

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 16, 2025

DORN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-third day of the One Hundred Ninth Legislative First Session. Our chaplain for today is Senator Mike Jacobson. Please rise.

JACOBSON: Thank you, Mr. President. Please join me in prayer. Dear Heavenly Father, we are so grateful to be living in a democracy where many play a part in making sure that the needs and desires of Nebraskan's people are heard and met. Thank you for the opportunities that you have given us to serve in our elected capacities. Bless our staff and all those that provide security in this house as we work together to find solutions to difficult problems. We ask that you guide us to speak respectfully and with humility towards one another. Grant us strength, wisdom, and clarity of work. And in remembrance of this Holy Week help us to show Christ-like love to those we interact with and to be an advocate for our constituents and our state. In Jesus' name, amen.

DORN: I recognize Senator Tanya Storer to lead us in the pledge.

STORER: Thank you. Please join me, colleagues. 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.

DORN: Thank you. I call to order the sixty-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.

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

CLERK: I have no corrections this morning, sir.

DORN: Thank you, Mr. Clerk. Senator Moser would like to recognize the Doctor of the Day, Kip Anderson from Columbus, Nebraska, underneath the north balcony. Please, please rise and let the Legislature thank you for being here. Mr. Clerk for announcements.

CLERK: Mr. President, my understanding is the Speaker has an announcement.

DORN: Mr. Speaker, for announce-- for-- Mr. Speaker, for announcements.

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ARCH: Thank you Mr. President. If I could have your attention, colleagues, for just a moment, I want-- I have a few announcements this morning. First of all, today is Former Legislators Day. Once a year the Nebraska Association of Former State Legislatures hold-- Legislators hold their business meeting at the Capitol. Following the meeting we invite them to the chamber for recognition of their prior service and that short ceremony will occur this afternoon around 4.30 p.m. Second, I want to-- I just want to remind people, members and staff, of a Norris Chamber decorum long-standing practice. While we're in session, senators and staff are restricted from taking photos or videos of members. Only credentialed members of the press may take photos or videos of the members within the Chamber during floor debate, but may only do so from under the balconies. It's just a, it's just a matter of decorum. Next, I want to share with you a couple of scheduling announcements. Yesterday, the retirement committee reported to General File LB645, their committee priority bill, which reduces the employee, employer, and state contributions to the school retirement fund. As amended by the committee amendment, the bill is estimated to provide a general fund savings of approximately \$77 million. So it's my intention to schedule the General File debate of LB645 for first thing tomorrow morning, regardless of where we are in the agenda, in today's agenda. A second bill scheduling announcement is that on Tuesday afternoon, beginning at 3 p.m., I-- we-- I will schedule taking up the General File debate of LB89, Senator Kauth's bill to adopt the Stand With Women Act. It will be-- and I will be implementing the 421 cloture threshold for this bill. Although Tuesday, April 22nd is our first scheduled late night, it's my intention, we will simply work through the early evening with no dinner break on that first night, take up cloture motion around 4-- around 7 p.m. Following the conclusion of LB89, we will adjourn for the day. Thank you, Mr. President.

DORN: Thank you, Speaker Arch. Mr. Clerk.

CLERK: Mr. President, General File, LB322, introduced by Senator Clouse. It's a bill for an act relating to crimes and offenses; amends section 84 and several sections of Chapter 28, 29; prohibits assault on a pharmacist, changes and eliminates provisions and penalties relating to offenses involving assault on an officer, emergency responders, certain employees, or a healthcare professional; defines and redefines terms; harmonizes provisions; repeals the original section; outright repeals section 28-931.01. The bill was read for the first time on January 16 of this year and referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments. Pending at the time the Legislature left the

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bill yesterday, Mr. President, was the bill itself, the Judiciary Committee amendment, as well as a motion from Senator DeBoer to bracket the bill. There are additional motions and amendments pending, Mr President.

DORN: Senator Clouse for a refresh on the bill.

CLOUSE: Yes, thank you, Mr. President. As mentioned, this bill, LB322, with an amendment, which was LB26, added to it out of judiciary, this bill is just simply to add pharmacists to the list of, of those that are already listed in statute that have additional penalties and just really add them as a protected area for medical professionals. And this was going through a filibuster yesterday. So there's not much more I can add to this because I think we heard a lot yesterday and we'll continue to hear more this morning. So if anyone has any questions, please let me know. Otherwise I yield my time. Thank you.

DORN: Thank you, Senator Clouse. Senator DeBoer, you're recognized for a refresh on the amendment-- motion.

DeBOER: Thank you, Mr. President. So yesterday, we were talking about the problems that I think are critical in this bill. If passed with the committee amendment, I think this law will continue to undermine our criminal justice system. The disproportionality of the felony to the assaults that we are proscribing here undermines our system. The law has unintended consequences for developmental disability community, for mental health patients, for those who have autism, et cetera, et, cetera, et cetera. There are a lot of folks for whom this is going to unfairly and problematically put them in the purview of a felony.

ARCH: Time, Senator. Returning to the queue, Senator Dungan, you're recognized to speak.

DUNGAN: Thank you, Mr. President and good morning, colleagues. I do rise again today in favor of Senator DeBoer's bracket motion and respectfully opposed to AM767 and LB322. I wanna thank again Senator Clouse and Senator Ballard for having this conversation. I think the tone that we had yesterday was actually very, very much appreciated because we are clearly in disagreement about a lot of this bill, but were able to have a discussion back and forth, and were able to respectfully, I think, debate the different points of the bill. And that, that's appreciated, because I think sometimes in here, obviously, all of us, myself included, can get a little bit heated, and things can get little bit frustrating when you have personally and

deeply held beliefs. But I think that the issue at hand here is one that we all are grappling with, and it's one that all think is important. We're just disagreeing about the best way to handle it. As I said yesterday, when you talk about community safety, and when you talk about trying to keep folks at work safe from harm, that's something that I think all 49 of us in here absolutely agree is a, is an issue that we should be addressing. And it's something we absolutely want to make sure we're putting at the forefront of our minds. But where I think we differ is in what is the best method to create that protection or that safety. I understand that at first blush the amendment and the bill which seek to broaden the amount of coverage for these enhanced crimes, I understand that that's intended to help those folks at work at the hospital or the pharmacists. But as we talked about at great length yesterday, and I think we're going to talk about for just a little bit longer here this morning, my fear, my concern rather, is that these bills simply don't achieve that goal. I think that when we're talking about enhanced penalties and enhancing the sentence that somebody can get for committing a crime, it is trying to address the punishment after the fact rather than the underlying issues that ultimately lead to the commission of the offense. And we know, statistically speaking, and looking at the data. That there simply is not any data at great length for, for research that's been done over the last 50, 60, 70 years that says if you increase the sentence of an offense, you are likely to see a large systemic reduction in the commission of that offense. I understand there are maybe, again, certain anecdotes that we can talk about when it comes to individual circumstances where somebody has an example of an increased penalty maybe leading to somebody not wanting to commit a crime. But, at the end of the day, I think that in this body, we should be legislating based on the numbers and the data as best we can, and sometimes I think anecdote can help that. My rowmate, John Cavanaugh, used the portmanteau "anecdota" yesterday, which I appreciated, because I think "anecdota" is a lot of what we utilize in here. We tell stories, but we also base it in numbers, or at least we should. We know that increasing penalties has not just the, I guess, unintended consequence of having higher incarceration rates in the state of Nebraska and in America, but we also know that it disproportionately impacts certain populations. Mr. President, could I get a gavel, please? Sorry, it's just that typical morning where people are all talking quite a bit, which I understand, but it's getting a little loud. As I said, these kind of enhanced penalties disproportionately impact certain people in the state of Nebraska. I started to talk about this a little bit yesterday, but the state of Nebraska already has astronomically high incarceration rates. The

United States, per capita, as of some of the data that I was able to pull up in 2024, incarcerates 614 people per hundred thousand. Nebraska is just under that at 591 people per 100,000. That puts us well above, not just the vast number of other states in the country, but it puts us above really a number of other democratic nations across the world. The United Kingdom, Portugal, Canada, France, Belgium, Italy, Luxembourg, Denmark, the Netherlands, Norway, and Iceland all incarcerate at rates at under 150 per 100,000. We are an outlier, not just in the country, but in the world, and we need to do something about it. And what I think is also interesting is when you look at the breakdown of those numbers, we incarcerate people of color at an astronomically high rate. If you look at the black community here in Nebraska, they are incarcerated at an exponentially higher per capita rate than the rest of, the rest of the folks in the state. One thousand six hundred and ninety eight people per one hundred thousand are incarcerated in the--

ARCH: Time, Senator.

DUNGAN: --black community here in nebraska. And that is a problem. Thank you, Mr. President.

ARCH: Senator Bosn, you're recognized to speak.

BOSN: Thank you Mr. President. Good morning colleagues. I rise in opposition of the bracket motion and in support of the underlying bills. And I just want to take a quick moment. We spent a significant amount of time yesterday focusing on empathy for these offenders and concerns about our prisons, and I want to redirect that focus back to what this bill's intention is and who we were sent here to defend and to protect, and that's the community's and the public's-- public safety. This bill is about accountability for offenders and protection for victims and the public. Stop being distracted by the focus on offenders and overcrowded prisons. Because if our prisons are overcrowded bec-- with individuals who are assaulting healthcare workers, so be it. Our health care workers deserve to be safe at work. They deserve to be safe from physical violence. And that is what the public expects of us, and that is our job. They are uniquely situated. We want our healthcare workers, when they're in the course of their duties, to be laser focused. In fact, we demand that of them. They are supposed to be so focused on providing patient care that they shut out all the other things going on. They are more vulnerable to the situations around them because they are so laser focused on providing patient care and putting the patient's needs ahead of their own that they're more vulnerable. We need to recognize the situation and the

importance of the work that they do. And this bill is focused on that. I don't disagree that we have to be mindful of any unintended consequences. And we spent a significant amount of time yesterday chasing rabbit holes on the inflammatory what-if situations and concerns for developmental disabilities, individuals with developmental disabilities, or those on the autism spectrum. And there is an amendment that is filed to this bill to address those concerns, and I support that amendment. But let's not be distracted by those situations. I ask each of you, when considering whether to press the red or the green button, to think, do you want your healthcare providers to feel protected when they are putting their lives on the line to make you better, to provide you the care that you need when you are a patient in those facilities? And should it matter if they're a med aid delivering medications throughout the hospital less than the individual who's using the scalpel when you're having a surgery? No. They're in that capacity because they care about people and they want to make you better. And that is the focus of this bill. Thank you, Mr. President.

ARCH: Senator McKinney, you're recognized to speak.

McKINNEY: Thank you, Mr. President. I rise in support of the bracket motion and in opposition of the AM, and in opposition of a bill. Again, this bill will add to our overcrowded prisons. This bill will do nothing but incarcerate individuals who don't need to be incarcerated, honestly. Secondly, again, as I stated yesterday, many reports have stated, sentence enhancements, well one in particular that people want to ignore that I'm highlighting today and I did yesterday, it stated within it, sentence enhancements cost taxpayers significant-- significantly, yet provide minimal public safety benefit. So we could pass this bill and feel good about it, and I do empathize with the health care workers because as I stated yesterday, nobody deserves to be assaulted, especially at work. But there's more context to this conversation and that's why we were highlighting the context because it's not just a situation where people are just assaulting health care workers. It's, it's context to it that we cannot ignore. It's multiple layers to it too. It's individuals dealing with mental health and trauma. Then on top of that, we have to consider the other unintended consequences of passing laws like this, like adding to the overcrowding of our jails and our prisons. Senator Dungan stood up yesterday and said the Lancaster County Jail is overcrowded. They're sending people other places, which is wild. I wonder where they're going, because I would be upset to be sent to the county jail and then be shipped out, especially a jail. And, you know, bills like this and conversations like this, I mean, they get heated, but I think we have

to have conversations like this, and people like myself and probably Senator Dungan and Senator Cavanaugh, we do have to highlight the other side. This isn't a one-sided conversation. And it wouldn't have been a real one-sided conversation if the other side of this conversation would have engaged in the conversation yesterday. So it felt like a one-sided conversation because the other side that is probably going to vote for this bill didn't engage with us like they probably should have. So it probably came off as a one sided conversation, but it's not. There is another side to this that people will argue that this bill is needed because it will protect health care workers and I've got my argument against that because the data doesn't show that and I still haven't seen any data that says increasing or enhancing penalties adds to public safety. So if the individuals that are going to vote for this bill will engage with us, with us this morning and present the data that I haven't seen, I would love to see it. And I'm all for data, and I'm off for being proven wrong, but I haven't seen the data that shows that increasing or enhancing penalties adds to public safety. And I, I brought this up yesterday because if that was so true the United States of America and the state of Nebraska wouldn't have mass incarcerated a bunch of people, and we-- which they did. So if the theory that increasing felonies and increasing penalties makes the public safety-- makes the public safe, why are we still increasing felonies? We, we are the most mass incarcerated nation in the world, and we're still increasing felonies and penalties because we're screaming, we need public safety. So clearly it doesn't work. That's what's being lost here. We mass incarcerated the nation and we're still trying to increase penalties and enhan-- and enhancements and acting like it works and it never has worked. That's the problem and that's what being missed. So I'm not unempathetic to the healthcare workers. I just don't think. This is going to provide any public safety to them, and that's the problem. Thank you.

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

J. CAVANAUGH: Thank you, Mr. President. Good morning, colleagues. I rise in support of the bracket motion and opposed to LB322. And I have made a lot of my comments about the costs of increasing incar-- incarceration, which Senator McKinney was talking about. We did talk yesterday about how I brought a bill that we should actually include in fiscal notes, the fiscal impact of increasing penalties on increasing incarceration. I've talked about all of the bills that I have brought over the years to attempt to decrease recidivism. So de-- actually decrease crime through access to treatment, access to housing stability, access to healthcare, and all of those things are ways to

decrease crime because they get to the root cause of that. And so I've talked about a lot of things that I think I have proposed over the years constructively to attempt to get to the same sort of thing, which is de-- decrease crime. Of course, no one thinks anyone should be assaulted, and certainly not people who are trying to help people in the medical profession. I agree with that. We should do everything we can to actually decrease those assaults. I appreciate my mentee, Senator Dungan, bringing up my portmanteau of anecdotal data. But, you know, of course a portmanteau is where you put two words together. And it's anecdotal data. And he's right, we do all love to legislate through anecdote around here. And in this particular case, we have some anecdotal data, which is not-- we don't actually have the data, we have somebody said it in a hearing, we're not-- don't have it in hand. But just in terms of my hearing of it, it sounds like there was an initial dip but not a long-term cessation, and-- which of course means that previous attempts at this did not succeed. They had an initial reaction, a spike or a dip, and then, and then did not have a long-term effect of actually helping decrease assaults, which is, of course, our intent is to have a long-term, permanent impact, so that in 10 or 20 years, the Legislature's not back here saying, wringing their hands and saying, well, maybe if we make it a Class II felony, then people will stop assaulting people. You know, the-- we need to work the hard, slow, tedious process of making sustained change and not the quick answer of checking a box and saying we increased a penalty, we did it, pat ourselves on the back. So that's why I'm opposed to this bill is not that I-- I, I, I don't think that it achieves the stated goal. I think the stated goal is a good one. I think we should try to decrease all assaults. And I think that we should especially try to decrease assaults in these situations. I'm not, I've not seen this amendment. I heard there's an amendment that creates a affirmative defense. And I know folks are all talking and maybe people are talking about this, but let's be clear. An affirmative defense is a defense that can only be asserted once someone is charged. Which means whoever you're intending to protect or to get out of this being caught up in the criminal justice system with an affirmative defense, by nature of the fact you created an affirmative offense means they are in the criminal justice system when it's being asserted. You go to trial-- Senator Dungan walked through this yesterday. With, with an affirmative defense, you have to go to trial, you have the evidence solicited, and then the affirmative defense comes into effect, where the defense then has to elicit evidence and testimony that proves that they should not be subject to this. So it by its very nature means we are subjecting these folks that we're all worried about being subjected to criminal conduct that

they do not have the requisite intent to commit. They have to be charged first. So it's more complicated than that, but I knew I was going to run out of time. So I'm sure somebody else can pick up the conversation about why that's not a, a silver bullet to solve this problem. But again, I'm in favor of the bracket motion, I'm opposed to LB322. I do appreciate the sincere conversation about what people's issues are with this. And I would certainly suggest-- a lot of people have different reasons why they oppose this bill, and I think people have other reasons why they support this bill, but I do think that they are all-- everybody has legitimate reasons, and they are not distractions. And so I would, I would encourage you not to ignore inconvenient arguments or facts. You can disagree with them, you can make counterarguments, but you should not ignore people's true and legitimate complaints about something.

ARCH: Time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

ARCH: Senator DeBoer, you're recognized to speak.

DEBOER: Thank you, Mr. President. Colleagues, I think we should actually look at the language of what we're talking about here. So 28-931 is assault on an officer, emergency responder, certain employees, or health care professional, and would include pharmacists under this bill and other health care professionals, and the folks who work in the kitchen and the folks who work in the accounting office of the hospital that's located on the hospital grounds, and everyone else who works at the hospital. Let me read you what this is. A person commits the offense of assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree. This is the statute we currently have. This is what we're adding more people to. If he or she intentionally, knowingly, or recklessly causes bodily injury. Let me do that again. He or she intentionally, knowingly, or recklessly causes bodily injury. You don't even have to mean to hurt someone. You don't even have mean to assault someone. You don't even have to mean to make contact with their person. There is a case that is being worked through the system on a completely different issue, it's about sovereign immunity, which we can talk about another time, in which two kids are fighting with pool noodles. And I remember this because I thought, what a ludicrous thing. Somehow a child got injured with a pool noodle in gym class, and that's an assault. Now, that was in the civil law, that's different. But we're talking about a range of behaviors here. This is not just someone who's hauling off

and punching someone. This is intentionally, knowingly, or recklessly. That recklessly, let me read you what recklessly means. The requisite act, reckless act, or conduct involves the actor's conscious choice in a course of action involving a dangerous instrument -- OK, but there's no dangerous instrument -- which constitutes disregard of a substantial and unjustifiable risk to another, and does not require the actor's intent to cause serious bodily injury to another. Recklessly is an accident you should have known was coming, but still an accident. That's why-- when we're talking about all of this, I'm not forgetting the person who was assaulted, slapped, or recklessly injured. I don't want those things to happen. But I want our judicial system and our criminal justice system to make sense and be proportional. That part about proportionality, that was what I was talking about when I talked about we can bring the whole system of self-discipline down if we do not pay attention to the places where we're making things not make sense. If someone slaps someone and they get 18 months in prison? Think of the story of Jean Valjean in Les Miserables. He stole a loaf of bread, he gets put on a chain gang. And who do you feel sorry for? Javert, the guy who chases him around and tries to get him back into prison? Or do you feel sorry for Jean Valjean? We're not in Jean Valjean territory yet, but we're-- that's a story, we're getting closer to that. We do not want a disproportionate system. So if the kitchen workers are now absolute felonies, 'cause that thing I read you about--

ARCH: Time, Senator.

DEBOER: Thank you, Mr. President.

ARCH: Senator Ballard, you're recognized to speak.

BALLARD: Thank you, Mr. President. And I, too, appreciate the, the tenor of this conversation. I appreciate Senator DeBoer. She has been totally up front with me in this whole process of she has-- we have philosophical differences on this issue, and, and she is going to take it the full eight hours, and I appreciate that. So I had no doubt you were able to do that, so I appreciate the conversation. I just want to talk a little bit why I brought this bill. I, I spoke a little about it yesterday. We talk about the need for healthcare workers in this state. We, we-- In the Health and Human Services Committee, we grapple with issues as, as funding for, for nursing colleges, dental colleges, Medic-- Medicaid reimbursements. And so we need healthcare workers in this state. And I think it's going to be one of the, the top ten issues that we're going to, to talk about in the coming decade. But workplace violence in the health care work space is one of those

issues we need to talk about. And that's what we're doing with, with AM767, LB322 today is we're talking about that we take workplace violence seriously in this state. So just a couple, a couple data points about how workplace violence is growing in the healthcare space. Healthcare workers make up just 10% of our workforce in Nebraska, but make up 48% of workplace violence in this state. And out of 10,000 healthcare workers, 14 suffered injuries that kept them from at least a day of work. That's over three times the average rate of all jobs combined. This bill isn't about putting people in prison or, or what we talked about yesterday. It's about fairness and safety for those that serve us in the healthcare space. And, and I think Senator DeBoer makes a point. But with-- when we, when we-- when healthcare workers experience violent situations, they-- it's all hands on deck. It is the security guard. It's the med tech. It's possibly the, the kitchen worker that's coming to assist in that, in that situation. And so it's not just the doctors and the nurses and the licensed practitioners, it is-- that need extra-- that needs it extra protection in this scenario. It's all health care workers because they are working in sometimes a volatile space. And so that is why I think we need LB322 and LB326, which is included in the committee amendment. So with that, I thank you, Mr. President.

ARCH: Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President, and good morning, colleagues. I rise in support of my friend Senator DeBoer's motion to bracket this measure and in opposition to, specifically, the Judiciary Committee amendment and with general reservations about my friend Senator Clouse's underlying measure, LB322, that at least started off, I think, much more narrowly than the committee amendment, amendment expanded. And I also, in preparing for debate today, just did a quick check on the bill itself, and I see that my friend Senator Hallstrom had filed a-- an amendment which seeks to perhaps mitigate some of the impacts or effects, particularly for those accused of crimes and subject to said enhancement if the measure were to go through if they have some developmental disabilities with a specific reference and definition, or autism with a specific reference or-- and definition. But I am trying to just kind of figure out how that might work in practice, and I appreciate the attempt and the responsiveness to the fact that the committee record is clear, the communications we've received from leaders in disability rights, the ARC of Nebraska, Disability Rights Nebraska, family and friends of Nebraskans who have been charged with these crimes who have developmental disabilities and other disabilities have been in, in clear and consistent opposition to this, this measure, this expansion, and this enhancement. And a couple

of things I want to point out about Senator Hallstrom's amendment. So if you see just in the, the, the third word in the first line, it assumes in an active prosecution. An affirmative defense does not act as some sort of blanket immunity. It is part of the case progression. And so it already assumes that somebody with a developmental disability or autism has been arrested, has been searched, has been processed, has been sitting in jail, has been awaiting a hearing. May or may not have access to bail funds. May or may not have access to the health care specific to their disability while they're sitting in county jail, awaiting for this process to happen. And then later, you can't just show up at trial with a piece of paper that says, I had an IEP, or I had a 504 plan, or whatever it might be. You're actually going to need to identify and qualify a witness that's going to be subject to, most likely, opposition from the prosecutor. And the other piece is, is there's no clear understanding from my perspective as to why we're providing an affirmative defense to fo-- Nebraskans with autism and developmental disabilities, but not behavioral health issues or not severe mental illness. And it's undeniable that our prisons and our jails have become our largest providers of mental health services. And the LB50 Task Force, which Senator Bosn sits on and which published their most recent report in November, 2024, actually took a great deal of time over-- in one section over two pages in detailing the mental health issues for the prison population, and indicated that there, presently at that time of the, the report being published, there were 17-- 1,709 inmates with serious mental health issues. And it went on to list some of those diagnoses and the issues that that caused for care while those individuals are within custody, and the i-- the challenges that came with successful reentry and reducing recidivism. So, nothing in Senator Hallstrom's amendment would address those issues, it's not really workable from a criminal procedure perspective.

ARCH: Time, Senator.

CONRAD: For that and other matters, I continue to, to be concerned about the measure. Thank you, Mr. President.

ARCH: Senator Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. I'd like to yield my time to Senator DeBoer.

ARCH: Senator DeBoer, four, 55.

DEBOER: Thank you, Mr. President. Thank you so much, Senator Machaela Cavanaugh, for yielding me your time, because I think we're at a crucial point in this discussion where I think we've seen what the disconnect is here for me, or I've seen it, and that is that people keep referring to these enhanced penalties for certain workers as protection for those workers. But this is not protection, it's a reaction. It doesn't stop anyone from hurting someone in these areas. If it did, then we wouldn't have a testifier from Nebraska Medicine, I think her name was Tammy Winterboer, something very similar to that, telling us that they've kept track, and 70% of the assaults on staff were on those who are already protected, under their terms, by this advanced, enhanced penalty. So it doesn't protect anyone. It doesn't stop anything. Maybe it does in the short term because of the signs. Remember the signs? They put up the signs. Let's put up signs everywhere. Let's remind people not to be throwing punches. I don't think we should have to, but if it works, hey, let's do it. Because there's no harm in putting the signs up. But if 70% of the people who are getting assaulted in a hospital are those who already have this bill applied to them, this law applied to them, make it make sense to me. I, I don't mean to be getting strident. I have a little-- I have a little note to myself to ground myself and be calm. So I will do that. Very sorry I got strident But it doesn't make sense to me that this is a protection when it doesn't seem to protect and it only applies after the fact. If the protection is that people are afraid they might get a felony for assaulting a hospital worker, they already might get a felony for assaulting any of the people which we are attempting to proscribe with this bill. It, it feels good to feel like we're doing something. And if we feel like we're doing something because we're adding kitchen workers and grounds people and people who are dealing with patients to this bill. But it shouldn't be about us. So Senator Bosn rightly redirected our attention to those getting assaulted. But I want to direct our attention away from us, back to those people. Because if what we're doing is we're doing this because we think we want to do something in a really complex problem that probably involves having more staff, having more de-escalation training for those staff members. That probably involves a lot of hard work culturally. Doing this, if this just makes us feel better, which if we really look at it and it isn't a protection-- I get the desire to feel like we're doing something, to not feel helpless in the face of a problem, which is we don't have enough hospital workers, we don't have enough healthcare workers in general, particularly in rural Nebraska. But this doesn't fix it. It doesn't even move the needle, is my argument. And of course, others will argue differently. But the fact that we still have these things happening says we haven't gotten at

the root of the problem. We've talked about deterrence yesterday and today. If you vote for this because you want to feel like you're doing something, I guess I understand that on some level because sure, it's a big problem and we want to try and solve it. But you're not doing anything to solve the problem There was a person who said she perceived that there were fewer--

ARCH: Time, Senator.

DEBOER: Thank you, Mr. President.

ARCH: Senator Sorrentino, you're recognized to speak.

SORRENTINO: Thank you, Mr. President. Good morning, colleagues. I would ask, would Senator Dungan yield to a question?

ARCH: Senator Dungan, will you yield?

DUNGAN: Yes.

SORRENTINO: And I apologize. I will actually get to the question. It'll just take me two minutes. We've, we've had a spirited discussion about this bill and as somebody who has a daughter who's a pharmacist, a daughter-in-law who's a pharmacists, son in healthcare, and a wife who's a nurse, it is near and dear to my heart. My understanding, even though I don't know that it's been spoken, is that the benefit of passing this bill would be hopefully somewhat of a deterrent to the perpetrator of the assault. I, I don't know if that's true or not. But my question really runs to a different area. We, we've talked a lot about, I, I, and I believe that probably a perpetrator doesn't think about whether or not it's a felony I or a felony II when they assault somebody. I agree that they probably have other deeper seated problems than that, and jail isn't gonna solve that. We all know that. So those, those are all very valid concerns. Given Senator Dungan's background, what I want to ask is, we've spent four or five hours on, you know, what do we do with the perpetrator and what's good or best for him or society or she or society. Just for a moment, I want to address, you know, the victims of these assaults. It's certainly a traumatic experience for them to be, you know, assaulted or have a gun pointed at them or whatever it might be. And we've talked about some rehabilitation programs for the perpetrator and what might be a better setting other than prisons. So Senator Dungan, with your background, could you address what we can or should think about for the victims of the assault as far as trying to get them past this traumatic

experience? And, and once you've answered, I yield my time to the court. That's all I have. Thank you.

DUNGAN: Thank you, Senator Sorrentino. I think that's a really good question, and it's an important thing to talk about. We, we had a brief discussion about this off the mic, and so I appreciate your heads up on this. And I think part of the reason this is so important to me is, and I mentioned this to you as well, Senator Sorrentino, when I was in law school, I worked in the domestic violence clinic where I went to law school and I did protection order work with survivors of domestic assault. And I also actually did a semester at the U.S. Attorney's office prosecuting domestic violence crimes. And so obviously, you know, I understand in working, especially in the DV world, the importance of supporting survivors and then generally victims of crimes overall. The first thought that popped into my head when you asked that question is I think that shifting our focus from what we tend to see, I think, as a more traditional justice track into what is more commonly referred to as restorative justice is, I think, a really good sort of first step in making sure that we're creating a system that works, but also specifically supporting victims and making sure they have their opinions heard, they have their feelings considered, and that ultimately they feel as though they have been healed through that process, too. I briefly was writing down some thoughts here, and generally speaking, restorative justice has three main components. That's encounter, repair, and transform. And restorative justice is a practice that seeks to put together perpetrators of offenses with the victims of the offenses in an effort to ensure that the perpetrators can hear and truly empathize with and understand some of the, I guess, harms that have been caused to the victims of an offense. And the first step, encounter, obviously it's a voluntary process, and so nobody should be forced to go through restorative justice if they're not ultimately wanting that process. But in the event that they are voluntarily choosing to go to that process, it provides an opportunity for literally face-to-face interactions between victims and perpetrators. Repair is the main part there, where the victim gets to express their feelings, their harms, the things they've gone through, and the perpetrator gets to hear that. And they understand, I think, in that circumstance, a one-on-one interaction, and what it really does is studies have shown it, it puts the victim in a place where they have autonomy, where they get to decide what happens over the results of their case, and it makes their voice centered instead of the state, or instead of the judge, or whomever else as being sort of paternalistic in that sense and telling them what to do. So I think centering victims in that context, giving

them autonomy, and allowing them to interact with the perpetrator of an offense is, is oftentimes vital in making sure that you can truly have that restorative justice. I know out at the state pen there's a number of people out there who work through restorative justice practices and I've actually helped connect a number with those, of those lifers with teachers who have been working with--

ARCH: Time, Senator.

DUNGAN: --restorative justice and it's had a huge impact. So thank you for that question and thank you, Mr. President.

ARCH: Senator Juarez, you're recognized to speak.

JUAREZ: Thank you very much. Good morning everyone. And I'm willing to yield my time to Senator DeBoer. Thank you.

ARCH: Senator DeBoer, four, 50.

DEBOER: Thank you, Mr. President. Sorry, I'm in the middle of thinking through another thing as I was just talking offline here. When I was talking about these protections don't work, a friend of mine here said, well, we had evidence in the hearing that says that right away there was a person who brought an instance that showed that there were fewer in the month after this bill went into place, fewer yet the next month, then they went back up somewhat. I do think the signs that were put up could have a deterrent effect. I don't have scientific evidence for that. I do not think looking at one institution and a number of assaults as low as four versus zero versus five versus 13, I don't know that that's going to scientifically prove anything. But insofar as we take evidence from that that there was a difference, I would suggest to you, colleagues, that the deterrent effect is not the fact that we changed penalties which within one month after doing it has this purported effect. It's not the change in penalties that could have done that by then. Because first of all, you couldn't have made an example of anyone by then. It would be the signs. That's too quick for it to have been somehow washed through our culture and get to purported assaulters, or potential assaulters, sorry, potential assaulters and they say, oh, I'm gonna make some kind of calculated move about what level of crime I think I want to commit today. One of the greatest regrets in my life, I was a camp counselor, and I had a particularly difficult week. I was dealing with that week some very difficult situations with a child who had developmental disabilities. Lovely kid, absolutely loved this kid. But he was difficult for me to keep track of, keep him safe. And on the evening of the talent show,

one of the other counselors suggested to me something, and in that moment, it was something to do with this kid. And it was that something that apparently I thought was going to be really bad because I slapped her. 30 years ago, still carrying this, might cry, I cannot believe I did that, I cannot tell you why I did that, I have no idea. I immediately apologized, I have felt guilty about it for 30 years. Maybe there's someone in here who has never put a hand on someone else. I wish I were that person. Imagine, because we were camp counselors, she was a camp counselor, she was taking care of children. I'm not a violent person. That might have been a felony for me. That's not even recklessly, that was-- although I didn't plan to do it, that was intentional. So for the gal that, that I slapped, she's probably never thought about it again. And I've thought about it for 30 years. If every prosecutor were like Senator Bosn, we'd live in a very different world. Because she was amazing. I hear her stories about what discretion she used. But what if in that moment, this bill had been in place for camp counselors?

ARCH: Time, Senator.

DEBOER: Thank you, Mr. President.

ARCH: Senator Strommen would like to recognize a very special guest today. He-- his name is Jack Hunter from Sioux County High School. He is the D2 state champ in poetry in speech competition and is located in the north balcony. Please rise and be welcomed by your Nebraska Legislature. Return to the queue, Senator Dungan, you're recognized to speak.

DUNGAN: Thank you Mr. President. Welcome. I appreciate speech and debate quite a bit. I was also a speech kid in high school. So thank you for being here. I think it's, it's really, really cool. Congratulations. That's an amazing honor. So proud to have you be in Nebraska and proud to have you in the Capitol. I wanted to respond briefly to a couple of things that have been said here in the last maybe 20, 30 minutes. And, and I want to highlight a couple of points that I think maybe have been made. But I want to talk from my personal experience. So, colleagues, I wanna underscore, the amendment that's been proposed by Senator Hallstrom with regards to this affirmative defense does not solve the problem. It is not an exemption, it is an immunity, it is not saying that these individuals cannot be charged. It merely allows for an individual to make a claim that they fall under these potential statutes, that they're developmentally disabled as pursuant to the definition in Nebraska Revised Statute 83-1205, or on the autism spectrum according to 44-7,106. They get to allege that

at a trial. Whether that's a jury trial or a bench trial, meaning in front of 12 members of the community or the judge, it just says that they get to allege that when they get to trial. So colleagues, I want to be very clear. That means then-- this maybe has been said, but I want highlight it because I wasn't in the room when this was being discussed. That person is going to be arrested. That person may go to jail. That person may reside in custody until the trial can happen. Colleagues, I will tell you on a case that is a felony, if you want a jury trial in Lancaster County, it doesn't take place in weeks. It doesn't takes place in maybe even a couple of months. It takes place over a very long period of time. Because the courts are jam-packed. We're talking six months, if not longer, if you speed things up. That is the fastest you might possibly be able to get something to trial. And by the time that you have an individual who's saying they're developmentally disabled, who the prosecutor at that point has decided to charge, that means they disagree with you. That means that you've presented to them whatever evidence, whatever data you have showing that person is developmentally-disabled, they've disagreed with you, they've said, we're gonna continue with this. And then that person has to make a determination or a decision if they're capable as to whether or not they want to go to jury trial and raise this affirmative defense, roll the dice, and hope that a jury or a judge agrees that they are, in fact, falling under the statute. Or do they want take some sort of plea offer and maybe have that misdemeanor or felony on their record, depending on what all they're looking at? If you get to the point in time in a trial where you're alleging an affirmative defense, it inherently means the state disagrees with you and they are going to fight you on it. I have never, ever, ever seen a jury trial where the state tries to prove their case and then the defendant tries to raise an affirmative offense and then it goes back to the state and they say, oh, you're right. Because if you get that point, it means they disagree with you and they're fighting you. So you could be talking six months to a year, if not longer, for a felony district court trial to happen, at which point in time this amendment allows the opportunity to say some things. And I would also point out, in my opinion, I think that 83-1205, the definition of developmental disability, fails to contemplate some other potential ailments or issues, such as behavioral health problems, such as any number of other issues. And so, colleagues, I understand that the desire for this AM1092, which has been filed, is to address some of the problems. But I just-- from a practical, logistical perspective, I wanna be very clear that I do not believe it does that. I do not believe that it allows for the opportunity for a true, I guess, exemption or immunity. Now, the reason that it doesn't is because that's really hard to do.

And that's why this is so complicated. And so I just-- I think that this amendment alleviates people's concerns without actually addressing them. And I appreciate the work that some have put into this amendment because I think they're trying to listen and they're trying to come up with some potential solutions. This is my first time seeing it, and so I'm looking at it, it's very short, it's one paragraph, but I simply am telling you from a practical and logistical perspective, from my actual professional expertise, this does not solve the problem. There are people that are currently sitting in jail, that are developmentally disabled, that have a low IQ, there are currently people sitting in jail. I represented a gentleman not too long ago who was in special ed the entire time he was in school, and he got sentenced to prison. I sat next to him when he went to prison. So this happens. This is not an abnormality. And I just want to be very clear that this amendment does not address--

ARCH: Time, Senator.

DUNGAN: --these issues. Thank you, Mr. President.

ARCH: Senator Fredrickson, you're recognized to speak.

FREDRICKSON: Thank you, Mr. President. Good morning, colleagues, good morning, Nebraskans. I rise today, I continue to listen to the debate. I think that there's been actually really good conversation that's been had about this. And I know that Senator Hallstrom has a amendment that's been spoken about, and I, I'm for full disclosure, I'm planning to support that amendment because I appreciate the intention of that. I, I do want to speak a little bit about a thought that, as I'm listening to this debate, I was thinking more about what are the current protections we have in place for folks like physicians, for example, and I spoke with Senator Ballard about this as well, like I know law enforcement, we have a similar policy in place. And, you know, one thought that I think we should consider as a body with this is whether or not it would make sense to, if in fact we are going to expand this to everyone who works at the facility to have de-escalation training provided for all these employees. And what I mean when I say that specifically is that when you think about law enforcement, when you about physicians or clinicians who are having direct contact with these individuals, they do have extensive training in de-escalation. And the idea being that they can be preventative should there be behavior dysregulation or something occurring where, where things are potentially becoming a risk that they are hopefully implementing best practices to mitigate that risk. Now, one of the issues with expanding this protection to all staffers at an agency or

at a clinic or a hospital for that matter is that you-- there might be individuals who work there who, who don't have a lot of awareness in how to de-escalate a situation, and in fact, you know, might unintentionally escalate a situation. And so, that's just something I think we should consider. I know we speak a lot in here about unfunded mandates and additional trainings and how that's, that's a challenge. But I do wanna offer that these protections that we offer for law enforcement, for example, or physicians already, part of the extension, in my belief, is due to the fact that these are folks who are highly trained in managing and navigating potentially dangerous or challenging situations. If, in fact, we're going to extend that offering, I think that we should be providing those individuals with the tools that they need to mitigate risk in as much and as effectively as possible. I also want to think a little bit more about-- I was thinking about this last night on my drive home, like what might be some of the unintentional con-- unintended consequences of legislation like this and, you know, obviously we consider medical facilities or healthcare facilities in general. We want people to feel safe there, we want employees to feel safety there, of course, but we also want patients to feel safely there. And, you know, I, I do have concern that if individuals who have challenging behaviors are punished instead of protected, in a way that could have the unintended consequence of eroding community trust, or even put the institution at, at sort of eroded trust with that as well. And I don't want to have an environment where people go into a clinic to receive service and care where they are more on edge because of fear that they might do something or be punished for something in a way that might be bringing them in to actually be seeking assistance around. So this is a complicated issue. It's incredibly nuanced. Anyone who's worked in healthcare can, can understand this and the challenges that come with this. But I do think it's, it's, it's-- I think it's a genuine thought we should have. you know, it's not necessarily a floor amendment at this point. Maybe if this does advance, maybe it's something we discuss between General and Select. But I think we should consider whether or not, if this is gonna be expanded, whether or not there should be de-escalation training provided for all the employees so that best efforts can be made to avoid escalation and potential unfortunate incident. So with that I will yield the remainder of my time. Thank you, Mr. President.

ARCH: Senator Brandt would like to recognize some special guests. They are 14 fourth grade students from Friend Public School in Friend, Nebraska. They're located in the North balcony. Students, if you would

rise and be welcomed by your Nebraska Legislature. Returning to the queue, Senator McKinney, you're recognized to speak.

McKINNEY: Thank you, Mr. President. I still rise in support of the bracket motion against AM767 and against LB322. You know, I've come to the realization, no matter what you say, no matter how much data that is factual that you present, people will ignore it for-- they're-- just to dig in and just stick to their, what do you say, just to act as if-- act as if they're right. But there's clear data that says sentence enhancements will cost taxpayer dollars that people say they care about. They stand up, ask questions, we care about taxpayer dollars and we should be fiscally responsible. We should really think about the taxpayers. But when it comes to criminal justice, here's a, here's a secret. It is a dark hole full of money that you could just throw money in because when it comes to taxpayers and criminal justice, nobody cares, because we're dumping money into our criminal justice system and we're not even getting real good results at all. We're just trying to increase penalties, continue to fill up an overcrowded prison system, and you know what? We're probably going to build-- well, we're not-- well, we are building a new prison which isn't a replacement, but they're probably not going to close NSP. Lincoln is be-- is going to be the prison industrial capital of Nebraska. And then we're probably going to have to build another prison if we stay on this trend of increasing penalties and enhancements that are already felonies. It doesn't make any sense. And then you're gonna incarcerate people that, in, in one instance, that deal with mental health and trauma. So you're going to have jails and prisons filled up with people that are dealing with these issues that are overcrowded so they won't get the support or programming that they need, that you think they need. That's why you want to send them to jail, to get them help, to improve people, but the other secret is our prisons don't rehabilitate people. They really don't. And, and that's the problem. And it's, it's really funny that people pick and choose when they want to listen to facts and care. And it-- but you know, one thing I, I was thinking about on my drive here. I'm, I'm really enjoying this new biennium for just one reason and one reason only. I'm getting a full understanding of who people are. We got a bunch of new people this year, and I'm just learning how they operate and what they think and what their beliefs are. So, you know, at least going into next year, my mode of operations would definitely change with a lot of people and how I try to move things. So that's probably the best highlight of this whole session, is that I get, I get to see who people are. And I don't have to guess it-- guess anymore. And that's, that's great because on things like this it's really funny people.

Will stand up and say, especially when we get to the budget and revenue bills, we care about the taxpayers, we should protect their dollars, we need to be fiscally responsible, we have to balance the budget, all these things, right? But on bills like this which will-- if it's such a problem, because here's the thing, if it wasn't a problem, this bill-- well, if it wasn't a problem to them who support this bill, this bill wouldn't be pushed. So if it is a clear problem that people are assaulting health care workers and pharmacists, that means our jails and our prisons will more than likely be crowded. We put a cap on counties last year, so how are the counties going to pay for that overcrowding? And our prisons are over-- already overcrowded. We're building a new prison that's supposed to-- that is going to be overcrowded the first day it opens. So who's paying for this? The taxpayers. Dear taxpayers, you will be paying for prisons in the billions if we keep this up. And maybe you want that, but I'm just letting you know your taxpayer dollars will be going to the Lincoln Prison Industrial Complex, because that's what we're creating with bills like this. So thank you.

ARCH: Senator Lippincott would like to recognize some special guests. There are 31 fourth grade students, 2 teachers, 7 sponsors from Twin River Public School in Genoa. Students, if you would rise and please be welcomed by your Nebraska Legislature. Returning to the queue, Senator Guereca, you're recognized to speak.

GUERECA: Thank you Mr. President, good morning colleagues, good morning Nebraskans watching at home, good morning to the fourth graders. This is your house. Welcome to your state capitol. Colleagues, I've been listening to, to the debate, to the back and forth. And I can appreciate the intent behind the bill. We want our healthcare workers to be safe. We want out healthcare workers to not feel less than because they don't have an M.D. After their name. Fine. But then what? Let's pass this bill. Fine. But then what? What are we doing to then prevent those people that we've locked up from reoffending. Because it is a strain on our budget. It does cost money to lock people up and keep them locked up. But then what? What comes next? What are we doing to lower recidivism? What are doing to lessen that financial burden on our society? What comes next? And frankly, what comes before. We're-- had a town hall this last Saturday, and the biggest point of contention that I heard from the 50 folks that showed up was, why are we messing around with paid sick leave? The lady looked at me and said, does the Legislature really think we don't know what we voted for? Colleagues, if we chip away at the most basic things that give people dignity, that make them feel worthwhile, we're gonna have a-- we have a mental health crisis. If folks can't take

time off to care for their sick kid, that's gonna add stress. That's gonna be a heavy burden on them. And that may cause them to lash out. So fine. Is there a part of me that says, should every worker in a hospital be treated the same and have the same level of protection? Sure. But what are we doing before and what are doing after that point of assault? If we keep going down this path of tinkering with the minimum wage, cutting funding to basic institutions that provide people that level of dignity, that level of being OK, well we're inviting trouble. So let's think about that as we're enhancing penalties. What are we doing before and what are we doing after that moment? What are we doing to prevent people being pushed to that point, to that brink? And once they've been pushed to it, what are we doing after? Because if I'm going to be honest, colleagues, I don't think we're doing enough on the back end and on the front end. So regardless of how I vote on this bill, let's think about that. What are we doing before, and what are we doing after that moment? Thank you.

ARCH: Senator DeBoer, you're recognized to speak.

DEBOER: Thank you, Mr. President. So I did want to take a second to say that I do care about victims' rights. I think that's evidence in the work that I've done. I have been working on the crime victims reparations program in Nebraska for, I think, most of the time I've been here. I'm not actually sure what year I started. Making sure that folks' hospital bills can be paid through the crime victims reparations unit directly, rather than the victim having to come up with the money to pay for it and then paying for it, and then getting paid back through crime victims' reparations. I've passed-- I, I'm pretty sure I have a bill this year on CVR that hasn't yet passed. So, those issues are centered for me. I have been on Judiciary Committee for seven years. I'm thinking about that. I think about victims. I know victims. Here's a problem with victims. If the person who assaulted you is in prison for a felony, they can't make restitution. So if we want restitution, which I do, which I think is the best thing we can do, then we probably shouldn't be putting everyone in prison for a felony. If we put someone in prison for longer, I, I haven't said this yet. I realize I haven't said this, yet because it seems so self-evident to me. Putting someone in prison for longer does not help the victim. The victim is assaulted whether the person who assaulted them went to prison for two years, five years, or the rest of their life. It doesn't help the, the victim. It may make restitution harder to get for the victim, which would help the victim. This doesn't help the victim. The whole idea of this, in fact, ignores the victim. I think there's a fundamental problem with this bill, but I am a fixer,

so I have said, bring me a more narrow bill. Let me look at a bill where if your reasoning is you've got to have those who are on the front line with patience, then bring me a bill that does that, that doesn't include kitchen workers. Instead of arguing that maybe someone in the kitchen staff might help, and they might, bring me a bill that narrows this to just people who are working with the public. If you don't think we will be back here every single year having this argument, read the underlying bill closely. It only applies to pharmacists, not to the staff working with the pharmacist. I think that's good. But it also creates a line that doesn't make sense. Because no matter how we draw the line, it's not going to make sense to say that two people standing next to each other, if you assault them, you're going to get a felony for one and not for the other. No matter how we draw that line, there's gonna be a problem. And it's not going to stop the assaults. Maybe putting signs up will help, let's do that. And it's not going to help the victims. We're gonna be back here-- well I won't be, I only have another year left. Someone will make this argument because it doesn't make sense. And we'll be back here every year having this same discussion, taking up eight hours of time every year and not helping victims and not helping stop the assaults. Thank you, Mr. President.

ARCH: Senator Spivey, you're recognizes to speak

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

ARCH: Senator DeBoer, four minutes, 50.

DEBOER: Thank you, Mr. President. Since I haven't said it yet and others have, maybe because I have a higher-pitched voice, maybe I'll say it, too. The amendment which was being circulated on an affirmative defense, it doesn't get at the problem that folks are seeing with mental health, with DD. I appreciate that folks who are trying to work on something there. But an affirmative defenses is always going to be problematic, because you're still going to charge people. As I said, if every prosecutor were as intelligent and compassionate as Senator Bosn, I would worry a little less. But she's one of the smartest people I know, both emotionally and intellectually. So I don't have that same feeling about every single prosecutor in this country or this state. There are always people who are better or worse at their job. Today I'm feeling like one of the worst at my job, but that's all right. Here's a question, and it is philosophical, but it is relevant. If we're doing enhanced penalties in this situation, why not in every situation? For that matter, and

this is gonna sound insane, why don't we just throw everyone in prison forever, whoever does anything wrong? That'll stop things from happening. People will be scared to death. There are countries that run that way. I mean I think, I don't know. They are in movies. The law has to be proportional for a reason. We would say it is not proportional to throw someone in prison for the rest of their life for stealing a loaf of bread. Everybody sees that. I assume everyone sees that, that that's not proportional. So there's a line somewhere between life imprisonment for the theft of a loaf of bread and nobody gets prisoned for anything. There's a line between there. Those are very far poles. And I get that it is difficult, and we have been tasked with the difficult job of finding that correct line. But I would ask you, If you just go on gut instinct, does putting someone in jail for 18 months for slapping someone, hard enough to get their glasses slapped off them, does that seem more like in jail forever for stealing a loaf of bread or more like absolutely nothing for a murder? Because that's the kind of question we're facing today. We're saying, is this proportional? How do you build a proportional system? And when McKinney and others talk about the fact that we have a lot of people going to prison for longer and longer sentences, it's this, it's this creep, this slow creep to put people in prison longer and longer periods of time for lesser and lesser crimes. That's, that's the problem. You may look at any incremental creep of this issue. And you may say, I can get behind that one. But if you look at the big picture, if you look at the big picture, and we continue to creep and we continued to creep and we continue to creep, we end up with a disproportionate system. And that disproportionate system has a couple of problems. One, it's probably not the kind of a place anybody wants to live in. And two, it doesn't work. When we have disproportional sentences to crimes, it doesn't work. People throw up their hands. They say, I'm not gonna be able to be perfect. I'm not gonna be able to do this. I'm going to be able to fit. I don't even know what the law is.

ARCH: Time, Senator.

DEBOER: Thank you, Mr. President.

ARCH: Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President, and again, good morning colleagues. I want to just again reaffirm a central theme in this debate. And if you go back and you look at the CJI report, and to be clear, colleagues, this-- the engagement of the Crime and Justice Institute through the Department of Justice for a Justice Reinvestment

Initiative is something that doesn't happen lightly. This-- In order to secure this engagement that has been provided to some of our sister states facing similar issues with prison overcrowding and mass incarceration and a lack of movement in regards to updating and involving our approach to criminal justice, this took an act of the Chief Justice of the Nebraska Supreme Court, the governor, then Governor Ricketts, and legislative leadership to request that CJI comes to Nebraska, does a comprehensive look at our criminal justice system, and provides a clear roadmap for reform to help ensure that we're not continually building massive new prisons, which is the most ineffective and most expensive way to deal with societal challenges. And I understand that term limits impacts some of this knowledge and information and analysis. But it is striking to hear a member, let alone the chair of the Judiciary Committee, say, don't worry about mass incarceration. Don't be distracted about prison overcrowding. I've just, that's just a striking-- that's a striking sentiment. And perhaps it's because their leading efforts to enhance and expand mass incarceration and prison overcrowding with no plan for how to pay for it or no sense to ensure that indeed it makes us safer. So when you look at the CGI report, the very first page, it talks about how Nebraska has increased its prison population, outpacing state population growth, and far faster and more significantly than many of our sister states. And the pressure that puts on frontline workers in the prison system, the pressure that puts the system as a whole, the pressure puts on the, the budget as a hole. And then the report goes through, and it notes from the, the leading national experts invited to our state by Governor Ricketts, Chief Justice Heavican, and legislative leadership, that longer prison sentences do not make us safer. And it goes on and on to talk about how continually making new crimes and adding new enhancements exacerbates mass incarceration and racial injustice. And that Nebraska needs to stop digging a hole, and it needs to get on a path of smart justice reform that advances our shared public safety goals, which every single member of this body shares. Everybody wants safe communities. Everybody wants to keep our neighbors safe. We live and work in these communities, we want them to be safe. And for the most part, they are. Nebraska is a low crime rate state, and we've seen crime decreasing. But policies like this, and we can't just look at them myopically, because there's a host of other measures, including on the agenda today, that are moving through the Legislature that exacerbates mass incarceration. And there's zero plan by proponents for how to pay for it, or to distill how, in fact, a longer prison sentence makes us safer, or helps victims. There's a significant clarity and understanding from some members of the Judiciary Committee, I'm thinking of my friend Senator Holdcroft, that

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Floor Debate April 16, 2025

the system itself is not working. And even on the back end, there aren't meaningful opportunities, enough of them, for parole and pardons. And that's why he's--

ARCH: Time, Senator.

CONRAD: --prioritized a second chance. Thank you, Mr. President.

ARCH: Senator Rowntree, you're recognized to speak.

ROUNTREE: Good morning, Mr. President, and good morning, colleagues, and those that are watching online this morning. I rise-- I wanted to talk a little bit about the special needs, but I've learned so much as we've engaged in conversation. Part of the amendment that we will get to in a little while, dealing with our special needs, that was something that was special and dear to my heart, one that we discussed on yesterday. So I'm glad that we're looking at that. And listening to Senator Dungan speak on yesterday, I realized that sometimes I don't know what to ask for, and understanding the power of words. I really, when I see the special needs, I was at the ARC celebration a couple of weeks ago, and also just running into members in my community that have special needs populations, and seeing just how sweet and how, you know, just loving they are, and if they're put into certain situations, how devastating that could be. So I would like to see, as we've discussed legislation, we have social workers or counselors that go out with our law enforcement that are able to identify that on the spot in those, and they're not incarcerated or taken into those situations. I'm going to speak a little bit more about that later, but I want to yield this time that I have now to Senator Dungan. Thank you, Mr. President.

ARCH: Senator Dungan, three minutes, 45.

DUNGAN: Thank you, Mr. President. I just wanted to briefly, I guess, continue the conversation that I had earlier with regards to the affirmative defense. And so. I was talking with a couple of my colleagues about that and whether or not that does in fact provide any kind of immunity or protection. And again, I just wanna be very clear that an affirmative defense simply allows a defendant the opportunity to present evidence at a trial about whether or not that defense is then going to be accepted or believed by the jury. That contemplates, again, that the entire process has gone by at that point, and where that gets especially tricky is if somebody is in custody. And even if they're not in custody, the same problems apply, but the pendency of these cases goes on for a very long time. And as the case drags on,

whether it is in-custody or out-of-custody, but especially if the defendant is sitting in jail, there becomes more and more of an incentive to take a plea offer to resolve the case prior to getting to trial. And so let's pretend, for example, that the individual we're talking about is developmentally disabled, and the state has charged them with an assault as contemplated under this bill, and they are in custody, and the case is pending, and you set it-- they set it for trial. They say, no, I think I fall under this exception or this affirmative defense. I am developmentally-disabled under these qualifications, or the attorney believes that, so they set for a trial. And the case gets continued out months if not a year. It gets continued maybe for one or two hearings to make sure they can meet with the client and understand what's going on, it gets continued to make sure they get an expert opinion. The case has to get bound over which is a fancy way of saying sent up to district court which is where the felony trials actually happen. It gets put on an arraignment list three to four weeks down the line. Once it's arraigned, you get a jury docket call that's maybe two months more down the line. Maybe it gets continued again because you're trying to figure out whether or not you have your witnesses or your evidence or the state continues it to get more information or a different doctor's opinion. So by the time it actually gets set for a trial, you're talking almost a year down the road. And during that time, in this circumstance, that person is sitting in custody and they get offered, maybe let's say, a plea, a plea offer where the charge gets reduced down to a misdemeanor. And the person says, no, I don't think I'm actually guilty of this offense because I fall under this exception, I fall this affirmative defense. And so they just keep sitting there. They keep sitting for months until they actually finally get their trial. And then at that trial, they have the opportunity to present their evidence. It doesn't necessarily mean it's gonna be adopted by the jury, it doesn't mean that they're gonna be found to actually fall into that exception, it just gives them that chance. And if they do decide at some point along the road to take a plea offer because they just want the whole process to be done, they've then been denied the opportunity at trial to actually present that defense. So it really is a catch-22, and these are not hypotheticals, these things happen all the time. And so I just want to be very clear, I don't believe that the amendment from Senator Hallstrom addresses the problems of folks in the developmental disabilities community getting wrapped up in this. And it certainly, I don't think, addresses the problem of behavioral health and whether or not behavioral health problems are getting wrapped up, or degenerative illnesses. Talk about something like Alzheimer's, or talk about something like dementia and whether that plays into it. I believe the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 16, 2025

definition contemplated in the amendment requires the onset of such thing to be before they were--

ARCH: Time, Senator.

DUNGAN: --22 years old, which is not the case for a lot of feve-- other diseases. Thank you, Mr. President.

ARCH: Senator Hallstrom, you are recognized to speak.

HALLSTROM: Question, call the House.

ARCH: The question has been called, do I see five hands? I do. The question is, shall debate cease? There has been a request to place the house under call. The question, is shall the house go under call? All those in favor vote aye; all those opposed vote nay. Please record.

CLERK: 22 ayes, 0 nays to place house under call, Mr. President.

ARCH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator John Cavanaugh, please return to the floor. The house is under call. All unexcused members are now present. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 36 ayes, 9 nays to cease debate Mr. President.

ARCH: Debate does cease. Senator DeBoer, you are recognized to close on your bracket motion.

DEBOER: Thank you, Mr. President. Colleagues, I know everyone's been working on bills, and so you've maybe missed some of the discussion. One of the things that I've been talking about today is the proportionality of our criminal justice system and the need to make sure that we have proportionality in our criminal-justice system. So that what is a misdemeanor assault for some folks, if you assault a random person on the street, that you don't get a felony. If you just slap someone, if you punch them, but you don't harm them in any way other than the pain they feel in that moment, should we give them a felony? This is the question you're being asked, is have we come up with a proportionate response? And I said, in one end of the spectrum, you have getting life imprisonment for stealing a loaf of bread. And I would hope that everyone here feels like that's the wrong thing to do.

On the other hand, you have letting a murderer get away with no prison time, and I hope everyone in here would feel like that is the wrong things to do. That we have the hard job of figuring out proportionality in our criminal justice system. Where is the right line? And I will tell you that in Nebraska that line has been moving. We have been giving more severe penalties for less severe crimes for decades. And now we have an accumulation. So that when CJI was here a few years ago, they said, it's not that you're imprisoning more people in Nebraska. It's that you are imprisoning them for longer. We need proportionality in our system for a number of reasons. One is that if we do not have proportionality in the system, suddenly, you have folks looking at the perpetrator of the crime and saying, maybe they're the victim of the state. This is a thing which I hear all the time in this room. And you all say, let's not look at the people who are committing crimes, let's look at the victims. And I would say that sometimes, that feeling is a product of what we have done in this room, where we are giving longer sentences for less severe crimes. And if you want to talk about victims, another thing I pointed out is that if the assault victim is in prison, there is less of a chance that they're going to be able to pay that victim restitution. And that that assault victim is in no way changed in their life from having someone be in prison longer than shorter. That has no effect on their life except maybe making it harder for them to get restitution if there's a longer prison sentence. We have a hard job trying to figure out our criminal justice system here in this body, no question. Because there are no easy answers. There's not a lot of straight lines. We don't all agree on every little detail of what's proportionate to this or that. We have different experiences. They come together. But colleagues, I ask you, is a felony for a slap proportional. We need to vote down the committee amendment or find a way to make it very, very narrow to the purported policy that folks are talking about so that it doesn't include all these other folks that work at a hospital. I would suggest we just go with LB322. It isn't perfect, I don't like it, I'm not gonna vote for it.

ARCH: Time, Senator.

DEBOER: Thank you, Mr. President.

ARCH: Question before the body is the adoption of the motion to bracket. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: 6 ayes, 36 nays on the motion to bracket, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 16, 2025

ARCH: The motion is not successful. I raise the call. Mr Clerk for a motion

CLERK: Mr. President, Senator McKinney would move to reconsider the vote taken on MO107 with MO181.

ARCH: Senator McKinney, you're recognized to open.

McKINNEY: Thank you, Mr. President. Colleagues, again, you, you might want to ignore the data, you might want to ignored the information, you might want ignore the facts, and you might just don't like that the person that's given the facts has given the facts. But it is clear and it is factual that sentence enhancements costs taxpayers significantly, especially if you're on the Appropriations Committee, you should think about this, sentence enhancement costs taxpayers significantly yet provide minimal public safety benefits. All you're going to do is over-criminalize people and over-populate an overcrowded criminal justice system. Our jails are filled up and our state institutions are filled up. And this Legislature capped growth for counties. So how is Douglas County going to equate for or account for more people in their jails if this Legislature capped them? Where are they going to get that money from? Also, our state is in the process of trying to build a prison because of overcrowding. And it's already forecast to be overcrowded the day it opens up. And it's , and it's forecast that way because of laws like this, bills like this. That's the problem. People are spending more time in prison than are getting out. It's not the admissions, it's the length of stay. Look at the data. So, when you ask Senator McKinney, why are you against this bill? You don't-- or you say, Senator McKinney, you don't care about the healthcare workers or the pharmacists, and I'll just tell you, actually I do. I'm just not going to stand up and vote for something that's gonna be symbolic in nature because I've yet to see any, any data that says increase in penalties will decrease these situations. Nobody's presented it at all. I haven't seen it. I've been waiting on it, but you know, I haven' seen it. And there's also questions of whether people with, you know, mental health conditions or DD get arrested or-- for things like this, and the facts are they do. And if you don't believe me, there's some people out in the rotunda you could go talk to about that. This is a problem that you all ignore things conveniently just for the sake of moving things forward. But the cost of ignoring things are going to be beared by the taxpayers, whether paying for more prisons, paying for increased jail costs to the counties, and I don't know how they're paying for it. I'm still trying to figure out if building more jails or expanding jails is a part the public safety exception after this Legislature capped growth. So I

would like to know that as well. So what are we doing here? We're just going to increase incarceration rates. And this would disproportionately affect individuals in jails. We're also going to put a higher burden on prosecutors and public defense. More felony charges means increased court time, jury trials, and pressure on public defenders and prosecutors. But nobody cares, you know, let's feel good. Three, criminalization of unintentional conduct. Reckless and accidental conduct involving bodily fluids could, could still lead to felony charges if accused of-- if the, if the, the accused is aware of an illness. And this could discourage individuals from seeking emergency medi-- medical care out of fear of being criminally charged. People might not go seek out help because they're dealing with a mental health crisis. Families might be hesitant to take a son to the ER, to the doctor that's dealing with a crisis, because, I don't know, maybe something might happen, and, and, and that son ends up being charged with a felony, not because he wants to intentionally harm somebody, he's dealing a crisis. But families might opt not to take them, because why risk my son dealing with a mental health crisis getting a felony in the process? So people are just not going to get help, potentially. And you could say these are what ifs, but if you're under the premise or the guise that people are paying attention to this Legislature, and when bills pass, people are adjusting to them, then I think it's perfectly fine to say that it's po-- it's plausible that people might adjust and stop taking people to the ER if, if their family is dealing with a mental health crisis because they're scared they might get charged with a felony. If you're saying people pay attention, and these instances drop when laws like this pass, then it's also fair for me to assume people might consider not putting a family member in a situation of getting a felony. So if you say I'm wrong, then I'm going to argue you're wrong. Either people are paying attention or they're not. And it's just a sad state of affairs for the Legislature. As I've stated multiple times, the 109th Legislature has been working against the people and taxpayers of Nebraska since we adjourned day one. It started with the Uber bill, paid sick leave, minimum wage, some other bills. And it's just a, it's a common trend that It doesn't seem to stop. But we're in a budget deficit. According to some people, we do have money in reserves, which is a billion, but are we gonna tap into those reserves? I don't know. So that means we're in a deficit. And who's going to pay for these prisons? The prison is already over budget. In 2020, it was proposed to build a new prison that would cost \$230 million, right? That was supposed to be completed by 2025. They haven't even started construction. We're already way over budget, I think \$120 million over budget if they get what they want this session. We have a president in the White House

that's smacking tariffs on everybody, so there's probably gonna be a supply shortage. So when is this prison gonna come online? And then you don't wanna decommission or demolish the Nebraska State Penitentiary that people argue is in such disarray that nobody should be housed there. I'm lost, I really am. I'm really trying to grapple with the logic around all of these arguments. And we're here trying to lock up people, more felonies for people, although a report that was supported by our former governor who invited people in to study our criminal justice system clearly states sentence enhancements cost taxpayers significantly, yet provide minimal public safety benefits. I'll say it again in case you're ignoring me. Sentence enhancements cost taxpayers significantly, yet provide minimal public safety benefit. And that is not Senator McKinney coming up with that sentence. Some people who actually work in the field, study data, study criminal justice systems across the country and the world came up with that sentence. So it's fair to say they're probably right and I think they are right. You might not like it because it goes against the premise of this bill, but that is the truth. And I think we need to think about that, especially if you sit on the Appropriations Committee. If you're voting for this in your own appropriations, it's-- that's wild. Don't stand up and say you're trying to balance the budget when you're voting for things like this if you're on Appropriations. And I'm going to just say that if you own Appropriations voting for this and trying to balanced the budget, you're not balancing it. You're just making this state more bankrupt in the process. Thank you.

ARCH: Senator Dorn, you're recognized to speak.

DORN: Thank you, Speaker Arch. I've been trying to listen the best I could the last couple days, all the conversation and everything that's gone on. Yesterday when I got up I didn't talk very long, but I did, I did make one comment listening to everybody. I think we-- when I came up here, I didn't realize how it all worked, but I do realize now that many of these laws or many of things we put in place so that we, I call it, we look at the 99 people that are doing this right. We also have the 1%, whatever, less than 1% that are doing it wrong, so we're imposing rules, laws, so that that 1%, and this is another case, that that 1% maybe won't think about doing something. Maybe they won't think about, I call it, slapping somebody or doing something, and yet this also affects all the 99 others, but it generally won't affect the 99 others because they're doing things right. I keep asking the question as I listen to a lot of people, why do these people do the things they do? Why are they getting in the problems they're getting in? About two weeks ago there was an article in the Omaha paper,

unfortunately it was a sad article, a mother who lost a 15-year-old son. That 15- year-old son was walking down the street with another man, car pulled up alongside them, shot them both. The 15-year-old died. The article stated that they had arrested so-and-so. What are we supposed to do now with that person that drives up there beside somebody and shoots them, kills them? We're supposed to just let them go and say, oh, you shouldn't have done that, don't do it again? That's why many of us or all of us are put here is to make those rules, those laws, so that we, I call it, do the best job we can putting these guidelines, these laws in place to protect people. We're not putting these laws in place to punish the criminal. They know they're going to do this. They know what the laws are. Another interesting article in the paper in the last week, State Patrol put out numbers that they have arrested, or giving speeding tickets, excuse me, not arrested, giving speeding ticket for the amount of people in this state going over 100 miles an hour. I think our speed limit, especially on the interstate's, 75, another road 65, and yet we keep seeing that. I see that enough that I tell myself I need to bring a bill next year so we increase the penalties. Those people know when they go 100 miles an hour if they get stopped they're going to have this penalty. But so many of them know that if they go 100 miles an hour and don't get stopped, they got away with it, no infraction, no nothing. And yet how do we look at the safety of the other people? I don't think those people going 100 mile an hour are worried about the safety of that other driver. And yet, multiple times when they have a wreck or something happens, they are hurting somebody else. So should we, I call it-- Senator McKinney talks about overcrowding prisons, but shouldn't we put the penalty greater for going over 100 miles an hour than what it is today? Because apparently it's not stopping them, they just keep doing it. And shouldn't we ask ourselves as a Legislature, aren't we responsible for doing something about that? I don't know. I can tell you that some of these wrecks you see, or some people die, it is a result of speed. There's other issues also. So why do we do some of those things? I-- One other story, I sometimes tell stories, but I also have this story when I was on the county board in Gage County and there was an individual un-- under-- sentenced under a year in the county jail, and he was in the county jail. And he got released. He served his time. And he'd been multiple times in there, several times in that jail. And this was in the winter. He didn't have no place to go. Well, he could have went someplace, but instead he chose to go, and I thought of Senator Jacobson, he went and robbed a bank. He didn't have no gun, he didn't know nothing, he just robbed a Bank. He knew, and he walked a block away and waited for the police to show up. And when they asked him why he did it, it was because, he goes, I knew

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 16, 2025

what it was like sitting in jail and that was better than I had on the outside. He wanted back in there. I can tell you if you rob a bank, the bankers have some pretty good penalties, you get pretty good jail time if--

ARCH: Time, Senator.

DORN: --you rob a bank. Thank you.

ARCH: Senator Juarez, you're recognized to speak.

JUAREZ: Thank you very much. I'll yield the rest of my time to Senator DeBoer.

ARCH: Senator DeBoer, four minutes, fifty.

DeBOER: Thank you, Mr. President. I want to continue to talk about proportionality in our criminal justice system. The lex talionis is an idea that the crime needs to be proportionate to the punishment. You may know this as an eye for an eye. In the ancient world, the eye for an eye, the lex talionis, the proportional crime and result, was actually a criminal justice reform. I mean, criminal justice has evolved over the years, but the lex talionis, the eye for an eye, was a way of saying, keep the penalties down. Because prior to that, it would be, you took an eye, we're gonna take two eyes, or just kill you. And there was a great realization that there needs to be proportionality. An eye for an eye, equal. So if we were to do this lex talionis now, that would be something like, you punched me, I'll punch you. Or the state will get some big guy, or maybe Senator McKinney and punch you back. That isn't exactly-- we don't, we don't believe in taking eyes or cutting off hands for people. We understand that that is really problematic. But it suggests that it needs to be proportionate. And I ask you, is throwing someone in jail for 18 months proportionate to an assault that does not cause serious bodily injury? Are we even keeping up with the eye for an eye? Or are we being more severe than that standard? And why do I talk about these ancient historical models of justice systems? Because we need to think about writ large what we're doing because we have this problem of creep. Of creepingly more serious penalties less serious crimes. We're getting more and more off kilter and we no longer even fit with the lex talionis. The punishment is not fitting the crime. The punishment is not fitting the crime, the crimes that we are talking about here. And maybe somebody can bring me one that says, OK, we're gonna have the 29-931 [SIC], we're going to exempt that one from adding in the, the hospital workers and the pharmacists. We're only gonna add them to

first and second-degree assault, we not gonna do it in third-degree. Think about that. If we did that, then it's not an automatic felony for slapping somebody. Maybe then we're just adding enhancements to the very serious assaults. Maybe that's something that I could think about. But this, 28-931, adding in these other classes of folks, that's not proportionate. It's not even an eye for an eye. Thank you, Mr. President.

ARCH: Senator Dungan, you're recognized to speak.

DUNGAN: Thank you Mr. President. Colleagues, I rise again in favor of Senator McKinney's motion to reconsider. I think it would be important that we reconsider the bracket because I'm also in favor the bracket motion. I'm holding in my hands here an email that I got this morning at about 7:39, it looks like, from a constituent. And it's a constituent who has actually come to my office, met with me, and introduced me to her son, who is disabled. And on the back is a picture of us that they, they took. And it was actually a really great meeting, and at that time, we were talking about, essentially, care providers and the hoops that they have to jump through in order to get paid and how problematic that is becoming. But that's a whole separate debate that I, I hope we have at some point in time. Because we have people doing incredibly important work for their family. And it's incredibly difficult for them to get paid. But importantly, what she says here is that she is incredibly concerned about AM767 and LB322 because she believes it could land our vulnerable disabled loved ones in jail or prison. She said, I've introduced you to my son before. He's severely disabled and very auto aggressive and very strong. If I get in his way, he can really hurt me. If someone working with him or providing care for him didn't have me there to aid them or warn them or train them, they could also be hurt by him. And for him to then be convicted of a crime as a result would be a crime against him. I think that's really important because we are talking here, I think, about a certain population that has unique needs. And I would encourage my colleagues to think long and hard about whether or not there are ample protections in place for those individuals. I know there's been a lot of discussion about Senator Hallstrom's amendment. I anticipate we're going to keep talking about that here today or moving forward if this bill proceeds. But I'm here to tell you, colleagues, and I've talked to a couple of you off the mic, it doesn't fix the problem. We've received an email, I know, from some advocates who have encouraged us to move this from one step to the next, but there are certain questions in there that they say need to be answered prior to, I guess, approving this moving forward, and one of the questions is whether or not an affirmative defense is even the right tool to create

these protections. That questions the entire structure of whatever this amendment is and i'm telling you colleagues it doesn't protect the people that we are trying to protect. An affirmative defense is not an immunity. An affirmative defense is not a ban and bar on prosecution. An affirmative simply provides the chance to be heard at a trial, which ultimately could be unsuccessful, which the state is going to argue against every time. If you're at a trial, the state will always argue against your affirmative defense. And a jury or a judge may disagree. And you may end up with people who are developmentally disabled in jail or in prison, and you certainly are going to end up with people being held pre-trial on more serious offenses under AM767 and LB322 with higher bonds, which contributes to the problem that Senator McKinney's been talking about, which is the overcrowding of jails and the overcrowding of prisons. The definition contained in the proposed amendment, which we're not going to get to today, colleagues, by the way. The definition contained in there for developmental disabilities is not appropriate for what we're talking about here. It is a definition that is contemplated for a completely different statute. It specifically excludes persistent mental illness. It specifically excludes anybody whose developmental disability was manifested after the age of 22. It does not adequately address the concerns of the people that we are attempting to help with the amendment. And I appreciate the efforts, I really do, because I think it's important that we address these problems. But I'm telling you, colleagues, I've done this for years. And you tend to listen to experts when it's convenient. And I'm not saying I'm an expert by any means, but I'm saying I understand this process. And an affirmative defense is not an ample protection against the expanded prosecution of felony charges against our friends in the DD community, or people with persistent mental or behavioral health issues. You will see an amplification of prosecution under these bills with no change, zero change to how often these offenses actually are committed. So while I think LB322 and AM767 seek to achieve a laudable goal, they fail to do so, and simply are bills that make us feel like we're doing--

ARCH: Time, Senator.

DUNGAN: --something without actually addressing the problem. Thank you, Mr. President.

ARCH: Senator DeKay would like to recognize some special guests. There are nine fourth grade students, one teacher and two sponsors from Verdigre Public School in Verdigre, Nebraska. They're located in the north balcony. Please rise and be recognized by your Legislature.

Returning to the queue, Senator Wordekemper, you're recognized to speak.

WORDEKEMPER: Thank you, Mr. President. This is a little tough for me, this bill. Probably ten or fifteen years ago we, we passed a similar bill for police officers and firefighters, and at that time there was some unrest and I'll say no respect for, for those that were called to help. And we would go there and we were targeted. So, so, we needed to increase the penalties because we had a duty to act, a duty to serve, that was our job to go help there. So I, I understand the reason for this bill. I, I think all-- you know, it's not just for us. And, and it's morphed into other people who have come into these situations. And so I think healthcare professionals, they're all important, they all play a role. And, as I said, I understand the intent of this. But to not diminish from the original intent of why this bill was passed, I think is important. And to do a broad sweep of everybody's, you know, considered having a felony if they're assaulted and they're in the hospital environment or clinic environment, I think is, is maybe diminishing what the intent of the bill was. And, and I know and I've hauled plenty of people to our, our local hospital, and you have to deal with these patients. Whether it's a nurse, a med aid, the doctor, you're trying to do the best in that situation, and, and that's not what your job is to physically restrain a patient. You, you're, you're put into a role that is not typical, what you might be trained for. And, and that happens with staffing of hospitals. They, they don't always have all the security personnel right there. It might take a little bit for law enforcement to get there. So with this bill, I, I understand for the pharmacists. I, I really don't have a problem with the LB322. And I, and I think if we want to address it to other health care workers in a hospital, I would like to maybe see it narrowed to the point. If they're called to act outside of their normal role, whether they are a dietitian or they happen to be a computer person that's in the ER working there or in a room, and, and they need to be called to act to help restrain a person, and they're assaulted in that manner which is outside of their normal duty. I could see this bill applying to that because they were assaulted and, and they shouldn't been put in that situation. And, and when they're called to work outside of their role to help mitigate an issue, whether it's to help protect the patient, the other healthcare workers that are there, I could see potentially having an increased penalty for that. Because the person is, is wanted and willing and wanting to harm those people. And, and so I think that's a different role. I, I'd probably put a different perspective on this, but I don't want to take away from what the real intent of the law was. But I think we should recognize in a

lot of the smaller hospitals, they don't have the security personnel and people have to do what they have to do outside of their normal role. And, and If there's an assault to that matter, I think maybe it should be addressed and maybe it should be an enhanced penalty. So I just wanted to say that and I think everybody that works in the healthcare industry is deserving of everybody's appreciation because they all play a role. And, and the other part is we've had firefighters that I know of been assaulted on the job, police officers. And, and the issue is lack of prosecution. We don't always get those cases prosecuted. They don't fill out the paperwork because the county attorneys say, well, we can't prosecute it. There's, there's no reason we're gonna prosecute it, it's not gonna go. And, and that can, that can be a backlog of clients, court cases, multiple reasons. And, and so I think there's a root issue we have to get to. An assault is an assault. And I think people need to quit doing that. And then we keep people out of prison.

ARCH: Time, Senator.

WORDEKEMPER: Thank you, Mr. President.

ARCH: Senator Ballard, you're recognized to speak.

BALLARD: Thank you, Mr. President, and I think this is probably going to be the last time I get to speak on this particular motion in, in General File, so I just want to close with some final thoughts. I, I appreciate Senator DeBoer and all those that spoke in opposition of this bill and their willingness to come to the table to, to try to find a compromise. And I also appreciate Senator Hallstrom and his, his, his willingness to help and find a compromise as well. But I just want to be very clear that I thought of making this bill narrower, but then we are picking and choosing who gets this enhanced protection, and I think Senator Guereca said it best, that You're not-- healthcare workers are not worth more because they have fancy letters behind their name, they don't have MDs. That we need to protect all healthcare workers with this, with this legislation. And in the testimony, I think they, they said it the best. A hospital member said, our health care team needs everyone to assist us in aggressive situations. It's not only nurses that are hurt, security guards, technicians are assaulted just as much and I cannot imagine doing my job without them. So I think this bill is the Legislature signaling to health care workers that they are valued, that they do deserve additional protection. And so I ask for your green vote on cloture in a couple minutes, I ask your green vote on the committee amendment,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 16, 2025

and your green vote on LB322. And with that, I'd like to yield the rest of my time to Senator Clouse. Thank you, Mr. President.

ARCH: Senator Bosn, three minutes, 25. Senator Clouse, three minutes, ten.

CLOUSE: Thank you, Mr. Speaker. Yeah, I just want to close out as well as we are getting close to cloture. But one comment that I'd like to make that really hadn't been discussed is we talked about proportionality, and slapping, what's the proportionality to slap. In General Affairs committee, we did not-- we kept in committee slap fighting. We had a lot of others that we were talking about but we kept slap fighting in there. Why? Because it's considered assault and it has significant brain injuries potential. So that particular bill did not make it out of committee. But i do appreciate everyone's comments, and i am going to ask for the green vote for the amendment and also LB322 as my bill, and i know that we will be working with Edison Mcdonald from ARC. He's been very positive on some that he would like to work with us on as we work through an amendment to dealing with mental health and disabled and special needs type individuals. So I think that's important. A lot of different things have been discussed and, and brought to the floor, but the original intent was to add pharmacists back in. It got expanded through the amendment, and I'm perfectly fine with that because I think that healthcare professionals do need that additional support. We also had emails through the last number of hours from a maintenance worker that said, you know, he says, there are times when we get calls. We're out there doing our job and they call on us to come and assist to deescalate a situation. And I do understand that and I think that's more prevalent than I think what people realize. So we can never underestimate the seriousness of a felony and we've talked about that. Does that mean that you don't support the victims? I don't believe that, but sometimes I think we get so caught up on what we're doing with restorative justice and, and deterrence. A lot of these terminologies, things that I've looked up that I had no idea I'd be looking that type of data up. But that's good information, and I think we just need to keep working towards justice reform, firmly believe that, and help with our prison situation. So with that, I would close and just say that I, I do support and appreciate all the comments that have been made, both sides at issue. And I think the amendment and the bill are good bill, bills, and I would ask for your green light. Thank you, and I yield the rest of my time.

ARCH: Mr. Clerk, you have a motion on the desk?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 16, 2025

CLERK: I do, Mr. President. Senator Clouse would move to invoke closure pursuant to Rule 7, Section 10.

ARCH: Senator Clouse, for what purpose do you rise?

CLOUSE: [INAUDIBLE] cloture? I don't-- To call the house. I'm sorry. Yeah, I-- you caught me off guard. Sorry.

ARCH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 26 ayes, 0 nays to place the house under call.

ARCH: The House is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house under call. Senators Armendariz, Juarez, Ibach, John Cavanaugh, please return to the chamber. The house is under call. All unexcused members are now present. Members, the first vote is the motion to invoke cloture. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: 36 ayes, 8 nays to invoke cloture, Mr. President.

ARCH: The motion to invoke closure is adopted. Members, the next vote is the motion to reconsider. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 9 ayes, 36 nays on the motion to reconsider, Mr. President.

ARCH: The motion to reconsider is not successful. Next item to consider is the adoption of AM767 to LB322. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 33 ayes, 8 nays on the adoption of the committee amendment, Mr. President.

ARCH: The amendment is adopted. Next item to consider is the advancement of LB322 to E&R initial. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: 37 ayes, 8 nays on advancement of the bill, Mr. President.

ARCH: LB322 does advance. I raise the call. Mr. Clerk for items.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 16, 2025

CLERK: Thank you, Mr. President. Amendments to be printed from Senator Hallstrom to LB322, Senator Ballard to LB645. Notice of committee hearing from the Nebraska Retirement Systems Committee. New LR, LR123 and LR124 from Senator Jacobson. Those will both be referred to the Executive Board. LR125 from Senator Spivey. That will be laid over. That's all I have this time, Mr. President.

ARCH: Mr. Clerk, next item.

CLERK: Mr. President, General File, Legislative Bill 649, introduced by the Revenue Committee. It's a bill for an act relating to income taxes. It amends Section 77-2715.03; changes provisions relating to a certain tax rate and repeals original section. The bill was read for the first time on January 22 of this year and referred to the Revenue Committee. That committee placed the bill on General File with committee amendments, Mr. President.

ARCH: Senator von Gillern, you're recognized to open.

von GILLERN: Thank you, Mr. President. Good morning, colleagues, good morning, Nebraskans. We're going to sneak up to the lunch hour here, but happy to get our opening in prior to that. I rise this morning in support of LB649 and AM933, which will come up on the board here in a little while. AM 933 is a committee white copy amendment which creates the Defense Efforts Workforce Act. It came out of committee 8-0 with no opposition. The Defense Efforts Workforce Act creates a means to attract businesses to locate their workforces in Nebraska to support military defense efforts and foster the growth, growth of the workforce required to advance global defense communications and technologies. As I'm sure you're all aware, the Bellevue and Sarpy County communities are ripe with strong, desirable national firms that work in conjunction with the operations at Offutt Air Force Base. Defense contractors and others make up a large portion of the community and the tax base there. Quite often, their workforce is made up of veterans who have security clearances and the skill sets that are required. They and their families tend to be great citizens involved in their communities, and many of whom choose to remain in our communities after they retire. LB649 builds upon that momentum already existing around the Offutt community, attracting more high-paying, high-skilled jobs to our communities, and ensuring that Offutt remains a viable, competitive influence in the defense landscape nationally. According to testimony at the hearing for LB649, Offutt Air Force Base, the U.S. Strategic Command, and the 55th Wing have an economic impact in Nebraska measured at \$2.9 billion and employing an estimated 44,000 individuals. LB649 offers an incentive

of 5% credit of total payroll paid by an employer who qualifies with a maximum credit of \$4 million per year. If a firm were to achieve that maximum, they would have to pay out \$80 million in payroll and employ an estimated 800 to 900 employees. The cap is set on the program, which would require an employer to pay out \$800 million in total payroll to achieve. That would be-- The economic impact of that would be a vast multiple of that sum. I anticipate that interest in this or any incentive may be particularly piqued following the report issued by Auditor Foley this week detailing the expense anticipated in the coming years due to the Nebraska Advantage and Imagine programs. I've had little time to consume that report, but do want to first clarify that the Defense Efforts Workforce Act is not the same as these other programs. It's simply a credit based upon a multiple of payroll. Secondly, we're in the process of taking in the information from the report and will today drop an LR which would perform a study during the interim on these incentive programs and their financial impact. Imagine expires in 2029 and it took several years to implement, so it's not too early to begin this conversation. Lastly, regarding the Foley Report, I'd like to remind my colleagues that nothing in that report was new information. It's all been public, it's all been vetted, it's been talked about in hearings, and the costs are budgeted for by the Forecasting Board. This does not blow an additional hole in our general fund budget. I've spoken with Commissioner of Revenue Jim Kamm, the Governor's Budget Office, and other individuals key to this conversation, and have their commitments to work towards a positive outcome that's fully transparent as to the costs and benefit of these incentives. And I'm certain that the auditor will cooperate and assist in this conversation. Now back to our bill at hand. The Defense Efforts Workforce Act is a rifle shot. It's a targeted incentive to a targeted industry that is actively looking to leave Northern Virginia, DC, and Maryland for places with a better quality of life and a lower cost of living. People, not just companies, people who live in the DC area are asking today, where should we relocate? Where do we want to live? Where can we put down roots and be welcomed by a community that's already welcoming of veterans and civil service workers? Every state in the nation is competing for these people. Let's not get distracted, let's roll out the welcome mat and do what we need to them here. Senator Sanders gave her personal priority to LB 649, so I'd like to ask if she would yield to some questions. Senator Sanders, would you yield to some questions?

ARCH: Senator Sanders, will you yield?

SANDERS: Yes, I will.

von GILLERN: Would you please share your interest in LB 649?

SANDERS: Yes, thank you, Senator von Gillern, for all of your support. You took away a lot of my thunder--

von GILLERN: Sorry.

SANDERS: --here, my talking points, but that's OK, you only need to hear it once. But I will address the white paper that you received on your desk titled LB649. It should be AM933, and I'm just going to give some highlights on that. The competition for a talented workforce is fierce, and companies need all the help they can get in fighting the battle to retain and attract talented employees. Consequently, many companies are re-- are locating offices in states where economic incentives help to offset the costs associated with competition, people, and jobs. States with workforce incentives are winning the battle for the jobs and a talented workforce, resulting in the brain gain. The states with little or no workforce incentives are losing the battle for jobs, as well as retention and attraction of talented workforce resulting in the brain drain. With little to no workforce incentives, Nebraska has been losing the battle for full-time jobs and a talented workforce for over 15 years. The negative and deteriorating force associated with 15 consecutive years of brain drain is increasingly causing Nebraska employers to locate and fill jobs in other states that have growing educated workforce and workforce incentives. A growing educated work force is essential to the success of any state as is population growth. Nebraska's been experiencing the brain drain for over 15 years. The only reason the state's population has not declined is because of the infant births and immigrants arriving from a foreign country. Nebraska's educated workforce is in decline and unable to provide resident employees with the people needed to fill the jobs required to grow their business. Offutt Air Force Base is home to over 11,000 military and civilian employees working on one of over 50 missions that are located on the base. In the midst of Nebraska's brain drain and workforce challenges, with few exceptions, all the missions at Offutt Air Force Base require a talented civilian workforce to meet the demands of the mission's objective. Consequently, it is inter-- im-- imperative Nebraskans do all they can to help these missions and retain and attract growing, highly skilled civilian workforce. AM933 offers a compelling incentive to attract a talented civilian workforce by providing 5% wage credit on wages paid to qualified employees occupying qualified jobs that are dedicated to assisting the missions at Offutt Air Force Base achieve their objectives. It is important to note that at a time an employer needs 5%-- at the time an employer applies 5% tax credit, it will be

at the time when intended benefits Nebraska expected to achieve have been achieved. Further, while the 5% wage credit results in less income tax to Nebraska, the reality is that qualified civilian employees associated with the wage credit are living in Nebraska with their families and delivering ample value to the state through sales tax and the overall economy through their disposable income. Nebraska cannot prosper as a state econ-- economically without full-time growth, gro-- growth in its educated workforce and growth in wages. AM933 is an important step forward in achieving growth in those three areas and in process fighting against Nebraska's brain drain. AM933 serves to convert the loss of educated people into a brain gain from retaining and attracting civilian-- skilled civilian employees. Thank you, Mr. President. Thank you Senator von Gillern.

ARCH: Turning to the queue, Senator Raybould, you're recognized to speak. Oh, I'm sorry, excuse me. As the Clerk indicated, there is a committee amendment. Senator Von Gillern, you're recognize to open on the committee amendment

von GILLERN: Thank you, Mr. President. The committee amendment was AM933 as i mentioned is a white copy amendment to the bill and we, Senator Sanders and I, already covered our opening on the amendment, so thank you, Mr. President.

ARCH: Turning to the cue, Senator Raybould, you're recognized to speak.

RAYBOULD: Thank you, Mr. President. Good morning, colleagues. I stand in support of AM933 as well as this legislative bill. And I was hoping that I might be able to ask some questions of Senator Von Gillern, if he--

ARCH: Senator Van Gillern, will you yield?

von GILLERN: Yes.

RAYBOULD: So I am really intrigued by this and creating additional revenue for our state, which we know will certainly help with the deficit. But is this a new type of incentive?

von GILLERN: I don't-- I'm not sure if it's new if this is-- well, no actually I do know this is, this is not new It's been done before. It was done, I don' t know what year it was, but when Fiserv was looking to leave the community, there was a very similar program that was laid out and I believe that that was able to retain about 1,200 high-paying jobs in the Omaha metro area. So it has been-- the, the language as I

understand it was based upon that. We actually Increased some of the requirements in this, I think that, that bill originally said 100% of the average mean payroll in Nebraska, this is 150%. So we kicked some of the requirements up, but yes, it was based on a bill that was done previously.

RAYBOULD: OK, and then how, how does that work on the mechanics? Do they, do they have a baseline of what the current wage is in that entity? And then anything above that is-- gets that 5%?

von GILLERN: The employer must-- the only jobs that qualify are those that pay at least 150% of the average mean payroll or mean hourly wage in Nebraska, which is around-- that 150% factor is around \$90,000. So the minimum that would qualify is a \$90,000 job. The, the function of the payout is a 5% credit on total payroll with a maximum cap. There are caps built into this. It's a \$4 million cap. So at \$90 million, that would represent-- or excuse me, at a, at a payroll rate of \$90,000, that would represents somewhere between \$80 million and \$100 million in payroll that would have to be expended in order to reach the maximum cap, and again, that cap is 5% of that payroll, capping out at \$4 millions.

RAYBOULD: OK. And then--

von GILLERN: Does that make sense?

RAYBOULD: Yeah, it does. It does. And then, I know Senator Sanders mentioned that you're really targeting it, but how are we able to promote it and lure a lot of the defense industry on the East Coast to off at Air Force Base?

von GILLERN: I would encourage you to ask Senator Sanders to respond to that part of the question because she's been actively involved in that promotions piece.

RAYBOULD: OK. All right. Thank you very much. Will Senator Sanders yield to some questions?

ARCH: Senator Sanders, will you yield?

SANDERS: Yes, thank you, Mr. Speaker.

RAYBOULD: Senator Sanders, I know you had mentioned that it's going to be a really targeted effort towards luring the defense industry on the East Coast to our state of Nebraska. How is this getting promoted and how, how do we know we're succeeding?

SANDERS: So locally, we have the Nebraska Chamber, the Omaha Chamber, Military Committee, and the Bellevue Chamber making sure that information gets out. And I also do want to include, last week, I was in Washington, DC at the Pentagon, meeting with the chief of the Air Force. And the conversation started with, hey, we're expecting an 8% cut in military spending. But that quickly turned into how about an 8% savings in military spending in Nebraska. So the Pentagon is aware of it. They listen to the components of the bill. This works perfectly with, with, with their mission of making sure the missions are Offutt Air Force Base, which is very critical to missions at the Pentagon, and they personally will help get that information out.

RAYBOULD: And then lastly, I, I think Senator von Gillern spoke about this, but how quickly do we hope this will bear fruit and, and how do we know it's actually working? Is there like a threshold that we hope to secure and get people to Nebraska?

SANDERS: Well, the number we'd like to start with is 5,000 from the Washington, D.C., Virginia area. But by the time they get here, probably buy a house, lease office space, set up office, and start recruiting and relocating members here, a year, possibly two, that they can participate in the incentives.

RAYBOULD: OK. Thank you very much. I appreciate that.

SANDERS: Thank you.

RAYBOULD: Thank you, Mr. President.

ARCH: Senator Riepe, you're recognized to speak.

RIEPE: Thank you, Mr.--Thank you, Mr. President. I have a question for Senator von Gillern, if he would accommodate that.

ARCH: Senator von Gillern, will you yield?

von GILLERN: Yes.

RIEPE: Thank you Senator. My question I guess is, do we have any organizations that we're keenly aware of that specifically are queued up that would want to come here or is this simply a program that we would offer out there?

von GILLERN: Again, I would lean towards Senator Sanders' testimony. She's had been in active conversations with firms in the D.C. area that are, or people within the military that are more inside that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 16, 2025

conversation than I am. So I'm ducking the question, but I think Senator Sanders might be better qualified to answer that.

RIEPE: OK. Let me ask while I have you on your mic if you will please.

von GILLERN: Yes.

RIEPE: You had said, and I think I quote here, that it would blow no hole in the budget Can you tell us what kind of expense it would be for the budget?

von GILLERN: Yeah, the, the bill is capped at \$4 million annually, and it does not become operative until July 1 of 2027. So at a maximum, it would be a \$4 million expense per year. And that, again, that's only if between 800 to 1,000 employees are here and under payroll at that time.

RIEPE: OK. I, I, I guess my next one's not a question, it's simply a comment. I get very concerned when we start picking winners and losers, and in some sense that's what we're doing with this particular proposal. But thank you, Senator von Gillern, and thank you Mr. President.

ARCH: Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President, and good morning, colleagues. I have a few questions, perhaps, on process and technical aspects of this measure that is before us. And then I also just have some broader concerns about trying to understand what the vision out of the Revenue Committee is in regards to our tax policy. You might remember that, I guess, it was just last week, I think, that we took up a measure that emanated from the Revenue Committee to claw back or reallocate something like \$70 million in different incentives to utilize to plug budget holes or for other priorities. Some of these incentives were underutilized, perhaps for a variety of different reasons, but they were meant to help assist or incentivize Nebraskans' ability to buy reverse osmosis systems in order to have clean water in their house. There was a recent incentive program that provided a benefit, a tax benefit, for people who made donations to food banks. There was a recent effort that my friend Senator Ballard brought forward to try and encourage more people to move to Nebraska and address some of our workforce challenges, and we clawed that back. And I'm trying to understand-- So we've clawed back a host of incentives that were new or underutilized. And now we're putting forward a new incentive with a significant price impact the very, the very next week. And I

appreciate Senator von Gillern noting that it would have at least some cap to it. And perhaps it's not operative until the next biennium, which I contend, perhaps, and maybe Senator Sanders or Senator von Gillern can talk about that, but I'm guessing it's because of our present, fiscal, fiscal deficit and crisis. So maybe a little gamesmanship on the operative date there. The other thing I'm trying to discern is I, I thought when I was reading perhaps the committee amendment, or maybe Senator Sanders' amendment, that it seemed like this incentive came on the top of any additional incentives the applicant might be qualified and eligible for under things like Nebraska Advantage or Nebraska Imagine. It seemed like an incentive on top of an incentive, which I think we probably need to get a little bit of clarity about. And then I do want to utilize this measure to open up a broader conversation about tax and spending and in particular the report that was published two days ago by State Auditor Foley detailing, quote, st-- the staggering impact of corporate tax incentives on state budget options, according to how the Nebraska Examiner reported upon that audit and communication to the Legislature in regards to these issues. But in reading that article and seeing Governor Pillen's reaction there too, it seemed to indicate a move away from a particular business-focused incentive approach, and seemed to signal instead a-- the governor's in-- indicating that he wanted to have a more workforce or people focused kind of lens applied to these incentives. So I'm just trying to understand exactly how this new incentive program kind of fits within the broader vision of the revenue committee for this year. I'm trying to how it fits within our overall revenue and budget deliberations, and I'm trying to get a sense about how it works. I, I believe, if I was reading one of the amendments right, that it works on top of existing incentives that, that eligible applicants might, might, might already be able to avail themselves of. And then the last question that I want to pose and can hit-- can punch my light in to talk a little bit more. I'm guessing perhaps there was a timing issue, but I am curious as to why a major proposal was brought forward on essentially a shell bill. Maybe it was just the fact that bill drafters got backed up, or maybe it was an attempt to evade a fiscal note, I'm--

ARCH: Time, Senator.

CONRAD: --not, I'm not quite sure what's going on there, but I, I wanted to point that out. Thank you.

ARCH: Mr. Clerk for items.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 16, 2025

CLERK: Mr. President, a single announcement, your Appropriations Committee will have an executive session at noon in room 1003, Appropriation's 1003 at noon. Finally, Mr. President, a priority motion, Senator Armendariz would move to recess the body until 1.30 p.m.

ARCH: Colleagues, you've heard the motion. All those in favor say aye. Opposed, nay. We are in recess.