

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2024

**KELLY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-sixth day of the One Hundred Eighth Legislature, Second Session. Our chaplain today, from Senator Halloran's district, is Eddie Goff, New Hope Baptist Church in Hastings. Please rise.

**EDDIE GOFF:** Let's pray. Our Father, this morning, we come before you and just ask you, Father, on this glorious day that you put your hand upon this special Chamber, upon the men and women that'll be in here today making those decisions that they need to make. Father, we ask you today to put your hand upon our first responders today as they protect us around not just the Capitol but around our state. Father, we ask again that these men and women that put their lives on the line each and every day for our safety in the military, for them, their families. Lord, we don't want to forget their families. Many hours they spend away from their families. We ask you today, Lord, that you put your hand upon them for safety, for control. Father, we just ask today that you give us some discernment in what you would have us to do that would be glorifying unto you. And we're going to praise you for it. We're going to thank you for it. In Jesus's precious and holy name. Amen.

**KELLY:** In recognition of the 214th anniversary of the birth of Abraham Lincoln, born February 12, 1809, the colors today are being posted by the Nebraska Department of the Sons of Union Veterans of the Civil War. I recognize Senator Sanders for the Pledge of Allegiance.

**SANDERS:** Please join me. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

**KELLY:** I call to order the twenty-sixth day of the One Hundred Eighth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

**KELLY:** Are there any corrections for the Journal?

**CLERK:** I have no corrections this morning.

**KELLY:** Are there any messages, reports, or announcements?

**CLERK:** There are, Mr. President. Your committee on Banking, Commerce and Insurance, chaired by Senator Slama, reports LB852 to General File

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with committee amendments. Additionally, notice of committee hearing from the Natural Resources Committee. Committee report from the Natural Resources Committee concerning two gubernatorial appointments: Tracy Zink and Jan K. Bensen to the Nebraska Ethanol Board, as well as William Austin and Dave Liegl to the Nebraska Power Review Board. Additionally, committee report from the Business and Labor Committee concerning a gubernatorial appointment of Dallas Jones to the Commission of Industrial Relations. Communication from the director of the Nebraska Department of Transportation concerning Jeremy S. Borrell's appointment to the Aeronautics Division of the Nebraska Department of Transportation. Additionally, amendment to be printed from Senator Fredrickson to LB932. Communication from the Education Committee. Notice: the Education Committee will meet in Executive Session in room 2022 at 10:30 this morning. Room 2022, 10:30 this morning, Education Exec Session. Finally, Mr. President, notice that the Agriculture Committee will meet in Executive Session in room 2102 at 10:15 this morning. Agriculture Committee, 2102, Exec Session at 10:15.

**KELLY:** Thank you, Mr. Clerk. Senator Halloran announces some guest under the south balcony: Steve Dillman, Harvard; Josh Glore, Hastings; and Mike Sidlo [SIC], Hastings. Please stand and be recognized by your Nebraska Legislature. While the Legislature is in session and capable of transacting business, I do propose to sign and do hereby sign LR291, LR292, LR293, LR294, LR295, LR296, and LR297. Mr. Clerk, first item on the agenda.

**CLERK:** Mr. President, first item this morning: committee report from the Transportation and Telecommunications Committee concerning a gubernatorial appointment of Greg Wolford to the State Highway Commission.

**KELLY:** Senator Moser, you're recognized to open.

**MOSER:** Good morning. And thank you, Mr. President. The Transportation and Telecommunications Committee recommends the approval of the appointment of five individuals to serve as members of the State Highway Commission. The State Highway Commission consists of eight, all appointed by the Governor. They serve six-year terms. One commissioner is appointed from each of the eight highway districts. The commission serves as a liaison between the public and the Department of Transportation, and the commission meets no less than six times per year. On Tuesday, January 30, the Transportation and Telecommunications Committee conducted confirmation hearings on four

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individuals: Greg Wolford, James Kindig, David Copple, Richard Meginnis. And on Monday, February 5, the commi-- committee conducted the hearing on the appointment of Heath Mello. The Transportation and Telecommunications Committee recommends the reappointment of Greg Wolford to the State Highway Commission as the District 7 commissioner. He has served as a member of the commission since 1999. District 7 covers 13 counties in southwest Nebraska, from Franklin and Kearney counties in the east, to the Colorado border in the west. Mr. Wolford lives in McCook, where he's a professional engineer and is partner in an engineering and architecture business. He also serves on the McCook Economic Development Corporation's board of directors. He appeared before the committee and answered all questions put to him, and the committee advanced the appointment on a unanimous vote. Mr. President, I would ask for the approval of the TNT Committee recommendation to approve the appointment of Greg Wolford to the Nebraska Highway Commission.

**KELLY:** Thank you, Senator Moser. Seeing no one else in the queue. You're recognized to close. And waive. Members, the question is the confirmation and adoption of the report by the Transportation and Telecommunications Committee. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

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

**KELLY:** Committee report is adopted. Mr. Clerk.

**CLERK:** Mr. President, next report from the Transportation and Telecommunications Committee concerning the gubernatorial appointment of James Kindig to the State Highway Commission.

**KELLY:** Senator Moser, you're recognized to open.

**MOSER:** Thank you, Mr. President. The Transportation and Telecommunications Committee recommends the reappointment of James Kindig to the State Highway Commission as the District 4 commissioner. He will serve a term through September 13, 2029. He's completed two terms on the commission and represents District 4, which is 17 counties in south c-- south central Nebraska. He resides in Kennesaw. He has lived in the district his entire life and spent his professional career working in the food distribution business. He appeared in person and answered all questions of the committee, and the committee advanced his appointment on a unanimous vote. I would

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ask for the approval of the committee recommendation to approve the confirmation of James Kindig to the State Highway Commission.

**KELLY:** Thank you, Senator Moser. Seeing no one else in the queue. You're recognized to close. And waive. Members, the question is the adoption of the committee report from Transportation and Telecommunications. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 37 ayes, 0 nays, Mr. President, on adoption of the report.

**KELLY:** The report is adopted. Mr. Clerk.

**CLERK:** Mr. President, next item: Transportation and Telecommunications Committee report concerning the gubernatar-- gubernatorial appointment of David Copple to the State Highway Commission.

**KELLY:** Senator Moser, you're recognized to open.

**MOSER:** Thank you, Mr. President. January 30, the committee heard the appointment of David Copple to serve as a member of the State Highway Commission. He's being reappointed to the commission to represent District 3, which is in northeast Nebraska, for a term that will run until September 13, 2029. It's his second term as a member of the State Highway Commission. He lives in Norfolk, where he's an attorney and practices law there. He appeared before the committee and addressed all questions put to him, and the committee advanced the appointment on a unanimous vote. I would ask for the approval of the TNT Committee report recommending the appointment of David Copple to the Nebraska Highway Commission.

**KELLY:** Thank you, Senator Moser. Seeing no one else in the queue. You're recognized to close. And waive. Members, the question is the adoption of the committee report from Transportation and Telecommunications. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 30 ayes, 0 nays on adoption of the committee report, Mr. President.

**KELLY:** The committee report is adopted. Mr. Clerk.

**CLERK:** Mr. President, next item: communication from the Transportation and Telecommunications Committee, a committee report concerning the gubernatorial appointment of Richard Meginnis to the State Highway Commission.

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**KELLY:** Senator Moser, you're recognized to open.

**MOSER:** Thank you, Mr. Lieutenant Governor. January 30, the committee held the confirmation hearing for Richard Meginnis of Lincoln to serve as the District 1 representative on the State Highway Commission. He's been appointed to serve a term that began on September 14, 2023 and will expire September 13, 2029. He's a new appointee to the commission. District 1 represents southeast Nebraska. He's a past member and chair of the Lincoln City Council. And as past chair of the public school board, he served on the Lincoln Mayor's Streets and Roads Committee, and served as a member of four different Lincoln comprehensive plan committees. Mr. Meginnis appeared before the committee, answered all questions, and the committee recommends his appointment on a unanimous vote. Mr. President, I would ask for the approval of the TNT Committee's report recommending the appointment of Richard Meginnis to the State Highway Commission.

**KELLY:** Thank you, Senator Moser. Seeing no one else in the queue. You're recognized to close. And waive. Members, the question is the adoption of the committee report from Transportation and Telecommunications. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 32 ayes, 0 nays, Mr. President, on adoption of the committee report.

**KELLY:** The committee report is adopted. Mr. Clerk.

**CLERK:** Mr. President, next item: committee report from the Transportation and Telecommunications Committee concerning the gubernatorial appointment of Heath Mello to the State Highway Commission.

**KELLY:** Senator Moser, you're recognized to open.

**MOSER:** Thank you. On February 5, the committee held a hearing on the appointment of Heath Mello to serve as a member of the State Highway Commission for a term that began on October 25, 2023 and runs through September 13, 2025. Mr. Mello appeared before the committee and answered all questions that were raised with him. He's a new appointee to the commission and represents District 2, the-- District 2 on the commission, which is Dodge, Washington, Douglas, Sarpy, and east-- eastern Cass Counties. Mr. Mello is currently the president and CEO of the Omaha Chamber of Commerce and previously represented south Omaha in the Legislature for eight years. He was vice president of external

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relations for the University of Nebraska, and served as a member of numerous boards and commissions. Committee recommends his confirmation and voted 8-0 to recommend his appointment. Mr. President, I would ask for approval of the committee report on the appointment of Heath Mello to the State Highway Commission.

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

**FREDRICKSON:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. I just want to rise briefly in support of Mr. Mello's nomination. He is a constituent of mine, so I feel obligated to hop on the mic and just share a little love his way. As Senator Moser mentioned, he's a former State Senator, former Chair of Appropriations. He, I think, has shown throughout his life a willingness to serve the people of Nebraska, whether it's in the capacity as a State Senator but also in his work with the university and now at the Omaha Chamber, so. In his hearing, he presented as incredibly knowledgeable of the questions that were asked. And so I would just ask for folks to vote green for Mr. Mello. Thank you, Mr. President.

**KELLY:** Thank you, Senator Fredrickson. Seeing no one else in the queue. Senator Moser, you're recognized to close. And waive. Members, the question is the adoption of the committee report from Transportation and Telecommunications. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 29 ayes, 0 nays, Mr. President, on adoption of the report.

**KELLY:** The committee report is adopted. Senator Clements would like to recognize Dr. Dale Michels of Walton, Nebraska as the physician of the day. Please stand and be recognized by your Nebraska Legislature. Senator Fredrickson has 50 guest in the north balcony: members of OutNebraska group. Please stand and be recognized by your Nebraska Legislature. Mr. Clerk for agenda items.

**CLERK:** Mr. President, next item on the agenda: LB685, introduced by Senator Lowe. It's bill for an act relating to gaming; renames, transfers, and changes provisions relating to the Mechanical Amusement Device Tax Act; transfers powers and duties from the Department of Revenue to the State Racing and Gaming Commission; changes the age required to play a, a cash device; provides a tax on cash devices; increases penalties; harmonizes provisions; eliminates provisions relating to the power to tax under the Mechanical Amusement Device Tax

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Act; provides a duty for the Revisor of Statutes; provides an operative date; repeals the original section; and out-- outright repeals Section 77-3008. Bill was read for the first time on January 18 of last year and referred to the General Affairs Committee. That committee placed the bill on General File. There are committee amendments, Mr. President.

**KELLY:** Thank you, Mr. Clerk. Senator Lowe, you're recognized to open.

**LOWE:** Thank you, Lieutenant Governor. I wish to thank my committee: Vice Chair Senator Jana Hughes, along with Tom Brewer, John Cavanaugh, Jen Day, Brian Hardin, Rick Holdcroft, and Jane Raybould. And we hope a quick recovery for Senator Raybould. Good morning, colleagues. I am here to introduce the first General Affairs Committee priority bill for 2024: LB685, as amended by AM2382. I'll move right on to the amendment of AM2382, if that's fine.

**KELLY:** You're welcome to open on the committee amendment, Senator.

**LOWE:** Thank you, Lieutenant Governor. You may have heard them called gray devices, or skill games, or cash devices. You may recognize them as a slot machine, as they are very similar in looking. And you have probably seen them in bars, restaurants, and gas stations. We have a Supreme Court decision from 2011 that declared the game of BankShot a game of skill, not a game of chance, and it makes them legal in our state. In 2019, we passed LB538, which was a good first step in managing these devices. But as more and more of them have been distributed across the state, I've been working with the Department of Revenue and the industry partners to create this bill to be a better regulate-- to better regulate this industry and keep illegal games from popping up across the state. The first part of AM2382 replaces all the language from LB685, which Senator Briese brought last year, and creates a regulatory framework for skill games and creates a 5% tax on the net gaming revenue from each machine. We want to keep the Mechanical Amusement Device Tax under the Department of Revenue, and give them some expanded oversight and monitoring of these games. This amendment requires creating a central server that each game must be connected to for reporting purposes. Right now, reporting on the revenue of these games is completely voluntary. We're proposing an annual five-- an annual fee of \$5,000 be pai-- pai-- to be paid by the manufacturers of these games. We are also proposing that distributors of these machines across the state pay an annual fee of \$100 per machine they dis-- that they distribute, up to a maximum of \$5,000, or 50 machines. We are not increasing the fees on the local owners and operators of these machines. They still only have to pay the annual

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\$250 fee for a licensing sticker from the Department of Revenue. Another requirement in this amendment is that the operator of these skill games must generate at least 60% of their gross operating revenue through other sources than skill games they have-- that they have at their place of business. This was added because we are now seeing skill games set up as de facto casinos across the state, where the only thing occurring at that location is skill games. No other revenue is being generated. This language would allow bars, restaurants, grocery stores, gas stations, and others to continue to operate the games they have at their locations while tra-- cracking down on the locations with no other business generating revenue. The 5% tax we are proposing will be used in part to help lower property taxes. 40% of the revenue generated will go to the Property Tax Credit Cash Fund. 20% will go to the Charitable Gaming Division of the Department of Revenue to build the central server and pay for enforcement of this act. 10% will go to the Nebraska Tourism Commission. 2.5% will go to the Compulsive Gamblers Assistance Program. 2.5% will go to the General Fund. And the remaining 25% will be spit-- split evenly between the city and county where the skill game is located. This amendment was voted out of committee on a 7-0 vote, with one senator absent. The only opposition at the hearing was from small distributors because the-- we had originally set their annual fee at \$5,000, but have changed this significantly as we are not trying to put anyone out of business. The second part of AM2082 amends LB836 into this package. LB836 is a bill I brought that deals with the regulation of co-branded alcohol. Co-branded alcohol is defined as an alcoholic liquor beverage containing the same or similar brand name, logo, or packaging as a nonalcoholic beverage. These are things like alcoholic Mountain Dew, SunnyD with alcohol, or alcoholic Green-- Arizona Green Tea. Many of these alcoholic drinks are packaged in a way that looks nearly identical to their nonalcoholic counterparts. LB836 is designed to ensure these alcoholic brands are not sold next to the-- these nonalcoholic brands. LB836 requires that these co-branded products are not sold adjacent to soft drinks, juice, bottled water, candy, snack food containing cartons, or youth-oriented images. One caveat in this is that stores smaller than 2,500 square feet can-- the products can be sold adjacent to these items, but a clearly visible sign say-- that says this product is an alcoholic beverage available only to persons who are 21 years of age or older must be present with the product. LB836 is based on a rule of-- the Illinois Liquor Control Commission enacted this summer-- or, excuse me, last summer. During the hearing and aft-- after-- and thereafter has been some discussion about the term "adjacent" and how that will be exactly interpreted. I believe this should be the de-- best deter--



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determinant during rules and regulations. I want to thank the different interest groups that worked with me on this bill. My office has had a lot of conversations with grocery stores, beverage companies to find language that satisfies all sides. I believe LB836 strikes a good balance of regulatory willingness and safety while ensuring we are not putting a major burden on private businesses in Nebraska. This bill was amended on a 7-0 vote. Industry partners, Liquor Control Commission, Project Extra Mile, and other advocacy groups were all in favor of this piece of legislation. Thank you, Lieutenant Governor.

**KELLY:** Thank you, Senator Lowe. Returning to the queue. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. Lieutenant Governor. I believe I'm in support of the amendment and the bill. I know that my local convenience store has a couple of these machines that were discussed. Would Senator Lowe yield to a question or-- some questions?

**KELLY:** Senator Lowe, would you yield to some questions?

**LOWE:** Yes, I would.

**CLEMENTS:** The machines that are in my local convenience store in Elmwood, when I see the people playing those, it looks pretty much like a slot machine except they put about-- there's about one extra tap. They tap the screen. Is that about all you have to do?

**LOWE:** Different machines are different. But yes, that, that is one, one of the cases.

**CLEMENTS:** So it's not much different than a slot machine. Is that about the only difference?

**LOWE:** Yeah. And that's why the Supreme Court ruled them as a game of skill and not a game of chance. But it, it-- you have to have great skill in order to win on this machine.

**CLEMENTS:** Does the player receive-- get a cash payment or just credits to play more games?

**LOWE:** They receive a cash payment.

**CLEMENTS:** All right. And is there a current tax on the profits being made?

**LOWE:** Just voluntarily.

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**CLEMENTS:** All right. Will there be any new costs to my local store for-- if this bill passes?

**LOWE:** No, there won't be any costs to the local business or-- yeah. They, they-- there will be no cost to them. The \$250 decal fee has already been on these machines-- or, or, on the legal machines.

**CLEMENTS:** All right. Thank you. And when you were talking about the breakdown of the distributing the new tax-- first of all, was that a 5% tax on the profits?

**LOWE:** Yes. Yes, it's a 5% tax on the net.

**CLEMENTS:** On the net. And I missed the-- was the first item 40%? Where's the 40% going?

**LOWE:** It will go to the Property Tax Credit Cash Fund.

**CLEMENTS:** Oh, good. That's great.

**LOWE:** We're, we're reducing property taxes.

**CLEMENTS:** Thank you. And the next one was 20%.

**LOWE:** Yes. It would go to the gaming division and-- with the Department of Revenue to help build and maintain the central server and pay for enforcement of this act.

**CLEMENTS:** Thank you. And I got the other ones were tourism, gambling assistance, State General Fund. And then city and county get 12-- 25%. Was that split equally?

**LOWE:** Yes. It, it's split equally because some of these machines are out in the county and some of the machines are in the cities.

**CLEMENTS:** Oh. If it's in the county, the county would get all of that--

**LOWE:** Yes.

**CLEMENTS:** --correct?

**LOWE:** Yes.

**CLEMENTS:** Thank you. All right.

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**LOWE:** That's also to help pay for enforcement with the cities and the counties to, to help out with enforcement of these machines.

**CLEMENTS:** Thank you. Then I was looking at the labels of these drink products, and I see they might say Hard Mountain Dew instead of Mountain Dew. That's about the only distinction. Is that correct?

**LOWE:** And then right above that, it says "5% alcohol by volume."

**CLEMENTS:** Oh. All right.

**LOWE:** But it's, it's in very small print and, and hard to find.

**CLEMENTS:** Thank you. Well--

**LOWE:** If, if you're a child, you may be mistaken.

**CLEMENTS:** Well, I support separating the alcohol products from the nonalcohol products. I'm glad to see that you're doing that. And that, that's all the questions I had. Thank you, Senator Lowe. Thank you, Mr. President.

**KELLY:** Thank you, Senators Clements and Senator Lowe. Senator Kauth, you're recognized to speak.

**KAUTH:** Thank you, Mr. President. May I ask Senator Lowe a question, please?

**KELLY:** Senator Lowe, would you yield to some questions?

**LOWE:** Of course.

**KAUTH:** I have two. First of all, these are crazy good mock-ups. That's scary how close they look to the real thing. Do those ring up as alcohol? So when you go through and, and scan-- so a kid probably couldn't accidentally buy one if there's a scanner or something, correct?

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

**KAUTH:** OK. And then are they taxed? Are they at the percentage that they are also taxed?

**LOWE:** Yes. They're taxed according to the liquor.

**KAUTH:** OK. That's all the questions I have. I yield my time.

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**KELLY:** Thank you, Senators. Senator Jacobson, you're recognized to speak.

**JACOBSON:** Thank you, Mr. President. Well, I would just say that I'm going to support the bill. And I appreciate all the work that the committee did on this. I did get a chance to speak with Senator Lowe off-mic this morning to really discuss some of the concerns that I had. And, and I think this is a beginning, but I think there's a lot more that's probably going to need to be done in future years. I can tell you that North Platte has a proliferation of, of these games of skill. Let's face it, they're, they're basically a modified slot machine. And this is gambling. And there's not a lot of skill involved here. It's more luck. And the concerns that we have that are largely being taken care of with this bill, the city of North Platte did impose a \$500 per machine tax that went into effect this year. So according to this bill, they would no longer be able to do that, and they would lose that revenue. However, they would pick up some revenue from the new tax being charged that would be split between the county and the city. But I think the bigger reason that they put the tax in place was to try to pay for the additional law enforcement. And I think this bill also is working towards creating a situation where you can't have a standalone facility, which I think is a good step forward. Right now, they're-- it's been the Wild West, and that's what we've gotten because the western part of the state's been shut out of having a casino and a racetrack, we're getting these games of skill in-- instead. They are becoming drug magnets, where you're finding law enforcement's being called to some of these facilities 3:00 in the morning because they're running 24/7/365, no one manning those facilities. So it's a place for drug dealers to show up, for drug users. And it's becoming a real problem, and it's costing our law enforcement time and, and energy to be taking care of that. And, and consequently, it's costing the city and the county additional dollars. So I'm glad to see that this is a step forward. I would prefer that the tax were set at the same level as slot machines for casinos, but I think this is a step forward in the right direction. There are some bars and convenience stores that have them that are running them responsibly, so I'm not really wanting to necessarily take revenue away from them. But we've really got to address the standalones, which I think this bill will do. So with that said, I'm going to support the bill and move it-- help move it onto Select File. But I think this is something I'm hopeful in the future we'll be able to continue to look at because there are going to continue to be problems around this particular activity. And I think we need to stay-- we need to get in front of it instead of chasing behind it. So thank you, Mr. President.

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

**BLOOD:** Thank you, Mr. President. At this time, I do not stand in support of the amendment and the underlying bill once amended. But I would ask that Senator Lowe yield to some questions.

**KELLY:** Senator Lowe, would you yield to some questions?

**LOWE:** Yes, I will.

**BLOOD:** So Senator Lowe, the issues that I have are-- is directly in reference to LB836, in, in reference to the co-branded alcoholic beverages. Would you say that this is a new issue with alcohol, that things have been co-branded?

**LOWE:** It is an issue that has come about probably in the last eight to ten years.

**BLOOD:** So not a new issue.

**LOWE:** Not a new issue.

**BLOOD:** And what we find is people are marketing to younger people. Can you tell me the difference between apple cider and hard cider?

**LOWE:** Alcohol.

**BLOOD:** OK. And if you were to buy the hard cider, it would say "hard" on it, just like these can say on them, correct?

**LOWE:** Yes.

**BLOOD:** OK. So if I understand your bill correctly, it's more about how they market it. So you don't want things directly touching, not in the same general area. Is that correct?

**LOWE:** Basically, that's correct, unless you're in a store of less than 2,500 square feet.

**BLOOD:** OK. So like a quick shop?

**LOWE:** Like a quick shop or a small grocery store.

**BLOOD:** And so if indeed you are a business that does that, you could potentially have your license suspended or canceled, the bill said. Is that correct?

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**LOWE:** No. As long as you put the signage up that it-- that these contain alcohol--

**BLOOD:** So they can still be touching. But if there's a sign that says they contain alcohol, then it can't be suspended--

**LOWE:** Yeah.

**BLOOD:** --is what you're saying? OK. I need to reread that part then. So I think back to when people try and cross-sell in grocery stores and liquor stores, Senator Lowe. Would you say it's unusual to see things like orange juice and vodka together in liquor stores or grocery stores?

**LOWE:** Yes. But most of the time, they're in the alcohol section.

**BLOOD:** In the alcohol section. And the alcohol section is for 21 years of age or older.

**LOWE:** Most of the time, yes. In a lot of grocery stores, they will actually close that aisle off during Sundays.

**BLOOD:** Here, here's my concern, Senator. And it isn't that I don't-- that I approve of this, because I don't approve of this, but I'm also not somebody's-- I'm my, my children's parents. And the concern that I have is this is a consumer issue, I believe, and I'm not sure a General Affairs issue. And so that's the concern that I'm having about it, is that it's clearly labeled that it's alcohol. It has alcohol content on it. And yes, it does mirror products that are nonalcoholic, but thanks to the UPC codes, we know that when those things are rung up, they ring up as alcohol, correct?

**LOWE:** That is correct. Although, I did run by a grocery store the other day where their computer system went down and they were hand-checking everything.

**BLOOD:** But then they would be asking for IDs, correct?

**LOWE:** They should.

**BLOOD:** Which we know that, no matter how much legislation that we pass--

**LOWE:** But, but if, if, if the cashier does not see that little 5% alcohol up there on-- in the, in the very top of the Hard Mountain Dew

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can or the little round circle in Arizona Hard Tea that says 5% by volume--

**BLOOD:** But it also says "Hard Tea," correct?

**LOWE:** It does say Hard Tea, but--

**BLOOD:** Like the difference between hard cider and cider.

**LOWE:** Yes.

**BLOOD:** So, so do you see-- hear what I'm saying, is that I, I worry that this is a consumer issue and that we're making it a morality issue. I mean, we all know that if kids are going to get alcohol, it won't matter whether it's marked Mountain Dew or Hard Mountain Dew or not. Someone's going to buy it for them illegally and those kids are going to get it. My, my concern is that, where is this going to stop? Is this going to open a door to us where we di-- disagree with the marketing because we have a personal concern that kids are going to get access to this alcohol-- which they're going to get if they want it anyway, regardless of how it's labeled. And that's, that's what's sticking in my craw, is that-- do I think young people should drink? No. And Nebraska's known for having a very high rate of, of college students who binge drink.

**KELLY:** One minute.

**BLOOD:** But I also understand that when people market things, they market them to a certain demographic, and that's what they're doing right now. And so my concern is, why are we involved in the marketing aspect of it? The morality part of it I don't think is our job. And so I'm going to listen to the debate. But right now, I do have concerns about the bill, Senator Lowe. And I appreciate you taking time to talk to me. Thank you, sir.

**KELLY:** Thank you, Senators Blood and Lowe. Senator Lowe, you're recognized to speak.

**LOWE:** Thank you, Lieutenant Governor. And thank you, Senator Blood, for having that debate with me. Alcohol is one of the most highly regulated things that we have in this state. And what we're trying to do is regulate alcohol. So this falls right in line with what we should be doing out of the General Affairs Committee. And I appreciate your, your, your conversation between, between us. Earlier this-- in-- or, late in December, the Legislative Research distributed out to your offices this booklet, and it, it's the "Is It Better [SIC] to be Lucky

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or Good? The Wager Between Skill Game and Gray Machine Gambling" from the Legislative Research Office. So if you would have your offices send this up to you, or, or dig it out of the pile in, in your office or your-- on, on the cabinet, it'll give some ex-- explanation of the skill game industry. And when these ready-to-drink cocktails first came out, you-- it-- they were plainly marked as a major brand of alcohol plus coke or soda or sprite or something like that. So you knew it was a, let's say, a Jack and Coke or a Jim Bean Cola. You knew on that can exactly what it was because of the labi-- labeling there was of that-- of the alcohol. Now, now the cans are coming out with a very similar design that their pop product has, such as the Mountain Dew, Hard Mountain Dew. Very similar design. It was first explained, well, they're different colors. But when you look at the bottom of the page that I distributed out, Mountain Dew comes in all sorts of colors and designs. So when a kid grabs something from the counter and Mom doesn't see that he's putting it in the basket and it checks through and the mother's of age and they go out in the car and the kid says, well, can I have my Mountain Dew that I grabbed? And Mom just reaches in the sac and hands it to them. Because they were in a pop aisle or something like that, we don't want to have that mistake happen. Where if it happened in an, in an aisle where there's alcohol, that mother would probably be a little more concerned about what her child puts in the basket. As far as the cash machines, they are proliferating across the state. There are more and more of them, and the money is not being reported accurately. And we want to get a control on that. We-- right now, they have stickers from the Department of Revenue on them. But those machines with the stickers on will be hooked up to the central server. And those that are not, they don't want to be hooked up to the central server so we can get a good handle on these machines. I put the Nebraska tourism in there because, as far as receiving 2.5% of the, the proceeds to the Revenue Department-- because I believe, like all gambling, it's part of revenue-- or, part of tourism to get people to come to our state. We've been hearing how people leave our state for gambling, and I just want to make sure we get some of that money back that our people are putting into these machines. Thank you, Lieutenant Governor.

**KELLY:** Thank you, Senator Lowe. Senator Dorn, you're recognized to speak.

**DORN:** Thank you, Mr. Lieutenant Governor. Talked to Senator Lowe a little bit about some of the questions I had on this. And Laurie from his staff came over and talked to me, so I got most of mine answered. But I-- the one of them that I did have for Senator Lowe was manufacturers. In here, manufacturers are going to pay \$5,000 a year.



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And that is not-- each indi-- manufacturer may supply, I don't know, 10, 20, 50 different machines or whatever here, maybe 100 or 150, but it's each manufacturer, whether in state or out state. There's several that are-- Laurie said there are several that are in state are manufacturers, but they will pay that every year. One of the other questions that-- didn't ask Senator Lowe, but one of the questions I got to ask Laurie then is out of state-- so if there's a company from out of state, Topeka or wherever, and they bring machines into Nebraska, now they, they ha-- they were responsible for or supposed to pay income tax before-- this puts this so that we can track them better and that we know that they're paying the income tax so that we don't have somebody from in Nebraska move out of state and now put the machines in here and not pay income tax. So I think that's one very important part that we need to this. I like some of the things that Senator Lowe and them have put in here. As far as this bill goes, I plan on supporting the amendment and the bill. I, I like how they, I call it, tighten up some of these, maybe not loopholes, but things that may be out there that are kind of gray and that people maybe aren't understanding that they need to do this because I also-- just as Senator Lowe mentioned, these things are becoming more common. Just about every bar has them anymore. If not, the bars are going to have them. They are being used very much. I see people at them a lot of times. So I, I am thankful for the committee. I'm thankful for them looking into this and making sure that, as we do have these machines out there, that they are being regulated correctly and adequately so that we don't have more of an issue, I call it, with gambling than we are, are having. I know part of the articles I've read here over the weekend, the Super Bowl, they expected all-time record wagering on the Super Bowl. And, you know, yes, we can wager, but if somebody is wagering that money, not everybody's winning. And how many people are losing and what kind of other social issues or what other do we have from those? So thank Senator Lowe and the committee very much for looking into these. Thank you.

**KELLY:** Thank you, Senator Dorn. Senator Hughes, you're recognized to speak.

**HUGHES:** Thank you, Mr. President. I rise in support of AM2329 to LB685. Am I-- I'm wrong. AM2382. OK. Is that better? Sorry. I'm going to say before I start down my list, I was driving by a place in Lincoln that has some of these games, and they had a digital display out front. And it said, try your luck at our skills game. And I found that kind of humorous. Anyway, I'd like to share with my colleagues that Senator Lowe, as Chair of the General Affairs Committee, did an exceptional job in working with everyone to make this a better bill.

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There were quite a few animated folks at the hearing, and Senator Lowe really listened to their concerns and committed to working with the stakeholders involved to make-- just to hear their concerns and make adjustments. For retailers who already have a liquor license-- and I'm going to apologize if, if we've talked through this on the floor already. We had an ag hearing, so I was out for about half an hour. For retailers who already have a liquor license, they will not have to get another background check for their cash machines. The original bill required distributors of these devices to pay a \$5,000 fee, and the amendment changes this to \$100 per machine up to a max of \$5,000. The amendment also requires retailers to generate at least 60% of their revenue from other sources than cash devices, and that prevents businesses from becoming de facto casinos with only cash devices and little else. The amendment also exempts fraternal organizations like your Eagles Club or VFWs from this requirement. It places a 5% tax on net operating revenue versus the original charge of \$1,000 per device. And this is a much-- is much more fair, as machines that don't generate as much revenue won't generate as much in tax, and vice versa. Those that make a lot of money will pay more in tax. It's much-- inherently much more fair than a flat charge per device. The amendment also exempts fraternal organizations from paying that 5% tax. Most importantly, it requires that all retailers in the state confirm the age of persons wishing to play these cash devices. No one under 21 is allowed to play these. The amendment also prevents the retailer from charging a fee or requiring a tip when a person collects their winnings. And it just-- this bill provides much needed regulation and oversight into this industry that has really grown. It will protect minors. It protects reputable businesses and organizations using these devices to supplement their revenue. It will drive out the bad actors and the warehouse-style casinos that are operating on the fringe of the law. On the other side of this, this bill also includes the co-branded alcoholic beverages, like the Hard Mountain Dew from being displayed adjacent to regular Mountain Dew or bottled water, et cetera. In short, we need to keep those products away from kids in the store as well. So this is a good bill. It protects kids. It protects reputable businesses. And I urge you, my colleagues, to support this and add the amendment and advance it to Select. Thank you.

**KELLY:** Thank you, Senator Hughes. Senator Lowe, you're recognized to speak.

**LOWE:** Thank you, Lieutenant Governor. And, and Vice Chair Hughes took all my thunder because that was pretty much what I was going to say. So I, I won't go back on everything that she said. But we did try to

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work with everybody who showed up to the committee hearing. And we, we tried to come to some consensus. Laurie, my staff member, did a great job of taking notes and, and seeing their concerns. And so we wanted to make sure that everybody had a voice in this. And we did listen. You know, by moving-- we, we had it at a flat \$5,000 fee for distributors to distribute the machines. And what we found out was some distributors have ten-- thousands of these machines, and some have as many as four or five or, or ten. And so it really wasn't fair for those that only have a few machines to pay that \$5,000 where somebody that has thousands of machines, they, they could distribute that over the machine-- number of machines and it doesn't worry them too much. But if you only have a few machines, that's, that's quite a chunk to take out of each person. So we lowered it down to \$100 per machine. And, and then it graduates up to, if you have 50 machines or more, then you pay the \$5,000. So we took into account the small companies. We don't want to run them out of business. But we do need some money to run this program. We created the 60% for exemption for business and 40% for the, the, the skill games because we want to make sure that businesses on-- don't get into business just to have these machines in their place of business. It's-- if you run a gas station or a grocery store, if you're not doing more in, in groceries or, or gas or, or other things than what you're taking in through these business, you may have a, a bad business model you're following and may need to adjust. And we removed the "failed to demonstrate good character, honesty, and integrity" from reasons for denial of the license by the department because most of these are good businesses. And also, the background check. Many of these businesses are liquor stores, convenience stores, bars, restaurants that have already done a background check. And for them to do another background check just, just didn't make sense. So we tried to work with them on that, that you've already done a background check, so we'll count that good. And those that have not done a background check, well, then, yes, you do need to do a background check. And the 5% tax just seems to make sense because getting it out of committee, we tried a 20% tax and it wouldn't come out of committee. And it's vital that we implement all these things that we're trying to do in this bill and this amendment so that we have better control on these games of skill. Or as Senator Hughes said, there's a sign saying, try your chance at our skill games. Thank you, Lieutenant Governor.

**KELLY:** Thank you, Senator Lowe. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. After speaking with Senator Lowe previously, I've had another thought. I have a bill, LB1067, which

would phase out the inheritance tax in Nebraska. And the counties are wondering how they're going to recover some of the revenues that there-- they would lose. And I see that 40% of the tax revenue is going to be toward a pop-- property tax credit. The, the-- excuse me-- proposed tax revenue total is \$6.4 million. 20-- 40% of that would be \$2.5 million of property tax credits that, that will help taxpayers. Then 25% is split between the city and the county-- is assuming this-- counties will get just 12.5% for their share. It's \$807,000 a year. Not a large amount, but it's some extra revenue for the county. And the current casino situation. We have just six casinos, and only the counties in-- where those casinos are are going to get this. They get that tax. But this tax, there's these-- like, my county has no casino, but my county does have these machines. And so they would be getting some new revenue from the taxes collected on these new skill machines. And so I'm-- was pleased to see that, that it's going to be more of a statewide benefit to local entities rather than just six locations where there are casinos. And so I just wanted to point that out, that there is a bill that's going to phase out some revenue for counties, but this is a bill that will add some revenue to the counties. Thank you, Mr. President.

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

**J. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues. Well, I rise in support of AM2-- AM2382 and LB685. And I just did want to-- I appreciate the work that Senator Lowe has done on this bill. Those of you who are not on the General Affairs Committee don't really know what probably went into this. The first hearing of this bill when it came up last year was one of our longer hearings we've had in, in General Affairs, and it seemed like there was no path forward for the bill. And then it was-- at that point, it was a Senator Briese bill. And then Senator Lowe brought an amendment this year that changed it in a, a, a big way, and was still a pretty contentious hearing. But there was a lot of constructive criticisms and suggestions as it pertained to the regulation of the games of skill. And then after that hearing, Senator Lowe went and took those criticisms and integrated a lot of them into this bill. Like all things, I don't think it's perfect at this point, but I do think it demonstrates a great amount of work and compromise to get to a place that more people can live with than could originally live with this bill. So that's why I was a, a yes vote on the amendment in committee and a yes vote on the bill to come out. There are other parts of the bill besides the game of skill part. The part about-- you all got handed out the confusing hard sodas next to regular sodas. And I think that's a-- that is a good bill as

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well. I think both the grocers and the Project Extra Mile came in favor of it. So-- I'm trying to remember off the top of my head what else was in this bill because I didn't look. I was just talking about that part. That's about it, according to Senator Lowe. But again, I would encourage your green vote on AM2382 and LB685. Thank you, Mr. President.

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

**HUNT:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. The only part of this bill-- well, I served on General Affairs committee for two years, and it was, you know, a committee I found myself on that I didn't have a lot of experience with the subject matter. And sitting on that committee talking about, you know, a lot of the, the sins in Nebraska get regulated through the General Affairs Committee, whether it's alcohol or cigarettes or vaping or gambling. And-- so there's a lot of personal views about morality that come in with that that we can have honest and fair debates about what the role of government is to regulate some of these things. You know, how much are we going to trust Nebraskans to regulate themselves to raise their own families with the values that they want? Can we trust people to gamble in Nebraska? How much do we need to regulate what people put in their bodies? If they vape, if they smoke, if they drink alcohol, whatever. The only part of this amendment, AM2382, that gives me pause-- and I-- you know, it's one of these things where stuff goes through committee and, you know, committee members do the work in committee to come to a place of compromise or they think it's a good idea and there's nothing anyone on the floor is going to do to stop it. But I just don't support things that tell businesses and companies and brands too much about how they're going to do their branding, I guess. And I'm reading the amendment here and they dis-- they define co-branded alcoholic beverage saying it has the similar brand name, logo, or packaging as a nonalcoholic beverage. And Senator Lowe helpfully passed out this handout that shows some examples. There's pictures of Mountain Dew that is not alcoholic. And then there's pictures of Hard Mountain Dew, which does contain alcohol. And you can see the similarity in the branding. And then a drink called Bang and then Arizona Green Tea-- which I think we all kind of-- every-- everyone my age drink that all through high school-- and then Jarritos, and the branding there looks pretty different to me. But the problem I have with this amendment is it says, except as provi-- da-da-da-da. You shall not display any co-branded alcoholic beverage immediately adjacent to any soft drink, fruit juice, bottled water, candy, or snack food portraying cartoons

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or youth-oriented images. That's where I think, as government, we're getting a little prescriptive and a little bit in a gray area in terms of how the interpretation of that law is actually going to be carried out in real time. How is this actually, in reality, going to be applied? What Senator Lowe or Senator John Cavanaugh or what other people on the General Affairs Committee think is a cartoon or youth-oriented image, is that necessarily something that we should be defining? You know, there's, there's cartoons that are made for adults. There's anime that is very adult that adults consume that kids don't watch, and we don't regulate that. We don't say that can't be on TV. Although, when I was growing up-- I grew up in Blair, Nebraska-- and we actually had a citywide vote when I was a kid to ban MTV from Blair because of the show Beavis and Butthead. And parents thought we shouldn't be saying "butt." And so that-- they banned the whole channel from Blair, Nebraska. But that was a local control thing, so maybe that's fine. But I'm saying, for the Nebraska Legislature to say you can't put alcohol next to something with a cartoon on it, to me, it's a step too far for government. I'm probably going to be a present, not voting on AM2382. But I hadn't--

**KELLY:** One minute.

**HUNT:** --heard anybody make this point-- thank you, Mr. President-- and thought-- you know, I haven't said much this year and let me share my thoughts about that for my constituents to hear. Another thing is-- I'm looking through this packet of these beverages. There's all kinds of things on here that could be regulated that aren't. You know, none of these beverages have cartoons on them, actually, if you ask me. Maybe someone could construe these Mountain Dew branding with, like, it looks like a tattoo design of an eagle or a bear. Maybe someone could say this is a cartoon. To me, it's not. The Arizona Green Tea, it says "premium vodka." What's premium vodka? Is that defined in statute anywhere? What's premium? I'm also curious if any of our colleagues have any personal experience with these beverages and have ever been confused. You know, were you trying to buy a Baja Blast and you accidentally got the alcoholic version? I'm curious. I'd like to know. Thank you, Mr. President.

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

**J. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator Hunt, for bringing up this issue a little bit more and digging in. I, I like to dig in on this kind of stuff too. And I do think it's the responsibility the members of the committee to kind of help those who

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aren't on the committee understand issues and, and see where they've gone through. And so my understanding of this particular bill and the reason that I support it was-- and I, I would generally share Senator Hunt's opposition to government weighing in too much in what people are doing. And I think we have to in-- involve ourselves only when absolutely necessary. Though I think the-- the reason I supported this I think is there's a risk of confusion. And first, I would say that the labeling requirement is about the displays in the store and not as it pertains to the bottling itself. Because I think if we got involved too much in what is on the bottle itself, that's getting into the purview of the feds and then these bottling companies or pack-- co-packers would have to make a different bottle for Nebraska or a different container for Nebraska than they do for other states. And I think that gets really-- a lot more complicated than we're handling here. What this says is that the hard version of-- on the front page, we got Mountain Dew, Hard Mountain Dew-- has to be either in a separate aisle from the soft versions or in a department that is specifically set aside for alcohol. So a liquor, a liquor store like-- and I used the example of a grocery store that's actually near this-- other Senator Cavanaugh's house, has a separate section, separate door you walk into that sells most of the beer and wine that's sold in that store. And then in that section, they do have some soft drinks. And those soft drinks can be closer to or in the same section because that section is specifically for selling hard beverages. But in the regular grocery store, if you don't have a separate liquor section-- so the grocery store that's near my house-- that time, those-- these hard beverages do have to be separated from the soft beverages by more distance. So they can't be on the same shelf or in that same section. And the part about the cartoons-- and somebody can correct me if I'm right-- or, wrong about this-- is that that's more about the signage in the store and that the store displays has to be displayed in a clear way that it's evident that this is a hard beverage, that it contains alcohol. And so it's just about making sure that people don't accidentally go up and buy-- you know, think they're buying Mountain Dew. And I will tell you-- maybe this is an embarrassing story or not an embarrassing story, but it's happened more than once to me-- where my wife drinks Diet Mountain Dew and I have accidentally bought her regular Mountain Dew. And to Senator Hunt's point, we shouldn't base laws on my perceptions, but that's just an example of where I was intending to buy something and I didn't quite read the label appropriately. And she was not happy with that. So I agree that we need to tread lightly when we are telling companies, telling businesses, telling citizens what they need to do and what they should do. But I do think this is a small step in sort of the government

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protection of health and safety, of foodstuffs in particular, to ensure that people are getting what they think they're getting and we're not accidentally buying those other things. So that's why I voted for this, and that was my interpretation of what this bill does. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Seeing no one else in the queue. You're recognized to close, Senator Lowe.

**LOWE:** Thank you very much, Lieutenant Governor. This bill is a long time in coming, coming. I'd like to thank now-Treasurer Briese for bringing the bill and, and being a, a champion of trying to bring these machines under control and taxing them and, and letting us know exactly what-- how many machines out there are legal or not legal and to know how much they're actually doing. We may find out they're not doing much at all. We don't know. But this is an important bill. And I wish to thank the committee again and all those involved. The-- as far as enforcing the, the cartoons and things like that, we have a great liquor commission in the state of Nebraska, and they will do a good job of being lenient if they need to be and strict if they need to be. That's what they've proven to be in the last, well, almost eight years that I've been here. So with that, I'd like to close and ask for your green vote on AM2382 and LB685.

**KELLY:** Thank you, Senator Lowe. Members, the question is the adoption of AM2382. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 31 ayes [SIC-- 33], 1 nay, Mr. President, on adoption of the committee amendment.

**KELLY:** AM2382 is adopted. As previously stated, there, there is an amendment. Mr. Clerk.

**CLERK:** Mr. President, Senator Lowe would offer AM2035. Mr. President, I have a note: Senator Wit-- Lowe would withdraw AM2035.

**KELLY:** Without objection, it is withdrawn.

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

**KELLY:** Seeing no one else in the queue. Senator Lowe, you are recognized to close. And waive. Members, the question is advancing to E&R Initial LB685. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.



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**CLERK:** 31 ayes, 0 nays on advancement of the bill, Mr. President.

**KELLY:** LB685 advances to E&R Initial. Mr. Clerk for items.

**CLERK:** Mr. President, new A bill: LB829A from Senator Blood. It's a bill for an act relating to appropriations; to appropriate funds to aid in the carrying out of the provisions of LB829. Additionally, your committee on Enrollment and Review reports LB605, LB303, LB317, LB235, LB190, LB358, LB130, LB204 as placed on Select File, some having E&R amendments. Additionally, your committee on Health and Human Services, chaired by Senator Hansen, reports LB233 to General File with committee amendments. Notice of hearing from the Nebraska Retirement Systems Committee. And an amendment to be printed from Senator McDonnell to LB686. That's all I have at this time.

**KELLY:** Thank you, Mr. Clerk. Please proceed to the next item on the agenda.

**CLERK:** Mr. President: LB644, introduced by Senator McDonnell. It's a bill for an act relating to the Site and Building Development Fund; provides for a transfer of funds; changes provisions relating to the use of Site and Building Development Fund; provides powers and duties for the Department of Economic Development for certain projects; repeals the original section; declares an emergency. Mr. President, when the Legislature left, the bill itself was pending. Amendment: Senator Slama would move to amend LB644 with AM1476.

**KELLY:** Senat-- Senator Slama, you're recognized to open on the amendment.

**SLAMA:** Thank you, Mr. President. And good morning, colleagues. So I rise today to introduce this AM to LB644 for two reasons. This was a project about a year in the making. And I'm so grateful to Senator McDonnell and Senator Jacobson for beginning work on this. Last year, we simply ran out of time to get this bill across the finish line along with this amendment. So first, the first part of this AM is I worked with Senator Jacobson to put language into the bill that would separate how the money in this LB644 is allocated between western Nebraska and eastern Nebraska. In fact, we use the 100th meridian west as a divider for this purpose. As eastern Nebraska has fewer large urban-- as western Nebraska has fewer large urban municipalities that can apply for the funds, it would not need to be held to the same criteria as the eastern part of the state. Now, my part of the bill, LB644-- now since we're splitting the state, we want to make sure that both large towns, small towns, eastern and western Nebraska is

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competitive. So I brought-- and we combined to create this amendment-- a, a bill that would make these funds more accessible for smaller communities, smaller counties by lowering the threshold. So we're just ensuring here that there's equal distribution, equal opportunity of these funds between the eastern and western part of the state and lowering the thresholds to ensure that the megasite investments for our smaller communities are able to be accessed if the offer comes up. This measure is critical to ensure that rural areas are given the same opportunities as Lincoln and Omaha. Rural communities are usually the last to receive critical infrastructure funding and opportunities that allow them to participate in emergent-- em-- emergence-- emerging-- I'm so sorry-- industries. So when you add all of these concepts together, it's normally the rural communities and those in western Nebraska that are left, left at a disadvantage for these megasite projects because you need to be able to operate on a time clock. And in order to get approval for these funds, you have to move quickly. Rural and western Nebraska is at a higher disadvantage. So LB1476 simply makes these funds more accessible. They're critical not just for rural economies but also to the health and well-being of rural residents, as the economic stability of a community has a direct impact on the people who live there. Diminished economic growth-- as in the loss of these megasites-- mean less money flowing into the community to support critical institutions such as schools, hospitals, and small businesses and cultural establishments, thereby contributing to the economic decline. So this is simply a bill that gives opportunity to the entire state of Nebraska. So I rise asking for your green light vote on AM1476 and would like to just truly thank Senator McDonnell for being open to conversations about this and for Senator Jacobson on working with both of us to ensure that we've got megasite opportunities for both halves of the state. But, yeah. This is a great opportunity to think big and bring big projects not just to Lincoln and Omaha but to other communities around the state of Nebraska. Thank you, Mr. President.

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

**McDONNELL:** Thank you, Mr. President. Good morning, colleagues. Thank you, Senator Slama. Thank you, Senator Jacobson. Senator Jacobson made this his priority bill last year. Working on this and, and with Senator Slama in Banking and having it come out 8-0 from Banking with no opposition. We continue to try to improve the, the bill for all citizens-- east, west, north, south-- in the, in the state of Nebraska. And I've got a handout coming. The pages are working on it. I gave it to them a little late. But there's a couple different

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breakdowns. There's an article from across the river that we'll talk about in a little bit about what they're doing over in Iowa. But also, it kind of breaks down some of the businesses that we've-- opportunities we've lost in the state of Nebraska not having these sites ready for us to go out and, and recruit new businesses for the people of Nebraska to take advantage of and be employed at. Again, like to thank everyone for, for working on this. We're continuing to look for ways to improve this bill. I'm asking for your green vote to move from General to Select. And rill-- willing to listen to any ideas on how to improve this, this megasite bill and make it better for all parts of the state of Nebraska. Thank you, Mr. President.

**KELLY:** Thank you, Senator McDonnell. Senator Jacobson, you're recognized to speak.

**JACOBSON:** Thank you, Mr. President. And thank you, Senator McDonnell, for bringing the bill. And thank you, Senator Slama, for working with us and, and bringing the, the, the amendment to the bill. I think what we've ended up with, as Senator Slama has really explained very well, is that, all too often, everything seems to happen in Lincoln and Omaha although we have certainly opportunities across the state in rural Nebraska to be able to bring a quality workforce. I'll give you an example. In North Platte, we have the Walmart food distribution center. They employ around a thousand employees. I will tell you it's the high-- one of the highest performing centers in the nation. One of the highest performing in the nation. And the reason for that is because of the quality of the workforce, the work ethic that goes with it. And I would-- I might also man-- indicate that the management there is pretty good as well. But with that said, we find that many employers want to come to Nebraska, particularly manufacturers, because of that quality work ethic. When I look at what we've got going in North Platte right now, as an example, we have the-- not only a rail park that's under construction, but also the first designation of an inland port authority. Along with that, we have Interstate 80. We have an, an air-- airport with a runway long enough to laun-- to land Air Force One. And we also have-- not too far from North Platte, we have 20,000 acres. That's part of the N-CORPE project. So there's 20,000 acres that's available that could be available for a major site as well. So in addition to that, we've got Highway 83 that runs between Canada and Mexico. So it's got all the infrastructure that would be necessary for a large manufacturer to be-- to establish, have plenty of ground around it to expand, and have access to the distribution channels. So there are more sites like that: Grand Island, Kearney, Scottsbluff, Gering. You can go across the state-- and we have opportunities. But particularly, when you get west of the

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100th meridian, what we're really looking at is being able to make sure that that part of the state has an opportunity to utilize these fund-- this funding as well. That's why we've carved off some of the funding to go to those areas to develop those particular opportunities as well. So with that, I would encourage you to support AM1476 and LB644. Thank you, Mr. President.

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

**M. CAVANAUGH:** Thank you, Mr. President. I actually was just trying to catch up on what we're doing here, so I am going to sit down and yield the remainder of my time.

**KELLY:** Thank you, Senator Cavanaugh. Seeing no one else in the queue. Senator Slama, you're recognized to close. And waive closing on AM1476. Members, the question is the adoption of AM1476. All those in favor vote aye; all those opposed vote nay. There's been a request to place the house under call. And the question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 24 ayes, 0 nays, Mr. President, to place the house under call.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chambers, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Fredrickson, Armendariz, Hughes, Erdman, Brewer, and Dungan, please return to the Chamber and record your presence. The house is under call. Senator Dungan, please return to the Chamber and re-- all unexcused members are present. Members, the-- Senator Slama, the vote was open. Will you accept call-ins? We are now accepting call-ins.

**CLERK:** Senator Dungan voting yes. Senator Hughes voting yes. Senator von Gillern voting yes. Senator Walz voting yes. Senator Bosn voting yes. Senator Arch voting yes. Senator Bostar voting yes. Senator DeBoer voting yes.

**KELLY:** Record, Mr. Clerk.

**CLERK:** 30 ayes, 0 nays, Mr. President, on adoption of the amendment.

**KELLY:** AM1476 is adopted. I raise the call. Mr. Clerk.

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

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**KELLY:** Returning to the queue. Seeing no one else in the queue. Senator, Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. I do not support this. I spoke on this the other day, the \$160 million. This bill was introduced a year ago when there was over \$1 billion of extra money and the Cash Reserve was quite high. But we took hundreds of millions of dollars out of the Cash Reserve last year to bring it down to 16% of budget amount. This would take the-- if you took this \$160 million out of the Cash Reserve, which is where it would come from, you go down to a 13% amount. And there are other bills wanting to come out of Cash Reserve this year. And we have a target of 16%. And I don't want to be draining the Cash Reserve that far. Plus, we have \$100 million or, or more in-- \$200 million, east Omaha; \$100 million, north Omaha. We've just heard about a new industrial park being cleared up there. And I would like to wait to see how much business and industry that attracts before we create another site. Not sure what the interest would be of attracting more of a, you know, industrial park. So I'd rather have us focus on what we've already allocated money for in north Omaha and that industrial park. Plus, the funding isn't in the budget this year. We don't have the excess funds we had a year ago. So I oppose LB644. Thank you, Mr. President.

**KELLY:** Thank you, Senator Clements. Senator Linehan, you're recognized to speak.

**LINEHAN:** Thank you, Mr. President. I'm-- I think maybe we, we're not-- I don't know. When we were doing the north and south Omaha thing, it took three years and many, many votes and many, many meetings. And now we're voting yes on \$160 million? I don't-- like, we are not in happy times anymore. I mean, we're not in bad times, but we're not in, like, we got \$1 billion to give away here. This-- Senator Clements, I'm sorry I didn't give you a heads-up. Would you yield to a question?

**KELLY:** Senator Clements, would you yield to some questions?

**CLEMENTS:** Yes.

**LINEHAN:** A \$160 million transfer is rather significant, right?

**CLEMENTS:** Yes, very significant.

**LINEHAN:** Have you-- can you think of transfers we've done that are more than that in the last five years?

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**CLEMENTS:** We did, we did-- the Perkins Canal was over \$500 million. And the new prison allocation, \$350 million last year, came out of the Cash Reserve. And that has brought it down to where it is now at a comfortable level, but that would be the smallest I'd like to see.

**LINEHAN:** So in both of those bills, if I remember right, there was a lot of debate, a lot of conversation, a lot of back-and-forth on those bills, right? Because when we spend \$100 million, we have some pretty serious discussions.

**CLEMENTS:** Yes, very much so.

**LINEHAN:** Thank you, Senator Clements. So I-- I mean, we, we are now kind of-- we're going to get to the next part. But I, I'm-- I, I can't support this. I mean, I, I don't know enough about it. And as Senator Clements said, we just-- we're still trying to work out the last deal. So before we start spending more money, let's see how that goes. Thank you, Mr. President.

**KELLY:** Thank you, Senator Linehan and Senator Clements. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. OK. So I was trying to quickly catch up. I'm going to echo Senator Linehan's sentiments here. This is a rather massive amount of money. And I feel like the conversation has been pretty short. I think we all were kind of lulled into sort of maybe tuning out or tuning in. Maybe we all do need to have one of these hard seltzer Mountain Dews. But I'm a-- I'm concerned about moving \$160 million with very little conversation out of the Cash Reserve Fund. And I don't quite understand. And this-- I will own it-- I maybe wasn't paying close enough attention to what was being said in the floor debate this morning about this bill, but I don't quite understand what we're doing with this money and what the urgency is around doing this. But this is the great thing about, even if this bill moves forward, that we can perhaps have more robust conversations as a Legislature around LB644 between General and Select. But as it stands right now, I am going to preserve my, my vote on this and reserve it until perhaps the next round of debate. Thank you, Mr. President.

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

**McDONNELL:** Thank you, Mr. President. We started having this discussion last week this session. We started a year ago on this discussion when

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Senator Jacobson made it his priority bill. There has been discussion going on. Now, has there been ways to improve the bill? Yes. Senator Slama's amendment becomes the bill. So we wanted to make sure that we were looking at how can this help throughout the whole state-- east, west, north, south. But also, I want to make sure that we're, we're careful on how we're talking about money and Cash Reserve. At the end of December, we had over \$9 billion of cash. It-- into the month of December, we brought in \$23 million in interest. Since we've been on the floor this morning for the last-- going on-- once we hit noon-- it'll be approximately, when the market is open, another \$280,000. Now, that's-- every dollar's important and every dollar is-- belongs to the taxpayer. But if we're talking about investing our dollars like we've have-- and it's been brought up what we've done in, in south and, and north Omaha, which has been, I believe, is going to make a difference for generations to come. But if we're looking at rest of the state-- and that's why it was so important and-- when we were-- before this bill came back up after we advanced Senator Slama's amendment, I had a senator ask me, can, you know, can we, can we guarantee this is going to help? No, we can't. But it guarantees that every part of our state has an opportunity to take advantage of these dollars and make a difference in their community. But we can't guarantee anything. But we know the way we've structured the amendment is that every part of our state would have an opportunity to look at these sites to prepare and attract businesses from around the country and potentially around the world. In my handouts, if you look at the Iowa-- the, the, the article about Iowa, \$93 million tax incentive program that-- it's dated January 31, 2024-- a \$93 million tax incentive program designed to lure economic development projects on so-called megasites-- projects that span at least 250 acres and investment of at least \$1 billion-- advanced in the Iowa capitol. And it sailed-- it-- and it stalled in the waning days of 2023. The round the-- around the country, they are doing this. And I-- last week when we were having the discussion on this bill, when we first started discussing it a year ago when Senator Jacobson made it his priority bill, was idea that, OK. What, what are we talking about? What, what, what kind of acres? And they said, well, you know, have you started looking at the six surrounding states? No-- I said, no. I want to talk about all 49 states. I want to compete against the whole country. And at that point they said, well, I-- you know, I go, who does it the best? They said, probably, you know, Texas. I go, what do they-- they say, well, at 2,500 acres. I said, OK. Well, I want 2,500 acres plus one. If we're going to compete, let's compete. Now, that might not be realistic. And that's not my-- might not be where we end up. But to have those dollars there, the dollars that we have in, in, in Cash

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Reserve-- and they are the taxpayers' dollars-- and we invest them in a way to bring jobs and, and, and-- [INAUDIBLE] we'll go back to-- and I was given permission to, to quote this individual. We talk about the Toyota plant. We talk about what happened. And I-- Randy Schmailzl, president of Metro Community College. We talked about the idea that had-- being prepared with those diesel mechanics right now and the, and the people that are interested in that profession and the, the school we have in place. And if we had a megasite, in his mind, in his experience, would we get the Toyota plant? And he thought we would have. So now you start looking at the things we've missed in the state of Nebraska on megasites-- and I've handed them-- the pages handed them out to, to all of you. But you look at a battery cell plant: 4.2 billion capital, 3,500 full-time jobs.

**KELLY:** One minute.

**McDONNELL:** Another battery cell: \$4 billion, 1,071 jobs. A, a electronic vehicle automot-- automotive maker: \$1.1 billion, 4,000 jobs. Another manufacturer of auto parts: \$1 billion, 690 jobs. I mean, this is just a list that I-- that the Chamber of, of Commerce-- the Omaha Chamber put together. And I appreciate their, their help on this. But that's trying to educate ourselves on what's going on and how do we invest our dollars. But I don't want this to turn into that we do not have the dollar. It depends on what we want to do with it. And there's discussions-- of course, there's a number of bills with fiscal notes. And also the reason you don't see an A bill chasing this right now-- I was sincere about asking last year, last week about how can we do this. We, we fill the \$80 million per year over a two-year period. The \$160 million--

**KELLY:** That's your time, Senator.

**McDONNELL:** --is the right amount.

**KELLY:** That your time, Senator.

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

**KELLY:** Thank you, Senator McDonnell. Senator Moser, you're recognized to speak.

**MOSER:** Thank you, Mr. President. Good morning, colleagues. And good morning, Nebraskans. Well, this is a difficult bill. It came up when we were looking for smart things to do with our money. We had monumental surplus, and we wanted to do things that made a difference and would put the state on a good trajectory moving forward. But since



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that time, the monumental amount of money has been committed and is being held in reserve. And so I don't think this is a good time to be committing to spend \$160 million. Revenues have been relatively flat the last few reports. I don't anticipate a big increase in revenues. I think, based on what economic activity I'm seeing out in the state and what I'm hearing from various businesses, that most of them are scrambling to respond to higher wages, inflation, lower sales. So I'm not going to support this. I mean, we could vote for it and let the A bill follow and kill it with the A bill. But I think-- even that I think is speculative. I think we should vote no and move on. Thank you.

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

**ERDMAN:** Thank you, Mr. President. Good morning. As I listen to the discussion, I heard Senator Jacobson talk about the 100th meridian and what it means to us out west. And as I looked at the bill, the amendment now becomes the bill, it states in there that 15.5% shall be designated to west of the 100th meridian. So that is equivalent to about \$24 million. And I'm wondering, if, when we pass this, if we'll be in competition with Omaha and the metropolitan cities and-- city and those things that are in the amendment. And I don't think there's any guarantee that we're going to get anything in the west in district-- in, in Congressional District 3. I wonder if Senator Jacobson would yield to a question.

**KELLY:** Senator Jacobson, would you yield to some questions?

**JACOBSON:** Yes, I would.

**ERDMAN:** Thank you, Senator Jacobson. Senator Jacobson, did you see that in the amendment that it's 15.5% shall be west of the 100th meridian? Did you see that?

**JACOBSON:** Yes, I did.

**ERDMAN:** So that's a-- if I did my math correctly, it's about \$24 million. Is that right?

**JACOBSON:** Yep.

**ERDMAN:** We already have designated-- how many dollars did we designate for the Paxton rail deal? How much was that?

**JACOBSON:** Excuse me? What was the question?

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**ERDMAN:** Yeah.

**JACOBSON:** How much should we devote to what?

**ERDMAN:** To the Paxton inland port--

**JACOBSON:** Oh, so talking-- for the rail park?

**ERDMAN:** Yeah. For rail park, yeah.

**JACOBSON:** Now, the rail park, it was-- it would eff-- effectively be \$30 million, but it would be match-- it'd have to be matched.

**ERDMAN:** So then this is-- \$24 million would be almost as much as that. Pretty close.

**JACOBSON:** This, this is specific to the North Platte rail park.

**ERDMAN:** OK.

**JACOBSON:** And I think that the-- what's in the bill is west of the 100th meridian, which is a lot more than just North Platte. I used North Platte as an example. But obviously, you can go to Kimball. You can go to Scottsbluff. There are other sites where this would be used. The purpose for me putting it in there, and when I agreed to prioritize the bill, was I prioritized the bill with the understanding that there would be dollars heading west as well, not just Lincoln and Omaha.

**ERDMAN:** But if, if-- and you may not under-- may not be able to answer this, but if, if we're not able to compete for these dollars, then what happens to that? We don't use this 15.5%, what happens to it?

**JACOBSON:** Well, in my mind, it stays in the fund for-- to be-- to continue to grow so as more dollars get allocated to this fund-- and I would also suggest, as Senator McDonnell has mentioned, there is no bay [SIC] bill with this, with this bill. So we need to start by getting the program parameters approved and then start funding it. If it's not \$160 million, what is the number? And we can add to this. But the thinking would be, as we come into dollars to continue to add to this, I want to make sure that we're getting our 15.5% and that that would build, and then we would utilize that for a project that would be worthy of use of those dollars to create jobs and opportunities in the western part of the state.

**ERDMAN:** All right. Thank you for answering our questions. Thank you.

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**KELLY:** Thank you, Senators Erdman and Jacobson. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. The Legislative Fiscal Office-- Analyst just came to see me with some shocking news regarding the Perkins Canal. We have appropriated funds to be taken out of the Cash Reserve, but we have not transferred funds out of the Cash Reserve. We've transferred \$60 million out. There is still \$574 million not transferred out of the Cash Reserve for the Perkins Canal. The prison, we've appropriated \$350 million. There is still \$100 million in the Cash Reserve that's needed to be transferred out in this budget cycle. East Omaha, north Omaha, south Omaha appropriated \$250 million. It's in the Cash Reserve. It needs to be transferred out of the Cash Reserve. Those items add up to \$924 million, with less than \$900 million in the Cash Reserve currently. And I asked him, where are we going to get the money? And he shug-- shrugged his shoulders and didn't know for sure. And so that's information that I had not knowing the details about until just now. I was glad that the Fiscal Analyst came up to advise me of that. One reason there's so much interest accruing to the General Fund is because those transfers haven't come out of the Cash Reserve. The other comment I would have is the reason we did the Perkins Canal appropriation was it's a-- it was a crisis. We don't want to lose the water coming down the South Platte River from Colorado. The reason we did the prison is because our current state penitentiary is inadequate and we're in a crisis with our Corrections Department. East Omaha really needs jobs and development. Some would call that a crisis that we've approved funding for. This is a-- what I would call something-- would be nice to do, a want to do, but not a need to do at this time. So I'm not in favor of the bill. Thank you, Mr. President.

**KELLY:** Thank you, Senator Clements. Senator McDonnell, you're recognized to speak.

**McDONNELL:** Thank you, Mr. President. So-- turning into a little bit of the-- an appropriations discussion. The \$9.6 billion approximately at the end of December, including the cash funds. So the idea of where we are with Perkins, where we are with the Correctional facility, what-- my point is I'm trying to make-- and I will, I will get this to everyone. Won't be today, but most likely by tomorrow morning. We'll break it down in writing so you can track it. But trying to get focused on, again, as the-- it was mentioned there's no A bill right now because, starting last year when this bill was first introduced and Senator Jacobson making it his priority bill, we said we would work with everyone to try to improve the bill. And that's what we've

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been trying to do. So the idea of going forward and where we are, I believe in the \$80 million, out of cash in-- over the next two years, a total of \$160 million. Now, it was brought up earlier in, in the discussion about what happens if they're not ready in a certain part of the state. Well, this motivates them to start getting ready, but it doesn't mean that we take away from pro-- the program, we take away that, that dollar. But we sure put them in a position-- we can't guarantee success, but we sure put them in a position to be successful if they want to go through the steps. So right now, with the idea of the dollars we have, the cash we have on, on hand-- again, over the end of December, we'll, we'll give you that over \$9 billion. Where we're going as appropriators, what we're trying to work on together as a committee, what we're going to bring to all of you on the floor, what I'm asking and the reason there is no A bill is that we work together. We move from General File to Select. My commitment is that I will continue to work on the, the dollar, the amount, and where that dollar comes from and how we sustain it going forward into the future. But this is for the whole state. This is an opportunity for us to step forward as the-- as, as senators and look out east, west, north, south for the state of Nebraska and put our people in a position to be very successful, prepared when a company wants to move here, and go out there and seriously recruit these businesses so we can have these good-paying jobs that, that keep our people in the state and actually hopefully will encourage people to move into our state. Thank you, Mr. President.

**KELLY:** Thank you, Senator McDonnell. Mr. Clerk for items.

**CLERK:** Thank you, Mr. President. Your committee on Government, Military and Veterans Affairs, chaired by Senator Brewer, reports LB1070 and LB1152 to General File. Additionally, your committee on Health and Human Services, chaired by Senator Hansen, reports LB834 and LB857 to General File, both having committee amendments. Name adds: Senator Bosn to LB20; Senator Hughes to LB844; Senator DeKay, LB1001; Senator Murman, LB1047; Senator Conrad, LB1071; Senator Vargas, LB1225; Senator Erdman, LB1301 and LB1396. Notice that the Health and Human Services Committee will have an Executive meet-- Session tomorrow, February 13, at 10:00 a.m. in room 2102. Health and Human Services, Exec Session, 2102, tomorrow morning. Finally, Mr. President, a priority motion: Senator Slama would move to adjourn the body until Tuesday, February 13 at 9:00 a.m.

**KELLY:** Members, you have heard the motion to adjourn. All those in favor say aye. All those opposed say nay. We are adjourned.