

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 26, 2025

KELLY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-third day of the One Hundred Ninth Legislature, First Session. Our chaplain for today is Pastor Tom Barnes, Minden Evangelical Free Church in Minden in Senator Lonowski's district. Please rise.

TOM BARNES: Let's pray. Lord, we know this morning that there are none like you. There are no works like yours. You tell us that someday all the nations you have made will come and worship before you and glorify your name. For you are great. You do wondrous things. You alone are God. But Lord, at the same time that you are a powerful God in this way, you are merciful, you are gracious, you are slow to anger, and abounding in steadfast love and faithfulness. So we come to you this morning with confidence. Confidence to pray on behalf of these, your ministers, who serve us so well as a state. Incline your ear, O Lord. In those difficult days when they face hard decisions and discussions, Lord, we pray that you would help them. Teach them your way and your wisdom, Lord. And may you be gracious to them. And in the midst of all of their work, Lord, may you gladden their souls. And we pray all of this through Christ and for him. Amen.

KELLY: I recognize Senator Andersen for the Pledge of Allegiance.

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

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

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

KELLY: Are there any corrections for the Journal?

CLERK: I have no corrections this morning, sir.

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

CLERK: There are, Mr. President. Communication from the governor. Dear Clerk Metzler, engrossed LB1(e), LB2, LB20, LB38, LB43(e), LB51, LB52, LB58, LB72, LB85, LB91, LB108e, LB126, LB167(e), LB182, LB194, LB208, and LB209e were received in my office on February 21, 2025 and signed on February 25, 2025. These bills were delivered to the Secretary of State on February 25, 2025. Signed. Sincerely, Jim Pillen. Governor. Additionally, your Committee on Judiciary, chaired by Senator Bosn,

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reports LB640 to General File. That's all I have this morning, Mr. President.

KELLY: Thank you, Mr. Clerk. Please proceed with the first item on the agenda.

CLERK: Mr. President, the Natural Resources Committee would report favorably on the gubernatorial appointments of individuals to the Nebraska Natural Resources Commission as well as the Nebraska Power Review Board.

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

BRANDT: Mr. President, could I have a gavel, please? Thank you. So we've got three appointments this morning, and we've combined these into one vote. In Natural Resources, our first one is Matt [SIC-- Bradley] Dunbar, reappointment to the Nebraska Natural Resources Commission for a term of four years, June 1 through May 31, ending in 2028. Mr. Dunbar is seeking reappointment to the Natural Resources Commission. He is a Nebraska native and resides in Omaha. He is a regional manager at Lindsay Corporation, a manufacturer of Zimmatic brand center pivot irrigation systems. Mr. Dunbar was initially appointed to the board in 2017 and began his second four-year term in January 2021. As one of the board's 14 appointed members, he will represent the category of manufacturing interests. The Nebraska Natural Resources Commission has overall approval of cost-share contributions from six program funds to soil and water conservation projects and practices. The commission also decides how annual state aid funds are distributed and performs general oversight of project and activity statuses and revises or adopts and promulgates rules and regulations as necessary. On February 19, 2025, Mr. Dunbar appeared before the Natural Resources Committee, and his nomination was advanced unanimously for the commit-- from the committee. Second nominee, Craig [SIC-- Chuck] Hutchison, for reappointment to the Nebraska Power Review Board. Mr. Craig Hutchison is seeking reappointment to the Nebraska Power Review Board. He is a resident of Bellevue, Nebraska and an engineer who retired from the Navy after 28 years of service. Mr. Hutchison was initially appointed to the board on May 20, 2017 and began his second four-year term in January 2021. As one of the board's two designated laymembers, he currently serves as the chairman. The Power Review Board's purpose is to oversee Nebraska's electric industry to ensure that Nebraska's residents receive adequate, reliable electric service at the lowest overall cost possible using sound business practices to eliminate conflict and competition between electric suppliers, to eliminate duplication of facilities and resources among electric

suppliers, and to provide an administrative form-- forum to address service area disputes and rate disputes between electric suppliers in limited circumstances and between electric utility and customers. On February 20, 2025, Mr. Hutchison appeared before the Natural Resources Committee. There were no online comments or testifiers in opposition, and his nomination was advanced unanimously from the committee. Our final nominee is Matt Smallcomb, a new appointment to the Nebraska Natural Resources Commission. Mr. Smallcomb, Smallcomb is seeking a new appointment on the Nebraska Natural Resources Commission. He is from Gibbon, Nebraska and currently serves as city administrator for the city of Gibbon. His four-year appointment fills the vacated term of Senator Clouse and is effective from December 11, 2024 to May 31, 2028. Mr. Smallcomb is one of 14 appointed members and will represent the municipal water user category from a city of the first or second class. The Nebraska Natural Resources Commission has overall approval of cost-share contributions from six program funds to soil and water conservation projects and practices. The commission also decides how annual state aid funds are distributed and performs general oversight of project and activity statuses and re-- revises or adopts and promulgates rules and regulations as necessary. On February 20, 2025, Mr. Smallcomb appeared before the Natural Resources Committee. There were no online comments or testifiers in opposition. And his nomination advanced unanimously from the committee. Thank you.

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

CLOUSE: Yes. Thank you, Mr. President. I rise this morning in full support of these nominations. With respect to his-- Brad Dunbar. Brad, I served with him on the Natural Resources Commission for a number of years. Brad is very competent. He understands the impact of natural resources on the manufacturing sector that he represents. And then Matt Smallcomb, as was mentioned, he was actually my replacement, my personal, personal recommendation to have Matt replace me on this commission. He does an outstanding job as the city administrator for Gibbon. He understands natural resources, not only water assessments for the municipality but also flood control and wastewater treatment. He's very knowledgeable in those areas, so I, I wholeheartedly give my support for Matt and Brad on the Natural Resources Commission. With regards to Chuck Hutchison, I believe he's the president of the Power Review Board, and as such, he is the representative to the Southwest Power Pool, which is a key position with the Southwest Power Pool, as they regulate the transmission, generation, and cooperative spirit with the utilities in Nebraska. And so Chuck's been very experienced in

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that. And I just offer up my support for these three nominations. And I asked for the green vote on all three. Thank--

KELLY: Thank you, Senator Clouse. Seeing no one else in the queue. Senator Brandt, you are recognized to close. And waive closing. Members, the question is the adoption of the report from the Natural Resources Committee. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

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

KELLY: The committee report is adopted. Speaker Arch would like to announce some guests in the north balcony: members of the Nebraska Health Care LEAD Class from across Nebraska. Please stand and be recognized by your Nebraska Legislature. Mr. Clerk on the agenda.

CLERK: Mr. President, next item on the agenda: the Transportation and Telecommunications Committee would report favorably on the gubernatorial appointments of Jeffrey Grady, Brandon Jones, Aaron Krebs, Trevor Roth, and James Sav-- Saville to the Underground Excavation Safety Committee.

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

MOSER: Thank you, Mr. President. And good morning, colleagues. Good morning, Nebrasigan-- Nebraskans. The Transportation and Telecommunications Committee held a confirmation hearing on Tuesday, February 18 for five appointments to the Underground Excavation Safety Committee, whose mission it is to review complaints filed with the fire marshal for alleged violations of Nebraska's one-call notification system. Quite often, when utilities are damaged or cut in rights of way, the blame is somewhat in question. And this committee would assess the responsibility for these claims and hopefully streamline the process. It's a seven committery-- seven-member, governor-appointed committee, and it's led by the State Fire Marshal or their designee. And the other six members of the commission are to be approved by a majority of the Legislature. Three rep-- members represent operators, three members represent excavators, and one alternate is appointed for each category. After this initial appointment, members will serve on staggered four-year terms. Five appointees have been approved by the Transportation and Telecommunications Committee. They are Brandon Jones, who serves on the Nebraska 811 Board of Directors and has served on the North Platte Economic Development Committee and is vice president of construction operations at Beveridge Inc. James Saville

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serves on the Nebraska 811 Board of Directors and is manager of construction and planning for Cox Communications. He also works with Big Brothers Big Sisters of the Midlands. Jeffrey Grady is vice president at Valley Corporation in Valley, Nebraska and serves on the National Utility Contractors Association Board as contractor director. Aaron Krebs is a senior manager at Telecom Construction and has been active in the telecommunications field since 1995 and has worked with cable TV, telephony, and fiber optic services. Trevor Roth has worked for the Nebraska Public Power District for 24 years, has extensive experience in the utility industry, and attends the 811 Board meetings. The Transportation and Telecommunications Committee recommends that these confirmations be approved with a unanimous vote. Thank you.

KELLY: Thank you, Senator Moser. You're recognized to close. And waive closing. Members, the question is the adoption of the committee report from Transportation and Telecommunications. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 42 ayes, 0 nays, Mr. President, on adoption of the committee report.

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

CLERK: Mr. President, next item: LB-- General File, LB504, introduced by Senator Bosn at the request of the governor. It's a bill for an act relating to consumer protections; adopts the Age-Appropriate Online Design Code Act; provides an operative date; and provides severability. Bill was read for the first time on January 21 of this year and referred to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File with committee amendments. Mr. President, when the Legislature left the bill yesterday, the Legislature had adopted the committee amendments. Pending was a motion to reconsider from Senator Dungan, as well as the underlying bill itself.

KELLY: Senator Bosn, you're recognized for a one-minute refresh on the bill.

BOSN: Thank you, Mr. President. Good morning, colleagues. LB504, as most of you recall from yesterday, addresses social media companies and the impact that they are having on our children. This bill is designed to address the algorithms for kids-- prevents them from making profits off of "kids's" algorithms. Also addresses some of the addictive features from social media-- that are on social media platforms and says that essentially parents have the-- will be presented with the

information on how to shut those off and they can't be on a default setting on "kids's" phone. This is a bipartisan bill that has been supported in a number of states across the country in an effort to address what is an unarguable concern across the board for children, safety standards for children, protecting their health. I'm also having a letter sent around that I received either early this morning or late last night from a number of parents outlining some of their concerns. So I would ask for your opposition to the motion to reconsider and your support-- I believe the amendment passed, but support for the amendment and also for the bill. Thank you, Mr. President.

KELLY: Thank you, Senator Bosn. And Senator Dungan, you're recognized for one-minute refresh on your motion to reconsider.

DUNGAN: Thank you, Mr. President. And good morning, colleagues. Just a little reminder about where we were yesterday. I did support AM169, as I thought some of the clarifications were helpful. But I do remain opposed to LB504 in its current iteration with or without the amendment. The motion to reconsider was filed because the question was called on the amendment with a number of people still in the queue who had not had a chance to talk yet. I think there's a couple of folks who were busy yesterday morning attending to a number of other matters. I'd like to give the opportunity today for them to speak on this very important and broad bill as well. So my hope is that those folks who were not able to be a part of the conversation can get in, get in the queue today and, and continue to have that talk. So again, colleagues, I do support AM169, but I am opposed to LB504. And I would encourage your red vote on the underlying bill, LB504. Thank you, Mr. President.

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

J. CAVANAUGH: Thank you, Mr. President. Well, I do not support the motion to reconsider. I did vote for AM169, and I stand by that vote. And I'm-- and the current form I-- opposed to LB504 even with the amendment. And I actually punched in yesterday before the question was called in response to when Senator Jacobson said that it's-- you can't say that you support the concept and oppose parts of the bill. And I think that's exactly what floor debate is for. That's what we're here for. I'm not on the committee. I didn't get to propose these-- any amendments up to this point. I wasn't engaged in the deliberations for kicking this bill out. I wasn't part of the hearing. My opportunity to participate in this bill is when it's on the floor. And some of that participation takes the form of listening to other people's points, sort of thinking through that myself-- not just having to make the

decision in that instance-- and taking a little bit of time to deliberate about those issues. And so I was doing that yesterday. I took the time. I'm glad we went past and have had an opportunity to sit for the night and come back and talk about this some more, because there are things that are concerning to me in this bill that I think, I think are solvable problems and that could get to a place where I would not have a problem with this bill. And so that's why it's important we have this floor debate so people can raise their concerns, and then the introducers can say, oh, yeah. That doesn't undermine my intention. As Senator Bosn said, she would entertain amendments that don't fundamentally undermine the intention of the bill. So I'll just start talking about some of those. I would say one of them is-- it's on page 11 of the current bill, which is Section 9(2), covered online services prohibited from using dark patterns or any other similar practice to subvert or impair user autonomy, decision-making, or choice. Such dark patterns shall constitute a deceptive trade practice under the Uniform Deceptive Trade Practices Act, and, in addition to any remedies or penalties available under the Age-Appropriate Online Design Code, shall be subject to any remedies or penalties available for a violation under the Uniform Decep-- Prac-- Deceptive Practices Act. Another section-- I don't know what dark patterns means. That doesn't tell me what it is. I haven't been able to find another definition. Maybe I'm missing it in the definition section. It's quite a long definition section. So if somebody could point that one out to me, and then we can have a conversation about what exactly that means. So that's one of my concerns right off the bat. But then the other one is one that did get talked about a little bit yesterday. And so then I took the opportunity of some of the downtime we had to look things up myself. And it's Section 12 on page 13, the Attorney General shall enforce the Age-Appropriate Online Code Act and may investigate compliance with the act. The Attorney General may adopt, promulgate-- and promulgate rules and regulations to carry out the act. So, of course, my first question-- and maybe I'll give folks a minute to settle into the debate before I start directly asking, but is the Attorney General subject to the Administrative Procedure Act? I looked-- I went and look through the Administrative Procedure Act. So the Administrative Procedure Act, for those who don't know, is the part of the state statute that deals with how agencies promulgate rules. And there's a whole bunch of things you have to do to promulgate rules that makes sure-- promulgate means to put out, I guess. But that's the word we use, and it's used here. But it, it's-- it has all of these requirements they have to follow when you are creating rules and regs, regs that, you know, are under your purview. And I started looking at it yesterday to see if the Attorney General is currently covered by it. And the only thing I could

find is that the Attorney General makes model rules for agencies, which I took to mean-- and somebody can correct me if I'm wrong on this-- but I took to mean it was rules for how they promulgate rules, not the actual rules themselves. And then, of course, in the procedure-- and I'll push my light to get back on here because I'm running out of time. But in the-- in-- the other mentions in the current Administrative Procedure Act of the Attorney General is their role in reviewing rules submitted by other agencies and approving them. And I think-- I, I do think that any rule promulgation should be subject to the Administrative Procedure Act. I think it's really problematic if the Attorney General is playing all three roles in this promulgation of rules. And so that is very concerning. I don't know why this is in here. I'm not even sure what rules we're talking about. So I think there is a lot to consider still in this bill that I think is a serious conversation. And I'm-- I don't even know if that serves a purpose or the intent of this bill. So I might put up an amendment to strip out just that part about the rules. But I look-- I would like to hear some conversation about why that's in there, what purpose it serves, what rules we think the, the Attorney General's going to promulgate, and--

KELLY: That's your time, Senator.

J. CAVANAUGH: --if whether or not he's subject to the Administrative Procedure Act. Thank you, Mr. President.

KELLY: Thank you, Senator Conrad-- or-- excuse me-- Senator Cavanaugh. Senator Conrad, you're recognized to speak.

CONRAD: Hello. Good morning, colleagues. And thank you, Senator Cavanaugh, for lifting up some of those concerns and questions that I too had in regards to how this measure interfaces with the Administrative Procedures Act and some similar and related questions I have related to broadening the scope of the Attorney General's powers, what happens to said fines in regards to enforcement, et cetera. So we can perhaps have an opportunity to work on some of those issues with Senator Bosn and others as the bill progresses through various stages of deliberation, which I know she's been very thoughtful about being open to making the bill work better to achieve her objectives. And before I get too deep into some of the questions and concerns I have with the language as proposed and as amended by the committee amendment, I didn't have an opportunity to participate in much of the debate yesterday, as I was on a conference call with all stakeholders trying to identify and negotiate a path forward on LB265 as promised. So just trying to come back and get up to speed on each of these pieces. And I know some of this was discussed yesterday, but I want to

first commend my friend, Senator Bosn, for her work on this issue. I know that she has really spent a great deal of time and energy working with local groups, national groups, and brings, of course, her experience as both the mom of a young-- of young children and as an attorney and a policymaker to bear on this and other measures. So we share a lot of those experiences and identities and professional backgrounds as well. And I also want to commend and express gratitude to Senator Bosn for specifically reaching out to me pre-session and opening up a conversation about our shared concerns as moms of young kids in trying to establish appropriate guardrails to protect them from online harms that I think are undeniable. And we also talked through some of the different approaches that other states, sister states were utilizing to address some of these same shared policy goals. And I do think that Senator Bosn is, is generally on the right track in terms of what we know thus far about some of the other solutions that have been put forward that have implicated a, a host of legal opposition, primarily grounded in the First Amendment, and that this kind of regulation or ban or prohibition surrounding algorithms that are designed to cause harm seems, seems to be a pathway where there is perhaps some more latitude. But we're learning more about some of those cases as they proceed through the court system, and I know that we'll have a chance to apply the current legal landscape to LB504 as introduced or amended. But the other thing that I wanted to do was perhaps ask if my friend, Senator Dungan-- who serves as a member of the committee-- would yield to some questions.

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

DUNGAN: Yes.

CONRAD: Thank you, Senator Dungan. And I know since you serve on the committee it can be very illuminating to have a greater understanding of committee deliberations on some of these bills. So I noticed when looking at the measure there were a host of different age thresholds. I'm guessing some are tied to related issues in federal law governing children and online protection. But in some areas of the bill, there's an age threshold set at 13. In other areas of the bill, there's an age threshold set at 18. And then, of course, we have the common understanding that, for many purposes in Nebraska, we set the age of majority at 19. I know we're running out of time, but were these issues discussed? And could you help me understand why there's different age thresholds and how that impacts other areas of Nebraska law?

DUNGAN: I will tell you that those were not discussed in the committee hearing. This bill was heard, I think, on February 3. It was execed on

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immediately on February 3. And I don't believe there was much discussion about the interplay of those different ages. So that was not a question that I got an answer to.

CONRAD: OK. Thank--

DUNGAN: Yup.

CONRAD: --thank you, Senator. And then I have some similar questions as well from the bill as introduced and modified by the--

KELLY: That's your time, senators.

CONRAD: Thank you. Thank you, Mr. President.

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

M. CAVANAUGH: Thank you, Mr. President. I didn't actually get a chance to speak on this yesterday. I yielded my time to Senator Dungan yesterday because he had some points that he was hoping to make in the debate, and I just figured I could get back in the queue, and then that didn't quite work out. So-- I'm ha-- I'm struggling with how to couch my views on this bill because of things that were said yesterday in the course of debate that make it sound like what I am going to say is disingenuous. I don't fundamentally oppose this bill. I oppose pieces of this bill. And if those pieces are removed, then my opposition will be removed. And yesterday, it was implied that we just are opposing things to oppose them and to basically be kind of jerks. And that seems to be a pattern here, to just diminish the opposition by belittling the opposition. And it's toxic and it is unproductive. So I oppose this bill primarily because of the Attorney General authority in here. I am not familiar with any time that we have given the Attorney General the authority to promulgate rules and regulations through legislation that we pass. It is generally that his authority is to enforce rules and laws that we put forward, not to regulate them himself and his office. And so that is the biggest piece that I am in opposition to at this point. I have some issues sort of technically with the rest of this, but the overarching goal I'm not in disagreement with. I have young children. I totally get it. I-- probably parts of this I would welcome. I kind of view this as the conversation we had last year over Senator Murman's bill for age verification and pornography. You know, I have concerns over the security of age verification. And how do we really ensure that it's doing what we want it to do? But at the end of the day, I stood aside as Senator Murman's bill moved forward. And if my

concerns around the Attorney General were addressed here, I would likely do the same. And-- though I, I, I'm not as familiar with the rest of the bill, but I imagine I would do the same in this case. But I just-- you know, I think it's important for us to have this debate and to, to really figure out how to make a bill better. And having debate doesn't mean a filibuster. Having debate should mean improving upon what is in front of us and addressing concerns that maybe didn't come up in committee because the committee was only made up of a certain number of people. And I think we've also had some pretty extensive conversation here about how the committee process hasn't been working the way it's intended to work, which is to really hammer out a lot of the problems and pitfalls while in committee so that when things come to the floor they move along a little bit faster. So, you know, that's where I'm at. And-- I have some other things that I want to comment on. How much time do I have left, Mr. President?

KELLY: 1 minute, 1 second.

M. CAVANAUGH: OK. Well, I think then I will have to get in the queue to finish my thoughts because they are longer than 1 minute, 1 second. But I, I don't know how I'm going to vote on Senator Dungan's motion to reconsider. I could vote for it and then I could still vote for the amendment, the Banking amendment. I didn't vote for the Banking amendment the first time because I wasn't quite sure what all was in it and I was trying to catch up on things. So this gives me an opportunity to review it and decide if I will vote for it. But I would love to see an amendment that takes out the authority given to the Attorney General. And if that is taken out, there is a pretty good chance that I am going to sit down-- not vote for the bill, but not stand in opposition to it. But I need to dig into it a little bit more. So there you go. That's my honest, genuine opinion about this bill. And I'm not trying to be a jerk. So thank you for insinuating that yesterday, but here I am. Thank you, Mr. President.

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

HOLDCROFT: Thank you, Mr. President. And I thought I'd take this opportunity to do my weekly report on Department of Health and Human Services and the Department of Corrections. First, some good news again from the Department of Health and Human Services. Kind of a repeat here, but I think it's really important that we've-- the DHHS has now implemented the Medicaid Prenatal Plus Program. Beginning 1-- January 1 to the-- the Division of Medicaid and Long-Term Care implemented the Prenatal Plus Program. Prenatal Plus Program supports Nebraska

Medicaid-eligible pregnant mothers identified by their pre-- prenatal health care provider as being at risk for negative ma-- maternal or infant health outcomes. And the program aims to reduce the incidence of low birth rate, preterm birth, and adverse birth outcomes while addressing lifestyle, behavior, and nonmedical factors that may impact the health and well-being of both mother and child. And there is a-- there's a website here at DHHS. It's under Prenatal Plus Program. And then I'd like to continue just talking a little bit about the Department of Health and Human-- I'm, I'm sorry-- the Department of Corrections. As I've said-- I've, I've quoted these statistics before. In 2024, we had an average of 5,880 incarcerated individuals. We had 2,132 admissions. We had about 2,500 releases. And the average stay in our corrections facilities is three, three and a half years. And again, from-- directly from the director, Jeffreys. Through, through-- and this is a quote: 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. So I would like to continue today with my remaining time to talk a little bit about NSP, the Nebraska State Penitentiary. The Nebraska State Penitentiary, located in Lincoln, Nebraska, is the oldest state penitentiary correction facility in Nebraska, opening in 1869. So 1869. NSP's been around since then. And until after World War I, it was the only adult correctional facility in Nebraska. And I've been out there a number of times. The first time was in 2023 as a member of the Judiciary Committee. We went out and toured it. And as I mentioned before, it was quite an eye-opener. Never being in a prison before, seeing, you know, incarcerated individuals there. And then I was invited back for-- one thing that's kind of different about NSP than other correction centers is they have a, a large number of clubs where the inmates get together quarterly or semiannually. Groups such as the Circle of Concerned Lifers. They have a Toastmasters. They have a veterans group. They have a Native American group. And they invite senators to come for those occasions and have a meal with them. Then they have a program. And there are several senators that go on a regular basis. Senator Dungan is, is often there. Senator McKinney, Senator Bosn, and myself, we've all gone to these events. And that's how I got to know some of these concerned lifers, lifers who, who really-- you know, if you think about it, they are without hope. They, they only-- their only opportunity to, to have release from prison is through a commutation of the pardons-- the Board of Pardons. So right now, the Board of Pardons-- and actually, for quite a while, the Board of Pardons has not been inclined to, to grant any commutations. And so that's kind of the, the onus behind my bill, LB215, which will be heard in Judiciary Committee

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today, to try and use the Board of Parole to screen these individuals who are-- have these long sentences. So we're, we're targeting people who have been in prison for at least 25 years. If they committed their crimes later in life, it would be 30 years. And if they meet that threshold, then they go before the Board of Parole. And Parole then will make recommendations to the Board of Pardons as to their release. So that's kind of what the bill does. And, and hopefully we'll get some support for that. But these are, these are good individuals that I've, I've met. And--

KELLY: That's your time, Senator.

HOLDCROFT: --I see my time is up. Thank you, Mr. President.

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

JACOBSON: Thank you, Mr. President. I just-- when Senator John Cavanaugh made his comments and quoted me, I just want to be on the record to be very clear that what I was referring to was we continue to bring bills to deal with serious problems in this state. And we have people say, I think it's a great bill, but I can't support it because-- fill in the blank. There's always a problem. There's never a constructive amendment to fix it. There's no amendment brought that's going to fix it. The fact of the matter is is that you just don't like the-- you just don't want to vote for the bill. Meanwhile, we've got children being seriously harmed. And again, anyone that want to go back and listen to the testimony that we heard in the Banking Committee on this bill could not help but be moved by the testimony, particularly of the mother with twins. This is a serious problem out there. We can all get the attorneys in the room argue about, well, this is unconstitutional. No, it's not unconstitutional. You know what? When there's disagreement among attorneys, then you let the courts figure it out after you pass the bill. But for us to sit on our hands, ignore that the problem hap-- isn't happening, say that's-- let's wait for the perfect bill-- which never comes. That's what I'm upset about. We're not going to have the perfect bill. We got a lot of testimony in the committee. One accor-- attorney saying, I'll guarantee you this is unconstitutional. In fact, I believe there was one committee hearing where a person came-- it may have been on this-- when the attorney came from-- here to testify and say, I can guarantee you that this is unconstitutional. This bill will not, will not hold up. And Senator Bostar asked the question, did you travel to get here? And the answer was, yes, I did. Where'd you travel from? I came here from Washington, D.C. So his question was, well, if you're so confident that this bill

is going to fail or, or be unconstitutional, why did you waste your time coming here? Why did you spend the money for an airline ticket to fly here and take your time to be here? Why didn't you just send in a comment if you were so convinced that this bill is unconstitutional? Well, the fact of the matter, he wasn't certain that the bill's unconstitutional, nor is any attorney certain that it will be unconstitutional. So we can continue to play games, pass some watered down bill that will do nothing, or pass a bill that will make a difference. And if it's deemed unconstitutional, then we fix the part that's deemed to be unconstitutional. But I believe that sitting our hands doing nothing is the wrong answer. So we can take this to 33. I'm convinced that Senator Bosn clearly has the 33 votes. So when people are asking, how much time do I have left, Mr. President, that's a good indication it's a filibuster. OK? So-- otherwise you'd go to the end and then get back on the mic if you had to. So I would hope that this body takes some serious, bold action to protect children in this state from the harms that are being brought by the online, predatory practices that are occurring with a lot of the online vendors. Thank you, Mr. President.

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

McKINNEY: Thank you, Mr. President. And-- trying to figure out where I'm at on this and trying to wrap my head around it. But, you know, Senator Jacobson, I don't think we should pass laws and hope that the courts don't interfere. I think we should pass laws and make sure they're clean and they don't end up in the courts. No matter how important the issue, we shouldn't just pass laws to pass laws. But I really got up today because of my disappointment with the world that we live in and my disappointment with the University of Nebraska-Omaha for getting rid of its DI-- DEI office or program or whatever. I think it's disrespectful to the students. Even when UNL did it, I thought it was disrespectful to the students, especially the students that are-- that come from diverse backgrounds, that deserve equity and inclusion. I think it's disrespectful. And if the federal government wants to cut funding, let them. But who is going to stand up for the kids at the institutions? I would hate-- I, I would hate to be a kid at those institutions right now, because who's standing up for them? Because at the end of the day, it's about dollars, not about the humans. They're saying, come to this school, but we're not going to stand up with you. That is disrespectful to those students. And we wonder why the Huskers haven't won a national championship. It's, it's, it's, it's things like this. The perception of our state is why kids don't come here. It's why kids leave. There's been many reports that show-- especially black kids

from, from my community would rather go to another state to go to school because they don't feel comfortable going to school in this state. I, I know what's going on at the federal level with the new administration is wild and it's chaotic and it's crazy. They just passed a budget resolution that's insane, that our federal delegation didn't stand down on. It's madness. But who's going to stand up with the kids? Who's going to make them feel welcomed? I would not like to go to a university that's cutting those programs. So who's going to stand with them? I haven't seen any statement from the university saying they're going to stand with the kids. I just see them cutting programs. But you want to recruit these kids to this institution. That's madness. It's, it's disrespectful. You lose dollars, you u-- you lose dollars, but you've got to have some type of moral fortitude, some backbone. That's, that's-- it, it just makes no sense. Is research that important to give up humanity? Is salaries that important to give up your moral fortitude? They should be standing with the kid-- the, the-- they're not even kids. They're young adults-- but they should be standing with them. But they're not. That's the problem with this society and the problem with what's going on right now. Nobody has a backbone. Everybody's bowing down. Nobody wants to stand up and say, this is wrong. A lot of it is wrong. And whether we're in a minority or a majority, I'm going to call wrong wrong. I don't care who's in office. And I'm very disappointed with the university system, UNL, UNO. And I don't even think Kearney had a DEI office. So that's my words for now. Thank you.

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

J. CAVANAUGH: Thank you, Mr. President. So again, I rise in opposition to the reconsider and in favor of AM169 and opposed to LB504 as currently written. I appreciate Senator McKinney's comments. I'm not going to continue on that path because I did have things I was going to talk about here, but I, I agree with a lot of things Senator McKinney just said. So I-- well, one, I did file a-- what I consider a constructive amendment addressing what I just talked about. It would strike on page 13 beginning on line 7 the word "the" through line 9, the word "act," and the period. So basically it would strike out "the authority for the Attorney General to promulgate rules and regulations to carry out this act." So that's a constructive amendment that I've proposed. And I can talk about that some more. I did want to address-- Senator Jacobson said that this is a serious problem. I, I'm not saying that this is not an issue. I got young kids. I see the internet and things it's done-- doing and how it affects kids. I think we do need to address this issue, but I think we have an obligation to do it in the

right way. And I think in my four and a bit years here, I have seen this place operate in a very sloppy manner with that attitude of we got to get something done, we got to kick it out, we got to put it-- if it's bad, the courts will take it up. That is an abrogation of our responsibility. We have a responsibility to pass the best law that we can. And those of us who have an opinion about whether that law is good or bad have an obligation to raise those concerns. That's what we're here for. So here I am raising my concerns. And I'm attempting to be constructive, as I always do. I have many times worked with people and proposed solutions that I think still follow the intention of their bill without undermining their intention. And I have many times proposed those amendments that would not even get me to support the bill but that I thought would make the bills better. You know, examples of sloppy work around here that come to mind is the good life districts. What version of per-- fixing that race to give away money are we on at this point? The proponent of it, Senator Linehan-- I apologize, Senator Linehan, for bringing you up, but-- since you're not here anymore to defend yourself. But Senator Linehan herself has said in the paper that it was sloppy, and that's the type of attitude that this place has undertaken. And that is, that is a shame. We have a responsibility. All of us. When you put your name on something, when you vote on it, it's your endorsement. It's you saying, I agree with this and I think this is a good idea. And so those of us who are having an attention to detail and wanting to make sure that the law is as good as we're capable of making are not being obstructionist or problematic. We are doing the job we were elected to do. So in that vein, I proposed this amendment. I don't know the number yet because it's not on the board, but we can talk about it more when we get there. But it strikes out this part about the Attorney General having ability to promulgate rules. And I did have a brief conversation with Senator Bosn, and I think she has some explanation as to why she, she thinks or folks think that that should be in here and we can have that conversation. But I wanted to talk a little bit about the Administrative Procedure Act and the parts-- why I'm concerned about the Attorney General having ability to promulgate rules. So the Administrative Procedure Act is in the statute. Starts-- it's Chapter 84. And I think it's generally 901. And it says, agency shall mean each board, commission, department, office, division, or other administrative office or unit of the state government authorized by law to make rules and regulations, except the Adjutant General's Office as provided in Chapter 55, the courts including the Nebraska Workers' Compensation Court, the Commission on Industrial Relations, the Legislature, and the Secretary of State with respect to the duties imposed by the act. So I think there is a read of that section that would say the Attorney General is a unit of the state

government that is now going to be given the authority under this bill to promulgate rules and regulations, to make rules and regulations, and is not one of the accepted agencies. So that would be my interpretation of that. But that goes further than where-- when someone is promulgating rules, they have to submit it to the Attorney General, and the Attorney General then has to approve it. And I think that is 84-901-- I think it was 03. I might have to punch my light and get back in because I'm navigating here. My computer restarted while I was sitting down, but I'll push my light and get back in. But there's a section-- the ne-- the next section I was going to talk about is the one that says the Attorney General has the responsibility to approve these rules that are promulgated by other agencies, which essentially then means in this bill, we are giving the Attorney General the power to investigate, prosecute, create the rules, oversee the creation of the rules. He's-- the Attorney General's Office is then involved in every step of enforcement--

KELLY: That's your time, Senator.

J. CAVANAUGH: --and regulation. Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Meyer would like to recognize some guests in the north balcony: members from Leadership Wayne in Wayne, Nebraska. Please stand and be recognized by your Nebraska Legislature. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. And good morning, colleagues. I know that some members are frustrated that people have legitimate questions about important bills, but it's always been a critical function of this institution in particular as a Unicameral that our committees are not only gatekeepers but they also do a significant amount of work at the committee level to address concerns brought forward by the second house to work out technical issues and details. And I-- due to a variety of factors, including lack of balance on many of the committees of jurisdiction, we're not seeing that traditional function happen. So unfortunately we have to-- no other option and opportunity but to address serious and critical issues during the course of floor debate, which may not be the most efficient, but nevertheless here we are. I was hoping that I could-- and to be clear, I really appreciate Senator Bosn. She has been really open-minded about questions and concerns and is trying to sort through the complexities of this important bill as well. So I'm not sure why anybody else would be so upset at-- with that as the com-- as the primary introducer is working really, really hard and in good faith on serious questions about technical and substantive aspects in the bill. Nevertheless. I was hoping perhaps-- I don't know

if Senator Dungan is here-- but that we could continue to pull back the curtain and little-- learn a little bit more about some of the committee deliberations. I'm not sure if he's here to yield to a question, but let me also lift some, I guess, threshold questions. I understand that the primary target of legislation like this are companies like TikTok-- which I have deep and significant concerns about, and share that with Senator Bosn and proponents, particularly as it relates to mental health impacts for our children. But under the thread or policy underpinning of additional national security concerns in relation to this particular company-- so TikTok was, for general purposes I guess, banned very early this year under, under federal action, which seemed to, I guess, address not only the national security concerns but some of the other concerns that were put forward here, but then promptly reinstated by President Trump and his administration. So that seems rather dizzying in terms of the approach on the federal level and kind of hard to, to tease out in this regard. The other related issue is it's well-established that the Attorney General is already utilizing the authority and powers granted to him to target companies like TikTok in state-level litigation, and that has already survived a motion to dismiss and is moving through the Nebraska court system. So again, I'm a bit unclear as to why additional legislation is needed if there is existing authority that is sufficient to address some of the same concerns and that is moving throughout the system. I had an opportunity to talk with Senator Bosn about another issue that is a very serious concern. And I know that the contexts are divil-- different in regards to the civil versus criminal context and-- so I'm not applying a strict vagueness kind of consideration that comes with statutes and legislation that trigger criminal penalties because I understand that's not contemplated in this measure. But I do think that we want to ensure clarity for implementation and enforcement. And if you look on page 2, line 19, there's kind of a, a list of design features that the bill is concerned about, but it has that kind of typical language on line 19 where it says these are the design features that we're worried about, but we-- the, the enforcement of this is not limited to these design features. So at the very least, I think we should probably strike that on line 19 so that all parties have a clear understanding about what design features are prohibited or allowable. And if future amendments need to be made as the technology changes--

KELLY: That's your time, Senator.

CONRAD: Thank you, Mr. President.

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

SPIVEY: Thank you, Mr. President. And good morning, colleagues and folks watching from afar online, wherever you are. I wanted to take a moment to get in on this conversation, as I have been listening to the dialogue and discourse, which I appreciate. At this time, I don't think I would support the motion to reconsider but do appreciate the amendment Senator John Cavanaugh has brought forward as I raised some concerns briefly previously around just the expanding role of the AG's Office and what that would mean within this legislation. I do agree with Senator Jacobson as it relates to that we should be protecting our kids. I think as we think about our role as an elected official and what does that mean for us that we do have a duty to try to pass policy that better the lives of our constituents, of our neighbors, and our families. And I would hope that that same approach as we continue this conversation in other bills is applied. There are some bills currently in this body that do not protect our kids. There are some bills in this body that are-- have not been discussed that, that do and, and are important, especially in the, the landscape and climate that we are in. And so I appreciate him naming that as a priority and a duty of ours. And again, hope that value set continues to be applied as we continue debate on different statutes and potential policy. I wanted to just pivot just a second within this conversation to thank Senator Holdcroft for always bringing in HHS and our corrections system. Those are areas of work which I have been-- have spent my career in and have introduced policy to discuss. And so I appreciate the pause that he takes during our time together for us to have some of that conversation. And, and I wanted to bring in some perspective on the appropriation and spending side as we're thinking about that. And so as we all know, we are facing a budget deficit. We are currently in agency hearings with Appropriations. And so folks are coming in and talking about the budget, the impacts. As Senator McKinney lifted up yester-- or, today, we saw yesterday the House at the federal level pass a budget resolution that would gut the supports of key programs like Medicaid and SNAP and the impacts that that could have on states and what does that mean. And so yesterday was a universities hearing, and President Gold actually brought some really great data to talk about that. The first-- again, that-- their, their budget has about \$1.3 billion in federal and private funding. And he already laid out and started to name some of the cuts with NIH, about \$27 million. USAID has about \$19.6 million. DOD had about \$20 million. And if these cuts continue, we're looking at about upwards of \$89 to \$100 million of their budget, which equates to also about 700 to 1,000 lost jobs. And so just thinking about how does that impact our economy and what's in front of us. There was also some more data that they gave of, of our spending and appropriations over the course of the last 25 years. And when you

look at the spending around education and some of these other programs that, again, would invest and protect children in some of the things that we've named around the importance of the bill that's in front of us has not increased in the same manner that we have spent on corrections. So for example, for corrections over the last 25 years, our appropriations has increased 311%, while for state colleges, it's increased 131%. K-12 education at only 76% over 25 years. University of Nebraska, 87%. And so again, I just think it's important, as we are wrestling with really important topics in front of us as a body and making decisions that not only impact us today, next week, but Nebraska ten years out from now, that we are looking at the work in a holistic and comprehensive manner and really challenging ourselves to think critically about the decisions that we make and the people that are impacted. Thank you, Mr. President. I yield the rest of my time.

KELLY: Thank you, Senator Spivey. Senator Prokop would like to announce some guests in the north balcony: members of the Nebraska Community College Association from around the state. Please stand and be recognized by your Nebraska Legislature. Senator Storer would like to recognize some guests in the north balcony: Kurt, Kase, and Kade Al--Arganbright from Valentine, Nebraska. Please stand and be recognized. Senator Hunt, you're recognized to speak.

HUNT: Thank you, Mr. President. Good morning, colleagues and Nebraskans. I didn't have the opportunity to speak on this bill yesterday, but, you know, I certainly share the concern about the intention that motivates and underlies LB504. But I agree with opponents of the bill-- not opponents to the concept, but people who have raised concerns about LB504, that I'm not sure we're accomplishing the goal in the most surgical and effective way possible. There are some other bills that have come before us here in the Legislature this session that speak to some of the same problems that LB504 addresses but have had completely different outcomes here as-- you know, through the course of our voting. Just a couple days ago, we were discussing LB31, which would put up guardrails to make sure that schools and software companies and third-party vendors that are contracted by schools, that the data they collect from their students aren't going to be sold, that when we're collecting data from kids that are using software in our schools, that we know those third-party software companies aren't going to be selling the data and exposing kids to be treated as a commodity, basically. What I said during that debate was that we should have an expectation that our kids are not a product, that we're not selling their information, and that we have transparency about these procedures. And in LB31, Senator Conrad introduced a solution just to make sure that parents were aware and had the

information and could then opt out of any kind of data sharing or tracking that their kids would be experiencing in schools. It was just kind of an inf-- information bill. It was to require schools to have a policy disclosing when data's being shared. And that bill failed resoundingly. The same people who are standing up in support of LB504 shut that bill down even though it took a much more thoughtful approach to the problem that LB4 [SIC] is looking at. Another bill that touched on similar themes that LB504 is addressing was LB241, which we debated a week or two ago, from Senator Hallstrom. That bill gave companies that negligently allow their data to be breached to get total immunity. So why are we imposing a duty on companies to exercise reasonable care, quote unquote, to make sure that we're not sharing people's data-- but then if that happens, those companies get total immunity from prosecution if that happens. And again, the people supporting LB504 also supported that bill. So why even bother in LB504 protecting the data of kids if we're just going to turn around and give those companies total immunity if that data's leaked? In, in the past year, last year, I opposed Senator Murman's age verification bill for pornographic websites for many reasons. One was because these websites keep popping up. You know, it's just implementation. It's-- I think the technology is ahead of where most members of the Nebraska Legislature have a scope of understanding, frankly. Every single iPhone-- I don't have an Android, but I assume those too-- has a built-in VPN. I can do it right now. This is how much time it takes-- done-- to turn on a VPN on your phone. And now I can look at any of the websites that were restricted by the Legislature in the last session. You know, I ju-- I just did that in literally five seconds. It's so easy to do. So for that reason, you know, I, I have concerns about age restriction measures because I don't know how effective those really are. Things like what we tried to do with LB31 where we know parents are getting informed, we know that, that basically these third-party companies and software companies are on notice, that if they're selling kids' information that parents are going to know about that and then they're going to have to deal with the ramifications. I think that that's a good solution. I think it's good for parents to have control over their kids' devices. I think that we need to stop looking to government to raise and parent our children. I don't want to use the phrase nanny state because I think that's kind of corny, but, to me, that's sort of what this is. I agree with protecting kids. I agree that social media and technology poses unique and growing threats to young people and people who are frankly digitally illiterate, which includes many members of this Legislature.

KELLY: That's your time.

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Floor Debate February 26, 2025

HUNT: Thank you, Mr. President.

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

M. CAVANAUGH: Thank you, Mr. President. I'd like to ask Senator Bosn to yield to a question.

KELLY: Senator Bosn, would you yield to some questions?

BOSN: Yes.

M. CAVANAUGH: Senator Bosn, would you share information that you have for us?

BOSN: Yes. So while we were working-- other individuals were speaking on the bill, I had approached you and talk about some of the amendments that individuals-- or, issues that individuals have with portions of the bill and questions about whether or not I'm willing to work on those concerns to address them from both Senator Conrad and Senator John Cavanaugh. And I wanted the opportunity to get in line and, before we end today's debate, mention that, yes, I think those are reasonable requests that I can hopefully accommodate.

M. CAVANAUGH: Thank you, Senator Bosn. And now I will continue with my planned remarks. I wanted to thank Senator Spivey for highlighting and uplifting the issues that we are facing budgetarily and at a federal level. And I also-- Senator Holdcroft gave his DHHS update, and I wanted to acknowledge that the Prenatal Plus Program that he was speaking so glowingly about was legislation that was enacted by the 2024 Legislative Session, and it was Senator Dungan's bill. And it was a great bill. And I'm grateful to him for bringing it and for-- body for passing it. I mention that because there seems to be a pattern of thinking that some of the bills that are going to do good things for low-income people are unnecessary or there's just some sort of negative connotation about people who are in poverty not needing access to services. And so then those of us that are bringing those bills have to fight really, really hard to even get them out of committee, like Senator Dungan's bill. And then it's enacted, and then it's given glowing reviews about how amazing it is. The same thing happened in 2023 when we passed the Medicaid expansion postpartum to 12 months. It was, like, an enormous labor of love since my first year in the Legislature, and it finally passed. A deal was struck and it passed. And then literally a month later, the governor was taking claim for it-- even though we had to basically strongarm him into it-- and

talking about what a great program it was and how it was going to help with maternal outcomes and benefit people. So the point is-- I mean, Senator John Cavanaugh said this yesterday, he doesn't tell you so even though he, he could tell you so. And there's a lot of really good bills that have been brought forward this year that are being held up in committee for petty reasons or not being scheduled until the end of session for petty reasons. And they're things that are going to help and uplift people, and it's unfortunate that this is the way that this place has just gone off the rails, basically. Last night, I brought a bill that I brought four times. Four times. I've been in this Legislature for four legislative sessions. I brought the bill four times, and it was LB14, which means I introduced it on the first day. And it got a hearing finally yesterday, and it was scheduled at the end of six, five-- I don't know how many-- hours of school voucher bills. It could have been scheduled at the very beginning and 30 minutes. 30-minute hearing. And I had told the committee multiple times that it was a bill I was considering prioritizing. But of course, it's my bill, so it has to be treated so poorly. I had a bill in HHS that I had the votes to get out, and the chair refused to exec on it. I had to beg him to exec on it. He put it on the agenda. He still wouldn't let the committee vote on it. Then I had to confront him again, and I had to go to the Speaker. Now we've got a couple weeks left. The bill that I ran to introduce-- paid family medical leave-- is on the very last possible day for a hearing in Business and Labor. The whole reason I ran for the Legislature in my last year is on the last possible day. I had a conversation last night about people being nice. I said these people are not nice. They're nice to my face, but they're not nice. They don't stand up for me when I'm sexually harassed on TV. They don't stand by Senator Spivey, Senator McKinney, and Senator Rountree when they stand up for themselves. You're not nice if you don't live these values. If you say them and you don't live them, that doesn't make you a nice person. You do better. You should do better, but you're not going to. You all have your heads down and you're not going to listen. And you're not going to do anything different.

KELLY: That's your time, Senator.

M. CAVANAUGH: Thank you, Mr. Lieutenant Governor.

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

FREDRICKSON: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Good morning, Nebraskans. So I continue to listen closely to this debate, and-- I, I really appreciate Senator Bosn. I've had a

number of conversations with her about her concerns as well as some of the opponents on their concerns with this as well. I frankly don't know where I'm going to land on the underlying bill at this point. I will certainly support the amendment, LB160-- or, AM169. I wanted to just highlight a couple of concerns and issues that I have as it relates to social media specifically and I think what the underlying spirit and intent of the introducer has around here. So, you know, even before this became a large conversation as it pertains to legislation and, and how to address this nationwide, one of the concerns that have been brought up by a lot of these social media companies is that they oftentimes employ and hire experts in addiction-- so whether that's a psychiatrist, whether that's a psychologist, whether that is a social worker-- and they hire these individuals as what they call engagement specialists. And this is something that I think we all need to be thinking about because these engagement specialists are literally working at the science of addiction on, how do we get people hooked on and how do we continue to engage social media users to come back to the platforms over and over and over again? And I certainly am a victim of that myself. So when we talk about this infinite scroll or this-- you know, these other design features that these platforms have, those are, in fact, I think designed to get people addicted to the medium. And those are things that we need to be concerned about. I'll also say this, this is actually a really interesting bill to be discussing because when you think about what's happening nationally, when it-- when we talk about the culture around tech and social media, we're really seeing kind of unprecedented uplifting of the sort of moguls in this industry. So you think about people like Elon Musk, Mark Zuckerberg. This is actually kind of a really unique opportunity to respond in a way to say, hey, you can't just run free and have no regulation. You know, this is in a way kind of regulating these folks who have been given access to and-- unprecedented access to some of the most powerful positions in our, in our government. And so one thing that I certainly am con-- concerned about is bigger picture what happens when we continue to uplift these corporations like Meta or Tesla, et cetera, et cetera, and they use all this tech and what, what kind of abuses can happen there. So this is actually an interesting way to, I think, respond to that and say, like, look, you can't just run, run amuck without any regulation. One other point I wanted to make is that my sense is that, just listening to the debate, the opposition or the concerns about the bill and also listening to the proponent of the bill, it seems to me like the crux of the opposition is concern about what is going to be considered harmful content. And there's been concern about who is making that decision and whether or not that is going to be sort of this arbitrary decision, maybe morality policing

around that. And that to me seems to be the, the, the piece that we need to sort of figure out how to massage through. I know that the introducer of the bill and other members of this body, including members of the opposition, have been having genuinely good faith arguments-- discussions, I should say, behind the scenes about how to address that issue. I do think-- and I don't want to speak for other members of the body, but I do think that there is consensus and agreement that there are certain features that do pose concerns as it relates to engagement, as it relates to addiction with these services. The question becomes, you know, that content sort of management. Now, the introducer, I, I believe, believes that this has been addressed. I know others don't believe that, that's addressed. That is one piece for me that's going to ultimately come down to whether I support the underlying bill or not, is to ensure that we are not unnecessarily censoring content that is arbitrarily decided to be offensive to some when in fact it might not actually be harmful. So I'll continue to listen. And I appreciate the time. Thank you, Mr. President.

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

McKINNEY: Thank you, Mr. President. I should have said this when I first got on the mic: I want to say rest in peace to Trayvon Martin. On this date some years ago, he was killed by a vigilante. And that vigilante was not held accountable for killing Trayvon as he was walking home to the store. And it really is one of the reasons why I started to pay attention, but I think it's important to, you know, talk about things like that, especially in the times that we're in, because that history is being pushed to be erased, the history of lynchings in America and that conversation is being pushed to be erased. And when we have things like DEI being eliminated and universities cutting offices and bills being introduced to get rid of it and a federal government that's doing everything it can to diminish history and, and try to erase history because it might make people feel uncomfortable, we have to, you know, remind people those type of things. But as a father, I-- you know, my daughter's 14. She'll be 15 in about a month and a half. And, you know, she's on social media. But as a father, I know she's on social media. If I wanted to go look at what she's doing on social media, I could do that. We already could do a lot of these things. And, you know, I don't think some kids should be on some social media sites, but that's up-- that should be up to the parent. We talk about parental rights and those type of things all the time, but a lot of this comes down to the parent. If you want your kid on Facebook or if you don't want your kid on Facebook, don't let your kid be on Facebook. You don't want your kid on YouTube, don't let them on YouTube. They actually have

a YouTube Kids. And I think Facebook might have a teen option, or TikTok or one of those. I don't get on TikTok, but I, I know my brother downloaded the version I think that is for kids or something. It's-- I don't know. I'm not on it. But neither here or there. This conversation about, this is important. We need to pass it. OK. Well, there are a lot of things that are important that we need to pass that we do not pass. Maybe because of the introducer. Maybe because you disagree. But they're important. So we can't just rush things through and then say, oh, we'll come back next year and clean it up. I think probably one of the reasons why we have so many bills being introduced is because a lot of bills are cleanup bills. If we weren't rushing things through the Legislature, we wouldn't have a lot of cleanup bills, Senator Jacobson. And Drafting wouldn't be so swamped with cleanup bills. Committees wouldn't have to use committee, you know, committee bills to do these type of things or senators wouldn't have to. But that's what happens when you rush things through and things get missed. And, and we're all guilty of it because we rush things through. This is something we shouldn't just rush through just because, although it is important. Nobody's denying the protection of our kids online should be valued and we should make sure that our kids are safe and protected on-- online and on social media and they're not victimized and all those types of things. But we also have to do it in a right way. And I think when you get offended by that type of conversation, it kind of loses me that you're so offended that people want to make sure that the bill is right before we pass it. Isn't that part of the process? Isn't that why we have a process? Because if not, why do we have General File, Select File, and Final Reading? We should just introduce bills and just pass them. And we shouldn't look at them. But the process is in place with committee hearings and, and floor debates to make sure that whatever we get out of here is right. And sometimes we don't get it right when we rush. That's why--

KELLY: That's your time, Senator.

McKINNEY: Thank you.

KELLY: Thank you, Senator McKinney. Senator John Cavanaugh, you're recognized to speak. This is your third time on the motion.

J. CAVANAUGH: Thank you, Mr. President. Good morning still, colleagues. Again, I oppose the reconsider, support AM169, and oppose LB504 as currently written. And I've been talking a, a little bit about the amendment that I filed that that's going to come up after we're done with this reconsideration. And since I'm done talking on this, I'll be able to talk on that soon. Previously, I had talked about Section

84-901, which is the definition of who is subject to the Administrative Procedure Act. And so in this bill, we give rulemaking authority to the Attorney General's Office. The Administrative Procedure Act says that anybody who has rulemaking authority is subject to the Administrative Procedure Act, and then it excepts out a few people. It does not except out the Attorney General. My concern is that the Attorney General has a role to play in the sort of-- in the, in the promulgation of rules in determining whether or not they are in compliance with the law and the constitution and appropriate. And so I was going on to Section 84-901.01, which says, adoption and promulgation of rules and regulations; time; failure to adopt promulgation; expla-- explanation; content; hearing by standing committee-- so-- a bunch of other stuff. When the Legislature is-- when legislation is enacted requiring the adoption and promulgation of rules and regulations by an agency, such agency shall adopt and promulgate such ru-- rules and regulations within one year after the public hearing required under su-- subsection (2) of Section 84-907. Such time shall not include the time necessary for submission of the rules and regulations to the Attorney General pursuant to Section 84-905.01. So what this is saying is that the Legislature-- when the Legislature creates an obligation to create a rule-- which this bill does-- you have a year to promulgate that rule. The time-- that, that year does not count against the time that when the Attorney General is reviewing it under 84-905.01. So 84-905.01, a copy of each amendment or rule or regulation to be adopted under the Administrative Procedure Act prior to the date of filing with the Secretary of State shall be submitted to the Attorney General for his or her consideration as to the statutory authority and constitutionality of such amendment or rule or regulation and his or her approval or disapproval thereof, including determination as to whether or not the rule or regulation submitted is substantially different from the published proposed rule or regulation in the amendment or rule or regulation to be filed is approved as the legality by the Attorney General, he or she sa-- shall so indicate with his or her stamp of approval which shall be dated and signed. So here's kind of the crux of what this is, is the Legislature gives authority to make a rule. Somebody undertakes the rulemaking procedure under the Administrative Procedure Act, which includes a public hearing. They have a year. And then, then, then you have to submit it to the Attorney General for approval as to compliance with the statutory authority, constitutionality, and the law. And then the Attorney General signs off on that. My concern is when you put rulemaking authority in the hands of the Attorney General and then the Attorney General has a role to play in the rulemaking as to whether or not it's legal-- of course the Attorney General's Office is going to agree with itself. There is no

separation here, which is what the-- Administrative Procedure Act has very rigorous steps to make sure that people's rights are preserved, make sure that they-- opportunity to be heard, make sure that the rules do what they're supposed to do, are in compliance with this-- the grant of authority. And if the Attorney General's the one being granted authority and they have the obligation to make sure that that grant of authority is not being overstepped, I think that's a real problem. So that's why I filed my amendment that we'll get to fairly soon, I hope, this morning about striking that section. Now, I'm open to the idea if I hear some arguments that there is a necessity for rule and reg making under this bill. I don't know that at this point. But I think there, there's certainly a possibility of a legitimate argument that there is a necessity for rule and reg making. I think if there is a necessity, then we should put that under a different agency separate from the Attorney General, and then the Attorney General can continue to play their role as both the overseer of the legality of the grant of authority under the Administrative Procedure Act and they can continue to play their role as the prosecutor for violations of those rules and the statute. So it would-- if we really need to make rules and regs, it should be outside of the Attorney General's Office, and it should be under the purview of someone else. I don't know who that is at this point in time, so I'm certainly open to suggestions about that. But at this point, my amendment's up there. I'm going to be out of time. We'll get to my amendment. I'll keep talking on it, but I'm happy to continue that conversation. Thank you, Mr. President.

KELLY: Thank you, Senator Con-- Cavanaugh. Senator Conrad, you're recognized to speak. It's your third opportunity.

CONRAD: Thank you, Mr. President. And again, good morning, colleagues. I'll look forward to Senator Cavanaugh's amendment and the debate and dialogue in that regard. I'm also glad that my friend, Senator Hunt, lifted up the inconsistency and hypocrisy and indescribable approach that this body has seemed to take in regards to inserting a reasonableness standard in LB504 yet inserting a gross negligence standard in other bills that seems to be inconsistent at best or hypocritical at worst. There also was a significant amount of debate and dialogue about how edtech tools in our school, as part of a billion-dollar-- multibillion-dollar global industry also utilize a lot of the same design features that are delineated on page 2 of the measure and that also capture geolocation, biometric information, et cetera, et cetera, yet have eluded additional even basic transparency and notification. And many of the most voracious proponents of this measure were some of the most voracious opponents of a similar measure that I brought forward in regards to LB31, which, again, is

inconsistent and hypocritical and speaks for itself. I do have one slight quibble with my friend, Senator Hunt. I don't think that that measure has been killed by any means but remains alive and well on the agenda. And thanks to discussions and dialogue with institutional leadership, it didn't, didn't seem like, due to the complex nature of that legislation, that we were making enough progress on the floor. So I asked for it to be temporarily passed over so that we can continue negotiations and dialogue and find the right vehicles to move forward either within this institution or other policymaking institutions in the state. And indeed, those conversations are ongoing and have been very productive. And that leads me to perhaps one of the most significant concerns I have about the bill as written. If you look at Section 3 on page 6, it's really a blanket exemption to any of these same tools that come into play through the government. And it provides a really sweeping exemption for any governmental entity utilizing tools that have similar or identical design features that we are concerned about, as delineated in this bill, that capture personal information, geolocation information, biometric information, et cetera-- again, which is a primary concern of this legislation. And there have been no significant delineations as to why we would provide such a sweeping government exemption. If we are concerned about the tool, if we are concerned about the features, if we are concerned about the manipulation, exploitation, misuse of personal information, particularly when it comes to our kids, why do we set no prohibition, no guardrails when it comes to these same big tech companies and applications being utilized by governmental entities, including our schools? That is inconsistent and hypocritical and should be addressed and is one of my primary concerns with the measure. I'm also trying to sort through some of the First Amendment issues and interstate commerce issues, and that's taking a little bit longer than anticipated. But I really, truly appreciate Senator Bosn because she's absolutely engaging and thoughtful about addressing these serious and significant concerns to help move the bill forward and make it better and more workable. And I commend her good faith conversations on and off the mic. And I think it really sets a model for how policymaking should, should happen on serious issues. And I, I want to thank her again for that. But I do think that we need probably a deeper analysis and treatment on some First Amendment issues and additional analysis and information on some of the interstate commerce issues involved as well. Thank you, Ma-- Mr. President.

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

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SPIVEY: Thank you, Mr. President. And I yield the rest of my time to Senator Conrad.

KELLY: Senator Conrad, you have 4 minutes, 55 seconds

CONRAD: Shoot. Does anybody else want it? Is Senator Dungan on the floor? Or is Senator Bosn-- I see Senator Bosn's on the floor. Of course she is, because it's her bill. Senator Bosn, if-- Mr. President, if Senator Bosn would yield to some questions.

KELLY: Senator Bosn, would you yield to some questions?

BOSN: Yes.

CONRAD: Thank you, Senator Bosn. And I was engaged in conversation, so I'm not sure if you had an opportunity to describe and delineate some of the references to federal law and otherwise contained in the legislation that I know you wanted to make sure that were a part of the record. So I'd, I'd yield you any additional time if, if you need so-- if you need that.

BOSN: Thank you. Yes. So to your question, which was in Section 3 on page 6-- is that correct-- regarding those acts that are specifically exempt under the proposed legislation, the Gramm-Leach-Bliley-- Bilely [SIC] Act is a Title V. It requires the FTC, along with federal banking agencies and oth-- other regulators, to issue regulations ensuring financial institutions protect consumer personal information. So that's what that is specifically in regards to. The other referenced act is on lines 30 and 31. That's the federal Health Information Technology for Economic Clinical Health Act. That is encouraged or incentivized the meaningful use of electronic health records. It's also-- the act is ensured that health org-- health care organizations and their business associates are complying with HIPAA. So that's why they're exempt from that. Then the next exemption is on page 7 at the top, and that is the Section 264 of the Health Insurance Portability and Accountability Act of 1996. It's also-- falls under the HIPAA. It requires the Secretary of Health and Human Services to publicize standards for electronic health information, including privacy, security, and a-- and electronic exchange. So that's why those are exempt. I would note: off the record, Senator Conrad approached me to discuss and express concerns with regard to Section 3(a), which does state a federal, state, tribal, or local government entity in the ordinary course of its operations would be exempt under the code. She wanted some clarification surrounding that. I have reached out. I think that's probably boilerplate language, but if there is a solution to her concerns as it relates to that, I'd

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be happy to discuss that further once I've had more time to figure out where that stems from. And I appreciate the questions that she's brought to me so that we can hopefully come to a resolution. Thank you, Mr. President.

KELLY: Thank you, Senators Spivey, Conrad, and Bosn. Senator Hunt, you are recognized to speak.

HUNT: Thank you, Mr. President. I wanted to finish making a couple points I was speaking about before I ran out of time last time. I, I appreciate the conversations that are going on on the side. And I appreciate Senator Bosn being willing to work with my colleagues, particularly Senator Conrad, Senator Dungan, Senator John Cavanaugh, the attorneys of the group, to accept some substantive changes to LB504 that alleviate some concerns that opponents to this point have had. My concern is the inconsistency with how this Legislature is treating the data and personal information of Nebraskans and that the Nebraska Legislature just advanced LB241, a bill that shields corporations from liability when they mishandle consumer data unless you can prove-- prove, the bill says, quote, willful, wanton, or gross negligence, which is a nearly impossible legal standard to meet. You have to prove that basically the, the software company or corporation or whatever deliberately gave your data away to a bad actor or something, which no corporation's actually going to do. Even if they have the-- a modicum, the slightest amount of protections of your data, they can say, well, it wasn't gross negligence. It wasn't wanton. It wasn't willful. So it's an impossible standard to reach, as the introducer, Senator Hallstrom, knows. Now with LB504, after the conversation we had about that bill, with this bill today, they want to force more online platforms to collect even more sensitive personal data. Why are lawmakers making Nebraskans more vulnerable to data breaches while stripping away their rights to hold corporations accountable? That's the crux of my-- that's the whole, you know, point of my concern about LB504, is that LB241 is already making it nearly impossible for consumers to sue corporations for data breaches unless they can prove you-- unless they can prove gross negligence, which is a legal standard that's almost never met in court. And now LB504 will require companies to collect and store even more data, including age verification. It could include biometric scans, facial scans. It could include IDs. So corporations get more of your personal data. Not just that, but your kids' personal data. But if they lose it, if it gets hacked, if it gets stolen, they face no real consequences. So at the end of the day, we want to protect kids, we want to make sure that their data's protected, but what this ends up being, taken as a whole with all the legislation we're considering this year, is a handout to big tech and data brokers.

If we're collecting more data but we're not protecting it, we're not making these companies face consequences if it's breached, then that's a problem. In the end, the tech companies win, the data brokers win, and the kids lose out either way. I think that instead of pushing bills like this, like LB241, coupled with LB504, what we should be doing is, A, holding companies accountable for failing to protect personal data. We should strengthen cybersecurity standards for companies that handle personal information. And we should invest in digital literacy so Nebraskans can better protect themselves online. Instead, what we're doing is passing laws that protect big tech and corporations while making Nebraskans and Nebraska children more vulnerable. Now, once again, I don't think this is the intention of the introducer, but taken as a whole, all of the legislation we're considering this year, at the end of the session when we see what passed and what failed, that is where we're going to end up on the scoreboard. Nebraska lawmakers cannot strip away our ability to hold corporations accountable for data breaches while at the same time passing a bill to force companies to collect even more data from children. At the end of the day, if that's what we're going to do, it's not about consumer protection. It's about corporate giveaways. It's about supporting big tech and data brokers. And if lawmakers truly care about cybersecurity, they won't be passing laws that make Nebraskans less safe online. Thank you, Mr. President.

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

ROUNTREE: Thank you, Mr. President. Colleagues and all those that are watching online, I just rise today to say I'm thankful for all the discussion that we've had thus far on this particular bill. I've had a chance to talk to Senator Bosn yesterday to ask what amendments we could bring that would get this bill to the place that would accomplish what we want it to do. But I want to remind us that our vision and focus is on our children. Yesterday, I had the opportunity to attend a breakfast with our education service units statewide just to look at the type of support they have for all of our children. In the school systems, I looked at some of the great security systems, how those power schools and other types of internet programs are being probed daily and what type of protections they have in place so that our children can have a great opportunity to come into the classroom and learn. We also talked about the Grow Your Own program for teachers. A lot of these teachers come from our communities, near and far. We know we have a drought and a dearth of teachers, and so the Grow Your Own was a great program that people that had interest in teaching could come and get their education, get their teaching degree, and go back into those communities and teach their children. As a substitute

teacher in the classrooms, I've had an opportunity to work with some of the student teachers when they've been going through their process and having great excitement about coming back and teaching our students. And so I was really excited about the success of the programs. But sometimes when we make decisions, we can have unintended consequences. And one of the old bosses I had said, Victor, you always got to consider the second, third, fourth order effect of a decision that you make. And that's something that we really need to take to heart here as we move forward. But I wanted to draw your attention to some of the unintended consequences of the DEI and all of the revulsion against it. We had some teachers up in our own University of Nebraska that lost funding. We had-- and I'm just going to read this little bit out for you just a quick minute. And it said, the most enraging, devastating, and unreal part of this is that we had 16, 16 brilliant, talented young people on scholarship through this grant to become teachers in their home communities, going back to their home communities. It's about the children that we're talking about today. To go back in their home communities in Lincoln, Schuyler, South Sioux City, Wakefield, and Columbus. And this particular program was in its second year of offering mentoring and university scholarships to high school students interested in teaching. The scholars came from a half dozen communities hit hard by the COVID-19 pandemic, the coordinator said. And these were very diverse communities. So it didn't focus on one race, but it focused on everyone. It's about our children. And so as we go forward today, I just want to leave you with just a song that's been burning in my heart. I won't do like Senator Raybould. I'm not able to sing like that. But I will give you the lyrics, and you will recognize it. And these lyrics says, I believe the children are our future. Said, teach them well and let them lead the way. Show them all the beauty they possess inside. Give them a sense of pride to make it easier. Let the children's laughter remind us how it used to be. So as we consider our Legislature here and any bills that we bring forward that's dealing with our children, remember that we need to consider the second, third, fourth order effect and also to mitigate any unintended consequences. But our children should have their opportunity. I see my light yellow, so I'm going to sit down and yield my time back. Thank you, [INAUDIBLE].

KELLY: Thank you, Senator Rountree. Seeing no one else in the queue. Senator Dungan, you're recognized to close on the motion.

DUNGAN: Thank you, Mr. President. Colleagues, I really do appreciate the conversation that's continued today. As I stated when I first opened or did the refresh on my motion to reconsider, this was put up as an opportunity to continue talking about both the AM as well as

LB504 because yesterday I thought we had some good talking points about it, but I think there were a number of folks who had reached out to me saying they wanted a little bit more time to talk. So I, I do appreciate the back-and-forth. I, I want to reiterate my appreciation to Senator Bosn for her willingness to listen and have conversations both on and off the mic about some of the issues we have here. Again, I have some philosophical concerns, I think, about this, but I do think that we're operating in good faith, working together, all of us in this body, to try to find ways to move forward that can address both First Amendment concerns and also possibly curb some of the ambiguity that we find in LB504 that currently still exists. Colleagues, I would encourage your, I guess-- however you want to vote on the motion to reconsider. I am still supportive of AM169, still opposed to LB504. I think next we're going to get to an amendment from Senator John Cavanaugh. And I would like to highlight to folks this is a substantive amendment. It's one that I know he's spoken at least briefly with Senator Bosn about. It addresses a number, I think, of people's concerns regarding the Attorney General. So colleagues, please pay attention when we get to the next amendment. It is substantive, and my hope is we can get to a vote on it here today. Thank you, Mr. President.

KELLY: Thank you, Senator Dungan. The question is the motion to reconsider. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 0 ayes, 29 nays on the motion to reconsider, Mr. President.

KELLY: The motion fails. Mr. Clerk.

CLERK: Mr. President, Senator John Cavanaugh would move to amend with FA22.

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

J. CAVANAUGH: Thank you, Mr. President. Good morning, colleagues. We're finally to the big event that I've been talking about for the last hour. I know it seems like everybody else been talking about other things, but. So FA22 is an amendment that contemplates the change that I proposed while we were talking on Senator Dungan's reconsideration. What it does is, if you go to the bill, LB504, and you go to page 13, Section 12, which starts on line 6, the Attorney General shall enforce the Age-Appropriate Online Design Code Act and may investigate compliance with the act. The Attorney General may adopt and promulgate rules and regulations to carry out the act. So that se-- that last line

is the part I have a problem with. So I-- FA22 strikes-- starting with "the" on line 7. So "the Attorney General may adopt and promulgate rules and regulations to carry out the act." Strikes that entire section. And so I've been talking about the Administrative Procedure Act and why I think this is problematic. I was looking-- I can't find anywhere in law that we have given rule promulgation authority to the Attorney General. And I think that there's reason we haven't done that, and it's because the Attorney General has a role to play in essentially making valid the rules that have been promulgated. So when you go to the Administrative Procedure Act, which is-- 84-901 is the beginning of that. And then 84-901.01 and 84-905, I think, has-- kind of lays out some of the role the Attorney General plays in approving rules and regs. So when we grant rule-- rulemaking authority to any agency of the state, they have to go through the Administrative Procedure Act. And it has hurdles they have to follow to make sure, one, that that rule that they promulgate has-- follows the grant of authority from the Legislature so that that, that-- whatever it is that they say this actually means is in compliance with the intention of the Legislature but also that the rule as put forth does not violate state law or the constitution. And the Attorney General's Office has a role in taking-- receiving that-- the proposed rule and making those determinations and saying whether they, they think that it complies with the grant of authority, whether they think it'll-- complies with the constitution. And so if we grant rulemaking authority to the Attorney General, then the Attorney General's Office would be responsible, one, to do all of the public hearing parts, making up the rules, but then they would also be responsible to check their own work and make a determination of what they are doing or have done complies with the grant of authority, complies with the constitution. And I think that's a, that's a problem. I think that that sets us up for a situation where there, there is certainly questions about the-- how the system was undertaken. And in this bill in particular, one of the big heartburns that people have had is who's making a determination about what's inappropriate conduct-- content, what's offensive conduct or content. And so by putting in the hands of the Attorney General not only the ability to prosecute but the ability to make the rule, make the determination if the rule is legal and appropriate, and then prosecute under that rule I think is a really-- just a recipe for disaster. And so I proposed this to strike that section out. I have had a couple conversation with Senator Bosn. I think she's in the queue to talk as well. But it sounds like there is a willingness-- I mean, I'll let Senator Bosn talk for herself-- about striking-- well, not striking the section, but striking the grant to the Attorney General and finding some other entity in which to place the rulemaking authority if the rulemaking authority is truly

necessary. And so that's what this amendment does. Happy to answer any questions or talk further about it with folks. So at the moment, I would sup-- support a, a green vote on FA22, but obviously I'm open to conversation about a different iteration of this that still does not undermine the intention of Senator Bosn's bill but does make this bill a little bit better. So again, constructive debate, trying to make the bill better and more truthfully serve the objective. So thank you, Mr. President.

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

BOSN: Thank you, Mr. President. I rise in opposition of the floor amendment, not because I fundamentally disagree with his efforts, but I think we need to pull the floor amendment unless and until we have a solution to the problem, which I did express to Senator John Cavanaugh. First, he asked for a location of where we give the AG rule-- the authority that this bill gives him. I would direct him to Chapter 8, Section 2615, which I did state yesterday on the mic as an example, and provided that language to Senator McKinney when he asked that question. But I would also say the reason for the rule and regulations process is because it grants an opportunity for a public hearing. And so I don't think we want to strike the opportunity for a public hearing. I think what his concern is is that we're asking the Attorney General to be the investigator, the enforcer, and the judge in the process when we say he has a public hearing on his own rules, then it goes to him to approve his own rules. Why would he not approve his own rules? And then it goes to the Governor's Office for ultimate approval. So if we can come up with a solution-- we kind of talked about a couple of different things and, and whether or not they would even work, whether it would be that the agency would instead be the Secretary of State or the Public Service Commission or some other authority. I'm open to those conversations, but I think the protection that I'm not willing to just strike is the opportunity for a public hearing on what those rules and regulations will be, because I don't think-- without that, we give the social media companies and covered online service providers the opportunity to be heard about how they're going to be regulated and what those rules are. We set them up to fail. So I would just note that's the purpose for that. I'm willing to work with him, but I don't think we should strike the language until we have a, an appropriate solution. So I am-- if it gets to a vote, I would ask that you vote no on FA22. Thank you, Mr. President.

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

CONRAD: Thank you, Mr. President. And again, good morning, colleagues. I think that the dialogue reflects that we're probably a lot closer together on-- working on the technical aspects of this component of the bill than may be apparent or otherwise. I think there is a legitimate concern that has been brought forward about the Attorney General's role in this regard. The way I read the original legislation as well-- and I don't think this section was disturbed by or reformed by the committee amendment-- was that it provided a permissive grant of authority to the Attorney General for rulemaking, which I think is actually the gold standard, hopefully, moving forward, when it comes to delegation of rulemaking authority. I, I hope that a lot of our legislation will shift to a permissive standard rather than a mandatory standard as we've seen the rise in rules and regulations being promulgated by unelected bureaucrats at the agency level. Now, of course, that doesn't apply to the AG, who's, of course, an elected constitutional officer. But nevertheless, we should be always skeptical and very careful when delegating legislative authority to other branches of government or to agencies that impacts people's individual rights and freedoms and liberties in particular. So I do think we need to sort through that. I also wonder if perhaps we need that section at all. But I, I'm always going to come down on the side of transparency and public engagement. And Senator Bosn is absolutely right that the APA does provide a well-established process for public engagement and transparency, which is important to think through. But-- I guess perhaps another point is we already understand that there's some potential conflicts with the permissive grant of authority to the Attorney General to promulgate rules, weigh in on rules, and then enforce rules. That seems pretty messy. And I'm not sure if there's other good models that are out there in general. But the bill itself is also fairly specific. So I'm wondering if we even need to have that rulemaking authority or if perhaps if there are additional areas that need to be teased out or fleshed out more for more information. Maybe that's a good conversation from General File to Select, to figure out what, what are we contemplating through promulgation of rules and regs outside of the four corners of the bill, so to speak. That just may not be necessary, because it seems to me that the bill is pretty specific in terms of the design features we're concerned about, the personal information connected, and then it has various and sundry provisions related to enforcement thereof. So I much like the conversation I had talked with Senator Bosn about it and had talked about in previous times on the mic. I much like the boilerplate language that says limited but not including to, and then it has kind of a laundry list of what we're trying to regulate or prohibit or proscribe. I do think, much like this delegation of authority, if we're going to set standards in place and

we're going to have significant penalties on the civil side for enforcement thereof, I, I think it would be wrong to have additional information in the rules and regs and that we should try and contain that in the legislation as written. The other point in terms of enforcement and the Attorney General's role herein is I, I'm curious as to why there's not a private right of action and/or attorney's fees available. It-- everybody knows that the Attorney General has fairly unbridled discretion, prosecutorial discretion in terms to decide what cases they bring forward and if they don't-- what cases they don't, which makes good sense for a lot of reasons. I'm not challenging that. But if the Attorney General decides it's not to exercise that discretion, why wouldn't we provide an opportunity for parents and kids that were harmed to effectuate the same sort of accountability through our, our legal system? So that's another area that I think that perhaps we need to look at and would be consistent with other areas of law in--

KELLY: That's your time, Senator.

CONRAD: --consumer protection. Thank you, Mr. President.

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

RAYBOULD: Thank you, Mr. President. Good morning, colleagues. Good morning, fellow Nebraskans watching us on TV. I, I want to-- do thank Senator Bosn. I have had quite a few questions. I stand in support of the FA22, introduced by Senator John Cavanaugh. I, I do have those concerns about having the Attorney General make the rules and regulations, and I've, I've heard Senator Conrad and Cavanaugh and Sen-- Senator Bosn as well. And I think it, it would be a practical matter to, to work like other legislators across this-- the United States of-- to come up with those specific rules and regulations and embed them in this legislative bill. The one thing that I did point out yesterday as well, and I-- it's-- the same and very similar bill that has been passed in the state of Maryland. And I, I've mentioned this to Senator Bosn as well. I-- and it, it-- there are some similarities with what Senator Bosn is proposing, but I think it really dives in just a little bit deeper, and it requires those data entities to do two things: to do a data protection impact assessment that purposefully tells how they are in compliance, and then they also do a single data protection impact assessment on making sure that the data protections are in place and if there is any material changes to that entity or that company that they have to revise that within 90 days to make sure that they are 100% in compliance. And I think-- I, I think that is one of the reasons we are all up here talking about it, is certainly,

number one, making sure children are protected and there is no harmful impact from some of the unintended consequences of, of becoming addicted to all, all the social media and data and the lures that they harm children with. But I, I think it's, it's something worth reviewing and including in this legislation going forward. I think Senator Bosn is, is working very hard on trying to, to do things that we all care very deeply about, which is safeguard our children from all kinds of unintended predators out there, be it data mining, be it harmful products that they're fostering on to our, our children. But I, I hope-- Senator Bosn, if you could take another look and trying to include some language like that in this piece of legislation, I think it would enhance it tremendously. So thank you, Mr. President.

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

J. CAVANAUGH: Thank you, Mr. President. Well, I'm, I'm going to pull this floor amendment because I talked with Senator Bosn, and we are going to work on this to find someone else to place the rulemaking authority with, which then I doe-- I think does alleviate some of the concerns here. And I, I did have other concerns on this bill, but I'll pull this. And actually, I, I, I was going to go over and tell Senator Hallstrom I'm going to ask him a question when I get on the mic again, which I'm going to pull this and then get back to the bill. And I think-- and I don't think the conversation's over on the bill, but-- just on this particular issue, finding the right person, entity in which to grant the authority I think is going to take more than the time we would have. And like I said, I'm not attempting to be obstructionist here. I'm trying to solve the-- at least one of the issues I have with this bill. So Mr. President, I would pull FA22.

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

J. CAVANAUGH: Thank you, Mr. President. So, colleagues, I just pulled the bill and then got in the queue because I wanted to make sure we were kind of on the subject clarifying for-- where we're at in the debate. We're no longer talking about that issue. Agreed to work on it going forward. One of the other issues I raised was my concern about this definition of dark patterns. I did talk to Senator Bosn. She gave me the location that-- where dark pattern is defined. It's 87-1102. And dark pattern is defined as-- a dark pattern means a user interface designed or manipulated with the effect of substantially subverting or impairing user autonomy, decision-making, or choice, including any practice determined by the Federal Trade Commission to be a dark pattern as of January 1, 2024. So we must have passed this recently and

I must not have noticed it. But that raises a good point of when we're trying-- we've been talking about where to put this authority and we're having a little trouble figuring out who is the one that would have kind of jurisdiction or expertise on internet-based things. So the FTC came up, but obviously we can't grant authority to the FTC for rulemaking under Nebraska state statute. But anyway, so that's, that's one issue. I guess that sort of solves that problem. But I did want to ask Senator Hallstrom about this bill and his bill being in, in conflict. I know it, it-- I'm trying to remember which bill number it is, but it's the one that provides-- raises the level from negligence to-- LB241-- from negligence to gross le-- negligence and wanton negligence-- or wanton disregard, I think is what it says. But it-- so it raises the, the threshold at which entities, businesses can be held accountable by a class action suit for breach of data. And then this bill specifically creates a protection for data under state statute for internet companies. And so I, I don't know if-- Senator-- if, if-- Senator Hallstrom, I, I didn't get a chance to talk to you about this, but it-- could yield to a question.

KELLY: Senator Hallstrom, will you yield to some questions?

HALLSTROM: Certainly.

J. CAVANAUGH: And Senator Hallstrom, I apologize for not getting a chance to get over and talk to you. Things have been moving fast in, in the interest of making some progress on this bill. But you just heard what I was talking about. Do you have any concern that this bill and LB241 would end up being in conflict or that someone would file a suit under a cause of action under LB504 and run afoul of LB241? I know you probably haven't been thinking about it, so I apologize.

HALLSTROM: I have not, and I, I will pledge to give some more thought. My initial thought is that it does not have any connection between the two of them.

J. CAVANAUGH: OK. Well, I appreciate that. Sorry again. And just want to take my probably last opportunity to talk on this bill before we start moving forward. So-- at this point-- well-- and again, colleagues, this is a good lesson. I'll probably be present, not voting on advancing of LB504 because I still have my concerns and they have not been solved in the, in the bill itself. But I have articulated the path that I see towards solving some of my concerns, which maybe gets me to a green vote at a future date. So we've had a lot of conversations about learning what the value of present, not voting is. And you know, it can be some people don't want to take a position on a

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bill. Some people-- well, the way I like to use it is to say, I'm not opposed to this. I just don't like the current form. And I could-- and I'm gettable if we make those changes. So that's why I'm going to be present, not voting at this point in time. Thank you, Mr. President.

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

CONRAD: Thank you, Mr. President. Good morning, colleagues. I don't know if Senator Dungan is on the floor. But I was hoping to learn more. OK. Well, I see Senator Jacobson is on the floor, who's chair of the Banking Committee. I would ask if he would yield.

KELLY: Senator Jacobson, you have 4 minutes, 30 seconds.

CONRAD: No, no. It was a, a request to yield to questions, Mr. President.

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

JACOBSON: Yes, I would.

CONRAD: Very good. Thank you, Senator Jacobson. And I know these are rather complex issues, but I'm trying to also understand the need for this as compared to some other existing laws. So did the committee have a discussion and perhaps was informed either through legal counsel's memos or otherwise-- which I know we don't have access to outside of the committee-- about what is missing in current law under consumer protection or tort or unfair trade practices that is eluding accountability in regards to big tech and why specifically this measure is needed. What's insufficient about those other robust areas of law that are meant to protect kids and consumers?

JACOBSON: Well, let me first say I am not an attorney and I would really defer to Senator Bosn from the legal aspect. I would tell you the reason for the bill is because it-- up to now, there has not been the self-restraint and the willingness and the ability for big tech companies to come in and make a difference. The testifiers that were there, the letters we received-- this problem is bad and it's getting worse, and that's why the bill is before us, because it's actually taking a meaningful step. And if we water it down with amendments that are going to lessen it, we're going to be in the same place we are now: no real movement forward. Senator Bosn spent a lot of time working the bill. She spent a lot of time understanding the, the legal aspects of it. So I would really ask you to defer to her for the legal questions. I can just tell you all the testifiers that we heard made it pretty

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clear that we've got a significant problem and the fear is that it's getting worse.

CONRAD: Yes. Thank you for shining light on that as chair of the Banking Committee. And I'll be happy to direct the questions to Senator Bosn if they weren't even contemplated at the committee level, it sounds like. So thank you, Senator. I appreciate that.

JACOBSON: Thank you.

CONRAD: I'd ask if Senator Bosn would yield to some questions.

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

BOSN: Yes.

CONRAD: Th-- thank you, Senator Bosn. And I know since you've had-- you have the most expertise on looking at this measure as compared to other regulatory structures and remedies that are available in law and trying to kind of hash out what might be insufficient in present law and why this is needed. Did your research help to, you know, kind of point out specific deficiencies that exist in consumer protection or unfair trade practices or deceptive trade practices, kind of statutory schemes that are well-established and frequently utilized by consumers and the Attorney General?

BOSN: So I guess if-- to the extent-- am I understanding your question to be related to why the current law isn't sufficient to cover this or even to be amended to cover this? Is-- am I characterizing--

CONRAD: No, that's exactly right. Thank you, Senator.

BOSN: Yeah. So the-- I understand the question, and I have a really good answer somewhere here that I--

CONRAD: That's OK. And perhaps the tech is moving too fast and those, those existing statutes can't keep pace with some of these issues through terminology or application or otherwise. I don't know, but I'm guessing that you might have looked at some of those things, and I just generally was trying to understand more about that.

BOSN: Yes. And I, I will find the best answer to that. But I-- what I can tell you right now is that the ability to address this from those angles has not thus far been sufficient enough to force the companies to put in the guardrails that I think data shows. And, and, you know, I, I respect that you're somebody who wants to see the data before you

just say, well, this is a solution in search of a problem. The data does show that we need a solution to this. And thus far, presenting the, the social media on-- covered online service providers with the data hasn't been enough to motivate them to make these changes. And--

KELLY: That's time, senators. And Senator Conrad, you're next in the queue.

CONRAD: Thank you, Mr. President. Thank you, Senator Bosn. Maybe we can continue there, but I, I think, you know, we have the-- a host of federal laws out there that you've talked about that I'm generally familiar with in regards to keeping kids safe online, whether it's in the educational context or in the commercial context. And then we've got, of course, a host of consumer protection laws available at the state level as well that are utilized frequently and well-known. But just trying to get an understanding about how this particular measure fits within the, the broader context of, of the other tools of accountability when private companies harm kids or, or citizens in general. And so if Senator Bosn would yield, I think it would be instructive to the record to get a-- at least a, a more general understanding in that regard. And I, I, I don't pretend to have all of the answers, but they're serious questions that I'm trying to sort out. So I-- if Senator Bosn would yield.

KELLY: Senator Bosn, will you yield to some questions?

BOSN: Yes.

CONRAD: Thank you, Senator Bosn. And so I don't know if some of the different stakeholders that you were working on in preparation for the bill-- and I, I see that you had a really diverse set of testifiers come in in support, including law professors from UNL law-- which I know to be highly credible experts-- take a look at this. But was there just kind of a, a general assessment about what, what was evading accountability in existing consumer protection laws and why this, this measure was-- is, is necessary to address the harms that we're all concerned about?

BOSN: Sure. So I think-- and if I don't answer your question, please tell me, because I do appreciate the question. I did find some of the things that I was talking about. I think the concern that companies have-- when-- in these conversations have said is every time we present a solution, the tech companies are one step ahead of us in working around how we think we can fix this under the consumer protection, because these-- you know, technology is changing probably since the

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time we started this bill until now. And so I think this is an effort to address it from a well-known perspective that ta-- that isn't selecting who-- the winners and the losers, and it isn't targeting one group versus another but is an effort to attempt to address it and get ahead of it and anticipate future problems.

CONRAD: That, that's very helpful. Thank you, Senator. And then my, my last line of questioning is-- and maybe we can just tease it out from-- in negotiations and discussion perhaps from General File to Select File-- is just kind of a, a contemplation of whether or not we need to include a private right of action in this legislation to provide additional avenues for kids and parents that might be harmed by these very practices to move forward if the Attorney General de-- decides not to, for whatever reason, or concurrently, perhaps. I think that would be something that is contemplated both under the Attorney General's broad powers to protect the, the public and consumers and then looking at, you know, generally private Attorney General kind of theories and statutory schemes that also provide redress through private rights of action to encourage accountability when legal issues do arise. So I want to think more deeply about making enforcement ro-- more robust, perhaps, and perhaps more in line with other consumer protection laws that would have similar enforcement options and opportunities. So I just want to put that on the record to have a placeholder to, to keep in mind in regards to additional conversations from General to Select. Thank you, Mr. President.

KELLY: Thank you, Senators Conrad and Bosn. Senator Dorn, you're recognized to speak.

DORN: Thank, thank you, Mr. Lieutenant Governor. Listening to the conversation, but also I've-- getting close to, I, I call it, only two years left-- I know a bunch of us do-- I always wondered what former state senators do when they're not in the body anymore. I'd like to recognize the two people up in the north balcony: Senator Steve Halloran and his wife, Ann. Thank you. I'll yield my time.

KELLY: Thank you, Senator Dorn. And Senator Conrad, you're recognized to speak for your third time on the bill. Waive. Seeing no one else in the queue. Senator Bosn, you're recognized to close.

BOSN: Thank you, Mr. President and colleagues, for the discussion on LB504. I am open to the conversation of continuing to make this bill better, to bring more parties on board, and to try to address some of the concerns that I think have been thoughtfully brought to my attention today to see what we can do. I, I think the resounding

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conversation has been everybody agrees there's a problem and everybody wants to try to fix it, but it's trying to get there in the most thoughtful way that really satisfies the goal, which is to protect children. And I don't say that as I don't like social media. I, I just think we have to be willing to come together to try to solve what is obviously a problem. I would ask for your green vote on LB504 with my commitment to being open-minded and willing to work with the parties to try to make this the best bill possible. Thank you, Mr. President.

KELLY: Thank you, Senator Bosn. Members, the question is the advancement of LB504 to E&R Initial. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on advancement of the bill.

KELLY: LB504 advances to E&R Initial. Mr. Clerk.

CLERK: Mr. President, some items: your Committee on Enrollment and Review reports LB265, LB297, LB43 [SIC-- LB34], LB302, LB123, LB373, LB294, LB296A, LB609A to Select File, some having E&R amendments. Additionally, your Committee on General Affairs, chaired by Senator Holdcroft, reports LB60, LB186 to General File. Your Committee on Transportation, chaired by Senator Moser, reports LB191, LB561 to General File, both having committee amendments. Notice of committee hearing from the Natural Resources Committee, as well as the General Affairs and the Revenue Committee. Amendment to be printed from Senator Hallstrom to LB3-- LB230. Motion to be printed from Senator Raybould to LB675. And a new LR: LR53 from Senator Holdcroft. That will be laid over. Mr. President, that's all I have at this time.

KELLY: Thank you, Mr. Clerk. Speaker Arch, you're recognized to speak.

ARCH: Thank you, Mr. President. The next item on the agenda, as you can see, is LB185. And, and I would ask that we pass over that. Senator Dover notified me this morning that he was suddenly not able to be here. And for the first time that the bill is introduced to the floor, I think it's best that the in-- introducer be here. And so I would ask that we pass over. We'll pick it up at a later time. Thank you, Mr. President.

KELLY: Thank you, Mr. Speaker. Mr. Clerk.

CLERK: Mr. President, pursuant to that: LB-- General File, LB195, introduced by Senator Meyer. It's a bill for an act relating to the Uniform Controlled Substance Act; amends Section 28-470; provides for immunity for conduct relating to opioid overdose reversal medications;

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provides and eliminates definitions; and repeals the original section. The bill was read for the first time on January 14 of this year and referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments, Mr. President.

KELLY: Thank you, Mr. Clerk. Senator Meyer, you're recognized to speak.

MEYER: Thank you, Mr. President. First opportunity on the mic. And I must say it's not nearly as intimidating as I thought it would be, quite frankly. According to the National Center for Health Statistics, approximately 82,000 Americans died of an opioid overdose in 2022. LB195 will improve access to opioid overdose reversal medications by updating the statutory language to include the broader term "opioid overdose reversal medication." This change in the statutory language will allow Nebraska wider, less expensive, and more efficient access to lifesaving drugs that can reverse the effects of an opioid overdose. As it currently stands, Nebraska's statutes only allow for the administration of the brand name medication na-- naloxone in our state's standing order. Since the enactment of the original legislation, the market has expanded. Generic opioide-- opioid overdose reversal medications have now become federally approved and are widely available. As a result, it is time to expand the scope of the standing order by including other medications to be administered which mirror naloxone. For example, Narcan was the first generic naloxone hydrochloride nasal spray and was approved by the FDA in-- on April 19 of 2019. By including the generic prescription of naloxone in our state's standing order, more lives will be saved. AM135 is the Judiciary Committee's amendment which redacts some of the language from Senator Bosn's bill, LB80-- LB5 and inserts it into my bill, LB195. LB-- or, AB-- AM135 is a friendly amendment which improves the bill. By passing LB195, the Legislature will be taking an important step towards saving lives in Nebraska. So please vote green on LB195.

KELLY: Thank you, Senator Meyer. As the Clerk stated, there is a committee amendment. Senator Bosn, you're recognized to open.

BOSN: Thank you, Mr. President. Once again, good morning, everyone. AM240 is an amendment to the standing committee amendment, AM135. AM135 expands the immunity provision in Senator Meyer's LB195 to include the administration of opioid reversal medications that are obtained over the counter. So there are a number of prescribed ways that individuals can obtain the opioid overdose reversal medications-- which is a mouthful to say-- but the goal here is to provide a broader umbrella of individuals who can obtain and have access to these medications so that we can save as many lives as is possible. As originally drafted, LB195

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only applied to opioid reversal medications obtained by a prescription. And since we now know there are a number of places where you can receive opioid reversal medications over the counter, we wanted to provide that same liability to those individuals who receive it that-- through that method. AM240 simply replaces health care practitioner with health care professional in Section 1(5)(g) in order to make it consistent with references throughout the rest of the bill. So that was an oversight that we originally had, and we just wanted to make sure we were consistent. So for those reasons, I would appreciate your green vote on-- oh. I guess we're-- OK. I'm a little bit confused here because I have a different amendment number than what is up there. So it sounds like that's going to be clarified. Thank you, Mr. President.

KELLY: Thank you, Senator Bosn. Mr. Clerk.

CLERK: Mr. President, Senator Bosn would move to amend the committee amendments with AM240.

KELLY: Senator Bosn, you're recognized to open on your amendment.

BOSN: I'm not going to read it again. Please vote green on AM240, red on AM135. Thank you, Mr. President.

KELLY: Thank you, Senator Bosn. Seeing no one else in the queue. Senator Bosn, you're recognized to close on AM240. And waive. Members, the question is the adoption of AM240. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 42 ayes, 0 nays, Mr. President, on adoption of the committee amendment.

KELLY: AM240 is adopted. Seeing no one else in the queue. Senator Bosn, you're recognized to close on AM135.

BOSN: Thank you, Mr. President. Perhaps the third time will be the charm as I try to explain the goal here. I would now ask for your green vote on AM135 for all the reasons I've previously stated. Thank you, Mr. President.

KELLY: Thank you, Senator Bosn. Members, the question is the adoption of AM135. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 43 ayes, 0 nays on adoption of the committee amendment, Mr. President.

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KELLY: AM135 is adopted.

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

KELLY: Seeing no one else in the queue. Senator Meyer, you are recognized to close on the bill. And waive. Members, the question is the advancement of LB195 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 44 ayes, 0 nays on advancement of the bill, Mr. President.

KELLY: LB195 is advanced to E&R Initial. Senator Brandt would like to announce some guests in the north balcony: fourth graders from Bruning Davenport in Davenport, Nebraska. Please stand and be recognized by your Nebraska Legislature. Mr. Clerk, next item.

CLERK: Mr. President: General File, LB341, introduced by Senator Hallstrom. It's a bill for an act relating to settlements; adopts the Nebraska Statutory Thresholds for Settlements Involving Minors Act. The bill was read for the first time on January 16 of the-- of this year and referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments, Mr. President.

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

HALLSTROM: Thank you, Mr. President. Colleagues, LB341 would adopt the Nebraska Statutory Thresholds for Settlements Involving Minors Act, a model act from the National Council of Insurance Legislators, otherwise known as NCOIL, a legislative organization founded in 1969 comprised of legislators serving on state insurance and financial institutions committees across the nation. I was asked to introduce the legislation by the Nebraska Insurance Federation, and it advanced unanimously from committee. LB341 addresses a process issue related to settlements involving minors. Under current law, if a minor is to receive a settlement, parties must go to court to establish a guardianship or conservatorship for the minor and get court approval before the minor can receive the settlement. LB341 would adopt a permissive statutory process that would permit minors who are to receive a settlement of \$35,000 or less to receive the settlement without having to go to court. Senator Bosn will be describing AM176, which increases that threshold to \$40,000, to be in conformity with the provisions of Section 30-2603, which allows settlement payments to a minor up to \$40,000. Under the provisions of the act, a person having legal custody of the minor may enter into a settlement agreement with a person

against whom the minor has a claim if a conservator or guardian ad litem has not already been appointed. The settlement, not including medical costs, attorney fees, and cost will be \$40,000 or less if the amendment is adopted and if the person entering into the settlement agreement for the minor attests via an affidavit that the minor will either be fully compensated or that there is no practical way to obtain additional amounts. If the above conditions are met, LB341 spells out how the settlement is to be paid, depending on whether the minor is represented by an attorney, has no attorney, is a ward of the state, or is to be paid an annuity as opposed to being paid by cash, check, or draft. Subsection (4) of Section 3 provides the necessary protections on how the settlement may be used until the minor reaches the age of 19. The remainder of the bill provides that the court approval of a settlement is not necessary if the agreement is in compliance with the provisions of LB341. Necessary liability protections for those persons acting in good faith under the provisions of LB341. And finally, LB341 makes it clear that the court guardianship, conservatorship, and approval process remains an option if the parties so desire. The current process involving minor settlements is needlessly complicated and a waste of valuable re-- judicial resources. Adoption of LB341 will provide a faster, cleaner process while still providing needed protections for minors involved in settlements. I would ask you to support the amendment, which Senator Bosn will describe, as well as advancing LB341 to General File. Thank you.

KELLY: Thank you, Senator Hallstrom. As stated by the Clerk, there is a committee amendment. Senator Bosn, you're recognized to open.

BOSN: Thank you, Mr. President, members of the Legislature. I'm going to try and do a better job on this effort here than I did on the last one. So this is AM176. We were presented with this amendment at the time of the hearing, so the committee was well-aware of what was going to be going on. But AM176 is the committee amendment to LB341, and it makes four changes. First, the amendment increases the maximum threshold from \$35,000 to \$40,000. This change means that a minor's custodian will be allowed to settle the minor's claim without court approval if the amount of the settlement is \$40,000 or less. Second, the amendment removes the requirement that a minor receive notice when settlement proceeds are deposited if the minor or the minor's custodian are not represented by an attorney. When an attorney is involved, LB341 requires the attorney to provide notice to the minor when the settlement proceeds are deposited. Third, LB341 defines minor as a person who has not attained the age of majority, as is established by Section 41-2101. The amendment redefines minor, as it is in other areas of statute, as a person under 19 years of age. Finally, the amendment

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removes language in the bill, providing that nothing in the Nebraska Statutory Thresholds for Settlements Involving Minors Act-- boy, that's another mouthful-- prevents the minor or the minor's custodian from filing in district court to obtain court approval of the settlement or matters in agreements related to the settlement. LB341 would still allow the minor or the minor's custodian to file in county court. So for those reasons, I ask for your support. I would also note this bill had no fiscal note. It came out of committee 7-0-1 and also had no opposition testimony during the hearing. So I would ask for your support on AM176 to LB341 and ultimately for your support on LB341. Thank you, Mr. President.

KELLY: Thank you, Senator Bosn. Moving to the queue. Senator McKinney, you're recognized to speak.

McKINNEY: Thank you, Mr. President. I'm rising just to speak because of my-- I didn't vote this out. I didn't vote yes or no. I'm still having trouble with this bill, mainly because I think the minor and the custodian or the parent should have a legal representative always present when agreeing to something like this, mainly because if something happens and they get offered the \$40,000, how do they know if the \$40,000 is a good deal or that, you know, they're being compensated properly? That's, that's my only hangup, is that I-- kind of uncomfortable with them not being required to have legal representation before saying yes or no to these agreements. That's just my-- that's just me. But that's why I didn't vote for it out of committee. I didn't vote no. I didn't vote yes. But that's what I'm having trouble with, is that I think somebody else should be in the room because, you know, maybe the parent or the custodian isn't, you know, well-versed in, like, understanding of agreements. And you got a attorney on the other side, possibly. And that's my issue, is that one side might have representation and the other side might not. It might not be in all cases, but I think in these situations we should require legal representation on both sides. It should just be a requirement. Just to make sure everything is cool. Yet people might be well-intentioned, but I just would feel more comfortable with the requirement to have legal re-- representation on both sides. It's not to say-- nothing bad about Senator Hallstrom or the bill. I just think there should be a requirement for legal representation before these agreements commence. That's just where I'm at. So thank you.

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

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HUNT: Thank you, Mr. President. I-- when the-- when LB341 came up in the agenda and Senator Bosn was introducing part of the amendment, I was in another conversation. So I actually I'm really interested in this bill. And I, I have a couple questions akin to what Senator McKinney was talking about if we're guaranteeing legal representation for these minors. If they're receiving settlements, we want to make sure the settlements they're getting are fair. We-- are, are they having legal representation when this happens? Could Senator Hallstrom yield to a question?

KELLY: Senator Hallstrom, would you yield to some questions?

HALLSTROM: Yes. Thank you.

HUNT: Thank you, Senator Hallstrom. Would, would youth who are getting these settlements, would they be guaranteed legal representation throughout the process?

HALLSTROM: They're not, they're not guaranteed legal representation, but the bill reflects that there are different issues that apply with regard to the manner of payment and so forth, if they are or if they are not, or if they're a ward of the state. So it does address different issues. And, and in response, I guess without taking up too much of your time, Senator--

HUNT: No, please go ahead. I got three chances. So say your answer, for sure.

HALLSTROM: Well, to, to address Senator McKinney's question, there's absolutely nothing that, that prohibits people from being represented by legal counsel. And in many cases, if not most cases, I would presume that they would be. But you have a situation where if they're represented, they don't have to go to the additional expense of going into court to get a conservatorship or a guardianship appointed and then be, be subject to that additional expense. They may very well be represented by counsel. And I would rather imagine that if the insurance company had any concerns over whether or not the, the settlement for less than \$40,000 was appropriate, they may very well choose on their own to go back into court and get a guardian appointed so that they don't face any, any criticism or challenges down the road.

HUNT: OK. Thank you, Senator Hallstrom.

HALLSTROM: Thank you.

HUNT: I appreciate that. Yeah. That was, that was the question I had about this bill because I am not-- you know, I don't come from a background of knowing a lot about youth in foster care. I have not had the opportunity to serve on Health and Human Services Committee or do a lot of committee work on the issue. But in 2021, after I heard some reporting about states re-- retaining, basically holding back Social Security payments for foster youth, I became really interested in that topic. And in 2021, I introduced a bill to make sure that in Nebraska, where this was indeed happening-- and is happening arguably still-- and we're still working on this issue-- that the state was not taking Social Security payments meant for foster youth and youth in care of the state and using it to pay for their care or using it in a way that the child was not aware of or not-- you know, didn't have any control over. They didn't have any legal representation. They didn't have an advocate, all that kind of thing. And so these things always kind of raise an alarm for me. And that maybe-- you know, maybe LB341 with this amendment will work with other bills that we have coming before us in the future in the Legislature, including a bill I'm introducing on March 12 to-- sort of an update for those Social Security payments for foster youth and also a youth in care bill of rights that we've heard in the Judiciary Committee for the past couple years. Just making sure that these youth in the care of the state, that their rights are respected with respect to their right to an attorney, especially when these are some of the kids that, you know, have really fallen through the cracks, who are maybe less likely to have an advocate at all. And I just want to make sure that that's not happening to these kids as they are eligible sometimes for settlements for-- to get money that can really, really help them in life, to make sure that they're getting the maximum benefit that they possibly can. So I'm going to think a little bit more about that. Thank you, Mr. President.

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

SPIVEY: Thank you, Mr. President. And good morning again, colleagues and folks watching online. I was wondering if Senator Hallstrom would yield to a few questions, as I'm just trying to better understand the bill.

KELLY: Senator Hallstrom, will you yield to some questions?

HALLSTROM: Certainly.

SPIVEY: Thank you, Senator Hallstrom. And kind of to Senator Hunt's point, I think some of the folks that are impacted by this type of

legislation usually are more vulnerable, and so I always just am more interested to make sure that I'm better understanding the, the impacts and the intention. And so you mentioned in your opening that this would expedite the process to be able to-- for that court-appointed person to be able to make the decision to accept a settlement or not. Am I understanding that correctly?

HALLSTROM: Yeah. Thank you for listening to my opening. Yeah. Basically, number one, I, I don't know that it necessarily will apply to, to less advantaged folks. This is the type of situation that could happen to anyone-- a minor child is involved in a car accident and the insurance company isn't going to pay those funds directly to the minor. And so the current law says you have to have a guardianship or a conservatorship appointed. The parents will most generally be bringing the action-- excuse me-- on behalf of the minor child. They may very well be represented by legal counsel, but they're not going to have the additional expense of having to go into court to get that approved.

SPIVEY: So then this is saying-- so like if my son, ten-year-old, is in an accident, something happens, I can make the decision if I want to settle or not. And I don't necessarily need an attorney to be a part of that process because I have the, the power to, to settle on behalf of my child.

HALLSTROM: Right. And, and the only distinction is you might think intuitively, well, they ought to be able to pay that money to me also as the parent, but the law doesn't allow that. The, the injured party is the minor. The payment's going to go from the insurance company on behalf of the minor, and it will go into a protected account, traditionally a uniform transfer to minors account, which actually even maintains protections and has a custodian-- which may typically be the parent or another trusted third party-- to oversee that account until the minor reaches the age of 20-- or, or the individual that's injured reaches the age of 21.

SPIVEY: And thank you for that clarity. The other thing that I was reading-- because we would ideally love to think that everyone that has guardianship or a "conservativeship" has the best interest of that child in mind-- and we know that's not always the case. And I was actually the guardian of my sister when our mom passed away. And so I was appointed by the court and I had to submit reports around, like, how did I use the money that I received for her? What did that look like? To make sure that, again, I was accountable to really caring for her. And I was reading in here and just wanted to make sure that I understood that-- say it's in a trust or that money goes wherever, is--

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are there reporting requirements or information that it is used on-- in the way in which it was supposed that it actually gets to that child? I just worry that if there's not those parameters that people that may not have the best interest decide to use it however.

HALLSTROM: Yeah. There, there isn't necessarily any formal accounting requirements, but the uniform transfer to minors account would have a bank account statement, and anybody interested in the account or having a right to observe that would be able to see what the funds are being, being used for. And, you know, even in this case, the parents, if they have control over it as the custodian, the, the long-standing application of law is that the parents cannot use that to satisfy necessities of their child that they would otherwise be responsible for independent of the fact that we have these settlement funds.

SPIVEY: And that's already in statute, you said?

HALLSTROM: I-- it's just the-- it's just the law, yeah.

SPIVEY: OK. Perfect. Thank you for answering my questions. Thank you, Mr. President.

KELLY: Thank you, Senators Spivey and Hallstrom. Seeing no one else in the queue. Senator Bosn, you're recognized to close on AM176.

BOSN: Thank you, Mr. President. I would ask for your green vote on AM176 and LB341. Thank you.

KELLY: Thank you, Senator Bosn. Members, the question is the adoption of AM176. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of the committee amendment.

KELLY: AM176 is adopted. Mr. Clerk.

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

KELLY: Senator Hallstrom, you're recognized to close on LB341. And waive. Members, the question is the advancement of LB341 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 39 nays, 0 nays, Mr. President, on advancement of the bill.

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KELLY: LB341 is advanced to E&R Initial. Mr. Clerk.

CLERK: Mr. President, new LR: LR54 and LR55, both from Senator McKinney. Those will be laid over. Additionally, notice that the Exec Board will be holding an executive session upon adjournment in Room 2102. Exec Board, executive session, Room 2102. Senator Rountree, priority motion: move to adjourn the body until Thursday, February 27, 2025 at 9:00 a.m.

KELLY: Members, you've heard the motion to adjourn. All those in favor say aye. Those opposed say nay. The Legislature is adjourned.