and that even this morning as, as-- at least I have attempted to slow this down so that you all have the opportunity to be more thoughtful. It's frustrating to see the lack of engagement for those who aren't on the committee, the lack of asking any questions whatsoever and then just voting for them. Now, I'd like to assume, but that would be foolish of me, that you all just have done your due diligence already and you know about every single one of these candidates and that's why you're voting for them. But that's probably not the case. And to me, that says that we are not being a thoughtful and deliberative body--

KELLY: One minute.

M. CAVANAUGH: --that we are voting for individuals because they are put on a piece of paper in front of us and for no other reason, without any question. When you have committee hearing-- when you have committee confirmations in front of you, I hope you ask those individuals questions. Because these are serious things and we are directing them to be surrogates for elected officials to do the work of the state and we should take that with the utmost seriousness. Thank you, Mr. President.

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KELLY: Thank you, Senator Cavanaugh. Senator Brandt, you're recognized to speak.

BRANDT: Thank you, Mr. President. For the new senators in the body, there is an extensive list of all the jobs that your constituents can fill, whether it's the DNR or the Ethanol Board. All of the boards and all of the committees have a list of open spots and they can be very specific. They can be by expertise. It may take somebody of a specific engineering degree to fill a spot, but it may be just somebody as simple as from the Third District. It could be a common layman to fill this spot. I've went through this list. I've made this known in our district. If you're interested on serving on a board, please come to our office, we'll write you a letter of recommendation. Once somebody has, shows an interest, they apply to the Governor's Office for an appointment to these boards. In our committees or at least the committees I serve on, we get a packet of about 10 pages of information and background on these people. And quite often, these are people that are reappointed to the board or have an interest in serving on the Oil and Gas Commission, the Ethanol Board, the electrical. These people have an interest and qualifications for these boards that they, they quite often don't receive any salary to serve on these boards. We're grateful that these people put their names forward. And so, they come to our committees as appointees by the Governor's Office. We don't have the power to appoint people to these boards. A lot of these people enjoy serving on these. I know the, the questions that we ask in committee, particularly now that I'm on Natural Resources, I'm a farmer. I have a background in ethanol and, and some of this other stuff. It's very enlightening. We have proponents and opponents come up during the hearings and we ask questions of those people in the committee. My position as a senator, when these confirmations come up through other committees, I-- if I have a question, I'll talk to somebody I know on that committee. I respect that those senators on that committee did their due diligence. If there was a problem, they're going to bring it to the floor. If we don't have enough people of a, a-- enough women or minorities apply for some of these jobs, please apply for some of these jobs. There's, there's nothing standing in the way of that. And, and I guess what I'm asking today is, is for the people of Nebraska maybe to show some interest. But literally, there are hundreds of these positions that are filled every year and I would encourage them to apply. And thank you to all the people that have served on this. Thank you, Mr. President.

KELLY: Thank you, Senator Brandt. Does anyone else wish to be-- to speak on this committee report? Senator Bostelman, to close. Senator

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Bostelman waives closing. Senators, we'll proceed to a vote on the committee report from the Natural Resources Committee regarding Dennis Strauch. All those opposed or all those in favor record aye; all those opposed, nay. Has everyone voted who wishes to vote? Mr. Clerk, please record.

CLERK: 39 ayes, 0 nays on the adoption of the committee report.

KELLY: Committee report is adopted. Mr. Clerk.

CLERK: Mr. President, quickly, some items. Senator Halloran would move to withdraw LB780. Additionally, amendments to be printed from Senator Machaela Cavanaugh to LB207, LB296, LB767, and a notice of committee hearing from the Health and Human Services Committee, as well as the Revenue Committee. Next item, Mr. President, is a committee report from the Natural Resources Committee concerning gubernatorial appointments to the Nebraska Ethanol Board.

KELLY: Senator Machaela Cavanaugh, for what purpose do you rise?

M. CAVANAUGH: To divide the committee report.

KELLY: The report is divided.

M. CAVANAUGH: Thank you.

KELLY: Senator Bostelman, to open.

CLERK: No, I need to, I need to announce who it is first.

KELLY: Mr. Clerk.

CLERK: Mr. President, the first committee reports from the Natural Resources Committee concerning the appointment of Bradley Bird to the Nebraska Ethanol Board.

KELLY: Senator Bostelman, to open.

BOSTELMAN: Thank you, Mr. President. The Natural Resource Committee held a confirmation hearing on January 25, 2023, to consider gubernatorial appointee, Bradley Bird. Mr. Bird is a reappointment to the Nebraska Ethanol Board to serve a term from September 1, 2022 until August 31, 2026. He serves as the labor representative on the board. The Nebraska Ethanol Board, Ethanol Board's mission is to establish procedures and processes necessary to the manufacturing and marketing of ethanol fuel. In doing so, they support jobs for more

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than 1,400 Nebraskans and directly impact our state's economy by \$5 billion. They are proud to serve 24 ethanol plants who have the capacity to produce more than 2.5 billion gallons of ethanol, making Nebraska the number two ethanol producing state in the country. Ethanol production increases the demand for field corn, which helps Nebraska agriculturally thrive, thrive. Mr. Bird is from Blair and is currently employed as a business manager of Steam Fitters and Plumbers Local Union 464, in Omaha. Mr. Bird appeared before the committee and we had a very good conversation with him. I think he did very well. Very good representative as to the steam fitters and, and plumbers. He appeared in person at the hearing and the committee voted 8-0 to advance his confirmation. I ask for your green vote for Mr. Bradley Bird to the Nebraska Ethanol Board. Thank you.

KELLY: Thank you, Senator Bostelman. Senator John Cavanaugh, you're recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Again, thank you, Chairman Bostelman. So Mr. Bird, I was-- I stand in support of Mr. Bird's nomination and he is currently on the board. He represents-- he's a steam fitter and represents folks who basically build these plants and build and maintain them and things like that. So it's a great, tremendous input to have. The Ethanol Board is an important board for our state, promoting this industry. Mr. Bird was very knowledgeable about the industry and we had a good conversation. And just to kind of jump onto what Senator Brandt was talking about, the Natural Resources Committee is a very inquisitive committee. We asked a lot of questions of all of these folks. I don't think anybody could come into that committee and, and fake their way through being knowledgeable about these issues. And so, anybody who comes out of that committee, the, the least-- at least you can say they know the subject matter. And that was true of Mr. Bird and Mr., I think it's Thede, who will be the next nominee. So again, I rise in support of Mr. Bird and I would ask for your green vote. Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Does anyone else wish to speak on this report? Senator Bostelman, to close. Senator Bostelman waives closing. We'll proceed to a vote on the Natural Resources Commission-- Committee report. All those in favor vote aye; all those opposed vote nay. Has everyone voted who wishes to vote? Mr. Clerk, please record.

CLERK: 39 ayes, 0 nays on the adoption of the committee report.

KELLY: Committee report is adopted. Mr. Clerk.

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CLERK: Mr. President, the next item is the gubernatorial appointment, committee report from the Natural Resources Committee concerning the appointment of Michael Thede to the Nebraska Ethanol Board.

KELLY: Senator Bostelman, to open.

BOSTELMAN: Thank you, Mr. President. The Natural Resources Committee held a confirmation hearing on January 25, 2023, to consider the gubernatorial appointee, Michael Thede. Mr. Thede is a reappointment to the Nebraska Ethanol Board to serve a term from September 1, 2022 until August 31, 2026. He serves as a general farming representative on the board. He does have a bachelor degree in agricultural science. Mr. Thede is a farmer from Palmer. He has served on the Nebraska Ethanol Board for more than 10 years. Again, Mr. Thede, as well as all the others who came before us for hearings, for appointments, we had very good question and answer. It was a very-- in some cases, I think it helped to clear up some questions on what exactly their role is and what they have done before. So we were very positive in, in those who-- those members, those individuals who come before the board. And Mr. Thede is, is, is just the same. He appeared in person at the hearing and the committee voted 8-0 to advance his confirmation. And I would ask for your green light in support of the confirmation of Mr. Michael Thede to the Nebraska Ethanol Board. Thank you, Mr. President.

KELLY: Thank you, Senator Bostelman. Senator John Cavanaugh, you're recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. It's probably the last time I'm going to get to speak on these confirmations, but I, again, I rise in support of Mr. Thede's nomination. I thank Senator Bostelman for how he conducted these hearings. And the conversation was very interesting. I learned a lot about the ethanol industry and the future prospects. I remember one very exciting conversation during this confirmation hearing for some members of the board about diesel, ethanol being used for diesel. That caused a lot of excitement on the committee. But again, Mr. Thede is, I think, a good asset to this, the Ethanol Board. The Ethanol Board has some, I think, interesting times ahead, in light of this Legislature passing the carbon capture and sequestration bill two years ago, could change some aspects of the industry, the potential developments in [RECORDER MALFUNCTION] other types of ethanol. I did ask Mr. Thede and Mr. Bird about, you know, the black eye on the industry as a result of Mead. And they, you know, answered those questions, I think, satisfactorily. And so, again, I encourage a green vote on the reappointment of Mr. Thede. And thank you, Mr. President.

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KELLY: Thank you, Senator Cavanaugh. Senator Machaela Cavanaugh, you are recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. I apologize, but would Senator Cavanaugh yield to a question.

KELLY: Senator Cavanaugh, will you yield for a question?

J. CAVANAUGH: Yes.

M. CAVANAUGH: Senator Cavanaugh, you mentioned that you asked some questions about Mead and they answered them satisfactorily. And I, I just would like a-- if you wouldn't mind elaborating on that.

J. CAVANAUGH: Sure. So for those who don't know the-- when we say Mead, we're talking about the AltEn plant in Mead, Nebraska, that was producing ethanol by using treated seed corn for a number of years and caused a environmental issue and--

M. CAVANAUGH: Is issue a gracious term you're using?

J. CAVANAUGH: --probably just a catchall, I guess--

M. CAVANAUGH: OK.

J. CAVANAUGH: --to try not to, not to go too deep into that. Because that's a, that is a-- Mead is obviously and we'll probably talk about it a little bit more--

M. CAVANAUGH: Yeah.

J. CAVANAUGH: --but the, my reason for my questioning is the Ethanol Board doesn't have, is not a regulatory board, doesn't have any kind of authority over supervision. I was asking them in terms of when they have to spend money to-- they basically promote the industry. And they help, you know, get new plants online if there's new plants or bring in interested developers. And I was asking if the negative press and the negative stories as a result of the misconduct in Mead by the AltEn plant had resulted in the necessity for the Ethanol Board to spend additional funds to say we're not all bad actors in this state. We, we-- everybody else does it right. This was a one off. And they said they hadn't-- their, their answer basically, was they hadn't had to do that. They said that AltEn was not even really a, a member or participating, is not really part of-- the-- AltEn was, was so outside of the ethanol industry as a whole, in both of its conduct and just how interrelated that it, it's not, it was not something that they've

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had to address as the Ethanol Board. That doesn't mean that other parts of the state have not had to deal with the all AltEn plant. It's just that it's not something that has caused the Ethanol Board to have to spend some of their funds and efforts addressing that.

M. CAVANAUGH: OK. Thank you. That was a helpful clarification. How much time do I have left?

KELLY: 2:40.

M. CAVANAUGH: Thank you. Probably won't take the remainder of all of that time, but this is our last vote, I believe, on the confirmations for this morning. And I would, I would encourage the body to get more engaged in these conversations. I mean, we were just talking about Mead, Nebraska and AltEn and the implications that we're going to see, especially for childhood illnesses for that in perpetuity are significant and severe. And it's worth your attention. I know we're all very busy, working on a lot of things. It's like drinking from a fire hose all of the time. But this is our job and this deserves our attention. And, and perhaps I am incorrect, but my observation this morning is that there's a lot of rubber stamping happening in our votes and a lot of lack of engagement in the conversation. I appreciate Senator John Cavanaugh for taking the time to speak on all of these nominations and give his perspective as a committee member. And I appreciate the Chairman of the committee, Bruce Bostelman, for taking the time to introduce each of these individually. I requested that these be separated out because I don't agree with voting on things in a slate. My caucus members from the Omaha-area caucus can tell you about that from our caucus meeting, that I think that in order to have transparency, we should be discussing each issue individually. And I want that for the public. And I appreciate everyone's attention to this matter. Thank you.

KELLY: Thank you, Senator Cavanaugh. Does anyone else wish to speak on this matter? Senator Bostelman, to close. Senator Bostelman waives closing. We'll proceed to a vote on the Natural Resources Committee report on Michael Thede. Senators, all those in favor record aye; all those opposed record nay. Does anyone else wish to vote? Record. Mr. Clerk.

CLERK: 39 ayes, 0 nays on adoption of the committee report.

KELLY: The committee report is adopted. Speaker Arch, for a message.

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ARCH: Thank you, Mr. President. Per my agenda, we will now move to the next item.

KELLY: Mr. Clerk.

CLERK: Mr. President, the next item is motion 16, motion to rerefer LB626 to Judiciary, pursuant to Rule 6, Section 2(a). Also pending on that item is a reconsider motion from Senator Hunt, motion 24.

KELLY: Senator Hunt, you're recognized to refresh us briefly about your motion.

HUNT: Thank you, Mr. President. Good morning, Nebraskans. And good morning, colleagues. To refresh the body and to refresh for the record and for viewers at home, what's happening with this motion, LB626 is a bill that deals with abortion and potential criminal penalties for physicians and healthcare providers who provide abortions. For that reason, according to our rules, which state that the appropriate committee for a bill is the committee which the subject matter jurisdiction lies in or the committee that has traditionally handled the issue. For abortion issues, that committee is Judiciary. This bill, however, was referred to Health and Human Services. I want to restate that your support for this motion to rerefer LB626 to its correct committee, the Judiciary Committee, in no way indicates your support or opposition for the bill. It says nothing about your moral or your moral views or your values about abortion. It simply says that we're going to respect precedent. We're going to respect the rules we have in this body. And by doing that, we will send LB626 to the correct committee. The reconsideration motion is up there because there was a motion to-- or there was a motion to cease debate on this, on this question before the committee Chair of Judiciary had had a chance to speak. This is another pervasive pattern in this body of cutting off debate. (A), before everyone has gotten the chance to speak, (B), especially before experts, subject matter experts, key players in a question such as the chair, where a bill could potentially be heard, have had a chance to weigh in. So it was inappropriate--

KELLY: One minute.

HUNT: --uncollegial, rude, to cut off debate at that time. And so, I made a reconsideration motion to continue debate on this issue, to make sure that the Chairman, Senator Wayne, could have the opportunity to share his view and to let some people get some more of their ideas on the record. Five minutes does go by really fast. And I know that we

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have several colleagues on both sides of the abortion issue, on both sides of, you know, who have differing views about where bills should be referenced, who did not get a chance to share their views. I think that we shy away from debate too much in this body. And I would like to hear more about what my colleagues have to say about this question. And I'd like to continue the debate on referencing LB626 to Judiciary. Thank you, Mr. President.

KELLY: Thank you, Senator Hunt. Senator Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. Good morning, again, colleagues. I rise in support of Senator Hunt's motion to reconsider the vote on the motion to rereference. So this is an opportunity for those of you who rushed through votes yesterday without really understanding what was going on. So voting to reconsider means that we would then take a different vote on the motion to re-- rereference. And rereferencing this bill is not a vote against this bill. Period. It is not a vote against this bill. It is a vote for the institution. We have had significant changes in rereferencing this year, so far. And that is attributed to a multitude of factors, including new senators, new people in leadership positions, new people in staff in various departments in the, in the body or in the building. And so, to take a pause and think about how we're referencing bills is not a bad thing. It is actually our jobs to do this. So I really would encourage everyone to reflect on the conversation today, to participate in the conversation today. I would encourage the chairs of the two committees involved in this to participate in the conversation today. I think it is important for us to hear from people who are in leadership positions, who we put in leadership positions, to tell us what their views on-- are on this, whether they're supporting it or not supporting it. I would like to hear those perspectives. And I think that the people of Nebraska would like to hear those perspectives, as well. But the great thing about debate is you don't have to participate or you can participate. I encourage people to participate. This is what we're here for. This is why we're here. It's, it's to be thoughtful and diligent and purposeful in the work that we are doing. And everything that we do matters. Everything that we do has an implication. So I really hope that we will be participatory in this conversation this morning. Mr. President, how much time do I have left?

KELLY: 2:15.

M. CAVANAUGH: Thank you. I am briefly going to divert from this conversation back to the conversation I started on Wednesday, about my records request. I am putting together a packet of information for this body that I will be sending around, once I have it compiled. And this is around the St. Francis Ministries investigation that happened and ultimately resulted in the termination of the contract and the deprivatizing of child welfare in the state of Nebraska. And all of that started with records requests. So I'm going to put together all of that information and how I was never charged and how it has changed the trajectory of child welfare in this state. It remains to be seen if it's for the better or not, but it has changed it. And it is important for us to work as a body. I've come to realize in the first 17 days of session that what I was taught as norms in this body no longer exist. So I'm not going to expect the norms anymore. I'm not going to expect the collegiality of engaging in--

KELLY: One minute.

M. CAVANAUGH: --debate. I'm not going to expect the thoughtful deliberation around issues. I-- what I came to expect after yesterday is that this body is going to vote in a block of 33 to-- 32 to 33, no matter what is before them, without thought or consideration until, until you don't. And when that day comes, you're going to need the people that haven't been voting in a block step. And you're going to rely upon us to be the thoughtful and diligent members of this body. You are going to need your relationships with us, whether you recognize that today or not. And I don't, I don't need a relationship with anyone, not even Senator John Cavanaugh. Well, I do, but outside of this body.

KELLY: That's your time, Senator.

M. CAVANAUGH: Thank you.

KELLY: Thank you, Senator Cavanaugh. Senator John Cavanaugh, you're recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Could use a little bit of time off. I rise in support of the motion to reconsider the rereferencing. And I do appreciate having the time to take overnight to think about it. I hope everybody, you know, slept on it, reconsidered. That's-- we're here to reconsider. So I hope you slept on it and gave it some second thoughts. I just wanted to, with fresh eyes, come back and everybody can hear the things that I was talking about yesterday. I handed out the section of statute, 28-336, abortion by other than

accepted medical procedure; penalty. The performing of an abortion using anything other than an accepted medical procedure is a Class IV felony. And so I brought that up because there, there's been a lot of talk about LB626, why it was referenced to HHS, because it didn't-- it just dealt with regulations of the industry, medical profession. It had reporting requirements to HHS and that there were no criminal penalties. I bring up that point to point out that there clearly is a criminal penalty associated with the conduct that is regulated under LB626. Because the-- LB626 sets out an accepted medical procedure under which someone could perform an abortion, a doctor could perform an abortion. If a doctor does not follow the requirements of LB626, yes, they can lose their license, but that would be a prima facie case, a, on its face, all of the-- check all of the boxes case for not following accepted medical procedures. If it's conduct that will cause you to lose your medical license, it's conduct that is not accepted medical procedure. And so, a doctor who doesn't follow that procedure, loses their medical license and then gets charged by the county attorney or the Attorney General of the state of Nebraska under 28-336. It's pretty clear. It's straightforward. This is a bill that, that creates a new element to the crime under 28-336, subjecting the medical profession to criminal exposure. That is a reason that this bill needs to go to Judiciary. As to the other arguments that this bill creates a reporting requirement to HHS, I pointed out yesterday that there are two sections of criminal statute under 28. I don't have them right in front of me, but under 28, that require this exact type of reporting on abortions to HHS, that has a criminal penalty for failure to comply with that reporting requirement. Makes it a Class II misdemeanor for not properly reporting a certain type of abortion under the criminal code. And that was referred to the Judiciary Committee because of that and it had a requirement for doctors to report to HHS. That's what this bill has. This bill should go to Judiciary. And because-- the reason that, that original bill went to Judiciary is because it implicated a criminal statute and it implied or made doctors liable for criminal sanctions as a result of the conduct that the bill imposed. That's exactly what's happening under LB626. Doctors will be subjected to a criminal penalty. Should go to Judiciary, regardless of the fact that you just changed the number at the top. You could have written this bill exactly as it's written, exactly as the bill under that other section was written and it would have gone to a different section of the statute, 28, it would be in Judiciary. Just changing the number at the beginning, the chapter, should not be a reason to move a bill from one committee to another, to change the subject matter jurisdiction. So that's-- I just want everybody to-- those are the things that I talked about yesterday. You

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had the opportunity to sleep on it. I hope you took a look at the statute that I offered to you. I hope that you took a look at some of the statutes that we referenced yesterday. I hope you listened to some of the arguments and maybe talked it over with some other folks and just contemplated why we're having this conversation.

KELLY: One minute.

J. CAVANAUGH: Thank you, Mr. President. This is, this is not about a desired outcome. We should not subvert the processes and procedures of this body to get to a desired outcome. Because if you subvert the processes and procedures of this body to get to a desired outcome, sometimes that will be used against an outcome that you want, so-- or for an outcome that you don't want. So just because you want this particular outcome is not a reason to reference this bill or to go along with this referencing. If you want this body to function properly, you should vote for the motion to reconsider. You should vote to rereference this bill. And then you can vote however you want on the substance of the bill once it's been properly considered by the right committee, that takes into consideration all of these implications. So I-- thank you, Mr. President. I'll push my light to talk some more about this.

KELLY: Thank you. Senator Cavanaugh. Senator Dungan, you are recognized to speak.

DUNGAN: Thank you, Mr. President. I rise today, again, in favor and support of Senator Hunt's reconsideration of the motion to rerefer. I talked at great length yesterday about some of the potential criminal penalties in here. And I took some opportunities last night to sit down and actually look at LB626 again. And I-- I'm going to punch my button again to go over some more of these details, but I wanted to take a minute to just (a) reiterate what we had talked about yesterday and (b) kind of go through some more the details of LB626, because we keep talking about the bill and we're not actually talking about the language that's in it. So obviously, the subject matter of what we're talking about here today, continuing the conversation from yesterday, is not whether you agree with this or not, like Senator Cavanaugh said. It's whether or not you believe that the Judiciary Committee is best equipped to handle this. A lot of people came up and talked to me after we had this discussion yesterday and they said, you know, Senator Dungan, I simply don't see any criminal penalties in LB626. How can it be in Judiciary? And what I think it's important to reiterate time and time again is you don't have to specifically enumerate new criminal penalties in a law for it to implicate criminal

penalties and for it to have actual punishments under criminal law. What LB626 does, it essentially has two separate sections. There's the first section, which puts in all of this new language about what this abortion ban looks like. And then there's an entirely separate section that harmonizes provisions towards the end about licensing and says if you violate the first section, now you can be disciplined, sanctioned or potentially lose your license for violating that section. There is no nexus that says necessarily the only penalty you can have upon violating the actual ban is the discipline of your license. In fact, I want to go to the actual language of this. And colleagues, I'd encourage you to listen to this plain language. Section 4 of LB626, paragraph 2, says, notwithstanding any provision of law in conflict with the Nebraska Heartbeat Act, it shall be unlawful for any physician to perform or induce an abortion before fulfilling the requirements of subsection (1) or after determining that the unborn child has a detectable fetal heartbeat. It says, it shall be unlawful. Again, as an attorney, if I read a statute and it says it shall be unlawful, the assumption is that there's going to be some potential penalty for that. Just because you can have your license sanctioned or disciplined or removed doesn't mean that there's not other penalties. And so, again, as we talked about yesterday, what the courts do is they read the provisions of the statutes together. There's, there's no way that they're going to see it shall be unlawful and not then say, OK, what's the criminal penalty for it? Because as Senator Cavanaugh pointed out and as everybody else has pointed out, Nebraska Revised Statute 28-336 is the criminal penalty. The performing of an abortion by using anything other than accepted medical procedures is a Class IV felony. So the court is going to read those together. And so to say that LB626 doesn't have criminal penalties is, I believe, just a complete misreading of that law. It shall be unlawful. If there is no criminal penalty associated with it shall be unlawful, then that essentially means nothing, which I think is a huge problem. So I encourage all of my colleagues, when you're analyzing LB626, to read it in that plain reading of the statute and to understand that there's essentially two separate sections. Again, I'm reiterating, but it's important that we start looking at it like this, because this is actually how it breaks down. There's the abortion ban, which it is unlawful to violate. And then there's a separate part of the, the proposal that means you can now also, in addition to that unlawful penalty--

KELLY: One minute.

DUNGAN: --thank you, Mr. President-- be sanctioned with your medical license. The reason this is important is obviously, if something has a

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part of the statute that says it shall be unlawful and as a part of that, there are criminal penalties, it should be in front of Judiciary. Doctors, nurses, people who work in clinics, schedulers, front desk staff, everybody that potentially plays any part of a role as a quote, unquote, abortion provider, should understand that this law has potential criminal penalties. And it is very likely that those penalties are going to include imprisonment. And so to pretend that this is simply a bill that has to do with HHS and doesn't touch on the Judiciary, is, I think, a misreading of the bill. I'll talk again next time, Mr. President. I'll punch my button, but I'll, I'll concede the rest of my time. Thank you.

KELLY: Thank you, Senator Dungan. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. Good morning and happy Friday, friends. I rise in continued support of Senator Hunt's motion for reconsideration in regards to her, in regards to her underlying motion, the motion to rerefer LB626 from the HHS Committee to the Judiciary Committee. And I thought we had so many interesting points and perspectives from a host of different senators yesterday. And I, I found the debate really fascinating and important about both substance and process. But just to continue down that path, I was really grateful when there was a broader discussion about kind of the history and the precedent, in terms of how our body has typically referred or handled abortion-related bills in, in-- over the course of the years. So I asked the incredible folks at the Legislative Research Office if they could help me to compile an inventory, from 1960 to 2022, about what abortion bills were introduced in the Nebraska Legislature and how they were ultimately referenced. Now, full disclosure, there's kind of an old joke that goes around and I'm definitely a part of it, that you go to law school if you're bad at math and so just wanted to preface the fact that I did a really quick, back of the napkin scratch here on the, the legislative research inventory provided to me. But, colleagues, the way that I looked at it really quickly, that 1960 to 2022, there were approximately 79 abortion-related bills introduced in the Nebraska Legislature during that period of time. Eighteen of those were referred outside of the Judiciary. So roughly speaking, if I'm counting it correctly, and it's a little hard to calculate because some are carryovers of course, only about 22 percent of abortion-related bills over the course of decades have been referred outside of the Judiciary Committee. So when you go back and you start to look through that inventory specifically to say, OK, well, what were those other 22 percent? Are there any guideposts? Are there any lessons from history there about how the body has perhaps handled

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abortion-related matters outside of, of the Judiciary Committee? And I think, when you look at the history, when you look at the precedent, when you look at the facts, you can see that that small percentage of abortion-related bills that have been referenced outside of the Judiciary Committee really are, are for a very discrete reason. They, they relate to insurance coverage, they relate to scope of practice, they relate to license plates, pro-life license plates. That went to Transportation instead of Judiciary. So you can see kind of a consistent pattern there that those measures, yes, related to abortion, but really more tangentially so, not about restrictions on access to care, not about criminal penalties in regards to enforcing those restrictions on access to care. And you can see a pretty long line of precedent in the Nebraska Unicameral Legislature at this snapshot from 1960 to 2022, with well over, you know, about 80 percent of abortion-related bills going to the Judiciary and almost all of those similar to LB626, which are, in fact, restrictions on access to abortion care. So I, I wanted to lift that up. I'm happy to share the--

KELLY: One minute.

CONRAD: --inventory with anybody who's interested in learning more about it. Thank you, Mr. President. And I, I wanted to also just kind of note in-- from a historical perspective, you know, for many, many years, Nebraska was kind of considered middle of the road when it came to abortion restrictions and their treatment of access to abortion on the books. And it wasn't until more recent history as part of a relentless national attack do you see really a ramp up in the states and in the courts, a relentless attack on access to abortion care, including right here in Nebraska, which has moved us from kind of a middle of the road kind of assessment now to one of the few states that's considered hostile or extremely hostile to abortion rights. And of course, that is really ramped up in the wake of, of the Dobbs decision, as well. But I have more to say about the history of, of rereferencing. And we'll do that--

KELLY: That's your time, Senator

CONRAD: --my next time on the mike. Thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Hunt, you're recognized to speak.

HUNT: Thank you, Mr. President. I appreciate Senator Conrad doing this research into the history of referencing around abortion bills. And I

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am also glad that this debate is carrying over for one more day so we had time to work with Legislative Research and get this kind of information, especially given the arguments of the opposition to this motion, who are saying, you know, that LB626 belongs in Health and Human Services because it's related to healthcare and that there have been many bills referred to other committees that dealt with abortion. And so, there's nothing out of step with tradition or anything like that by sending LB626 to Health and Human Services, which we know from precedent and from history and from our own rules outlined in referencing, is wrong. But this-- it's been really interesting looking over-- you know, I have the same list of bills regarding abortion since 1960 in Nebraska. And really, the first one is from 1967. And the title of that, the one-liner, anyway, is to provide for unjustified, justifiable self-abortion and pretended abortion to provide for violations, to provide penalties. That one went to the Judiciary Committee, the very first one ever. And that ended up being indefinitely postponed. But it's so interesting throughout history to look at these. One of my favorite ones is from 1971, LB261. And the one-liner is relating to a secret drug for females. And I look forward to getting a minute this afternoon to read that bill and see what the secret drug for females was. Any outcome of LB626 is going to be tainted, colleagues, if it doesn't go through the correct committee process. Just as the outcome of LB933 was tainted, which I think ultimately led to its failure last year, which was our total abortion ban, the one that Senator Albrecht introduced, which also would have banned in vitro fertilization, which would have banned long-term contraception like IUDs. And the reason the bill was so poorly written-- and to sidebar, Senator Albrecht still stands by that bill and said in the press that she wanted to introduce the same exact one. The reason that bill was tainted from the beginning is because we completely bypassed the committee process to bring that to the floor. That bill never got a committee statement. It never got a committee amendment that could have potentially fixed these, you know, really terrible things in the bill. And then when it was brought to the floor by a pull motion, since it wasn't voted out of committee, what we had to debate wasn't a bill that had been refined by the committee process, which had been looked at by the experts, it was a piece of crap that everybody agreed was bad. And for that reason, it ended up failing. This year, we have a different bill, but the, the process is tainted exactly the same way, because we're subverting process to shove it through. The majority does not need to put its thumb on the scale to help bring success to the measures you guys are trying to pass. LB626 is still probably going to pass if you guys just put it through the right committee. All I'm trying to do along the way-- and

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it's not just with abortion bills. Looking at every single bill and how you guys have referred it in a politically advantageous way to an incorrect committee, somebody should pay a price for that kind of thing. What if it was happening on the other side? What if progressives were referring to bills, referring bills to committees that were more friendly, referring bills that they didn't like to, committees that were more hostile to the issue? I wonder if then you would look at the process and say, we have to stand up for this institution and do what's right. I don't know if you would or not.

KELLY: One minute.

HUNT: Thank you, Mr. President. My point is, have some pride in your work. Have enough pride to introduce a bill that's ready for prime time. Have enough pride to send it through the right committee. Have enough pride to not crack and pack the committees so that you can be extra sure that you'll get what you want. I know you all got freaked out last year after LB933 failed. You said, how in a anti-abortion state like Nebraska-- which it's not, polls show that most Nebraskans do support the right to abortion. But this is what you all think, you think how could an abortion ban have failed in Nebraska last year? And you freaked out--[RECORDER MALFUNCTION] get a special session. That freaked you out even more. And you said, what will my legacy be, as a tool of Pete Ricketts, if we can't get an abortion ban passed? So you crack and pack the committees. You send the bill to the wrong committee because you know--

KELLY: That's your time, Senator.

HUNT: --it has a better chance of getting out. Thank you, Mr. President. I'll continue on my next round.

KELLY: Thank you, Senator Hunt. Senator Raybould, you're recognized to speak.

RAYBOULD: Thank you, Mr. President. I stand in support of referencing LB626 to the Judiciary Committee, where it has historically been assigned and per the clear referencing guidelines. This discussion on reproductive health rights is so very important. I want to follow up on some things that Senator Hunt has informed us of. I think we need to do a reality check on what our state is and what it is not. Many say we are a pro-life state, but there is a clear disconnect on what that really means. How can we be a pro-life state when the majority of Nebraskans want to keep abortion safe and legal? When I've walked precincts, which I have done for years, particularly this last

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election and talking with constituents on this very issue, they care deeply about keeping abortion safe and legal. And that's still the sentiment. And that matters to the Republican households I have visited. How can we be a pro-life state when our adoption rates are the lowest since 2003? How can we be a pro-life state when we have over 6,000 children in foster care? How can we be a pro-life state when the majority of Nebraskans support the death penalty? How can we be a pro-life state when we are ranked number one in pediatric cancer rates due to the number of environmental issues and contaminants that need more resources devoted to mitigate it? We can't continue to ignore this matter that impacts the lives of so many children. How can we be a pro-life state when we have seen nursing home after nursing home close, particularly in our rural communities? This is devastating in light of our increasing number of aging residents. And yet, year after year, we fail, as a legislative body, to fully fund re-- a reimbursable rate that allows nursing homes and assisted living facilities to stay in business, to take care of our seniors. How can we be a pro-life state when we focus on doing away with commonsense gun safety practices that keep all our children safe, while knowing that the number one cause of death to American children is now from gun violence? And oh, by the way, gun-related incarcerations are the leading cause of overcrowding in our county jails and penitentiary. Unfortunately, to date, starting since January 1 of 2023, we have had 40 mass shootings with 70 deaths. How can we be a pro-life state when we are ranked number one or number two in the number of Nebraskans we incarcerate with no programming, no treatment that will help thousands turn their lives around when they reenter our communities? And I want to thank Senator McKinney for providing us all the Justice Reform Update that I hope everyone reads. So I ask my colleagues to do a reset. Let's focus and direct our time and attention to solutions to our economically debilitating workforce shortage to create more affordable housing. And think of this: just as Governor Pillen--

KELLY: One minute.

RAYBOULD: --talked about education reform and fully funding public education, which our state has failed to do so. And we are at the bottom of all states in the United States. Wouldn't it be transformative if our state offered free or even more tax credits for affordable child care? That would be something truly transformational and establish us, our state of Nebraska, as a true, pro-family state that will attract young families and retain our young professionals. Thank you, Mr. President.

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KELLY: Thank you, Senator Raybould. Senator McKinney, you are recognized to speak.

McKINNEY: Thank you, Mr. President. I rise in support of the motion to reconsider. And just thinking about this and thinking about this overnight, you know, I think of like a sports analogy of, yeah, you can win, but do you need to win jumping on a table? Do you need to win in stomping somebody's face in the ground? And it's about good sportsmanship. And for, and for us, it's about collegiality and being respectful of the institution and in the process. And we have to take that into account when we're not, you know, moving bills like LB626 into its proper committee. Because we all agree, I don't think it matters which committee it goes to necessarily, the bill will end up on the floor. But we also should respect the process and shouldn't subvert the process just to do it. You know, when you talk to kids and you, OK, win with dignity, win with respect. And that's something to think about, of just having good sportsmanship and yeah, you can win, but do you need to jump on a table and, and do all type of stuff? So it's just something to think about and I'll yield the rest of my time to Senator Conrad. Thank you.

KELLY: Senator Conrad, 3:40 yielded to you.

CONRAD: Thank you, Mr. President, and thank you to my friend, Senator McKinney, for a few additional minutes to visit. Just to continue down the path, I, I want to provide a few other, kind of, key points for your consideration on this motion for reconsideration and why LB626 should be rereferenced. Colleagues, in addition to a lengthy historical record that I've asked Legislative Research to pull together, which shows about 80 percent of abortion-related measures in Nebraska have been referenced to the Judiciary Committee and the rare exceptions are those related to license plates or insurance coverage kind of things, I, I think that that really is a critical component in terms of precedent for why this measure should be rereferenced. Additionally, I want to point out that the Executive Board, sitting as the Referencing Committee, is working really hard to try and sort through all of the different bills. And I had a chance to visit with them about a few bills yesterday that I feel were mis-referenced the first go-around regarding Appropriations. But I do want to point out that they actually are taking feedback from folks like Senator Boer-- Senator DeBoer and others to rereference measures. And one of the measures that Senator DeBoer got rereferenced yesterday, I understand, was in relation to a bill she brought last year to get money for the food banks from the COVID relief dollars. Last year it went to Appropriations, this year it went to another committee. Now they're

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sending it back to Appropriations, consistent with precedent appropriate. Why do I bring that up? By way of example. Senator Slama brought forward LB781 in recent years, the Fetal Heartbeat Bill, the Nebraska Heartbeat Bill. So if you look at that measure and then you compare that to Senator Albrecht's measure, which she's characterizing as the Nebraska Heartbeat Bill, I think that, again, that's a very clear example of precedent. Senator Slama's Heartbeat Bill was referenced to Judiciary. Senator Albrecht's bill, Nebraska Heartbeat Bill, is referenced to HHS. Right there is a recent example of almost identical legislation that's been referenced to different committees and that's right-- that really flies in the face of the historical record. Before I have a chance to continue on my next time. I, I do want to point out, too, that, that, that the language itself, a heartbeat bill, is a political device. That is, that is not an accurate assessment of the legislation that's provided.

KELLY: One minute.

CONRAD: And I understand-- thank you, Mr. President-- every person utilizes political rhetoric to make their point. But to be clear when talking about legal and medical issues, what these are, are measures to ban abortion before women know they're pregnant. They're, they're effectively a total abortion ban. And we need to be really clear about that. And if proponents, you know, shy away from that, why? Why do they shy away from that? Why aren't they proud to, to talk about what they're doing in regards to their legislation? Why do we have to have kind of a, a bait and switch in regards to the language here? So I just wanted to point out the historical record, the referencing guide, the referencing of LB781 on a similar quote, unquote, heartbeat bill just in the last biennium, all end up in Judiciary. All roads lead to Judiciary. However, here we are with LB626 ending up in HHS. I urge your--

KELLY: That's your time, Senator.

CONRAD: --support of Senator Hunt's reconsideration motion. Thank you, Mr. President.

KELLY: Thank you, Senator Con-- Conrad. Senator Machaela Cavanaugh, you are recognized to speak.

M. CAVANAUGH: Thank you, Mr. President, colleagues. So yesterday, in HHS, we had three bills that had gone through the credentialing review process, or the shorthand is the 407. Yesterday, I brought up the 407 and the credentialing review process. This is what we do for a change

in a scope of practice. This is our process. It's an important process. It's an extremely important process. And for anybody who watched HHS yesterday or-- Senator Walz had a bill, Senator Fredrickson had a bill, Senator Hughes had a bill. And I'm, I'm sure Senator Hughes and Fredrickson would tell you that they, they got a crash course in credentialing review yesterday because it is a big, big deal. Any time we change any scope of practice, it is a big, big deal. So if the argument for this bill to be in HHS is that it is a healthcare issue, then the natural progression of that argument is that this bill should not exist right now, because there has been no attempt to go through the formal credentialing review process to change the scope of practice for this profession. Zero attempt. And why is that? The State Board of Health runs the credentialing review process. The State Board of Health is appointed by our Governor and confirmed by the body. Are you concerned that the State Board of Health isn't going to say that we're a pro-life state and that we should make these restrictions? Are you concerned that the, the professionals with the expertise in medicine that we have confirmed to serve on the Board of Health are not going to go with your political agenda? We go through the 407 process and then we enact legislation based on the results of that process. So if this isn't about creating criminal penalties, if this is about healthcare and changing the practice of healthcare in this state, then this needs to go through the 407 process. It absolutely needs to. And frankly, if this were to go through the 407 process, if they were to come out after the technical review and say that they agreed with these changes and Senator Albrecht brought this bill next year or whenever that was completed and brought this bill and came to the committee and said, this went through the credentialing review process. It was approved, unanimously approved, whatever. It'd be really hard for me to argue against that. Truly, it would be so challenging for me to argue against the recommendations of the Credentialing Review Committee if they went through the proper channels and the healthcare experts that we have confirmed to the Board of Health told me and my other committee members that this was appropriate, that these changes were appropriate. But we're not going through that process. And I believe that we are not going through that process that we require for every other healthcare scope of practice change because it would fail. It would fail. Even with the conservative, Pete Ricketts-appointed Board of Health, it would fail. So instead, we're doing this, this wildly inappropriate avenue. If you think this should be through HHS, it should go through the proper process through HHS or else it should go to Judiciary, as every other bill has. This is not the standard. We

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should hold ourselves to a standard. We should make sure that the people of Nebraska know--

KELLY: One minute.

M. CAVANAUGH: --that we hold ourselves to a standard. So for those of you that are interested in learning more about the credentialing review process, you can go to the dhhs.ne.gov/licensure/pages/credentialing-review. Or if you just go to the main page, you can put in the search box on the side, credentialing review, or you can even put the numbers 407 and it will take you to the website on credentialing review. And you can learn all about what this process really is, what every other medical profession is expected to go through when we change their scope of practice, because this is the appropriate way to do that kind of work, not this bill. Thank you.

KELLY: Thank you, Senator Cavanaugh. Senator John Cavanaugh, you are recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Again, I rise in support of the motion to reconsider and the motion to rereference. And again, I appreciate everybody's attention on this issue. And some of-- you know, there's a lot of, kind of, different arguments. But ultimately this doesn't-- the, the argument, the question doesn't come down to whether you want to see this bill pass or not or whether you agree with the objectives of the bill. It has to do with: one, what is the best committee for jurisdiction of this bill to determine whether it's the right bill for us, but to make it the best bill it can be. Committees with subject matter jurisdiction can spot problems that a committee without subject matter jurisdiction is not going to spot. And we're just-- I'm spending time to point out just a few of the ones. I've got piles of paper here and I could probably spend another couple of hours talking about all of the interconnection and potential interconnection with the criminal code that LB626 has. I talked about that criminal penalty under 28-336, and I handed that bill out. I talked about, yesterday, the reporting requirement that's currently under 28-343, Department of Health and Human Services abortion reporting form, items included. And so it lists off how a report on specific type of abortion is to be reported, what information is to be collected, the age of the woman, the facility, the type of procedure, name of attending physician, all of these things. And if you fail to comply with that, the, the doctor would be subjected to a Class II misdemeanor. This is a bill in the criminal code that compels a doctor to have a criminal penalty for failure to report to DHHS. Under LB626,

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this is compelling a doctor to have a reporting requirement to DHHS that has a, a criminal penalty if you don't comply with it, by virtue of the fact that it implicates 28-336. So it's, essentially, exactly the same, analogous to 28-343, that was passed in 2007, referenced to the Judiciary Committee. So that's another example of where the arguments here, I guess, break down, of why this should go to the Judiciary Committee. Right. The-- I talked yesterday about the number of definitions in the criminal statute that I was able to find in a very short search. There are two separate definitions of abortion already in the criminal statute. This will add a third separate definition of abortion into the statute in a different section, under Section 38. And then it will have a separate definition of a medical emergency. There are already two separate definitions of medical emergency in the criminal statute and this will add a third definition of medical emergency. And so, there will be three separate definitions for what would essentially be the same conduct. Two of them, people would argue here, implicate criminal statute and criminal conduct and one of them would not. However, the same conduct seeking to be regulated under those definitions is criminally regulated under Section 28, in two other sections. And so, it's going to cause confusion. It's going to cause problems for doctors, in terms of implementing whatever the requirements of the statute end up being. And again, the question here is not whether that's the right thing to do, the question here is whether this is the right committee to have that conversation and make that determination and decide whether-- simply whether this statute requires this new third definition or whether the statute should reference to the other statute, as it does for the definitions of rape and incest. The exceptions in LB626 just reference--

KELLY: One minute.

J. CAVANAUGH: --Section 28 for the definitions of rape and incest. It does not create a whole new separate definition for those. And so this bill references the Criminal Code, it implicates the Criminal Code and the conduct in it is regulated under the Criminal Code. This is something that should be considered and taken up by the Judiciary Committee to make this bill the most functional law for the state of Nebraska, if it were to go into effect. So this is not a question of whether you want it to go into effect, this is a question of how this body proceeds with consideration of important issues and who is the right committee to take up that issue and to make those, those determinations, those questions and find that interplay. So thank you, Mr. President.

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KELLY: Thank you, Senator Cavanaugh. Senator Blood, you're recognized to speak.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I don't know if you ever noticed, but I rarely leave the floor. Freshman senators, here's your alert. I rarely leave the floor. And the friends that started with me six years ago, they'll tell you that I have a very, very, very long memory. Because all I do all day long is I sit and I observe and I take note. And I do that for a reason. And this debate is one of the reasons, because it is clear to me that we have members that are utilizing this as an opportunity to dissimulate. They are purposely trying to use their poker faces so they can hide what they're really thinking. Now, I got to tell you, friends, if you play poker and you disappear like you do on the floor in debates, it won't take me long to figure out that you got a bad hand. I asked many of our members yesterday on the mike what compelled them to vote against this reconsideration, which, by the way, I forgot to mention, I do support. And really, truly-- and no offense to those that stood up and spoke. I appreciate the fact that they yielded time. Nobody had anything compelling to say, which tells me that pretty much everybody knew how they're going to vote when they got to the floor. Now, here's where my memory comes into play. I remember Senator Hunt talking about what's going to happen when people start pulling bills, because we've seen a lot of bills pulled in the last six years. And that's when you hear, oh, well, the process isn't that important. It didn't work for me personally, so let's go around the process. Well, don't be hypocrites, friends. You may not be doing that knowingly. I don't mean to insult anybody in this room, but actions speak louder than words. And I find it very disturbing that we have so many freshmen senators not on the floor. And maybe there's a meeting I don't know about. Maybe there's a training I don't know about because I'm not a freshman senator. But where the heck are you guys? You can say, well, I'm watching it in my office. I'm talking to lobbyists out in the Rotunda. And by the way, you don't got to go in the Rotunda, either. I can count on both hands in the last two years how many times I've been out in that Rotunda while we're here on the floor. They can text you. They can meet with you. You don't have to go out there and be influenced unless you want to be. It's OK to say no, just like you don't have to attend their luncheons and their breakfasts unless they're educational. None of that is mandatory and part of our job description. That's been one of the negative things, by the way, about term limits, is that we've given lobbyists and special interest groups more power. And our legislation shows that. And the people in this body shows that. We have definitely seen a change in personalities and

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backgrounds in the body over the last six to eight years. If you're going to vote against this reconsideration, I respect that. But you ought to be able to stand up on this mike and clearly say why you're voting against it, as opposed to I respect the process. Because I guarantee, again, I've got a very long memory and we're going to talk about why the process is important when you're in favor of something, but not when--

KELLY: One minute.

BLOOD: --you're against something. And by the way, I've never pulled a bill from any committee because I don't believe in that. I believe, truly, in the process. Sometimes the process misses the mark. We have clearly said that on the mikes today. We have brought forward information and if we were in high school, we would have won this debate, but that's not how it works. Thank you, Mr. President.

KELLY: Thank you, Senator Blood. Senator Dungan, you're recognized to speak.

DUNGAN: Thank you, Mr. President. Colleagues, I rise again. I said I would speak in a little bit more detail about the statute or the proposed legislation in LB626 and how I do believe it has criminal penalties implicated. But first, I want to take a step back to something that I brought up yesterday that I think everybody needs to, to keep in mind here and that is sort of the Nebraska statutory or case law, rather, language regarding statutory interpretation. I talked about a couple of cases yesterday that guide the court in how they interpret statutes. Oftentimes, the courts are presented with various statutes and they have to figure out how to read them in harmony with one another or whether they line up. And a couple of the pertinent cases on that state as follows: again, this is from Davis v. Gale. It's a 2018 case, one that's referenced in a lot of appeals. A court will construe statutes relating to the same subject matter together so as to maintain a consistent and sensible scheme. In discerning the meaning of a statute, a court determines and gives effect to the purpose and intent of the Legislature, as ascertained from the entire language considered in its plain, ordinary and popular sense. And a court must attempt to give effect to all parts of a statute and if it can be avoided in a word, clause or sentence, will be rejected as superfluous or meaningless. So it's that last one that I want to latch on to in particular here-- no word, clause or sentence will be rejected as superfluous or meaningless. So what that means is if there's a part of this legislation that otherwise doesn't quite add up or makes sense, they're going to do everything they can to make

sure that that's not read as superfluous or meaningless, because the court simply can't look at a piece of legislation and say, oh, that doesn't make sense how it's written, we'll just ignore that. That's not their job. And why I think that's important to point out, is I want to go back to the specific language of LB626 again. And I think-- again, colleagues, we're going to talk about this at great length for the rest of the session, I'm sure. But we need to go back to the actual language of it. Section 6, which is part that was talked about, I think, by a number of proponents of this legislation, says, no woman upon whom an abortion is attempted, induced or performed shall be liable for a violation of the Nebraska Heartbeat Act. Let me read that again. No woman upon whom an abortion is attempted, induced or performed shall be liable for a violation of the Nebraska Heartbeat Act. What they're trying to say with that is, oh, don't worry, women won't be held liable for this, just the doctors. But the reason I think that's important to note, is if the only penalty of this legislation is that your license can be revoked or docked or you can have discipline, Section 6 has no point in being in there. The only point that Section 6 has in there is to say women are not going to be held, held criminally liable if this is passed. So the entire inclusion of Section 6 saying don't worry, we're not going to hold women liable for this, implies there's a criminal penalty. Because, again, if the only penalty we were talking about in LB626 was that your license can be removed or you can have disciplinary action taken, then that language would have no purpose. And so I want to go back again to what I was talking about earlier today, too, which is that Section 2, that says, notwithstanding any provision of law in conflict with the Nebraska Heartbeat Act, it shall be unlawful for any physician to yada, yada, ya. So reading those in conjunction, where they say it shall be unlawful and then just a page down it says, no woman upon whom an abortion is attempted or induced shall be held liable, those two provisions together carry a strong implication that there are, in fact, further penalties beyond the licensing action that can be taken. And again, what we're talking about here today is not whether you support this legislation, not whether you think that--

KELLY: One minute.

DUNGAN: --thank you, Mr. President-- not whether you think that this law should be passed or not, it's what committee has the proper ability and training and expertise to address these problems? And so the fact that this question is even being raised, that these two provisions of LB626 exist and imply a criminal penalty under Nebraska Revised Statute 28-336, as all of my colleagues have pointed out here today, that's a question that needs to be answered by people who know

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what they're talking about with regards to judicial implications. And the fact that it's even a possibility that there's a criminal penalty for physicians or doctors who perform abortions here, seems to me that this is a clear decision to rerefer this to Judiciary and I would urge my colleagues to vote green on Senator Hunt's motion for reconsideration on the motion to rerefer. Thank you, Mr. President.

KELLY: Thank you, Senator Dungan. Senator Vargas, you are recognized to speak.

VARGAS: Thank you, President. I've reiterated this before, I support the reconsideration motion and the underlying motion that, that fails, you know, for many, just simple reason. I think what we've been hearing and part of the dialogue, this is a good precursor to everybody that's-- when we're actually going to be doing our bills and our debate, you know, some of this is also education. You know, when hearing Senator Conrad look through the history of how many bills that were referenced to Judiciary and the very few that were referenced to HHS that were abortion related, working with Legislative Research-- I mean, this is a reminder that any of us can do this and I really encourage senators to be doing more of that research because it just shows you the, the evolution and sometimes the change that we see. And the question is always the why. So I support this because I think that this-- the, the large amount of the subject matter of this bill still does live within Judiciary. I know there have been a lot of discussion on whether or not it should stay in HHS or not, but I mentioned this before. The thing that I'm, I'm worried about is just more common practices. We're drafting bills to make sure that they go to specific committees. And you know, there's more political expediency to do that more now, more than ever. And I am really worried about this practice, especially for bills that have had so much history and debate within specific committees. And I want to make sure that we are encouraging and, and also educating the body that these are things that we have control over. We have say over whether or not we reference more of these bills to those specific committees. And I also support the fact that that we're doing this at this level in front of the entire body. I had this conversation with other members of my committee that we could rereference within the committee right now, technically, or we can reference at this level. But I think there's an education that comes when we're rereferencing and doing this as a larger body because it lends a little bit more light on what we do on Executive Board. Because if you're not on Executive Board and I think that for a lot of people that haven't had experience, you may not know a lot of the process and also that we have the ability to rereference at this level as much as an Executive Board. It's the checks and balances when we

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sometimes agree or disagree where, where something actually goes. So I think it's particularly important that we're doing this because-- for some of these other bills and the rereferencing that we are also seeing here, for LR18CA and LR19CA. These were some bills that were referenced, initially, away from the committee, were originally referenced to Judiciary. And, you know, I was some-- one-- a couple of the individuals, myself and some other individuals in the committee try to rereference it and make sure to fight to keep it in Judiciary while there were members that were rereferencing it away to HHS where they ended up going. And we will have that discussion on those separate bills. But I just think it's really critical and important that we have this discussion so that the public, who don't always see what we're doing in Executive Board, is importance to not adhering to a hard and fast rule, but why has this history been in Judiciary? What is the preponderance of the, the body of the legislation that we see? Why does it exist there? And there's a rationale that continue to have that there. And if we are not going to do that, a bigger conversation we had is, we'll look at the referencing guide. There, there are always changes we need to make within the referencing guide, but we don't do those half-heartedly. I think Senator Wayne mentioned this. You know, we, we didn't make a sweeping change to some of the landlord-tenant laws--

KELLY: One minute.

VARGAS: --and the reason we didn't make them is because we wanted to do more service to reviewing the referencing guide and actually considering changes that are made. I will likely do an interim study to see what other changes might be made to that guide. But I want to make sure that we maintain the precedent of past senators that have been discussing and debating these types of legislation in those committees of jurisdiction. It has no bearing on whether or not necessarily we're talking about the bill necessarily getting past the committee or having the discussion on-- it's just this still lives within-- the large majority of it, within the conversation of what we've seen historically, within Judiciary, given it's abortion-related. So given that, I support the motion to reconsider and thank you very much.

KELLY: Thank you, Senator Vargas. Senator Fredrickson, you're recognized to speak.

FREDRICKSON: Thank you, Mr. President. I rise today in support of Senator Hunt's motion to reconsider and rerefer. You know, I'm, I'm listening to this conversation, again, today. And yesterday, I spoke a

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little bit about the importance in our responsibility to the institution and to precedent and that remains equally important today. But I want to focus today a little bit about the context of the specific bill that we're talking about. So the bill we're talking about, LB626, this is going to be one of the most consequential, if not the most consequential bills that we discuss this year. LB626 is going to have significant impact on Nebraskans' lives. And that underscores how important it is that we do talk at length about every step of LB626. That is our job and that is our role as senators, to ensure that we are doing due diligence for all bills, frankly, that come in front of us, but especially for bills that are going to have such significant impact on the day-to-day lives of Nebraskans. So I remain in support of Senator Hunt's motion to reconsider. And with that, I will yield the remainder of my time to Senator Danielle Conrad.

KELLY: Thank you, Senator Fredrickson. Senator Conrad, that's 3:02.

CONRAD: Thank you, Mr. President, and thank you to my friend, Senator John Frederickson. I really appreciate the time. I wanted to talk just a little bit more about, kind of, where we find ourselves. So we have a clear historical record that abortion restrictions go to Judiciary time after time after time, including some similar legislation, dubbed a heartbeat bill, just in the last biennium or so. And over the course of many decades, only about 22 percent of abortion-related matters that just, tangentially, touched upon abortion have been outside the Judiciary Committee. So I also just wanted to kind of talk through, you know, a contextual point about how we got to where we are. And of course, it's part of the process. Senator Albrecht, any senator, is going to identify concerns that have been brought forward in past legislation, is going to work to address those, is going to work to find consensus and/or a path forward to achieve their intended result. So no dispersions on Senator Albrecht's and her supporters' strategy. That's absolutely what you're supposed to do in the process. But I think it's important to remember when you go back and you look at the abortion ban that this body rejected last biennium and then also rejected calling themselves into a special session on, just this summer, in the wake of the Dobbs decision, the primary opposition points, because of the breadth of that legislation, was that it could have unintended consequences for IVF, for ectopic pregnancies, for family-planning services and because it had such harsh criminal penalties for doctors. So the abortion ban rejected by this body over the last year was a personhood bill, basically, plain and simple. And that was rejected for a variety of different reasons. So Senator Albrecht took those concerns to heart, which is part of the process.

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KELLY: One minute.

CONRAD: Thank you very much, Mr. President. And you can see there are some attempts to carve out or clarify that LB626 doesn't, in fact, involve IP-- IVF, ectopic pregnancy, family planning or criminal penalties kind of thing. So you can see that evolution from LB933 that was referenced to the Judiciary Committee, that had those other components in it. Now you see some clarifying language and we'll have a lot more to talk about when we debate the substantive bill, about whether or not those measures are effective or achieve the intended purposes. But what we see here is, again, just an attempt to address concerns, get rereferenced to a different place, but the, the process wasn't complete. There are no repealers on Chapter 28, which have a host of civil and criminal penalties. And as Senator Albrecht--

KELLY: That's your time, Senator.

CONRAD: --graciously noted yesterday, that does establish a medical standard of care. Thank you, Mr. President. Thank you, Mr. Fred-- Senator Frederickson.

KELLY: Thank you, Senator Conrad. Senator Slama, you're recognized to speak.

SLAMA: Question.

KELLY: The question has been called. Do I see five hands? I do. The question is shall debate cease? All those in fav-- request for a call of the house. The question is shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 20 ayes, 9 nays to place the house under call.

KELLY: Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Machaela Cavanaugh, Senator Day, Walz, Bostar, Bostelman, Riepe, please return to the Chamber. The house is under call. Senator Machaela Cavanaugh, Senator Day, Senator Riepe, please report to the Chamber. The house is under call. Senator Riepe, please report to the Chamber. The house is under call. Senator Lowe, we're lacking Senator Riepe. Would you like to proceed? Thank you, Senator Lowe. All members accounted for, Mr. Clerk. The question before the body is shall debate cease? Roll call vote requested. All those in favor vote aye; all those opposed, nay.

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CLERK: Senator Aguilar voting yes. Senator Albrecht voting yes. Senator Arch voting yes. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Blood voting no. Senator Bostar voting no. Senator Bostelman voting yes. Senator Brandt voting yes. Senator Brewer. Senator Briese voting yes. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh voting no. Senator Clements voting yes. Senator Conrad voting no. Senator Day voting no. Senator DeBoer voting no. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover voting yes. Senator Dungan voting no. Senator Erdman voting yes. Senator Fredrickson voting no. Senator Geist. Senator Halloran voting yes. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt voting no. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Kauth voting yes. Senator Linehan voting yes. Senator Lippincott voting yes. Senator Lowe voting yes. Senator McDonnell. Senator McKinney voting no. Senator Moser voting yes. Senator Murman voting yes. Senator Raybould voting no. Senator Riepe voting yes. Senator Sanders voting yes. Senator Slama voting yes. Senator Vargas voting no. Senator von Gillern voting yes. Senator Walz voting no. Senator Wayne voting no. Senator Wishart voting no. Vote is 30 ayes, 16 nays to cease debate, Mr. President.

KELLY: Thank you, Mr. Clerk. The body has voted to cease debate. Senator Hunt, you're recognized to close.

HUNT: Mr. President. Colleagues, as far as subject matter jurisdiction, that's the only thing we are debating here. The question before you of what you have to consider is what is the subject matter jurisdiction of LB626, which is an abortion ban. LB626 deals with abortion and restrictions on abortion and reproductive healthcare. It implicates matters of personal privacy, bodily integrity and civil rights. The bill references the Criminal Code in describing a potential exception or an affirmative defense to the six-week ban on abortion that the bill seeks to establish. The bill deals with criminal law, criminal punishment, immunity from criminal prosecution. The bottom line is that people need to understand that this bill will, in fact, have criminal exposure to healthcare workers. Also notably, LB626 does not eliminate the currently existing crimes regarding abortion, nor does LB626 reference the current criminal penalties relating to abortion. The Judiciary Committee needs to examine the interplay between LB626 and the current criminal laws on abortion and what LB626 proposes to do in order to see what the interrelationship is between current law and criminal law and what LB626 proposes. Committees are not just our colleagues. It's not just who we crack and pack into each committee to get the outcome we want. It's also

committee staff, it's committee legal counsel. And the legal counsel that has the expertise and the experience to handle questions about abortion and criminal law are in the Judiciary Committee. Nothing about this vote will prevent you from getting your little way. Nothing about this vote says anything about your feelings on the morality of abortion. The Harvard Gazette recently had a piece about how abortion restrictions put maternal health and life at risk based on a new study about changing abortion rights in El Salvador. And the researchers looked at six years of cases where pregnant women with severe fetal abnormalities were denied abortions and forced to remain pregnant, which is what would happen under LB626. What they found was horrific, of course, and it's what we can expect to see in the U.S. It's what we're already seeing in the U.S. in, in states that have laws like LB626. And there's a connection between the way these doctors were legally forced to give substandard care to protect themselves from criminal prosecution and what's happening here in Nebraska. LB626 relates to criminal prosecution. It exposes doctors, who are using their best medical judgment, to jail time, to fines, to having to consult attorneys before they use their best medical judgment to treat a patient. One of the researchers on this case said, the more I spend time working on cases like this, the more I'm convinced that we cannot legislate abortion. There is no way to legal-- legally define viability. There's no way to legally define the exact moment when a woman's life is in danger or not. Pregnancy on its own is high risk. Anytime someone is pregnant, it brings risks to the health and the life of the patient. I bet there are no members in this body today who don't have a story about a difficult birth, either one that they went through or one, one of their family members went through. We all have stories about emergency C-sections, about pre-eclampsia, about different--

KELLY: One minute.

HUNT: --fetal abnormalities, about different maternal diagnosis that we, that we either went through ourselves or that we know someone who did. There is no law, no policy, no mandate that can morally predict or control or punish or any number of things-- control the infinite number of things that can happen when a woman is pregnant. It's something you have to understand as anti-abortion people. It's something that you all have to understand as anti-choice folks who are trying to impose your will upon Nebraskans. That trying to define the life of a mother, when that moment is-- is it six weeks? Is it four weeks? Is it from conception? Is it 20 weeks? It's never something that you can actually do. We know this bill will result in women dying. We know this bill will result in criminal prosecution. I see

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some of you shaking your heads. Yes, it will. Just look at what's happened in other states.

KELLY: That's your time, Senator.

HUNT: Thank you, Mr. President.

KELLY: Thank you, Senator Hunt. Senators, we'll move to a vote on the-- on Senator Hunt's motion to reconsider. All those in favor vote aye; all those opposed, nay. Request for a roll call vote, Mr. Clerk.

CLERK: Senator Aguilar voting no. Senator Albrecht voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard voting no. Senator Blood voting yes. Senator Bostar voting yes. Senator Bostelman voting no. Senator Brandt voting no. Senator Brewer. Senator Briese voting no. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Conrad voting yes. Senator Day voting yes. Senator DeBoer voting yes. Senator DeKay voting no. Senator Dorn voting no. Senator Dover voting no. Senator Dungan voting yes. Senator Erdman voting no. Senator Fredrickson voting yes. Senator Geist. Senator Halloran voting no. Senator Hansen voting no. Senator Hardin voting no. Senator Holdcroft voting no. Senator Hughes voting no. Senator Hunt voting yes. Senator Ibach voting no. Senator Jacobson voting no. Senator Kauth voting no. Senator Linehan voting no. Senator Lippincott voting no. Senator Lowe voting no. Senator McDonnell. Senator McKinney voting yes. Senator Moser voting no. Senator Murman voting no. Senator Raybould voting yes. Senator Riepe voting no. Senator Sanders voting no. Senator Slama voting no. Senator Vargas voting yes. Senator von Gillern voting no. Senator Walz voting yes. Senator Wayne voting yes. Senator Wishart voting yes. Vote is 16 ayes, 30 nays on the motion to reconsider, Mr. President.

KELLY: Thank you, Mr. Clerk. The motion to reconsider fails. Items for the record, Mr. Clerk. And the call is raised. Call is raised.

CLERK: Thank you, Mr. President. Name adds: Senator Brewer and Senator Sanders to LB16; Senator Lippincott to LB17; Senator Kauth to LB91; Senator Lowe to LB374; Senator Jacobson to LB374, as well; and Senator Brewer to LB712. Notice that the Health and Human Services Committee will conduct its hearing on Wednesday, February 1, 2023, in Room 1525 and Natural Resources Committee will conduct its hearing in Room 1510, both of those hearings being at 1:30 p.m. Finally, Mr. President, notice from the Government Committee that they'll hold an executive session this afternoon. Government Committee, executive session this

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afternoon. Finally, Mr. President, a priority motion. Senator Dorn would move to adjourn the body until Monday, January 30, 2023, at 9:00 a.m.

KELLY: You've heard the motion to adjourn for the day. Senators, all those in favor vote aye; opposed, say nay. The Legislature is adjourned.