

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

**KELLY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-fifth day of the One Hundred Ninth Legislature, First Session. Our chaplain for today is Senator Lippincott. Please rise.

**LIPPINCOTT:** Lord, we pray to be equipped as salt and light in this darkened world. We ask for your wisdom, that love would be abounded with more and more in knowledge and depth of insight, so we may be able to discern what is best, and may be pure and blameless. Give us grace to be godly leaders; where the righteous thrive and the people rejoice, but when the wicked rule, people groan. We pray for peace, if possible, with everyone. Keep our mouths free of perversity, and corrupt talk far from our lips. May we be transparent in our conduct, and may corruption be exposed wherever it may be found. Give us power to walk in integrity so as to walk securely, not like one who takes the crooked path, who will be found out. We petition you for vigilance to act justly, to love mercy, and to walk humbly with our God. In the Holy name of our Lord Jesus Christ. Amen.

**KELLY:** In recognition of the 216th anniversary of the birth of President Abraham Lincoln, born February 12, 1809, the colors are being posted by the Nebraska Department of Sons of Union Veterans of the Civil War. I recognize Senator Quick for the Pledge of Allegiance.

**QUICK:** Thank you, colleagues. Will you please join me in the Pledge of Allegiance? 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-fifth day of the One Hundred Ninth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

**ASSISTANT CLERK:** I have no corrections for the Journal.

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

**ASSISTANT CLERK:** Yes. Thank you, Mr. President. Your Committee on Enrollment and Review reports LB251 and LB250 to Select File, both having amendments. Committee on Business and Labor would report LB144

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

to General File with amendments. Senator DeKay would print amendments to LB43. The Committee on General Affairs would report LB478 to General File, LB1113 [SIC-- LB113] to General File with an amendment. Oh-- LB113 to General File with an amendment, LB177 to General File with an amendment, and LB178 to General File with an amendment. Senator Lippincott offering LR45; that will be laid over. That's all that I have, Mr. President.

**KELLY:** Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR39. Senator Storer, you're recognized for an announcement.

**STORER:** Thank you, Mr. President, and good morning, colleagues. I would like to-- I am pleased to announce that I have three seniors from District 43 from Cherry County that will be singing the national anthem in the rotunda after the session adjourns for the day at noon. It is Marybelle Ward, Jojo Jordan, and Rilee Sexton , so I would invite you to join us in the rotunda after we adjourn to enjoy their performance. Thank you.

**KELLY:** Thank you, Senator Storer. Mr. Clerk, please proceed to the first item on the agenda.

**ASSISTANT CLERK:** Thank you, Mr. President. In General File, LB241, introduced by Senator Hallstrom, a bill for an act relating to data privacy; to define terms; and to provide an exemption from liability for certain private entities as prescribed. The bill was first read on January 14th. The bill was reported to the floor by the Business and Labor-- excuse me, by the Banking Committee. When the bill, when the bill was last considered by the Legislature, it had before it AM246 offered by Senator Conrad.

**KELLY:** Senator Hallstrom, you're recognized for a brief refresher on LB241.

**HALLSTROM:** Thank you, Mr. President, colleagues. We discussed for a few hours yesterday the provisions of LB241. Just briefly, the bill would prevent a private entity from being liable in a class action lawsuit resulting from a cybersecurity event unless the cybersecurity event was caused by the willful, wanton, or gross negligence on the part of the private entity. One thing, if I may, Mr. President, I haven't had an opportunity to visit about the amendment. Is that contained within my brief description, or should I put my light on again?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

**KELLY:** For the amendment-- the, the discussion would go with the amendments, Senator.

**HALLSTROM:** OK. Thank you.

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

**CONRAD:** Thank you, Mr. President. And just as a point of parliamentary inquiry, I believe that my amendment should be pending in-- reflected on the board. Thank you. Good morning, colleagues. Good to see everybody on this snowy day and good that everybody is here safely. So I want to talk a little bit about as a refresher as to the technical and substantive aspects of this constructive amendment that I filed yesterday to not only help to shape debate, but to find a constructive path for-- path forward. So this amendment is actually very simple, and it draws upon existing Nebraska law in the Financial Data Protection and Consumer Notification of Data Breach Security Act of 2006. And basically what that provision of law says is that it has a series of procedures in place so that when an impacted entity is affected by a security data breach, they have a reporting component to the state Attorney General's Office. And if you go look at the Attorney General's Office's website, they have a very simple, very straightforward online form available, you can also file in hard copy, that lists the type of breaches, an, an estimate as to who was impacted, and a bit of information about how it occurred and any potential protective curative procedures or policy changes that the impacted entity will make moving forward. So at the very least, I think we should harmonize the provisions in Senator Hallstrom's bill with the definitions contained in the 2006 act, which I'm not sure they exactly mirror each other in terms of that definition for the breach itself. Additionally, I think that there are some perhaps inadvertent but important distinctions that lack harmony in regards to Senator Hallstrom's bill and the laundry list of impacted entities in the 2006 act. So, I don't know, maybe that's something we can work on together from General File to Select File to ensure that there is harmony in definition and in terms of scope for the entities that are impacted in regards to this legislation. What this amendment says is that at the very least, don't forget, colleagues, of this, if Senator Hallstrom's bill goes through, that's a license to act unreasonably in the event of a data breach. It removes a simple negligence standard, which essentially equates to a reasonableness in terms of approach, and it requires some sort of gross negligence or significant unreasonableness before you could utilize a class action case to

remedy harms in data and security breaches in state courts. So all this amendment says is that you-- the entities impacted by the data breach simply need to follow existing law, make this report so that the Attorney General and consumers are aware of the breach, and that those are prerequisites to utilizing this new heightened standard of proof, or bar, or restriction to utilization of state court remedies. And I'm happy to answer any additional specific questions or information about that. But colleagues, I also want to just take us to-- Oh, I'm almost out of time. I also want to take some time this morning to again, talk about the fact that I, I know that there's criticisms of class action litigation in the state or federal level. But don't forget, successful class actions also relate to meritorious claims that individuals have for widespread harm that they might not otherwise bring forward due to the individualized nature of the harm or case. But successful class actions are not frivolous. They are based on meritorious claims regarding remedies for widespread harm. And they may not only result in financial compensation, which they do sometimes. They also can result in changed policies or practices. They can result in education or awareness. There's a host of remedies beyond financial compensation that are an important--

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

**CONRAD:** --part of class action litigation. Thank you, Mr. President.

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

**QUICK:** Thank you, Mr. President. And I'd still like to hear some more information about this bill. And so I'm going to yield the rest of my time to Senator Conrad.

**KELLY:** Thank you, Senator. Senator Conrad, you have four minutes and 47 seconds.

**CONRAD:** Thank you, Mr. President. And thank you, Senator Quick for the time. My friend, Senator Hallstrom, rattled off a laundry list of cases that he was concerned about in regards to data breaches. I have not had a time to check the-- I have not had time to check the citations for each of those. It was not clear to me whether or not those cases were filed in state courts or federal courts. But of course, this bill relates solely to state courts. And again, while there's no debate that Nebraska statutes and case law is rather undeveloped when it comes to class actions filed under Nebraska state

law, this-- class actions have been utilized in Nebraska for important purposes. For example, if you look at the annotations under Nebraska Revised Statute 25-319, which is the statutory framework for bringing state court class actions, you can see that the courts have looked at instances where it was appropriate to bring these cases forward under state law. And many years ago, there was a meritorious effort under state class action law where firefighters and police officers joined their claims together to challenge the erroneous diminution of their retirement benefits, for example. I know that is not the specific focus of Senator Hallstrom's measure, but I do just want to provide that broader context. Class action cases have importance to consumer rights and civil rights, whether it's in the realm of defective product, or security fraud, or pollution, or mass casualties, discrimination, or other consumer based claims, class actions have a place in our litigation process on both the state and the federal levels. Again, successful cases, and there's already prohibitions and restrictions and remedies in place for frivolous cases colleagues. But successful cases under a class action theory represent individual people who have meritorious claims and allows them to utilize strength in numbers to join together, usually against very well-funded corporate entities or even government where there is a widespread harm present, but it doesn't rise to the level of significant individual compensation. Class actions promote judicial efficiency and help to level the playing field. As Senator Hallstrom noted, individuals would still be able to bring forward claims under a simple negligence standard even with the change in his measure. And that absolutely contradicts the point of having a class action available which is not efficient or effective for either individual claims or the courts. Additionally, colleagues, in, in addition to individual compensation, class actions may be the only way to actually impose costs and accountability on the wrongdoer who is responsible for widespread harm. And this also helps to deter future wrongdoing. In addition to settlement funds or awards, there can also be things like changed practices, changed policies, education, awareness, or other components beyond just financial compensation, which are critical in class action litigation. Many criticisms have been levied against class actions over the years, and reforms have been instituted on the federal level, and the United States Supreme Court has been very skeptical of class action litigation and has provided additional restrictions in that regard. This measure is unnecessary. It is wrong to allow those impacted by data security breaches that harm consumers to act unreasonably. And I would ask for your thoughtful consideration of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

this serious and substantive amendment, which just ask those entities impacted by breach--

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

**KELLY:** --to follow existing law.

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

**DUNGAN:** Thank you, Mr. President, and good morning, colleagues. I do rise today again in support of AM246 and opposed to LB241. I do appreciate Senator Conrad's amendment here. And I think that for a lot of the new senators, it's important to take a second and kind of analyze the difference between, I guess, what are often considered sort of filibuster amendments or motions that are just simply to take time, versus what we often refer to as a substantive amendment. And I do appreciate that AM246 seeks to, I think, correct some of the issues that have been identified with LB241 in a substantive manner. And so I always appreciate when we have these conversations to have a substantive recommendation to try to change some of the problems with the bill, and I think that AM246 gets at that. The reason I rise again today, colleagues, is I, I was thinking about this bill last night and some of the conversations that I had with folks I think sort of underscored the misunderstandings that I think people were having regarding the changes that LB241 makes. So not just once, but a few times, I've had people kind of ask me about the difference between negligence and gross negligence. And, you know, this bill that people have said, it still allows you to bring the class action lawsuit so long as they allege gross negligence and not just simple negligence. But I want to be very clear. The difference between gross negligence and negligence is a huge, huge step up. So in criminal law, oftentimes, at a trial, for example, if you watch TV or you like, you know, legal shows, you'll hear the phrase beyond a reasonable doubt, you'll hear the phrase probable cause, you'll hear the phrase reasonable suspicion. Those are all different legal standards, standards of proof that certain people or parties have to reach in order to achieve different goals. For example, probable cause is a standard that's used to determine whether or not somebody can be charged with a crime, or searched. For example, if you can get a search warrant, it would be if you can show probable cause. Stepping up from that, sometimes you'll see beyond a reasonable doubt, which is a very incredibly high standard at a trial for, for criminal cases. So these are different things that people have to prove. Negligence is a

well-established, well-understood standard that has simple elements that have to be proven. But you can't just reach that standard willy-nilly. You still have to prove each and every element. As I laid out yesterday, negligence requires duty to a particular individual or a customer; a breach of that duty, meaning you did something that was contradictory to your duty to that person; and then causation, meaning you actually caused something to happen because of that breach; and then actual damages or a harm to somebody. So duty, breach of duty, causation, damages. That-- you're going to be able to show that you actually did your job and weren't negligent in a lot of these circumstances, so long as you're able to say, I had a security system in place or something to that effect. If you're a company or a bank and you take even the slightest measures to demonstrate that you're trying to push back on hackers or technological advancement, chances are it's going to be kind of difficult to show that you actually breached that duty because you were doing what we're supposed to do. By raising this standard to gross negligence, it essentially means that in order to prove that anybody committed wrongdoing or this gross negligence in allowing your information, your personal information to be taken by hackers or, or kind of thrown out in a data breach, you're going have to show that they were just completely reckless and disregarded entirely any semblance of a duty to protect this information from the customer. And that is going to be an incredibly difficult thing to prove. I mean, so long as a bank or a company says, well, we had, you know, one system in place to try to protect this, but they didn't upgrade it, or install a new patch, or follow through with the industry standards, it might be very easy, then, to say they didn't rise to the level of gross negligence, even if what they were doing was completely negligent, with your information, your Social Security number, your biometric data. And so I just, I want to be very clear, the increase from negligence to gross negligence is a massive stair step up. It is not a simple change. And as I talked about yesterday, and probably we'll touch on once more, because I think it's important to hit here today, does not fix the underlying problem that folks have identified of a litany of frivolous lawsuits being alleged. This doesn't fix that at all. So all we're doing is make it harder for companies to be held accountable in the event that they actually are negligent with your personal information, and not solving any problem. Thank you, Mr. President.

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

**J. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues, on this first snow of 2025, I think. So, I rise in opposition to LB241, LB241, in support of AM246. I appreciated Senator Conrad's description of what AM246 does. It was a little hard to hear, I know. Everybody's having a good time because of the snow, makes people, I don't know, feel a little loose, I guess. I don't know. But anyway, I appreciate that, it helped me understand it, it helped me decide that I'm in support of AM246, but still opposed to LB241. So, you know, Senator Dungan did a nice job of explaining the difference between negligence and gross negligence and the necessity for those different standards. And my opposition to this bill is really that one, negligence requires an actor to act as a reasonable person. They only violate, or are acting negligently, if they are not acting as a reasonable person would do. And creating a law that does not hold businesses that have personal, private financial information to the standard of acting like a reasonable person is a bad idea. We have a lot of bills this year that are seeking to put more protections in place for individuals, and young individuals in particular, as it pertains to big tech companies. And then we have this bill that rolls back protections as it pertains to companies and your data. And so this seems like it's in direct conflict to some of those bills, some of them brought at the request of the governor, by the way, that seek to bolster protections for data pr-- data privacy. So this is a weakening of data privacy. It will allow companies to act unreasonably as it pertains to your protection. And I would take issue with Senator Dungan said, if you just have some sort of system in place, you have probably met your burden. That's probably not true. You probably have to have at least, you know, the industry standard, some sort of higher, you know, higher level appropriate, you can't just get the off the shelf, whatever it's called, the used to be Norton, or McAfee, or something like that. I think you probably need something that's more specific. But the point of the reasonableness standard is that what is reasonable for a level of protection does evolve. And that-- I understand the complaint that it might be hard to keep up with. But we should ask, if you are going to be possessing my Social Security number, your Social Security number, your bank account number, access to your, your money, your biometrics, we should ask that if, if you as a financial institution have all of those things, that you should be keeping up with, what is the latest best practice for financial-- for security of that information. We should not tell Nebraska companies that they can hold themselves to a lesser standard than Iowa companies. I think that's bad practice, I think it's bad policy. I think that we should be asking them at the minimum to act as a reasonable person. And of



course, as the proponents of this bill would say, that you can still sue them individually. But let's be honest about what we're attempting to do here. We're attempting to make it more difficult to sue somebody. That's the whole intention. They believe that if you can't engage in a class action, you won't sue individually. They're saying that the intention is to make, you know, unclog the courts and-- which is, of course, a false argument when you still create a path for people to sue individually. The unclogging of the courts is that people will not be able to use this as recourse. It will no longer be available to them as an option. That's the intention. We're lowering the standard we're going to hold these financial institutions to, and of course other institutions as well. But these people who have all of your data, we're going to lower that standard in the interest of making it a not realistic option for someone to seek recourse when their data is stolen and ransomed, or taken and used against them. And we can't prevent people from stealing data, but we should make every reasonable effort to do that. And we should hold companies responsible to make every reasonable effort to do that. Thank you, Mr. President.

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

**FREDRICKSON:** Good morning, colleagues. I apologize about that, I didn't hear my name. I will yield my time to Senator Conrad.

**KELLY:** Senator Conrad, you have four minutes, 45 seconds.

**CONRAD:** Thank you, Mr. President, and thank you. Senator Frederickson. Colleagues, the other thing that I just want to take a step back on and help to provide another additional point for discussion and deliberation on this. We've, I think, perhaps lost sight of the broad scope of this legislation as written. So if you look at page 2, on lines 22 through 25, you can see that this special immunity for unreasonable behavior in regards to a data breach includes a corporation, religious or charitable organization, association, partnership, LLC, LLP, and other private business entities, whether organized not for profit or for profit. That is a significantly broad scope. And we've heard about concerns, perhaps, for the small businesses who can't invest in a significant amount of protections. I don't know if they're necessarily utilizing a significant amount of private individual information, but nevertheless. But the concerns equally apply to large corporations that do have resources to take reasonable steps to prevent breach, disclosure or attack, and additionally would grant the same sort of immunity for unreasonable

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

behavior to people like Facebook, to people like TikTok, to people like Twitter or X, or the other big tech companies that have come under the scrutiny of this in other legislatures due to how they utilize, weaponize and manipulate our personal data and particularly harm our youth. So it would provide the same level of protection for big tech as it does to the mom and pop down the street. And there's no limitation in the definitions or bills that say otherwise. And in fact, it goes against the very standard that this committee and this Legislature thus far has applied to other areas to hold big tech accountable, emanating out of the government committee in regard to Senator Bosn's bill and otherwise. So at the very least, there needs to perhaps be some sort of limitation for special immunity for unreasonable acts against big tech companies, which this provides a license to big tech companies to act unreasonably with our private data, which goes against the scrutiny and concern that this body, and many legislatures, and our governor, and our Attorney General have lifted up as deeply concerning. So why would we provide immunities and special protections for big tech that act unreasonably with our data as we seek to hold them accountable through multiple other bills. And that needs to be answered, and it has not been. Because it's easy to shift the cir-- the, the conversation and talk about smaller entities that maybe can't afford a significant amount of IT protection, but it also masks the fact that it provides this sort of immunity and protection to big tech when they act unreasonably. Proponents of this legislation have also additionally lifted up their concerns that plaintiffs' lawyers, typically handling significant class actions on the federal level, which are beyond the scope of this legislation, have received compensation for carrying out complex litigation. That is a poor public policy basis to move forward in limiting access to justice in Nebraska's state courts, because some people are angry that those who serve plaintiffs in complex litigation have received compensation for their services, and goes against a free market approach. I'd also like to draw the body's attention to a few other components in this legislation and to make sure that we have a clear under--

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

**CONRAD:** Thank you.

**KELLY:** Senator Hallstrom, you are recognized to speak.

**HALLSTROM:** Thank you, Mr. President. I haven't had an opportunity to discuss the merits of the amendment. Couple of things I'd like to

note. Number one, Senator Jacobson yesterday expressed his appreciation to Senator Machaela Cavanaugh for approaching him about a potential amendment in advance of the bill being considered. This bill was placed by Speaker Arch on the agenda as of last Friday. Notice was given that it was going to be on the docket on Monday. Monday came and went. The bill wasn't up. It was on the agenda again Tuesday. And for the first time, just as the bill started to be debated, I discovered that there was an amendment that had been posted by Senator Conrad. As a result, I did not have any opportunity in advance to visit with Senator Conrad if I did indeed have any interest in her specific bill. And I do not. The amendment is problematic, it's unnecessary, and I'll just go through a little bit of the background as to my position on the amendment. Proposed AM246 consist of two parts. First, it adds to the definition of cybersecurity event to include a breach of the system as otherwise defined in section 87-202 of the Nebraska Revised Statutes. This section is part of the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006, and it contains a specific definition for breach of the security. The second part of AM246 Limits to LB241 so that it would only apply the protections afforded in the bill for the breach of a security system upon both, one, notice being provided to all affected persons pursuant, pursuant to section 87-803, and to the Attorney General having issued written certification to the private entity that any investigation pursued by the Attorney-- Attorney General pursuant to Section 87-806 has been completed. This is problematic for purposes of LB241 for a number of reasons. First, the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006 does not authorize a private cause of action. The Nebraska Legislature, in adopting that act, vested sole authority for enforcement of the act to the Attorney General. As such, the requirements contained in that act have no relevance whatsoever to private causes of action as described in LB241, whether they be for an individual lawsuit or a class action based on the higher standard of proof contained within LB241. Second, AM246 renders LB241 essentially ineffective for anything that would fall within the broad definition breach of the security system. Under the current Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006, there is no requirement for the Attorney General at any time to provide a certification as described in the Conrad Amendment, AM246. As a result, the entities that would otherwise be covered under LB241 would have no protection until they receive this so-called newly created certification, leaving the entity subject to a class action lawsuit. AM246 undercuts LB241 by tying in an independent act, and tying the protections otherwise afforded under

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

LB41 to this new certification by the Attorney General. LB241 has no dependency on the provisions contained in the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006 found in sections 87-801 to 808, and the amendment is thus not only problematic, but unnecessary. In the time that I have remaining. I would just indicate to the body I had gone through yesterday the significant settlements in class action lawsuits, whether they be in state court, federal court, or otherwise, and the significant amount of attorney fees and the burden that that place is on businesses in terms of challenging the viability of small businesses in many cases. More significant is the threat of class action lawsuits on a lower standard of proof results in significant settlements, which also place small businesses at risk. With that, I would yield the balance of my time to the chair.

**KELLY:** Thank you, Senator Hallstrom. Senator Armendariz, you're recognized to speak.

**ARMENDARIZ:** Thank you, Mr. President. I don't speak much, but I do have some experience in this, on this topic, I have negotiated software contracts in my professional life, and specifically cybersecurity contracts as well. This bill isn't about class action lawsuits that would, say, be held against cities with bad drinking water that caused health issues, or asbestos, and cancer. This isn't about that. This is just about data breaches. And we all get those notifications in the mail that your data has been breached from such and such company, please file here. I will say in negotiating these contracts, businesses spend millions of dollars, sometimes in one business, protecting that data over and over again. Actually, I, I kind of cringe at how big that industry is, just protecting data. They, they have you, right? If you have electronic data, they're more than willing to come in and say, we'll protect it for you, and here's the cost. And oftentimes the business doesn't have a choice because of fear of lawsuits. And there are, there are regulations in place that mandate that those businesses must notify anybody that has been involved in a breach. They will provide them data protection services for a year or more. There are, there are things in place that protect the consumer when that happens. I was in one particular negotiation with arguably probably the best cybersecurity company, maybe even in the world. And we were paying them seven figures or more. And I said, I'm fine with paying that, guarantee, guarantee me with the use of your security, we will not get a breach. And they said, there's no way. They will not guarantee there will not be a breach. So despite all the efforts businesses have at their fingertips, breaches still

happen. And oftentimes it is in an email that an employee gets that they cannot resist clicking on. It's so enticing. "You've won something, click here to redeem your prize." I've even had "your CEO's bonus check is in this link, click here." It is extremely difficult to get employees not to click on these things, and that is oftentimes how it happens. Businesses do run every effort to try to run sample scams like that, and people still click on them. So this cybersecurity company still has not resolved that issue of the curio-- curiosity of the employee. And they will not guarantee you will not be breached because of just that. Senator Hallstrom has, has talked about some breaches that have happened, and the tens of millions, if not more, that the law firms have received and the consumer has only received \$0.50 to \$12. Oftentimes we don't even join those because of all of the work it takes just to join a class action lawsuit isn't worth the \$0.50 we're going to get at the end. So in my opinion, in these cases, this is an avenue that people, software companies, insurance companies, cybersecurity companies, lawyers can make a lot of money. The consumer, the consumer's already protected with breach protection services. These class action lawsuits don't improve that at all, but they do improve the bottom line to all those other entities way more than the consumer. So I support LB241 because of my experience in this. Thank you.

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

**CONRAD:** Thank you, Mr. President, and thank you to my friend, Senator Armendariz. I really appreciate her perspective and expertise on these matters. I also just want to utilize some of her comments to show, actually, the irony of this legislation. So as companies and as our lives move online more and more, as commerce, school, communication, etc., moves online. We know that our data is-- has value and is a commodity to corporations and entities large and small. And they should be expected to adhere to a basic standard of care, a basic standard of reasonable care when utilizing our personal information, which has value, and when it's entrusted to their care. Senator Hallstrom's measure is a license to allow entities to act unreasonably and evade accountability when they utilize our private valuable information. So as entities, and even manning a small nonprofit during my period outside of public life, we frequently held staff trainings about cyber hygiene, and how to ensure that we were protecting our clients data, and how to ensure that employees were aware of basic components in conducting our work, how to spot phishing scams, how to-- how critical it was to update software patches and otherwise to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

protect security. These are very simple measures that entities large and small take frequently. And that's showing reasonable care. That's the kind of reasonable care we want all entities that are utilizing our valuable private information to utilize. And as your entity grows larger, and perhaps the work or the business of your entity is more complex or more sensitive, it would be reasonable to have more protections in place, or more training. But by showing that you have policies, but-- by conducting training, those are the ways that defendants, that entities can protect themselves from claims, to show, hey, actually we were acting very reasonably. We were adhering to industry standard. We were doing our best to prevent against breach. Those are the basic kind of components that we should expect any entity utilizing our private information, both small and large, to utilize. And this measure gives them incentive to act unreasonably and evade accountability in court. So in addition to, perhaps, some of the concerns about whether or not it would be worth it for individual plaintiffs to receive a small monetary award for a meritorious claim, mind you, that is the product of widespread wrongdoing on behalf of the defendant, after fully vetted in a court process through a decision or a settlement, it also can lead to changed policies, or practices, or education. There's also a critical component called cy pres theory, so that if individuals decide not to gather their \$25, or their coupon, or their \$5, the parties and the courts can look to utilize those settlement funds and afford them to charitable organizations to effectuate the same purpose. So that also has not been a part of this discussion and should be. Thank you, Mr. President.

**KELLY:** Thank you, Senator Conrad. Senators-- Mr. Clerk for an announcement.

**ASSISTANT CLERK:** Thank you, Mr. President. Health and Human Services Committee will hold an executive session at 10 a.m. in room 2022 Health and Human Services in room 2022 at 10 a.m..

**KELLY:** Thank you, Mr. Clerk. Returning to the queue, Senator Spivey, you're recognized to speak.

**SPIVEY:** Thank you, Mr. President, and I yield my time to Senator Conrad.

**KELLY:** Senator Conrad, you have four minutes, 55 seconds.

**CONRAD:** Thank you, Mr. President. And thank you to my friend, Senator Spivey, I appreciate the time. I also just want to reaffirm the broader themes present in regard to not just this specific piece of legislation, but the various significant attacks on workers rights, health, and safety, and economic justice and working families, and indeed the will of the voters that are moving at really lightning pace throughout this legislative session. So whether it was, Senator Hallstrom's measure that sought to provide special protection for, again, big tech platforms at the expense of individual workers that we took up very recently, or efforts to undermine and undercut the voters' initiative on minimum wage, or sick leave, or even school choice. The list goes on and on. There are a host of measures that have been introduced and that are moving quickly through this body that are anti-worker, that are anti-working family, that seek to bar access to justice for those harmed by corporate wrongdoers, or that seek to give special advantages to corporations over individual rights. So this is definitely part of broader themes that cannot be divorced. In some of his opening comments, my friend Senator Hallstrom noted that he had had an opportunity to review other approaches from our sister state that, that actually sought to provide even a greater or more muscular kind of defense or benefit to entities both large and small, when it comes to liability for cyber breaches and misappropriation of our individual private information. He thought that this measure, in fact, struck a better balance in regards to some of those other efforts that provided even more protection and more and a greater sweetheart deal to corporations that misuse our, our private information. And my question is, will Senator Hallstrom and other proponents of this measure commit that if this moves forward, that that's the end? Or are we going to see the other measures next year and the year after that? Where does it stop? Where does the attack on workers rights stop? Where does the attack on barring access to justice for consumers stop? If it stops here, we need to know that. If it's going to move forward more vigorously, we need to know that. And proponents need to be honest about their plans and motives in that regard. And will they agree on the record that it stops here? And if not, why not? Nebraska workers have a right to know. Nebraska senators have a right to know. Is this indeed the first step forward or is this the end of it? I watched the committee hearing and that part wasn't clear from the dialog that happened at the committee level. But I did note it in Senator Hallstrom's comments and we need to ask the follow up question that he put out-- to the mess-- to the message that he put on the table. I'll leave it there for now, Mr. President. Thank you, Senator Spivey.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

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

**DUNGAN:** Thank you, Mr. President. Colleagues, I again rise in favor of AM2 46 and opposed to LB241. I think the conversation that we're having has been good. We've talked about a number of different issues, and I, I think this is a legitimate conversation to have on a number of levels. There's the conversation about how we got to where we are, and then there's a conversation about the bill itself, both of which are important. Again, I was in the committee hearing, and so I do want to make very clear, because yesterday I think this got a little bit muddled in the conversation, there was an opponent to this bill, and that opponent did come in and say in no unclear, in very clear terms, why they oppose this bill. There might have been a conversation about whether it's their priority issue to push this year. But certainly I think there were a number of the concerns raised that we've talked about in this body by the opponents of this bill, and that was made very clear in the committee. In addition to that, I did not vote for this bill. And so it did not come out unanimously from the Banking, Commerce and Insurance Committee. I think that's also important to note. One point that I think caught my eye when I was looking at some of the, the testimony for this and some of the, the documents about this, and I think it's kind of gone under the radar here, is there seems to be this assumption that people enter into an agreement or enter into business with a company, and they sort of acknowledge that from time to time their personal information is going to be taken by that company, or collected by that company, and hopefully stored by that company in a way that is safe. What happens then, when or if that company sells or otherwise distributes your personal information to another third party, and then that third party who you don't even know who they are, completely drops the ball and either intentionally or unintentionally fails to have any kind of security guardrails and your information gets shared or stolen and there's a data breach. You, the customer, at that point has had no intention of even entering into this relationship with this third party company, and yet your biological information, biometric information, your Social Security number, whatever, is now out in the world by virtue of this third party company that you don't even know who they are. One of the letters that we got online, and these are public comment, I want to make sure I read real quick because I think this is an important point. And I read this this morning, and I think it struck a chord with me. I oppose this legislation. If large corporations who are tracking me and maintaining data about me without my knowledge or



consent don't want to be held legally liable when they lose my data, then perhaps they shouldn't be hoarding my data in the first place. I never gave any of these companies permission to have my data in the first place. Yet corporate entities all over the world are storing data about me in the overwhelming majority of cases when I don't even know who they are or how they got my data to begin with. Take, for example, the recent data breach at Change Healthcare, which is apparently located in California. I received a letter in the mail from them informing me that they lost my data in their massive record breaking data breach. But when I received the letter, I didn't even know who Change Healthcare is, nor did I have any idea how they'd even gotten my data to begin with, as I had never done any business with any company by that name. It was not until I made the effort to research the issue that I learned that United Health Care had purchased Change Healthcare, to use them as a data broker, and because I had previously had health insurance coverage through United, they had given my information to Change without my knowledge or permission. Now you want to say that these massive, globe spanning corporate entities who collect and spread my data without my permission, even after I have terminated any business relationship with them, should be protected from legal liability when they screw up and allow overseas hackers to steal my information? That idea is an absolute nonstarter for me. What my elected representatives ought to be doing is looking out for my best interests by passing legislation that would crack down on these data brokers and require them to delete personal information about people who are not their customers or no longer their customers, such as LB602. Stop protecting big business and protect the voters who elected you. Colleagues, that's not something we solicited. That's not something that we, the opponents of this bill, said. That's just a person in the world who saw this bill from District 27 and said they wanted to have their voice heard. So I do think that this is a larger conversation of who we protect, and I think it's a larger conversation of who we as a Legislature look out for. And certainly I don't think we should be making it harder for individuals to hold bad actors accountable. The justice system does its job. The court system currently works the way it is, and it's not our job to step in and change the way judges analyze these problems just because we're concerned that corporations are going to be held accountable. Thank you, Mr. President.

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

**McKINNEY:** Hello? Oh, thank you. Well, I, I am still opposed to LB241. And just listening to this conversation, if the people of Nebraska are watching, in layman terms, this bill will allow corporations to be negligent and your, your data can be shared on the dark web, and there's no recourse for you because you would have to figure out if they were grossly negligent in sharing your information or allowing your information to be disclosed on the dark web, or the internet, however you want. So I would advise you if you think this is wrong to call your senator, because that's what this bill does. It pretty much allows companies to negligently store data and, you know, allow your Social Security numbers, your bank information, your home information, financial information to be negligently, you know, seized on the Internet and nothing you can do about it. And for whatever reason, people think there's no financial cost to your data being just out there on the Web, that there's no financial cost to that. So, you know, if somebody gets your information, your Social Security number, opens up an account, your financial information, and somehow is able to liquidate your bank account, those type of things, there's no financial harm to you. But these companies will not be negligent because LB241 says you have to prove they were grossly negligent. That is a high bar, and it's raising the standards, and I just thought you should know about that because that's what this bill does. It allows these companies to be negligent in storing your data, allowing your data to be accessed. And I don't know about you, but I have a problem with that. You should, too, because why should a company negligently store your data and not be held accountable? Just ask yourself, is that right? Everybody in this room would probably tell me that is wrong. But everybody in this room is not going to vote against this bill for whatever reason. And it doesn't make any sense to me. I know I say that a lot, but it really doesn't, because it, it's just perplexing to me that we think it's OK for companies to be negligent, allowing people's data, financial information, Social Security numbers, bank account information to just be found on the internet, and there's no harm. People think there's no harm, or these lawsuits only benefit the lawyers. It makes-- that's, that's crazy talk to me. Because what about the people that are harmed in these data breaches? Who, who, who's going to be held accountable? Who do these people go to when their accounts are liquidated, when their information is used to open up fraudulent accounts and things like that? That's what this bill is aiming to, you know, prevent accountability. And that's the problem with this bill. It takes accountability away. It raises the bar. And you all should have issue with this because we're supposed to be working for the people of Nebraska, but this is yet another bill

that, in my opinion, Terrell's opinion, works against the people of Nebraska. And I thought we were elected to represent them, not companies and corporations. And that's the problem with this bill. So if you think it's OK, or you don't think it's OK for companies to be negligent in storing your data and allowing your data to end up on the internet, you should probably call your senator and tell them to vote no, because that's what this bill would allow to happen. So thank you.

**KELLY:** Thank you, Senator. Mr. Clerk for an announcement.

**ASSISTANT CLERK:** Thank you, Mr. President. The Banking Committee will hold an executive session at 10:15 under the south balcony. That's Banking Committee under the south balcony at 10:15 a.m..

**KELLY:** Thank you, Mr. Clerk. Continuing in the queue. Senator John Cavanaugh, you are recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. So, Banking Committee members, by the time I'm done talking, you should be under the south balcony. So start your watches. I, again, am in favor of AM246, and opposed to LB241. And I agree with Senator McKinney. So it's not just Terrell's opinion. I agree with his opinion, Senator McKinney's opinion. And I thought one of the things he said that I thought was interesting is that we are going to allow these companies to be negligent. And I thought that was a really interesting way of saying it. By raising the standard to gross negligence or wanton negligence or whatever the other standards that we-- are articulated in this bill that are a higher burden for the plaintiff, the person who has been harmed, to prove. But what that means in the reverse is that businesses can behave negligently and not be sued. I just-- that was a really interesting point in the way Senator McKinney said that. We've all been talking about what negligence means, but we all have, I think, some intuitive understanding of what it means for someone to behave negligently. And that is the change that this bill seeks, is to say if someone behaves negligently, they will not be held accountable, or at least they will not be held accountable in the Nebraska courts through class action. And there are real instances. Senator Dungan read a letter from someone whose data was released, and it did sound a little bit like that company adhered to the constraints or the requirements that AM246 would put in there, and that's how she found out her data had been breached. And she was surprised to find that her data had been breached by someone she never gave her data to. And we're having a whole lot of conversations about whether people are really harmed and how much harm there is, and there's talk about how much lawyers

make when they file these suits. But there's a fundamental conversation about how loose these companies behave with our information. They buy it, they sell it, trade it. They buy companies to get access to data, and then they don't do a thorough job of protecting it. And what this bill does is it says that they-- that's OK, that they don't have to act reasonably, or to put it Senator McKinney's way, they can act negligently with your data. Is that what we want? We want to say to companies that they can act negligently with your Social Security number, with your thumb print, voice print, face print, whatever all the prints are that they use now to get into your phone or your computer. I don't know if these computers have a fingerprint, but the other ones, the last ones we had here, had a fingerprint. I could never figure out how to use it. I know, you're all surprised. But that's what we're saying is these companies, it's OK for them to buy a company in California and have that company store your data and then-- or whatever, buy them for the purposes of storing your data, and then have it be stolen by somebody else. And then it's OK. Doesn't matter what they did or how they behaved, as long as it wasn't grossly negligent. As long as they were only negligent with your data, it's OK. You can't file class action. So anyway, it's time for the Banking Committee to have their exec under the south balcony. It's 10:15. So, as I promised, when I'm done talking, that's when you guys have to get over there. So thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Se-- Senator Hunt, you are recognized to speak.

**HUNT:** Thank you, Mr. President. The big picture in which we're discussing LB241 is at the federal level in Congress, they're shutting down the, the Consumer Financial Protection Bureau, the agency that holds banks and corporations accountable for fraud and abuse. And at the same time, Nebraska, lawmakers in Nebraska are pushing LB241 to let tech companies off the hook when they mishandle consumer data. And so the problem is clear, the message is clear. The government is siding with corporations, with big banks, with big tech instead of working people, and we have to fight back. This bill raises the legal standard for lawsuits so high that most consumers will never get justice after a data breach. It doesn't make cybersecurity better. It makes companies less motivated to take precautions. It makes companies less incentivized to have those protections there for consumers because they know that they won't be held responsible. I don't know-- I mean, is it that Senator Hallstrom trusts, you know, banks and big tech companies to do the right thing without any kind of guardrails or parameters of the law blocking them in? So that consumers know that

there's somebody on their side? I think that big tech already has too much power, already has too much control, and this bill gives them even more. Tech companies know everything about us. We are the product. These companies, from our location, our browsing history, our personal conversations, our financial transactions. And hackers can get that information. These corporations profit off of our data, but they don't want to be responsible when they fail to protect it. So why should Nebraskans accept a system where big tech gets all the benefits but they get none of the responsibility? When your data is leaked-- you know, we heard from Senator Armendariz sharing her experience, from Senator Dungan, who read the story from the person who, who testified. When your data is leaked, it's not just an inconvenience, it can really affect your life. I know there's people in this body who have gone through identity theft, who have experienced it themselves or have like your kids have experienced it, or your spouse, and you know how much that can upend your life. And LB241 makes it harder for you to get justice when that happens to you. It raises the standards so high that most people who are affected won't ever get justice. And it's getting the government on the side of the corporation instead of the consumer. And this is a pattern in the United States and in Nebraska that we have to stop and stand between that happening and say, you know, what's ever happening at the federal government, we don't necessarily have control over that. We can reach out to our federal delegation as a group of lawmakers did last week and say you need to stand up against these abuses of power by the government. But in Nebraska, what we can do is things like rejecting LB241. Those are things that are within our power to do. Instead of giving corporations more leniency, we need to be passing laws that give stronger cybersecurity protections to consumers, that put stronger cybersecurity expectations on companies that handle sensitive data. We also need to make sure that when there is a data breach, that companies immediately disclose that so that consumers can take action if they, if they are affected by that. And we also need to give victims of data breaches real legal options to seek damages and compensation. And that's what LB241 takes away. It does just the opposite. It protects the corporations that fail Nebraskans instead of Nebraskans who are harmed. At the end of the day, this is another corporate giveaway. No one in Nebraska asked for this bill, but corporations with millions of dollars at stake did. This is what they want, this is not what Nebraskans want. And it's not about improving cybersecurity. It's about protecting corporate profits and shielding big tech from accountability. Thank you, Mr. President.

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

**SORRENTINO:** Thank you, Mr. President. I'd like to try to take this discussion back to a level set. LB241 does not affect the rights of individuals to bring lawsuits against third parties where they've been harmed under the standards of ordinary negligence. As a Nebraska taxpayer, I can still bring the same lawsuit that I could before or after this legislation using the standards of ordinary negligence, not gross negligence. LB241 affects only the standards of negligence for class action lawsuits. It almost appears that we're putting class action lawsuits on a pedestal. They're the end all and be all of litigation. They're not expensive, they don't take long, and they're always successful. None of those things are true. None of those. I mean, I appreciate the primer on torts from my, you know, first year at law school, but I ask, why are we so concerned about the standards of negligence for class action lawsuits over the needs of the individual rights of Nebraskans? We were voted into office, at least I was voted into office, by individuals, not corporations. We have a lot of negative talk about corporations that I'll get to, but let's think about class action lawsuits. They are, by definition, representative rather than group litigation. That means that representatives, i.e. trial lawyers of the affected class, make the important litigation decisions, including when to settle and for how much to settle, if indeed they are even successful. A plaintiff who is not a representative, and very, very, very few people who join a class action are representatives, usually one or two, none of those people have any say in whether to continue the litigation or to settle. Number two, class action lawsuits almost always settle for financial compensation. We're talking about people's identity and cyber information being taken. All the money in the world doesn't replace that. If you want that type of a cure, you should pursue it individually to get what you deserve, not through a class action lawsuit. Number three, if plaintiff attorneys do not argue effectively, and even if they do argue effectively, but if the plaintiff's representative does not have a strong case, I'm the person named my-- I wasn't individually harmed enough, then the litigation fails and the legitimate claims of all the other people in that class go away. Individual lawsuits are not evil, they're not ineffective, in fact, they're probably the best choice. Those who oppose this bill are not doing the Nebraska taxpayers any favors. Those who oppose this litigation are driving corporations away, the very entities that employ most Nebraskans. I'm hearing the word corporations thrown

around very liberally. Let's think about that. Corporations are not evil. Corporations are an entity type. All it really does is decide which tax return that you file. Most corporations in Nebraska or under ten lives. We throw the term around like their Apple and their Google. That's not the case. Corporations protect the rights of those who employ other Nebraskans. I would ask you to be very careful, Senators, how you misuse that term. I yield the rest of my time. Thank you, Mr. President.

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

**M. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues. I hope everyone had a safe commute in this morning. I got here a little late, had a drive pretty slow on the interstate, but it wasn't too bad, actually. So a couple of moments where there was very little visibility, but I went pretty slow then. I rise in opposition to LB241. I probably will support AM246 because I think that that will improve LB241, but I'm not going to support it at this time. I mean, basically, I just reiterating what I said yesterday, and I don't think I need to belabor the point too much more, I don't like eroding our state's judicial system. And even though these are filed at a federal level, we don't know what the future holds for the federal government. And so we want to make sure that we're not taking away opportunities for people to have recourse when they have been unduly had their information breached, so. I think the points that Senator Hunt and Senator Dungan, Senator John Cavanaugh, Senator McKinney, Senator Conrad have made this morning and yesterday really speak to the primary concerns that this is about people and corporations and who we are providing more protections to. It's not aligning anyone as evil. It is who do we provide the most protections to? And I am on the side of the people. And so that is why I will not be supporting this bill, because I don't think that it is in the best interests of the people of Nebraska. So thank you, Mr. President.

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

**SPIVEY:** Thank you, Mr. President. And good morning, colleagues and folks watching online. As Senator Cavanaugh said, I hope everyone had a safe drive in and apologize for my voice as I am battling all of the ick that is going around across our communities. And so I really appreciate the conversation just as a person that is not an attorney. I can tell that there is lots of expertise in our body with folks like

Senators Sorrentino and Hallstrom. So I appreciate the perspectives that they have been lending as well as Senator Conrad around this issue. I think for me and what I have gathered from this conversation explicitly is that we need more protections for people, and the bills that are being put into this session and that we have on the agenda today as well seems to erode protections and support for working people, and does put more trust into corporations who their bottom line is their revenue, right? It's not necessarily the people or their consumers. It's interesting that just now as I'm sitting here, I got an email from my day job from my staff that received a phishing email from someone who said that they were from Walton Foundation who wanted to give us a grant asking for our wire information of our banks and all of this, right? And so I think the, the changes in technology we have not accounted for as a society. I don't think any philosopher, if you all took sociology, you know, you talked about what does it look like from the infrastructure of our society, that we never really accounted for how technology would totally revolutionize how we interact, how information is shared, and accessibility. And we're seeing that now, and I don't think we are catching up. And I don't think that the lack of catching up or lack of understanding should be at the consequence of individual rights in our communities that we are serving, that we need corporations that are navigating technology, and are storing important information for them to, to invest in the infrastructure, and what they need to do to ensure our safety across the board. And I also just wanted to make a point of clarification that when we talk about corporations and the kind of community benefit, if you will, it's actually startups that employ the most net new jobs. So it's not your standard Walmarts that people think about like these larger corporations, it's actually businesses that have been in business less than five years, they have the net new jobs, so they are actually creating jobs and retaining those jobs and not destroying those jobs like some of the other big companies that you see. So I just wanted to provide that point of clarification from Senator Sorrentino's remarks, and I would like to yield the rest of my time, Mr. President, to Senator McKinney.

**KELLY:** Thank you, Senators Spivey. Senator McKinney, you have one minute, 55 seconds.

**McKINNEY:** Thank you, Mr. President. Again, I am opposed to this bill because the people of Nebraska need to know that if this bill passes, companies, corporations can be negligent and allow your data, or not allow, but negligently store your data, and your data can end up on the web or somewhere, and you cannot hold them accountable. That is



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

the problem with this bill, and that is the issue. So people get up here and say that we're demonizing corporations. I don't think we are. We're just demonizing this bill that is going to allow negligent entities to be negligent. And that is the issue. I don't understand why people don't have a problem with that and are OK with passing legislation that allows entities to be negligent and allow for our information to possibly end up in the hands of people who it shouldn't be in the hands of, and we cannot hold those entities accountable. So that is my issue with this bill. I'm sure Senator Dungan has some great words to say and thank you. I'll be on the mic soon.

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

**DUNGAN:** Thank you, Mr. President. And thank you, Senator McKinney, I appreciate that. I don't have a ton more to say on this just because I feel like I've made a lot of my points, and I do want to continue the conversation a little bit, though, about one of the things I said yesterday that I, I think maybe got lost in the wash a little bit just because I know we're all very busy and a lot of things are happening. One of my biggest issues with this bill is that it doesn't actually seem to accomplish the stated goal that it was brought for. And what I mean by that is one of the things that I heard in the committee hearing over and over again was that part of the problem we're trying to address is a litany or a number of frivolous lawsuits. And this is part of a broader narrative that I, I guess I push back on in general. There are certainly some frivolous lawsuits, but I think there's this idea that people just go out and file lawsuits willy nilly against big tech companies just to see what happens. It takes a lot of effort and a lot of time to file a lawsuit and to take on some of these big tech companies that we're talking about in this circumstance. It's not just something you can go, you know, log online and do really fast. But if, in fact, let's assume that it is true that there is this litany or this large number of frivolous lawsuits being filed against big tech companies. This bill doesn't stop that, because an increase in the burden of proof needed in order to be successful with a class action lawsuit against these big tech companies doesn't prohibit any number of people from filing the lawsuit or the lawsuits. And so if part of the problem that people are concerned about is folks filing the lawsuit in the first place, this doesn't prohibit that. You can still get any number of people together to, to work on a class action lawsuit and file one, two, three, four, five, you can file as many as you want. Now, is it going to ultimately be successful with the increased gross negligence standard? Probably not. The gross

negligence standard is incredibly difficult to hit. It's a very hard bar to clear. But you can still file it. And if what these big tech companies were concerned about is this idea that they're spending too many resources to answer to these and to respond to these lawsuits and to go to court and to make motions for summary judgment or what have you, none of that is stopped by the increase in the burden of proof. So when I see a bill in front of me, that's always one of the things that I ask, what is the ill that this seeks to cure, or what is the problem we're trying to fix? And if you want to reduce the number of these lawsuits being filed, the cure for that is not state action. The cure for that is not the government getting involved. The cure for that is having better protections for your technology. It's ensuring that passwords are safe. It's trying to find easier ways for patches and updates to security systems. It's trying to ensure that companies are doing everything they can to make sure that your personal biometric data is not being breached. The cure for the problem is not to just increase the burden of proof. Now, if you came in and told me the issue that we're trying to fix is too many people are winning these lawsuits, then that would make a little bit more sense, because what this bill seeks to change is the ability with which a citizen can be successful in a suit against a big tech company. And so I don't believe it's malicious, I think that the concern that I heard from all of the proponents of this bill was we have to respond to all of these lawsuits all the time and it's a really big pain in the butt. I don't think it's malicious, but I just don't think that what we're dealing with, with LB241 addresses the problem. And certainly I, I, I appreciate a lot of the conversation we've had about the differences. I've highlighted a couple of times, others have highlighted a couple of times, the differences between the burdens of proof. And I think that's helpful to understand. But again, colleagues, when you're, when you get a bill in front of you, the first question should always be, why do we need this? What is the problem that we're actually trying to address with state action? And I, I simply just fail to see the, the nexus between LB241 and a reduction, potentially, in the filing of suits. My concern, however, is that it will result, result in a reduction of people being protected. I'm, I'm concerned it will result in a reduction of people's private information not being shared during these data breaches. And I am concerned that we continue to see the state actors place our thumb on the scale of justice, but not necessarily in favor of the everyday person. So those are my concerns. I appreciate the conversation we've continued to have today. I think it's been a very valid one and I appreciate everybody who's stood up

and had that conversation, and I would encourage your red vote on LB241. Thank you, Mr. President.

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

**McKINNEY:** Thank you, Mr. President. I rise still in opposition of LB241. Again, kind of to rewind, yesterday I said that this bill should have ended up in Judiciary. It didn't. And then this concern about, you know, frivolous lawsuits. Why shouldn't the people be able to exercise their right to hold these entities accountable for being negligent? But no, this bill wants to raise that burden of proof and standard to gross negligence, which is harder to prove. Why? Why? What for? Why does it need to be raised? I don't think that's, that that question has been answered. Why does the, the standard need to be raised from negligence to gross negligence? What is the purpose outside of protecting these entities over people? That is the only assumption I can have, that's the only conclusion I could reach, is that the only reason for this bill is to value those entities over the people. But I thought we were elected to serve the people. I don't think we're serving the people if we vote yes on this bill. I don't think we're serving the people if this bill passes. I think this takes away a lot of the remedies that the people can exercise to hold these entities, entities accountable. But, you know, I don't know. Maybe it's just me or maybe it's just us, because I don't know about you. But if my information is being shared in a negligent way and my friend's information is being shared in a negligent way and we want to hold this company accountable, we should be able to do so. We shouldn't have to reach-- we shouldn't have to figure out if they were grossly negligent. If they were negligent, they were negligent. But if LB241 passes, that's going to change. Why is it needed? Answer that question. Why is this bill needed outside of valuing these entities over the people? That is the only conclusion I could reach. And I find a problem with that. I think we should think long and hard about that. Are we actually serving the people by passing this bill? Will we be serving the people by moving this bill forward to Select File? That is a good question, and I will love to hear the answer because I don't think so. You could wordsmith it however you want, but I honestly don't believe this bill is in the best interests of Nebraskans. It's not. Now, you could try to sell it as, you know, trying to protect from frivolous lawsuits, and, you know, the lawyers are the ones making the money, not the people. This, this, this, this and this. But at the end of the day, there is a financial cost to your information ending up on the Internet. Because how do you get it off? You have to

pay. Then worst-case scenario, they get into your bank account. They use your information to open up an account. They use your information to do a bunch of other things that negatively affect you going forward. But no, if the company or entity is negligent, me and my friends cannot hold them accountable. And that's the problem. And it's why we shouldn't vote for LB241, because a negligent company will not be held accountable. We will have to figure out if they were grossly negligent, and that burden is harder to prove. Why is it needed? If they're negligent, they're negligent. Thank you.

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

**HUNT:** Thank you, Mr. President. Colleagues, let me share with you a big pet peeve that I have. I don't like it when people listen with defensive ears. I don't like when people hear me or others say stuff that we didn't say. No one is saying corporations are evil. Just because you hear me or someone else say the word corporation, you don't need to, like, extrapolate what I mean by that. Just listen to what I'm saying. I'm opposing LB241, not because I think corporations are evil. Yes, I know they create jobs. Yes, I know they drive the economy. I don't-- I'm not saying corporations are evil. I'm saying I believe in accountability. If a company fails to protect your personal data, they should be responsible for fixing the damage. If an individual makes a financial mistake in Nebraska, they're the ones held responsible. Why should a corporation, or a company, or an LLC or whatever organization you want to talk about, be any different? That's what I'm talking about. LB241 gives big tech and banks and corporations a free pass. It says that even if they are careless with your data and it's their fault, they don't have to face consequences unless you can prove gross negligence. And we've already talked about what an impossible legal standard that is in context of a consumer data breach. In context of what LB241 is talking about, that is an impossible standard for normal, everyday person to reach, because if a company has any kind of software in place to protect your data, that probably won't rise to the level of gross negligence because it wasn't intentional on their part. That's the problem with this bill. Colleagues, a true free market only works if there's competition and if there's accountability. But if a company mishandles your private data and you can't sue them and you can't get justice for that, how is that accountability? How is that a fair market? How is that a conservative principle? That's not free market. That's not fair. That's rigging the system. That's government putting their thumb on the scale in favor of the biggest, wealthiest, richest players instead

of in favor of Nebraskans. So once again, no one is saying corporations are evil. No one is saying corporations are the big bad guys here. In the case of LB241, the Legislature would be the big bad guys because it's our fault that they have to use this kind of leeway to do this stuff with consumer protections. No one is saying corporations are evil, but let's be honest. They don't need more legal shields at the expense of working Nebraskans. We've got people in the lobby. They come in here, they take us to lunch, they come by our offices, they spend millions of dollars in this country lobbying lawmakers like us to get special treatment. So why should we pass a law making it easier for them to avoid personal responsibility? Small businesses, businesses like mine, we don't get this kind of immunity. Your personal data, colleagues, is your property. It's your property, it's your information. When companies mishandle it, they're failing to protect something that belongs to you. If someone stole your personal property, you would expect to be able to take legal recourse. And if a company loses your financial data because of their own negligence, why shouldn't you be able to hold them accountable? That's all this opposition is about. It's not about hating corporations, it's not about punishing businesses, it's about protecting Nebraskans from financial harm. I think all of us here share the view in concept, if not practice, that government shouldn't be picking winners and losers. We argue that government shouldn't interfere in business too much. But that includes not tilting the scales to protect big corporations from consumer lawsuits. Bills like this aren't about letting the market decide. They aren't about, you know, laissez faire capitalism. They're about making it harder for consumers to fight back when they are harmed. If a company's doing the right thing, they won't be sued. There you have it. But if they're negligent, they should be held accountable. They should be held responsible. It's that simple. This isn't free market. This isn't a conservative principle, it's corporate favoritism. And Nebraskans deserve better. Thank you, Mr. President.

**KELLY:** Thank you, Senator Hunt. Senator John Cavanaugh, you're recognized to speak, and this is your third time on the amendment.

**J. CAVANAUGH:** Thank you, Mr. President. I hope the Banking, Commerce and Insurance Committee got their work done at 10:15. So I, I wasn't actually going to talk again because I've said a lot on this, but I appreciate everything Senator Hunt just said in that clarification about just wanting to make sure that people are held accountable doesn't mean you think they're bad actors or bad people. People obviously make mistakes. And especially in business, you need to, maybe-- I don't want to say-- you need, you need to be judicious in

how you spend your money, and you're not going to spend money on things that you don't think you have to spend money on. And so if we're not holding companies to a standard, then they're not-- it's not in their interest to live up to that standard. And that's really the concern I have about lowering the standard. But ultimately, I pushed my button to bring up an article that somebody sent to me that was a reference to the letter that Senator Dungan mentioned about the lawsuit against the company the-- that the Attorney General filed against the health, health care payment processor. And I read the article after somebody sent it to me, and it-- there was a quote in there that I thought was really interesting, which was from Attorney General Hilgers and why they filed this lawsuit. And he said, we're not looking for targets. I'll say that we're not looking just to sue a bunch. But I will say, and I promise Nebraskans, that we will stand up for Nebraskans and defend them. And in these types of cases, almost the only entity that's strong enough to stand up to these big companies are state agencies. So what the Attorney General is saying there is one, not looking for trouble, essentially, they're not out there looking to sue these people. But when they're not complying with the standard, they will do it. And the other part is that individuals on their own are not-- don't have the resources or the time to file these types of suits, suits and to purs-- pursue their rights and their, their recourse. So the Attorney General has to stand in for 575,000 Nebraskans. But another option in cases like that would be a class action. So the Attorney General has to file that suit because individuals don't have the ability or resources to do it. But if you could file a class action, that is another option that doesn't require the Attorney General to file that suit. So I thought that was interesting. That's from the Lincoln Journal Star, which is a print newspaper in the city of Lincoln from December 16th, 2024. And the headline is Nebraska Sues Health Care Payment Processor Over Breach that Affected 575,000 Residents, and that one of those folks found out through this exact process that Senator Conrad is talking about, AM246, where there's the requirement that they send notice, and this company did not send notice, and that was actually ultimately what the Attorney General was filing suit under, was their failure to notify Nebraskans of this breach of their data, and I think it was by a ransomware company. So, anyway, if you want to check it out, it's Lincoln Journal Star on their online edition. Thank you, Mr. President.

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

**M. CAVANAUGH:** Thank you, Mr. President. Colleagues, something that Senator Hunt said sparked a, a Ernie Chambersism for me. He would always say I'm just a hat maker. If the hat fits, that's on you. Listening with defensive ears can als-- oftentimes make a hat fit that wasn't intended for anything. Just stating observations of a situation, and then somebody takes it on to themselves and is defensive about it. So that was one of my favorite things. I-- several colleagues have come by this morning and said hello to me, which is very nice, I appreciate that. I've been sitting here reviewing because I'm a nerd. I've been reviewing state auditor's reports for-- and, and in February there were several released, so that's been interesting to look at, and trying to figure out, as I'm learning more about the budget, trying to figure out where we are best using our resources and where we are poorly using our resources. I also have been looking at the AG's budget, and again where we using resources smartly, and where we not using them smartly. And so I just, I bring that up because first of all, if you're just sitting here wondering what to do, you can read reports. There's lots of them available online. And every time we have a bill that requires a report to the Legislature and people say, nobody reads these, I read them. I sit here and I read the reports. So I wanted to just share that because sometimes you're going to be here for debate, and you are-- maybe you're going to be interested, maybe you're not going to be interested. So you always have this opportunity to get more information about the inner workings of our government. Right now I am in the state contracts database in the Administrative Services Division, or DAS, as we oftentimes call it. And I'm looking through just various state contracts that we have in the Department of Human-- Health and Human Services. Want to see if we are being smart with our resources there. Oftentimes, contracting out government services can cost more. And so if we are contracting out specific government services, I want to make sure that we're being cost effective, because I value the taxpayers dollars. Which is why I also oppose LB241, because I do believe that this is hindering taxpayers from legal recourse. And so I don't, I don't want to do that. And I don't want to assume ill intent on anyone's part, whether it's the people who are, are seeking legal recourse, or if it's the companies that they are seeking it from. I don't think that ill intent has to always be present it. It-- but if malfeasance or mistakes happen, there still needs to be accountability. And taking away an avenue for accountability to me does not feel reasonable. And it also doesn't feel like that's our role. Our role is to create protections for our individual citizens, not diminish those protections. So again, I stand in opposition to LB241 and if you are looking to learn more

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate February 12, 2025

Rough Draft

about the Nebraska government and its inner workings, I recommend going to the Nebraska Legislature website. On the left hand side, there is a line that says reports. You click on that and it gives you all kinds of reports. You can get state agency reports, you can get the Fiscal Analyst's reports, you can get the cash reports, or you can get the reports that we have created bills over the years to require to be reported to the Legislature. Those are also made public on that website. Or you can go to the state auditor's website and you can see the state auditor's reports, which are also a fascinating read. And I very much appreciate the state auditor's office and the work that they do. Or you can go to DAS's website and you can search state contracts. So lots of fun things to do if you're a nerd like me. Thank you, Mr. President.

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

**HOLDCROFT:** Question. Call the house.

**KELLY:** The question has been-- well, there's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record Mr. Clerk.

**ASSISTANT CLERK:** 27 ayes, 0 nays to place the house under call, Mr. President.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the chamber, please return and record your presence. All unauthorized personnel please leave the floor, the house is under call. All unexcused members are present. Members, the question had been called and before I ask for the five hands, there was a request to call the house, so the house is under call. The question has been called, do I see five hands? I do. The question is, shall debate cease on AM246 All those in favor vote aye; all those opposed vote nay. Record Mr. Clerk.

**ASSISTANT CLERK:** 33 ayes, 9 nays to cease debate, Mr. President.

**KELLY:** Debate does cease on AM246. Senator Conrad, you are recognized to close.

**CONRAD:** Thank you, Mr. President. And if you-- as a point of parliamentary inquiry, I just can't remember off the top of my head, do I have five minutes on close?



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

**KELLY:** Yes, Senator.

**CONRAD:** Very good. Thank you so much, Mr. President. Colleagues, thank you very much for your thoughtful debate and deliberation on these important matters regarding consumer protection and access to accountability and justice when our personal information is misappropriated or subject to cyber security issues or data breaches as a result of the negligence of different entities that are utilizing and holding that personal financial information. So you might remember that in basic tort law, there's duty, breach, causation, damages. So what this legislation does is that it changes that standard approach to, to-- ensuring that people can ensure civil recourse when they are harmed by another's acts. And it gives a heightened standard of proof when consumers wish to join together in class actions with meritorious claims to hold entities accountable when their personal information is utilized and it impacts them negatively. So this legislation, LB241, provides a license to corporations large and small to act unreasonably, to act negligently, and to thus evade accountability through class action in state court. As a constructive point in regards to LB241, my amendment simply says that before an entity, large or small, would be able to utilize this heightened standard of proof and to secure this additional immunity and protection that they simply have to follow existing law that they're already required to do so under the Nebraska laws that have been in place since 2006, and that simply require upon a data breach that the entity impacted inform the Attorney General of such. So it's a well-established process, it's a fairly simple process, it's existing law, so it is not unreasonable or unwarranted when we are moving forward with a measure like LB241 to say, hey, companies, if you're subject to breach and you act unreasonably or negligently, you're not going to receive this higher protection unless you're also following other aspects of the law which you're already required to do so. So that is the simplicity in regards to AM246. You can look at the existing statute, you can look at the Attorney General's website to see how easy it is to comply, and it helps to strengthen, I think, how this measure works along with existing aspects of that law, which again, I think we need to also look at in between General and Select File to ensure that the definition, definition of breach is harmonized, and to ensure that the application of covered entities is consistent as well. But all this says is before you get this heightened standard that restricts access to the courts for consumer protection violations, the entity in question seeking such protection at least has to comply with existing Nebraska law on point. I'd ask for your favorable consideration.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate February 12, 2025

Rough Draft

**KELLY:** Thank you, Senator Conrad. Members, The question is the adoption of Am 246 All those in favor vote aye; all those opposed vote-- Request for a roll call vote. Mr. Clerk.

**ASSISTANT CLERK:** Senator Andersen voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard voting no. Senator Bosn voting no. Senate Bostar not, not voting. Senator Brandt voting no. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Clouse. Senator Conrad voting yes. Senator DeBoer voting yes. Senator DeKay voting no. Senator Dorn voting no. Senator Dover voting no. Senator Dungan voting yes. Senator Fredrickson voting yes. Senator Guereca voting yes. Senator Hallstrom 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 Juarez. Senator Kauth voting no. Senator Lippincott voting no. Senator Lonowski voting no. Senator McKeon voting no. Senator McKinney voting yes. Senator Meyer voting no. Senator Moser voting no. Senator Murman voting no. Senator Prokop voting yes. Senator Quick voting yes. Senator Raybould voting yes. Senator Riepe not voting. Senator Rountree voting yes. Senator Sanders voting no. Senator Sorrentino voting no. Senator Spivey voting yes. Senator Storer voting no. Senator Storm voting no. Senator Strommen voting no. Senator von Gillern. Senator Wordekemper voting no. 14 ayes, 30 nays on the adoption of the amendment, Mr. President.

**KELLY:** AM246 is not adopted. I raise the call. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Transportation and Telecommunications Committee will hold an executive session now under the south balcony. Transportation and Telecommunications under the south balcony now.

**KELLY:** Continuing to the queue. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. I'm still in opposition to LB241 for a lot of reasons I've already stated. This bill does nothing to protect the people of Nebraska, and I'm not understanding why people are OK with that. Just to be clear, if a company is negligently allows your data to be shared on the internet, you will not be able to hold them accountable unless you can figure out if they were grossly negligent. And I guess some of you are OK with that. I'm-- it's kind of wild to me, but it's interesting that you're OK with that, but it is what it is. I'm not OK with that, though. That's why I'm standing

up and I'm standing up for the people of Nebraska because it seems like some people are OK with data breaches and entities being negligent and our data being shared on the Web and no recourse. Well, there is recourse, but you would have to figure out if they were grossly negligent, like basically standing up saying, hey, here's Terrell's data, come get it. Negligent. It usually never happens that way. Almost never happens that way. So that's what we're considering today. And I think the people, if you think that's OK, or you don't think that's OK, you should call your senator and let them know how you feel, because this bill is not a protection of the people. It is a protection of entities that could be negligent. And you and your friends or people who you know will not be able to hold them accountable unless you can show that they were grossly negligent. And again, unless they just put a sign up, hey, here's Terrell's information, come get it, it's going to be hard to prove. How is that OK? How are we OK with that? How are you just sitting down saying, I'm OK, I'm going to vote for this. Wow. It's, it's really crazy. Some days I walk in here and I'm like, you know, this is a great place to work in, and we do some great things. This is not one of them. It's-- trying to think about it and trying to, like, make it, you know, process in my head, and wow, this is interesting that we're OK with companies negligently sharing-- allowing our data to be breached and no accountability, unless they put up a, a sign on the door saying, hey, come get it. Wow. That's all I really can say. I might just stand up and say, wow for the rest of my time. This is crazy that we're considering a bill to allow these companies that have data breaches, unless you could prove that they were grossly negligent, which is a high standard, to, to just get off scot free. What about the people? What about the people who voted for you? What about the people we were sworn in to serve and protect? I don't know if we just wanted to protect, but sworn in to represent and, you know, fight for those type of things. But this is interesting conversation today. And still, my question hasn't been answered. Why does the standard need to be raised from negligent to gross negligent, willful, wanton, or gross negligent? Why does it need to be raised? What is the problem? What is, what is wrong with the current system? Is there a bun-- is there a bunch of lawsuits being filed in the courts? Can you give clear examples of that? I, I don't think so. But that's why they're pushing this bill. And it's a bill against the people. Thank you.

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

**CONRAD:** Thank you, Mr. President. Again. Good morning, colleagues. I believe this will be my last time on the mic, and I appreciate all of the colleagues who have participated in the debate, both on the record and asked important questions and had good dialog off the mikes and, and off the record as well. I also want to extend my gratitude to Senator Holdcroft for his professional courtesy in helping to arrange and manage the queue so that we can move forward with debate in recognition that, colleagues, this is not a filibuster. You'll know when a filibuster is happening. There have been no tactics to escalate utilizing hostile or priority motions or otherwise to extend time. There is not been successive or excessive amendments filed. This is a legitimate, constructive point that I wanted to bring forward in regards to the measure that was here. We had good dialog and debate about it. I think it helps to clarify the record. And to be clear, I am not interested in evading a vote on the amendment or the underlying measure. In fact, I embrace that opportunity. I want Nebraskans to know who stands on the side of consumers and who seeks to undercut their ability to, to hold people who abuse their personal information accountable in our state's class action procedures that are available to effectuate and advance consumer protection for this and other reasons. I do also appreciate that Senator Hallstrom and other proponents of this measure have been clear that they don't plan to move forward with any additional evisceration of protections for consumers in at least this regard, as have been evidenced in other states. That is important to know, and an important point to have on the record as we look at this measure and future measures to come. Again, colleagues, I am fundamentally opposed to LB241. It undercuts the ability for Nebraska consumers to join together who did have, who do have meritorious claims of negligence and unreasonable behavior against companies who allow for their personal primary, personal private information to be misappropriated and which does harm them. I, I do feel like this is important to advance judicial efficiency. In addition to compensation, class action litigation can bring about settlements or decisions that have other component parts, like policy and practice change, or education, or even cy pres benefits, and that there's no reason to rush forward with this effort in Nebraska, because our class action statutes in the state level are already undeveloped. Most of this litigation that is significant is happening on the federal level, and the harms that proponents have brought forward have primarily focused on cases in the federal courts that are beyond the scope and application of LB241 that is before us. I really appreciate Senator Hallstrom's good debate, and we've had a lot of good conversations off the mike as well. And I was clear with him and

other members that there was no nefarious attempt to hide the ball in regards to concerns about this legislation. But we're all working as hard as we can in good faith to try and get up to speed on a lot of very significant bills that are coming very quickly to the floor, which is outside of the typical practice this early in the session where we'd be really focused on small technical matters instead of significant policy changes, as evidenced through LB241. I pledge to do a better job next time in terms of providing a heads up in communication, but it was definitely not any part of, of bad faith in regards to how I approached this measure in filing a substantive, thoughtful amendment that sought to harmonize this measure with existing law on point that is relevant. Thank you, Mr. President.

**KELLY:** Thank you, Senator Conrad. Senator Holdcroft, you're recognize to speak.

**HOLDCROFT:** Question.

**KELLY:** The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. There's been a request to place the house under call. The question is, shall the house be placed under call? All those in favor vote aye; all those opposed vote nay. Record Mr. Clerk.

**ASSISTANT CLERK:** 36 ayes, 0 nays to place the house under call, Mr. President.

**KELLY:** The house is under call. Senators, please record your presence. Those senators unexcused 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 Bostar, please return to the chamber and record your presence. The house is under call. All unexcused-- all unexcused members are present. The question before the body was to cease debate. Mr. Clerk, please record.

**ASSISTANT CLERK:** 25 ayes, 6 nays to cease debate. Mr. President.

**KELLY:** Debate does cease. Senator Hallstrom, you recognized to close.

**HALLSTROM:** Thank you, Mr. President. I do appreciate the patience of the body on this particular issue. To say that I appreciate the opposition might be a bit gratuitous, but I certainly respect each and every member of this body to stand up and express their support or opposition to the measure. I do want to respond to Senator Conrad. She has confirmed what we talked about off the mic is that even though

there are states that have gone further in terms of the stringency of class action lawsuits, I have no intention to go any further than the provisions of LB241. I had made it clear that, and Senator Conrad had expressed and made some nice comments about my willingness over the years to, to be responsive and to consider amendments. I don't suspect that my spots have changed in that respect. So I, I would welcome any types of discussions that need to take place between now and Select File. No guarantees on what my position might be, but certainly the amendment that was here today would have gutted the bill, so I appreciate having voted that down. And with that, I would just encourage the body to vote green on the advancement of LB241. And thank you.

**KELLY:** Thank you, Senator Hallstrom. Members, the question is the advancement of LB1 to E&R Initial. There's been a request for a roll call vote. Mr. Clerk.

**ASSISTANT CLERK:** Senator Andersen voting yes. Senator Arch voting yes. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Bosn voting yes. Senator Bostar voting yes. Senator Brandt voting yes. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh voting no. Senator Clements voting yes. Senator Clouse. Senator Conrad voting no. Senator DeBoer voting no. Senator DeKay voting yes. Senator Dorn voting yes, Senator Dover voting yes. Senator Dungan voting no. Senator Fredrickson voting no. Senator Guereca not voting. Senator Hallstrom. Excuse me, Senator. Senator Guereca is voting aye? Not voting. Senator Hallstrom 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 Juarez. Center Kauth voting yes. Senator Lippincott voting yes. Senator Lonowski voting yes. Senator McKeon voting yes. Senator McKinney voting no. Excuse me. Senator Meyer voting yes. Senator Moser voting yes. Senator Murman voting yes. Senator Prokop not voting. Senator Quick not voting. Senator Raybould not voting. Senator Riepe voting yes. Senator Rountree voting no. Senator Sanders voting yes. Senator Sorrentino voting yes. Senator Spivey voting no. Senator Storer voting yes. Senator Storm voting yes. Senator Strommen voting yes. Senator von Gillern voting yes. Senator Wordekemper voting yes. 33 ayes, 9 nays on the advancement of LB241, Mr. President.

**KELLY:** LB241 advances to E&R Initial. I raise the call. Mr. Clerk. Mr. Clerk for items.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate February 12, 2025

Rough Draft

**ASSISTANT CLERK:** Thank you, Mr. President. Committee on Banking, Commerce and Insurance report LB168 to General File with amendments. Natural Resources Committee would report-- oh, excuse me, Natural Resources Committee has notice of committee hearings. And Senator Quick would, would offer AM23, or have amendments to LB565, Senator Moser amendments to LB590, and Senator Dungan amendments to LB22.

**KELLY:** Members. The display boards are not working. We will proceed to General File, LB377. Senator Brandt, you're recognized to open.

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

**KELLY:** Excuse, excuse me. Mr. Clerk, for the next bill.

**ASSISTANT CLERK:** Thank you, Mr. President. LB377. A bill for an act relating to the Game and Parks Commission; to amend Section 37-101; to change provisions relating to term limits; to eliminate obsolete provisions; and to repeal the original sections. The bill was read for the first time on January 16th of this year. It was referred to the Natural Resources Committee. That committee would report to-- the bill to General File. I have nothing pending on the bill, Mr. President.

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

**BRANDT:** Thank you, Mr. President. This is a bill brought by the Natural Resources Committee. Currently, Nebraska Game and Parks commissioners serve a maximum of two terms, each lasting four years. These term limits were established to ensure fresh perspectives and broad representation in the leadership of this vital organization. However, the role of a commissioner is highly specialized, requiring a deep understanding of the state's wildlife management, recreational, development, and conservation strategies. Extending the limit to three terms would allow experienced commissioners to continue contributing their expertise while still maintaining opportunities for new members to serve. As a reminder, the Game and Parks is made up of nine commissioners that are appointed by the governor and approved by the Legislature. Eight of the commissioners serve each of the eight districts across the state, and the ninth serves at large. Commissioners serve in a volunteer capacity. I know somebody is going to ask the question on this, where this bill came from. Former Senator Dan Hughes is the one that brought this to our attention. And he is, I think, believe, in his first four years as a commissioner on Game and Parks, and he has seen some really good commissioners go off because of term limits. And his concern was that maybe they're leaving too

soon. If you have an opportunity as a governor to appoint them for another four years, that's kind of like what he'd like to see. So anyway, I'd take any questions. Thank you.

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

**J. CAVANAUGH:** Thank you, Mr. President. And thank you, Senator Brandt and Natural Resources Committee for bringing this bill. And I just wanted to not let the opportunity pass to say thank you to Senator Dan Hughes for his-- former Senator, Dan Hughes, for his continued willingness to serve. I know it's hard for him to overcome the pull of his land, to come here and serve us in this volunteer capacity. So I appreciate Senator Hughes. I appreciate the folks who are on the Game and Parks Commission, and I agree with what Senator Brandt said is that they have a lot of complicated things to deal with. In my four years on the Natural Resources Committee, I learned a lot. But there's still-- there's more to learn than you can learn in four years. And then, of course, you can do a better job for the people in Nebraska if you have, you know, those eight years of experience in those next four years. So three terms seems like a reasonable limitation. And I did want to point out, Senator Brandt did point out that this-- the Game of Hearts Commission is made up of nine members. Eight districts are determined geographically and not by population. So they're not like legislative districts. So there are districts that have, you know, one for Omaha area has way more people than, say, the one that Senator Hughes represents. And you can do that because they're appointed and not elected. And there have been attempts to make the Game and Parks Commission elected in the past, and just thought I would point that out to folks, because if you wanted to make it elected, then it would have to be one person, one vote and equal representation. So as an appointed board, you can have a not an equal representation. So anyway, I support this bill. I appreciate Dan-- Senator-- former Senator Dan Hughes. And again, I know it's hard for him to overcome the draw of his land. And so I appreciate his willingness to serve. Thank you, Mr. President.

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

**BRANDT:** I guess I would just like to add on to what Senator Cavanaugh said. Just for your edification, of the nine members, it is required that five be from the majority party, four be from the minority party,



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

and five of them be from agriculture. So if that helps you to vote yes for this, please push green for LB377. Thank you.

**KELLY:** Thank you, Senator Brandt. Senators, the question is-- members, the question is the advancement of LB377 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record Mr. Clerk.

**ASSISTANT CLERK:** 37 ayes, 3 nays on the advancement of LB377 to E&R Initial, Mr. President.

**KELLY:** LB377 advances to E&R Initial. Mr. Clerk.

**ASSISTANT CLERK:** Thank you, Mr. President. LB593, Introduced by Senator Moser. The bill was first read on January 22nd of this year. The bill was referred to the Natural Resources Committee. The committee reports the bill to General File. I have no amendments.

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

**MOSER:** Thank you, Mr. President. Good morning, colleagues, fellow Nebraskans. Today I'm opening on LB593. This bill aligns Nebraska with recently modernized gasoline specifications for ASTM D4814, which is the standard specification for automotive spark ignition engine fuel. In other words, it's the definition of gasoline. In December 2023, the ASTM International approved changes to the gasoline specifications, which were published in April of 2024, with a modification in July. These changes were necessary as the old standard was based on data from the '50s to the '70s, and the updated standard is based on more recent data [AUDIO MALFUNCTION]. OK. The revisions included changes to the volatility of fuel in many states, as well as a change to the evaporated distillation temperature requirements for gasoline, ethanol, blended fuels and wintertime fuels. Overall, these updates are technical in nature and will allow more efficient refinery operations, slightly higher gasoline volume, and less risk of refinery noncompliance without affecting the consumer's vehicle performance. Most states adopted the latest specification via a reference to the ASTM standard by a reference to the National Institute of Standards and Technology Handbook 130 automatically. But Nebraska needs to make this update legislatively, which will ensure the Nebraska's standards are consistent with and uniform with the rest of the marketplace. LB593 came out of the Natural Resources Committee on a 7-0 and one absent vote. There was no opposition testimony. I would appreciate your green vote on LB593.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate February 12, 2025

Rough Draft

**KELLY:** Thank you, Senator Moser. Seeing no one else in the queue, you're recognized to close. And waive closing. Members, the question is the advancement of LB593 to E&R Initial. All those in favor vote aye, all those opposed vote nay. Record Mr. Clerk.

**ASSISTANT CLERK:** 43 ayes, 0 nays on the advancement of LB593 Mr. President.

**KELLY:** LB593 advances to E&R initial. Mr. Clerk, next item.

**ASSISTANT CLERK:** Mr. President, LB247, introduced by Senator DeKay. A bill for an act relating to the Department of Environment and Energy; to amend section 13,-2042 and Section 66-1519; to change provisions relating to fees and the distribution of proceeds under the Integrated Solid Waste Management Act and uses of and transfers from the Petroleum Release Remedial Action Cash Fund; to provide an operative date and repeal the original sections and declare an emergency. The bill was read for the first time on January 14th of this year. The bill was referred to the Natural Resources Committee, who reports the bill back to General File. There are-- there is nothing pending on the bill, Mr. President.

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

**DeKAY:** Thank you, Mr. President, and good morning, colleagues. LB247 would establish a sustainable funding mechanism to meet Nebraska's Superfund obligations while ensuring continued support for waste reduction and recycling initiatives. The Nebraska Department of Environment and Energy currently manages 18 Active Environmental Protection Agency designated Superfund sites. There are 11 orphan sites where there are no financially viable responsible parties to conduct remediation. Nebraska faces significant challenges in funding its Superfund cost sharing responsibility at these 11 orphan sites. These sites pose ongoing environmental and public health risks. Without sufficient resources, their cleanup efforts face significant delays. Since 2017, the Petroleum Release Remedial Action Cash Fund has been the funding source for Superfund obligations. The Petroleum Fund is there to clean up the many outdated oil and gas tanks or spills that they cause throughout the state. As you can imagine, with the age of gas stations in many communities, this is a need that impacts everybody. We did receive temporary relief to our general fund obligations when this change took place in 2017. However, that change has since been put, put pressure on our petroleum release cleanups, thereby destabilizing the obligations we have from the EPA in the form

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

of Superfund cleanups and limiting our ability to respond to new environmental threats. LB247 offers a responsible and forward looking solution. This bill adjusts Nebraska's solid waste disposal fee under the Integrated Solid Waste Management Act from \$1.25 per ton to \$2.34 per ton, marking the first adjustment since 1992. This increase will generate approximately \$2.8 million annually and shift Superfund funding to this fund, ensuring Nebraska can meet its Superfund cost share obligations while also maintaining critical funding for our waste reduction and recycling programs. A dedicated, predictable funding stream ensures that Nebraska remains in compliance with the federal CERCLA response requirements and continues to remediate hazardous waste sites. The revenue will be allocated with 65% directed to the Integrated Solid Waste Management Cash Fund for environmental cleanup and 35% to the Waste Reduction and Recycling Initiative fund. This percentage of distribution adds roughly \$500,000 per year for community based recycling efforts by addressing contamination at Superfund sites. LB247 paves the way for redevelopment, reduces blight and enhances property values in affected communities. The solid waste disposal fee increase is long overdue. This bill aims to carefully strike a balance between remaining competitive with neighboring states while ensuring affordability and meeting the need for critical environmental investments. If we fail to act, Nebraska will continue to see delays in cleanup efforts, further straining resources and increasing long term costs. Without this legislation, communities across the state will struggle to redevelop contaminated properties, hampering economic growth and exposing residents to ongoing environmental hazards. LB247 was advanced out of Natural Resources Committee on a 6-1 vote with one senator absent. By passing LB247, we can affirm Nebraska's commitment to a responsible stewardship of our natural resources, ensuring a cleaner, healthier and more sustainable future for our state. With that, I would ask for your green vote. Thank you, Mr. President.

**KELLY:** Thank you, Senator DeKay. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. I was wondering if Senator DeKay would answer a couple of questions.

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

**DeKAY:** Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

**McKINNEY:** Thank you. And thank you for your explanation in your opening. So if I'm hearing you right, you're switching from utilizing the Petroleum Fund and trying to use the fees to pay for the Superfund cleanups?

**DeKAY:** Yes, we will be coordinating that with the different percentages.

**McKINNEY:** OK. Do you know where those sites are at?

**DeKAY:** What's that again?

**McKINNEY:** The Superfund sites?

**DeKAY:** I can get that information. I don't know where the orphan ones are, but I can get that information to you.

**McKINNEY:** OK. And you're expecting-- there's an expectation of like \$2.8 million annu-- annually?

**DeKAY:** Yes.

**McKINNEY:** OK. And let's say a community has a Superfund site. How does the community apply for the environmental cleanup? What's that process?

**DeKAY:** Well, they will have to apply and show the need for it. And what it does, basically, if you have communities where there are abandoned si-- abandoned properties and stuff, that gives them the opportunity to apply for some of those funds to clean up without it sitting there. So if there isn't a source to pay the costs of cleaning it up, it gives them the ability to ask for that money to--

**McKINNEY:** And that, and that's under NDEE?

**DeKAY:** Yes.

**McKINNEY:** OK. And dang, I had one more question. It just slipped my mind. But thank you. I'll probably get back on once I think about it. Thank you.

**DeKAY:** Thank you.

**KELLY:** Thank you, Senator McKinney and-- Senator Spivey, you're next in the queue.

**SPIVEY:** Thank you. And I appreciate the questions from Senator McKinney, and Senator DeKay bringing this bill. So my district, District 13, is in the heart of Omaha, northeast, northwest Omaha, and environmental issues are very important to our community. For example, we have an OPPD plant, a coal plant that we've been working to close down because of the impacts that the coal has on childhood asthma, and we have higher rates. We have the highest amount of lead in the ground which we've been working to ensure that the appropriation for mitigation for those that the Legislature did in previous years continues to carry over because that happens in District 13. And so looking at the impacts of this bill to Superfund issues, to Superfund specifically, I have some concerns, as one of the largest sites is located specifically in Omaha, east of 72nd, again impacting districts 13, mine, as well as District 11. So I would love if Senator DeKay would yield-- yield to a few questions, please?

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

**DeKAY:** Yes.

**SPIVEY:** Thank you, Senator DeKay. To start, can you please give some clarity around how this bill came about? Was it brought to you by NDEE or are you seeing things in other Superfunds across the state? Or like what is the kind of reasoning and intention behind the bill?

**DeKAY:** It was brought so that we could alleviate the pressure on General Funds in order to go more to a cash fund deal that's going to help pay for this by the people that need to pay for it, rather than having general public across-- or general rate payers across the state pay for it.

**SPIVEY:** Got it. So the intention is to address the deficit with the General Fund issues and move to cash funds to be able to support the Superfund process?

**DeKAY:** It is-- it was put together so that we can, like I said, we can put the funds together and have responsible parties help pay for them. And where they're not, it does give us an avenue by increasing the fees to have a fund to go to to clean up if there are abandoned properties and stuff that, that are affected by it.

**SPIVEY:** Thank you. Was there any discussion on the fee increase and how would that would impact folks' ability to be able to continue to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

use the sites versus starting to dump, say, on the side of the road or not?

**DeKAY:** Yes, I could give you a couple of examples on that. The fee on a, on a family of four. They use approximately-- an, an average person uses approximately a ton of garbage a year. So if you increase that by \$1.09 A ton of basically a family of four would raise their fees to about-- by \$4.36 a year. And then on the petroleum side of it, on petroleum side, you know, there are 2.3 million gallons of gasoline used daily at about 1.2 gallons per person. So the average Nebraska pays \$3.94 petroleum release fund going forward. So it's not going to be a huge impact one way or the other, because on the petroleum side, it's 9/10 of 1% per gallon and on diesel it's 3/10 of 1% on a gallon of diesel fuel.

**SPIVEY:** Thank you for that clarity. As I was reading the bill and just wanted to make sure that I understood, would you please speak to and provide some clarity around the contribution from the state? As I was reading it, it looks like that there would be a decrease of about \$1.5 million from the state, and that this also limits the amount of transfers that can go into that cash fund to be able to support the Superfund sites.

**DeKAY:** Yeah, that would be correct. But that's why we're asking for the small increase in fees to make up that differential.

**SPIVEY:** OK. So with the calculation, the increase of fees would take on that \$1.5 million that is being limited from the state?

**DeKAY:** That's my-- that's what-- that's how I see it playing out. Yes.

**SPIVEY:** OK. And then can you please speak to the limiting of transfers? That wasn't as clear, and I wanted to make sure I understood how the limiting of the transfers from the different cash funds is working within this bill.

**DeKAY:** On that, I will have to get some information how, I don't know how that is transferred over. But just that-- so that we do [INAUDIBLE].

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

**SPIVEY:** Thank you, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

**KELLY:** Thank you. Senator Spivey and Senator DeKay. Senator Holdcroft, you're recognized to speak.

**HOLDCROFT:** Thank you, Mr. President. I rise in support of LB247. But today or now, I would just like to give my weekly tutorial on the Department of Corrections. And I'll repeat these things over. In, in 2024, we had an average of 5,880 incarcerated individuals, just under 6,000 incarcerated individuals. The, the admissions during fiscal year 2024 were 2,132. And the average stay for an inmate is three and a half years in our system. And I just will quote this, I think, often from Director Jeffries, this was from him. He said through developing our people, following sound correctional policies, and investing in our physical plants, we provide program opportunities for our population to develop the tools and skills to successfully reenter their communities. And that's really the focus from Director Jeffries is reentry. And again, we have nine correction centers, five maximum security. We have the Nebraska State Penitentiary here in Lincoln. We have the reception and treatment center here in Lincoln. We have the Omaha Correction Center by the airport, the Tecumseh State Correction Institute in Tecumseh, and the Nebraska Correctional Center for Women, which is in York. And then we have three community corrections centers, which are your work release facilities, one in Omaha, two here in Lincoln, one for men and one for women. And then we have the work ethic camp in McCook. Today I would just like to run through the history of the Department of Corrections. You'll find a very detailed one at their website. So but I've just pulled out the-- what I think are kind of the significant ones. It goes back to 1856, which is of course before statehood. The first act of the Nebraska territory concerning establishment of a, of a penitentiary was to name a board of commissions to locate a prison in the town of Tekamah in, in Burt, Burt County. However, no action was taken. In 1859, the territorial Legislature decreed that convicts should be kept in county jails until a territorial penitentiary could be built. And that actually continues today. If your sentence for a state crime is below one year, you will serve that in the county jail and you do not then go to a state prison. From 1860 to 1864, the territory made several attempts to receive appropriations from the US Congress to construct a penitentiary without apparent success, which may have been due to the civil war consuming the attention of the national government. In 1869, we opened the Nebraska State Penitentiary. 1869 is when we opened NSP here in Lincoln. The first state prisoner was Jose Hernandez [PHONETIC], number one. In the 1880s, Nebraska inmates were employed through a private contractor to help construct the state capitol

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

building in Lincoln The Nebraska State Penitentiary accepted inmates from Colorado and Wyoming territory, along with those from the federal government. A separate inmate numbering system was utilized. 1902, four female prisoners were admitted to the penitentiary. They were housed on the third floor of the administration building, which was located between the west and east cell houses and were supervised by the warden's wife. In 1903, Gottlieb Neigenfind number 39-- 3980, was the first Nebraskan prison-- prisoner to be executed. He was hanged for a murder in Pierce County, Nebraska. That was 1903. 1912, in February, Penitentiary Deputy Warden Davis was stabbed to death by inmate Albert Prince in the chapel. He was sentenced to death and was the last inmate to be hanged in Nebraska. That was 1912. 1913, it was determined that about 100 in-- inmates were addicted to morphine and other opiates. It was believed that the drugs were brought into the prison by unscrupulous employees and contractors. 1920, first execution by, by electric-- first execution by electrocution. The previous method, of course, was hanging. 1920, again, the ref-- ref--e reformatory for women, reformatory for women, now called the Nebraska Correction for Women, was opened in York, Nebraska. 1923, the prison population, 1923 was 556 inmates--

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

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

**KELLY:** Thank you, Senator Holdcroft. Senator Rountree, you're recognized to speak.

**ROUNTREE:** Thank you, Mr. President. Would Senator DeKay yield to a question?

**KELLY:** Senator DeKay, would you yield to question?

**DeKAY:** Yes.

**ROUNTREE:** Senator DeKay, in your opening, you stated that by implementing this bill, it would allow Nebraska to remain competitive with our surrounding states. What are some of those competitive items that we may be behind on now that we're going to gain some efficiencies on and be level with our surrounding states by passing this bill?

**DeKAY:** Well, like what we just talked about off the mic a second ago, over in Iowa, if you go across the river, it's \$10, \$10 per load, and we're going to be increasing our funds to be competitive on how--



depending on how many ton we are hauling over there. So it gives us an ability to keep that in perspective so that we're not being subjected to waste that we don't need to have. It gives us the opportunity to send that across so that we don't have to be-- by not being financially in the same boat as them, that they're using us more than they're using their own resources. So.

**ROUNTREE:** So by this, will we still be taking items over to Iowa, or will we have places here in Nebraska that will be able to dispose of our own waste and so forth?

**DeKAY:** That would probably be dependent on how many tons we are talking about. If we're talking about simple waste, that would be a different amount of money as compared to amount of tonnage if you had an oil spill or something like that because you-- now you're bringing Earth or whatever, dirt with it. So it depends on the amount of tons you'd be sending one way or the other.

**ROUNTREE:** All right. Thanks so much, Senator DeKay. I yield any time remaining.

**KELLY:** Thank you, Senators Rountree and DeKay. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. I rise today still curious about LB247. Honestly, this was not a bill that was on my radar earlier. But the conversation we're having, I think, sounds like it's pretty legitimate. I'm trying to understand it better, and I think Senator Spivey raised some good points. I would yield my time to Senator Spivey, Mr. President.

**KELLY:** Senator Spivey, you have four minutes, 42 seconds.

**SPIVEY:** Thank you, Mr. President. Would Senator DeKay yield to additional questions?

**KELLY:** Senator DeKay, would you yield to questions?

**DeKAY:** Yes.

**SPIVEY:** OK. So to revisit our conversation about the \$1.5 million change from the state. On page 5 of the bill, line 27, it implements a sunset clause now, which would end June 30th, 2025. That would-- which mean the change in revenue for that \$1.5 million. So that's where I was getting that from of the fiscal impact from the state is changing.

**DeKAY:** OK. Yeah. What this bill would do would terminate transfers out of the Petroleum Fund for Superfund, and it does allow for transfers out of the Integrated Waste Fund for-- to the Superfund.

**SPIVEY:** But it still has the sunset clause now where it didn't have one before that that would stop, that up to \$1.5 million each fiscal year through the-- the new language is through June 30th, 2025. So that's what I was uplifting in terms of the changes. And we can-- I know that your LA was going to look into that, but that, that was the line of where I was getting that from and where my kind of hesitation and pause came from was that the fiscal impact to that and adding that date from 2025, and then just trying to better understand the limits to the transfers that are being emitted into this language, it wasn't as clear of what does that mean in terms of having the, the cash in order to be able to really remediate and invest in our Superfunds. My next question is around the Nebraska Climate Action Priority Plan. So I did introduce a bill that would create a climate action office that really would build on what NDEE is already doing around climate action. And they've done a really great job thinking about climate action from our state, and what does that look like with other political subdivisions as well as working with community based organizations. They actually, in July of last year, received \$307 million to implement some of these measures, which includes, like, residential pre weatherization program, a carbon intensity score registry, incentives to reduce food waste. So again, really thinking holistically about climate action as our state. And so I'm just wondering because how I'm reading this bill, there are impacts to one of our largest Superfunds in the state. How does this bill relate to the plan and the vision and direction of NDEE and what they've set forth around climate action? And was there any discussion about that?

**DeKAY:** There wasn't a lot of discussion that I was involved in, but what I want to-- the intent of this bill is basically make it a freestanding fund paid for by the people that have caused the impacts with the, the businesses or whatever that have, have caused an impact of this so that they are paying their disposal fees. So it's not going to, hopefully, impact other Superfunds that are out there, and we're not trying to draw money from them to do that, we're trying to make this a free standing. And basically one of the-- this might add some clarity to it. On the disposal fees, it would be an owner operator of a municipal solid waste disposal area that's regulated by the department or permitted solid waste processing that transports the solid waste out of the state for the disposal of the department fee and based on quarterly-- by the t-- they are-- the fee is charged by

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 12, 2025  
Rough Draft

each quarterly-- quarter based on the tonnage and cubic yards that they accumulated over that period. And the owner operator in turn passes that on to the customers and that's where the fee increase comes from. And so the, the site that's collecting this will pay-- they pay it and then it's transferred on to the customers.

**SPIVEY:** Thank you, Senator DeKay. Those are the last of my questions. I punched back in because it looks like we only have a minute.

**KELLY:** Thank you, Senators Spivey and DeKay. Mr. Clerk for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Amendments to LB265 by Senator Conrad. Nat-- hearing notice from the Natural Resources Committee. Name adds. Senator Sanders to LB653. Senator Hardin to LB657. Finally, Mr. President, Senator Holdcroft would move to adjourn the body until Thursday, February 25th at 9:00 a.m.

**KELLY:** Members You have heard the motion to adjourn. All those in favor say aye. Those opposed, nay. The Legislature is adjourned.