

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate January 23, 2020

**FOLEY:** Good morning, ladies and gentlemen. Welcome to George W. Norris Legislative Chamber for the tenth day of the One Hundred Sixth Legislature, Second Session. Our chaplain for today is Senator DeBoer. Please rise.

**DeBOER:** Oh Holy One, as we gather here today in this place to do the work given to us, each with different tasks to do, like parts of the body with different functions, equally needed, equally valuable, equally important, watch over all of us in this building as we work together. We fervently pray today and every day our shared labors will be beneficial for the whole body and for all of Nebraska. Watch over all those who traveled to come together in this place, even in bad weather. Bring them safely here and home again. We thank you for this new day, this new opportunity to try again. We know that even when we try, we fall short. Help us every day to be more as we were intended, more loving, more forgiving, more patient. When our troubles crowd our vision and keep us from seeing the suffering of those around us, give us strength to help others at those times too, and remind us that when we fail, we are still precious, we are still loved even then. Bring peace to those who suffer from illness or injury, from hunger, from loneliness, from grief. Bring hope to those who are hopeless. Make us instruments of that peace and hope today and every day. In the name of the one who is, who was, and who always will be, amen.

**FOLEY:** Thank you, Senator DeBoer. I call to order the tenth day of the One Hundred Sixth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

**CLERK:** I have a quorum present, Mr. President.

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

**CLERK:** I have no corrections.

**FOLEY:** Thank you, sir. Are there any messages, reports, or announcements?

**CLERK:** I do, Mr. President. Enrollment and Review reports LB381, LB477, LB477A, LB68, LB107, LB148, LB76, LB236 to Select File, some having Enrollment and Review amendments. Hearing notice from the Judiciary Committee, that's offered by Senator Lathrop. And Mr. President, new bills, LB1163 is a bill by Senator Wayne. It's a bill

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for an act relating to the Nebraska Liquor Control Act. It provides for transportation and temporary off-site storage of alcoholic liquor by retail licensees for customer pickup. LB1164, Senator Walz, a bill for an act relating to civil rights. Changes terminology related to disability; prohibits discrimination in places of public accommodation on the basis of disability. LB1165, Senator Stinner, relating to livestock. It amends numerous sections; eliminates the Nebraska Brand Committee; changes and eliminates definitions; states legislative findings; provides powers and duties for the Department of Agriculture and the Livestock Brand Act; terminates the fund; eliminates provisions; transfers powers and duties, obligations and funds; and it harmonizes provisions. LB1166, is Senator Brewer. A bill for an act relating to school districts. It changes school district membership requirement provisions. LB1167 is Senator Albrecht. It's a bill for an act relating to open meetings law; requires a public body to allow members of the public an opportunity to speak at each meeting. LB1168 is Senator Kolowski. It's a bill for an act relating to education. Changes provisions relating to the State Lottery Operation Trust Fund and adopts the College Credit Testing Fee Reduction Program Act and the Career-Readiness and Dual-Credit Education Grant Program Act. LB1169 is Senator Cavanaugh. It's a bill for an act relating to juveniles; it creates and provides duties for the Nebraska Integrated Juvenile Data Governing Body; it creates the Nebraska Juvenile Justice Information System. That's all that I have, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Members, Senator Linehan would like to recognize Dr. Doug Dunning of CHI Health Omaha who is serving us today as family physician of the day. Dr. Dunning is with us under the north balcony. Doctor, thank you for being here. And please, please rise so we can welcome you to the Nebraska Legislature. Now proceed to the first item on the agenda, a motion to withdraw. Mr. Clerk.

**CLERK:** Mr. President, Senator Blood would like to withdraw LB754.

**FOLEY:** Senator Blood, you're recognized to open on your motion.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I am asking that you vote green to withdraw LB754. It came to my attention that we do have another senator carrying a bill that duplicates the same thing that I'm trying to do. It seems silly in a short session to have two bills with the same topic in a hearing to waste your time,

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since time is so limited. So I ask that you please vote green to help me withdraw this bill. Thank you.

**FOLEY:** Thank you, Senator Blood. Seeing no members wishing to speak, the question is-- I'm sorry, Senator Blood, you're recognized to close if you care to. She waives close and question before the body is the adoption of the motion to withdraw LB754. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 34 ayes, 0 nays on the motion to withdraw the bill.

**FOLEY:** LB754 has been withdrawn. Proceeding now to legislative confirmation reports. Mr. Clerk.

**CLERK:** Mr. President, Senator Williams, as Chair of the Banking, Commerce and Insurance Committee, reports on the appointment of Anthony Goins as director of Department of Economic Development.

**FOLEY:** Senator Williams, you're recognized to open on your confirmation report.

**WILLIAMS:** Thank you, Mr. President, and good morning. This morning, I present to the Legislature for its consideration the appointment by the Governor of Mr. Anthony Goins as Director of our Nebraska Department of Economic Development. The Banking, Commerce and Insurance Committee conducted a public hearing on this appointment on Tuesday, January 21. Mr. Goins appeared at the hearing and I believe impressed the committee with his statement and his answers to all of our questions. Accordingly, the committee advanced the confirmation report with a unanimous vote for Mr. Goins. At the hearing, the committee learned that Mr. Goins is a native of Greensboro, North Carolina. After service in the United States Marine Corps, he graduated from North Carolina A&T State University, having majored in business management. Mr. Goins has worked for American Express, KeyBank, Ford Motor Credit Company, USAA, and JPMorgan Chase. In 2014, he came to Nebraska to become chief operating officer of Cabela's World-- most famous bank. Mr. Goins has been on the job as Director of DED since last October and has received favorable reviews from his performance. At the hearing, he was endorsed by way of testimony and letters from the Omaha Chamber of Commerce, the Nebraska State Chamber of Commerce, and the Lincoln Chamber of Commerce, and the Nebraska Bankers Association. Mr. Goins has been visiting cities all across our

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state, promoting what he calls his "vision of growth for Nebraska." He shared a comprehensive point by point presentation of his philosophies and strategies for Nebraska's economic development. His outline focused on five areas: Site selection, retention of young professional talent, determining the highest demand job categories, creating a multi-pronged marketing plan for the Nebraska brand, and executing a regional plan which includes high-speed connectivity and broadband. He reminded us that Nebraska is in the middle of everywhere. It is only two to three hours of travel time from almost everywhere in the United States. We can be a fly-to state versus a fly-over state was his quote. So on behalf of the Banking, Commerce and Insurance Committee, I would urge a favorable vote by the Legislature to confirm the appointment by the Governor of Mr. Anthony Goins as Director of our Department of Economic Development. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Williams. Discussion is now open on the confirmation report. Senator Pansing Brooks.

**PANSING BROOKS:** Thank you, Mr. Lieutenant Governor. Good morning, Nebraskans. Our state's unique motto is "Equality before the law." So know that whoever you are, wherever you are on life's journey, and whomever you love, we want you here. You are loved. That preamble is particularly appropriate today as I stand to wholeheartedly support the, the Governor's excellent choice of Mr. Tony Goins, who will, who will be here to do, among other things, to welcome people and to encourage people to stay here. I am blessed, Loel and I are blessed to consider Tony and Kimberly Goins among our friends. Both have already made a significant impact on the state of Nebraska and on Lincoln. I, I want to highlight some of the things that I think make Mr. Goins most particularly ready for this new appointment. His experience. He's worked all over the country. He has a global view of economic issues. He came to Nebraska to develop business for Cabela's. He's visionary. Tony looks outside the box. He looks at what can we do that we haven't done yet? What can we do that's better for Nebraskans? Mr. Goins is committed to excellence. He, from the Marines to corporate America, he's been driven by achievement and not by politics. Mr. Goins is engaged, he's an excellent listener, and beyond that, he's kind. Mr. Goins understands the need to welcome all to our state and to keep all here. That includes the diversity that he understands so well. Which means Nebraska will be stronger under his leadership and Nebraska will thrive. So I wholeheartedly support the confirmation of Mr. Tony Goins. Thank you, Mr. President, Mr. Lieutenant Governor.

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**FOLEY:** Thank you, Senator Pansing Brooks. Senator Kolterman.

**KOLTERMAN:** Good morning, colleagues. I, too, rise in support of Anthony Goins. I had the opportunity to meet him first at the State Fair this year. He hadn't, he had just been announced that he was going to take this position and had the opportunity to meet with him and his wife. Since then, I've been to about three other functions, economic development functions, where he's been in attendance to help promote the state, encourage our businesses to grow. I think what's been said about him is, is accurate. He's, he's a wonderful man, has a wonderful family, and I think he will be a great addition to our state. So I would encourage a green vote on Anthony Goins.

**FOLEY:** Thank you, Senator Kolterman. Seeing no other members wishing to speak, Senator Williams, you're recognized to close on the confirmation report.

**WILLIAMS:** Mr. President, we have had a history of very strong leadership at the Department of Economic Development. And my belief, and that of the Banking Committee's, is that Tony Goins will continue that. So I would urge your green vote on confirmation. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Williams. The question before the body is the adoption of the confirmation report from the Banking Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 42 ayes, 0 nays on the adoption of the confirmation report.

**FOLEY:** The confirmation report is adopted. We'll proceed now to General File. Mr. Clerk.

**CLERK:** Mr. President, LB731 was introduced by Senator Hunt. It relates to municipalities; changes provisions related to new or updated comprehensive plans. The bill was introduced on January 23 last year, referred to the Urban Affairs Committee. The bill was placed on General File. There are Urban Affairs Committee amendments pending.

**FOLEY:** Thank you, Mr. Clerk. Senator Hunt, you're recognized to open on LB731.

**HUNT:** Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. Today, I'm presenting LB731, which is a technical

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cleanup bill that makes a small fix to remove a date in statute regarding comprehensive plans for cities. In 2010, LB997 passed into law, which added a requirement for cities adopting or updating their comprehensive plans to include an energy element by January 1, 2015, which is a date that remains in statute now. This bill set this deadline to ensure that all comprehensive plans included an energy element by 2015, but there's been some confusion about whether the 2015 date was a sunset or a deadline. So LB731-- could I get a gavel? So LB731 brings much-needed clarification to the statute by simply eliminating the language about the date, because in 2020, it's not really relevant for us to be talking about a date in 2015. This bill was brought to me by a constituent who works with the city of Omaha and with a lot of planning and zoning professionals who had a lot of questions about this provision of the law that was passed in 2010. So yeah, this is just a cleanup bill. It brings some clarity to our statute. It's important that we have clarity in the statute. The importance can't be overstated because we see that there is some confusion around it today. And with that, I'll close. Thank you.

**FOLEY:** Thank you, Senator Hunt. As the Clerk indicated, there are amendments from the Urban Affairs Committee. Is Senator Wayne on the floor? Oh, yeah, I'm sorry. Senator Wayne, please proceed with the Urban Affairs amendment. Thank you.

**WAYNE:** Thank you, Mr. President and members of the Legislature. The committee amendment, AM607 repeals the statutory deadline for the counties to include energy element in their comprehensive plan, similar to the city's provisions in the green copy of the bill. The deadline passed on January 1, 2015. I would ask for your support and green vote on AM607. Thank you.

**FOLEY:** Thank you, Senator Wayne. Debate is now open on LB731 and the pending Urban Affairs Committee amendment. Seeing no members wishing to speak, Senator Wayne waives close, and the question before the body is the adoption of the committee amendment, AM607. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 37 ayes, 0 nays on adoption of committee amendments.

**FOLEY:** AM607 is adopted. Is there any further discussion on LB731 as amended? I see none. Senator Hunt, you're recognized to close.

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**HUNT:** Thank you, Mr. President. Thank you, colleagues. I appreciate your support on that amendment. Once again, this bill updates a bill from 2010 that's already in statute. There's no fiscal note. There's no impact other than bringing some clarity to our zoning and planning professionals by removing a confusing date. Thanks, everybody.

**FOLEY:** Thank you, Senator Hunt. The question before the body is the advance of LB731 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 35 ayes, 0 nays on the advancement of the bill.

**FOLEY:** LB731 advances. Proceeding to LB534. Mr. Clerk.

**CLERK:** Mr. President, LB534 is a bill originally introduced by Senator Cavanaugh relating to postsecondary education; requires a sexual assault campus climate survey. Introduced on January 22 of last year, then referred to the Education Committee. The bill was advanced to General File. I do have committee amendments by Education, as well as an amendment from Senator Cavanaugh to those committee amendments.

**FOLEY:** Thank you, Mr. Clerk. Senator Cavanaugh, you're recognized to open on LB534.

**CAVANAUGH:** Thank you, Mr. President, and good morning, colleagues. I hope everyone got in safe this morning. I'm here today to introduce LB534, which will require a biannual report regarding sexual violence to the Legislature from each post-- public postsecondary education institution. I have brought AM2053 to ensure the Legislature has up-to-date information on sexual domestic and dating violence that occurs on Nebraska's college campus, along with information on the training of Title IX coordinators, investigators, and any decision makers regarding that violence. I would like to thank the University of Nebraska, the State College Systems, and the Nebraska Community College Association for working with me on this bill and its amendments. Together, we crafted a white copy amendment that addressed their concerns with the scope of the original bill while still arming the Legislature with the information it needs to combat the epidemic of sexual assault on campuses. AM2053 also eliminates the University of Nebraska's fiscal note. Campus sexual and dating violence is a crisis that we struggle to deal with. And ensuring lawmakers have the most up-to-date and accurate information possible can only help us make better decisions. For those who may not be familiar, campuses

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already have federal reporting requirements as outlined by the Clery Act. LB534 ensures that this report, along with any other surveys done independently of the Clery Act, are also provided to the Legislature. I ask for your green vote on AM2053, AM686, and LB534. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. As the Clerk indicated, there are amendments from the Education Committee. Senator Groene, you're recognized to open on the committee amendment.

**GROENE:** Thank you, Mr. President. AM685 [SIC AM686] changes the original filed language in three key aspects. This was-- we worked with Senator Cavanaugh on this so, and the University of Nebraska, who had complaints with the original language. First, it requires a report to contain six new sections, as compared to the original language. Policies, initiatives, or grievance procedures the school has adopted to address sexual violence-related issues. Two, information on where students and employees may receive immediate emergency assistance. Three, information on how students and employees may report concerns in this regard. Four, information on resources, programs, and supports available to students and employees to address concerns in, in this regard. Five, information on any student or employee-led organization engaged in supporting victims of actions related to sexual violence. And six, any agreement between the school and the local law enforcement agency or county attorney office related to addressing sexual violence-related concerns. It also requires the Education Committee to hold a biannual hearing on the submitted reports. Finally, it specifies that the terms "dating violence", "domestic violence", and "stalking" have the same meaning as defined in the school's policies. Thank you, and the committee voted the amendment 8-0. Thank you.

**FOLEY:** Thank you, Senator Groene. Before proceeding, Speaker Scheer, you're recognized.

**SCHEER:** Thank you, Mr. President. Colleagues, just real quick reminder. Today is day 10, last day for a bill submission. We will be done. And it's not this afternoon, it is at close of the morning session. So you've got about two and a half hours. If you still have something up in Drafting, you might want to call. If you're still trying to circulate, you might want to walk faster. But just bear in mind that at noon we will be closing the, the shelf for a bill introduction. Thank you.

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**FOLEY:** Thank you, Mr. Speaker. Mr. Clerk.

**CLERK:** Mr. President, Senator Cavanaugh would move to amend committee amendments with AM2053.

**FOLEY:** Senator Cavanaugh, you're recognized to open on AM2053.

**CAVANAUGH:** Thank you, Mr. President. I've already described what AM2053 does. But just to reiterate, this amendment will eliminate the fiscal note that currently is pending on this bill. And it will go away between General and Select. And it also brings the University of Nebraska on board with this bill where they were previously in opposition. So I encourage everyone to support both of these amendments and LB534. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Debate is now open on LB534 and the pending amendments. Seeing no members wishing to speak, Senator Cavanaugh, you're recognized to close on your amendment. She, she waives close. The question before the body is the adoption of AM2053. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 40 ayes, 0 nays on adoption of the amendment to the committee amendments.

**FOLEY:** AM2053 is, is adopted. Further discussion? I see none. Senator Groene, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of the committee amendment, AM686. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

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

**FOLEY:** AM686 is adopted. Any further discussion on the bill as amended? I see none. Senator Cavanaugh, you're recognized to close on the advance of the bill.

**CAVANAUGH:** Thank you, Mr. President. Thank you, colleagues, for supporting these two amendments to this piece of legislation. Many of you joined Senator Hilke at lunch this week for survivors of, of violence, sexual assault violence. And this bill was listed as one of the bills that they support, the three organizations support. So I appreciate everyone's support on this. It's a piece of legislation

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that may seem like just a report. But to victims of sexual assault and sexual violence, this is showing them that the Legislature cares, that we want to hear their voices, and that we want to have the tools to do something moving forward. So I appreciate everyone's support on this, and I hope that we can continue to show the people of Nebraska that have been victims that we are here for them and we care about them. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. The question before the body is the advance of LB534 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 40 ayes, 0 nays, Mr. President, on the advancement of LB534.

**FOLEY:** LB534 advances. Items for the record, please.

**CLERK:** Thank you, Mr. President. New bills. LB1170 by Senator Cavanaugh. It's a bill for an act relating to public health and welfare. It provides for implicit bias training instruction to applicants and professionals under the Uniform Credentialing Act; and for reimbursement for services, and a pilot program regarding the social determinants of health for pregnant women and mothers LB1171 is Senator Cavanaugh relating to Healthy Pregnancies for Incarcerated Women Act. It states intent; defines terms; provides for breastfeeding and milk expression by a prisoner or detainee and for a mother and infant to live together. LB1172 is Senator Cavanaugh relating to juveniles. It provides requirements for a court order for placement of a youth rehabilitation and treatment center; provides powers and duties for the Department of Health and Human Services; requires a report. LB1173 is by Senator Erdman. A bill for an act relating to hunting. It provides for limited transferable permits to hunt either antelope, deer, or elk as prescribed; it provides powers and duties to the Games and Parks; and it harmonizes provisions. LB1174 is Senator Briese. A bill for an act relating to the State Electrical Act. Redefines the term; provides the requirements for supervision of apprentices; provides and changes provision regarding special electrician licenses. LB1175 is by Senator Briese. A bill for an act relating to the Medical [SIC] Amusement Device Tax Act. Imposes and levies a tax on cash devices and it harmonizes provisions. LB1176, Senator Briese, relates to tobacco. Changes provisions relating to the sale of tobacco products, electronic nicotine delivery systems, and alternative nicotine products. LB1177 is Senator Hunt relating to education. Eliminates requirements for teachers and employees paid

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with public school funds to wear-- swear an oath of office and make a pledge. LB1178 by Senator Wayne relates to the Municipal Land Bank Act. Prohibits land banks from entering into certain agreements; temporarily holds real property. LB1179 is by Senator Wayne relating to revenue and taxation. It adopts this Imagine Small Business and Urban Revitalization Act and it harmonizes provisions. LB1180-- LB1180, excuse me, Senator Wayne. It's a bill for an act relating to criminal procedure. Changes provisions relating to alternative jurors and states intent regarding construction. LB1181 is Senator Wayne, relating to crimes and offenses. Adopts the Fair Sentencing Act; it allows courts to impose sentences without mandatory minimums for certain controlled substance offenses; prohibits holding a defendant in custody awaiting trial beyond a prescribed period. LB1182 is by Senator Wayne. It's a bill for an act relating to drugs. It provides for notice of new drug or bio-- biologics license applications for a study of drug cost. LB1183 by Senator Arch relates to public health and welfare. It creates the Health Information Technology Board; provides powers and duties; it changes provisions relating to prescription drug monitoring system. LB1184, Senator Arch. It's a bill for an act relating to Medical Assistance Act. It requires standards for inpatient psychiatric units and psychiatric residential treatment facilities. LB1185 is by Senator-- the Health Committee, signed by its members. A bill for an act relating to the Department of Health and Human Services. Changes provisions relating to criminal history record information checks for child care staff members and child care providers. LB1186 is by Senator Hilgers. It's a bill for an act relating to school districts. Requires that unusual-- or usual salary be paid to injured school district employees as prescribed. In addition, Mr. President, two amendments to be printed. Senator Quick to LB424, Senator Pansing Brooks to LB230, and Senator Morfeld to LB206. In addition, Mr. President, a hearing notice from the Natural Resources Committee. That's all that I have.

**FOLEY:** Thank you, Mr. Clerk. We'll, now refer-- return to General File. Next bill, please.

**CLERK:** LB231 was introduced by Senator Pansing Brooks. It's a bill for an act relating to juveniles. It provides for grants to offset the cost of counties providing legal counsel for indigent juveniles; requires reports; requires a juvenile indigent defense filing fee; changes provisions relating to appointment of counsel for juveniles and standards for guardians ad litem and attorneys in juvenile court. Introduced on January 14 of last year. At that time, referred to the

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Judiciary Committee. The bill was advanced to General File. At this time, I have no amendments to the bill, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Senator Pansing Brooks, you're recognized to open on LB231.

**PANSING BROOKS:** Thank you, Mr. Lieutenant Governor, members of the body. LB231 protects one of the most basic rights of our legal system, the constitutional right to an attorney. My education and experience as an attorney has shown me that the right to counsel is one of the most basic constitutional rights of our legal system. Fifty years ago, the United States Supreme Court extended the right to counsel for juveniles in *In re Gault*. The court stated that youth needed the guiding hand of counsel to navigate the complicated legal system. Writing for the majority, Justice Fortas famously wrote, quote, Under our Constitution, the condition of being a boy does not justify a kangaroo court. And I will define a kangaroo court for you in a little bit. Unfortunately, Nebraska isn't currently fulfilling its constitutional responsibility to ensure this right for all those in our juvenile justice system. This is because the current patchwork of laws says that both those under 14 and those over 18 have a right to an attorney, regardless of where they live. Under 14 and over 18, as well as the right to waive counsel. However, those between the ages of 14 to 18 only have this right only if they live in one of our state's three largest counties: Lancaster, Douglas, and Sarpy. Some will say they have the right across the state because judges ask if they want to waive their right and the kids thinking they will cause less trouble and thus receive a lighter sentence agree to waive their right to counsel. But the Supreme Court in *Faretta v. California*, repeated that any waiver must be knowing, intelligently, and voluntarily given. The Nebraska kids must understand what it truly means to waive, otherwise they might as well ask the question in Polish. Beyond this being an issue for Nebraska children, it is also an economic development issue. By arresting kids and not helping them get through the system, we are increasing the number of Nebraska kids who cannot fill the jobs that we have. To rectify this problem and close the gap that we have, LB231 assures that all juveniles who go to court are represented by an attorney, regardless of where they live in Nebraska by establishing that when the juvenile court petition is filed, counsel shall be appointed for such juvenile. This is particularly important because we know our adult corrections system is overcrowded. The juvenile system creates a direct pipeline into the adult system. We must do everything we can to give all Nebraska kids a chance to

right wrongs and change the path they are mistakenly taking. There's currently a wide gap in juvenile access across our state. Two interims ago we did a study looking at access to counsel. We learned more facts that make the need to move forward this session imperative. According to Voices for Children data, a mixture of urban and rural counties like Douglas, Deuel, Polk, Sarpy, Logan, Lancaster, Gosper, Garden, Frontier, Kimball, and Knox are providing counsel 100 percent of the time or nearly 100 percent of the time. I'm pleased that Senator Slama has passed out a sheet showing where there are or are not attorneys, but you will note from the information I've passed out that does not make a difference in all counties. So many Nebraska counties have a lot to be proud of, but in other counties, the percent of juveniles with counsel is very low, some as low as 0 percent. A map and spreadsheet showing access to counsel is being provided to you so you can see how each county scores. That a 14 to 18-year-old's access to counsel is dependent on where they live isn't acceptable. Why should a child in one part of the state have less protection than a child in another? Why should one child have their constitutional rights guaranteed while a child in another does not? Especially when we consider that there are real consequences for a child who does not have counsel. Some mistakenly think that the charges and consequences for juveniles are minor. This is not so. I need to explain briefly why assuring juveniles get attorneys is so critical. No charge is minor. The juvenile, the juvenile court system has two tracks. One track deals with the 3(a) cases, those tracks are where a child needs to go into welfare and is under the purview of HHS for abuse, neglect, or trafficking cases. The other track-- and under that track, the child's case is, is-- and the child is treated legally as a victim. The second track is one within the juvenile justice system. It includes probation and diversion. Under the juvenile justice system, a court has the entire panoply of dispositional options available, including detention and or out-of-home placement for any matter. Any matter, my friends. A child may be taken out of their home and has for something even as insignificant as an MIP, a minor in possession, if the facts surrounding that child's case so warrant. On the juvenile justice side, if the charge is small enough, the county attorney has the discretion to refer the case to diversion without going through the court at all. And you will hear some people say, oh, we don't have diversion programs. That is a bunch of jibber-jatter-- jabber, my friends, because the law states that county attorneys can create in a letter a type of diversion that says the kid must give 100 hours to community service. That is diversion. And if he completes that and has

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proof of that completion then that charge can be dropped. Such a decision is far less costly to the county and infringes less on juvenile's rights. No attorney is required at that point if the county attorney sends the juvenile straight to diversion without filing a charge, which is stated in our, in our statutes as the way to go forward. If the county attorney chooses to file charges, even if he or she later is to off-- decides to offer diversion instead, then that child needs a diver-- an attorney. He has a charge, he or she has a charge against him or her. If a county attorney believes that the case is serious enough to warrant being in juvenile court where anything can happen to the juvenile then the case is serious enough for that child to have a lawyer. In our justice system, an adult gets a lawyer if there is a chance their liberty will be taken away. Even if a charge can result in one day of jail, an adult is offered a lawyer. In juvenile court, charges aren't linked to sentences in the same way. Regardless of the charge, the judge has every option open to him or her in sentencing. This is why it's so important for, for kids to have representation. In 2008, the Legislature recognizing the juvenile, the Nebraska Juvenile Indigent Defense System was in need of serious attention, commissioned to \$250,000 study of the system, of the courts and the system. That \$1.4 million study used assessment watch procedures in court. They found that in some parts of the state, 60 to 75 percent of youth waived their right to counsel and that youth are encouraged to do so by a combination of individual and systemic factors. The report states, quote, In the counties with high waiver rates, assessment team investigators observed practices by judge, judges that subtly encouraged youth to waive counsel. For example, giving youth the impression that children who waive counsel would be treated more leniently or arranging the docket so that in the cases of youth who will waive counsel that are heard first and the youth who follow are encouraged to waive counsel by example of the earlier cases. Parents also encourage youth to waive counsel, sometimes applying substantial pressure. That is why I brought LB231, because these kids do not have an understanding of our legal system and the rights that they have because they are kids. In response to some who are worried about increased costs in counties, I dispute the notion that there will be added costs because Lancaster County and Douglas, for instance, have seen cost savings. I did add the creation of the Juvenile Indigent Defense Fund to this year's bill to be paid with a one dollar increase in court fees. We have the lowest court fees in the country and this is reasonable. This fund will be administered by the Commission on Public Advocacy and used if the counties demonstrate

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that they incurred additional costs because of this bill, the addition of this funding mechanism has satisfied the counties. We had no opposition, my friends, for this bill. LB231 also stipulates that if the court ascertains that the juvenile and his or her parent or guardian cannot afford an attorney, the court shall continue--

**FOLEY:** One minute.

**PANSING BROOKS:** --appoint, the appointment of counsel. So if the family can afford counsel, the family pays for it, including the attorney appointed early in the process to explain things to the juvenile before the child pleads. Of course, unless the child decides to waive counsel. I must point out, however, that the constitution already requires the counties to provide this legal representation. So the state isn't mandating it. The 14th Amendment guaranteed a right to counsel established in Gault did not say this right can be denied if it increases county budgets. In fact, it said counsel should be provided at no cost to the juvenile if finances are an issue. The courts must assure the children are intelligently waiving counsel. Intelligently waiving. The court has to go through a whole system of questions to make sure that they understand it. But once again, this issue is really about our children. Even more than adults, children need help navigating our complicated justice system and the constitution requires it. In closing, I ask you to vote green on LB231. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Pansing Brooks. Debate is now open on the bill. Senator Groene.

**GROENE:** I stand in opposition to LB231 just as I did in LB158, it's predecessor in 28-- 2018. And it's not just a rural-- to me, it's just not a rural/urban district. This is a civil rights issue to me. This is a civil rights issue. You have a right to representation, an attorney. You have no right if the government mandates that you have an attorney. Those 14 through 17-year-olds with the guidance of their parents and guardians should have the right to say no. For this misdemeanor of MIP, vagrancy, vandalism, I and we will stand before the judge and take our diversion or probation. That or plead innocent, if they wish. There are very few cases, and most of them are misdemeanors, that where a judge is-- does not appoint or an attorney has to be appointed. Any minor 13 years of age or younger charged in a juvenile court with a law violation or stat, or status offense has to have an attorney. Any minor place, placed in detention has to have an

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attorney. Any minor where an out-of-home placement is sought has to have an attorney. Any minor where a request is made to transfer the matter from the juvenile court to the adult court, they must have an attorney. When a probation violation is filed, they must have an attorney. When a minor requests an attorney, they must have an attorney. You heard they don't have, they're denied their right to an attorney. Nobody in this country is denied their right to an attorney. Nobody. And if you're above the age of 14, 14 or older and it's not one of these cases and there's more, you stand and you say: I want an attorney, I can't afford one. Or you show up with an attorney. That is America. Now this isn't something where a kid is in, in, in shackles and drug in the court and he's got-- he's panicked and he has to make a decision. He visits with the county attorney, they offer him diversion with their parents. Decisions are made. Sadly, folks, we have a work ethic with some of our youth. More and more juveniles are now saying, no, I don't want to do diversion. You're gonna make me pick up papers, you're gonna make me show up here. You're gonna make me go to an AA meeting. They don't wanna do that. They prefer to go to court and have the judge put him on probation where the probation officer has to do the work. Here's the other thing, folks, it ruins nobody's life. These teenagers' records are sealed. Nobody has access to them except the courts. Want to go to law school, you can go to law school. Want to be an engineer, you can be an engineer. Want to join the Navy? Probably can't get into the Naval Academy because they can, because of the national security they can look at your records. And here's the worst part about this, folks. This is a problem looking for-- this is an answer looking for a problem. Rural Nebraska has no problem with this. What they do have a problem is we don't have attorneys out there. That's Senator Slama's handout. Why? It's not because there's a lack of attorneys, God forbid. There's too many. It's that an attorney cannot live in Arthur County with 500 residents and make a living. And here's the other problem. If there is an attorney there, he uses-- he ends up being the county attorney. He does that part-time. So now you're gonna appoint an attorney for a DWI, for somebody who threw a rotten egg at his teacher's car. And he's gonna drive--

**FOLEY:** One minute.

**GROENE:** --that attorney is gonna drive a hundred miles from Ogallala up to, up to Logan County, gonna charge a mileage. He's gonna charge him a fee. They're not paid for, folks. If you're a middle class railroad worker in my town, you're not poverty. Guess what, mom and

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dad, you get a bill. And read the bill, folks, the penalty for a parent who doesn't pay the legal bill. Mom and dad, child stands in front of the judge. The lesson in life is learned and the same thing happens to that child without an attorney that has an attorney, he goes to diversion or he goes on probation. What a judge can do is so restricted to a juvenile. And if it's a felony, he's gonna have a judge. This is a lawyer employment bill. That's what this is. It's an answer looking for a problem.

**FOLEY:** Time, Senator. Thank you, Senator Groene. Senator Slama.

**SLAMA:** Thank you, Mr. President. And good morning, colleagues. So as you can see on the committee statement, I was the only one present not voting on this bill, and I'm still listening to debate to see where I'll end up in the final vote. But I wanted to take some time, and it's very important to note that there is an extreme shortage of lawyers in rural Nebraska. A shortage of lawyers that I think when we're talking about a mandatory appointment of attorneys for those between the ages of 14 to 18, that may create some logistical issues. LB158 in 2017 presented a compromise in which Douglas, Sarpy, and Lancaster Counties were brought on board with this program. As you can see from the handout that I passed out, Douglas County has 2,700 attorneys, Sarpy County has 276, Lancaster County has 1,200. They have the bodies needed to pull this off. However, I am-- wanted to also point out that of Nebraska's 93 counties, 12 have no attorneys, 5 have 1 attorney in the entire county, 4 have 2 attorneys, and 9 have 3 attorneys. This is a personal issue for me. I came back home to Nebraska after going to school out of state because I wanted to help fill this gap. I became a law student fully intending to practice in southeast Nebraska, where we have a few more attorneys, but we still do find that there is a shortage. So I have some questions in listening to this bill. If there is a group of youths that are charged either for an MIP or vagrancy or vandalism, what have you, how we would manage to get the attorneys necessary to these areas to provide representation for a case that is likely going to be very minor and eventually head to diversion. I think we had a good compromise on LB158 in 2017. And as a closing message before I yield my time to Senator Groene, I'd like to send a message to all law students and everyone who is thinking about becoming a lawyer in the state of Nebraska: Please consider practicing in rural Nebraska. We have a job for you and we need you. And I'd like to yield the rest of my time to Senator Groene. Thank you.

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**FOLEY:** Thank you, Senator Slama. Senator Groene, 2:20.

**GROENE:** Thank you, Senator Slama. But I'm gonna finish that list where an attorney is given to a minor. I'm gonna start and repeat this one. When a minor requests an attorney, not the guardian, not mom and dad, when a 14-year-old kid says, I want an attorney, he gets an attorney. Doesn't make a difference what mom and dad says. When a parent or guardian requests an attorney, mom and dad can ask for one too, if they're a poor family. But remember, if you're not a poor family, you get a bill. With this legislation, you get a bill. I ask you to read the language, how stern it is if you don't pay the bill, mom and dad. When a parent or guardian cannot be located, they get an attorney. Attorney fees are paid by the county upon approval by the court. Waiver of counsel, it is given-- they have to give it in writing that they want counsel or do not want counsel. It's not just a yes or no. Parent, guardian, custodian cannot waive, waive an attorney for the juvenile. An open and written waiver must be approved by the court pursuant to the requirements in Nebraska's statutes. The waiver must be knowingly, voluntarily, and intelligently made. The court must consider the age, intelligence, and education of the juvenile, along with the emotional stability of the juvenile--

**FOLEY:** One minute.

**GROENE:** --and the complexity of the proceedings. Here's the other one. If a judge believes there's a conflict between the parents and the juvenile and isn't the best interest of the juvenile, the judge will appoint an attorney. There is a lot of safeguards in our law, a lot of safeguards. This is unnecessary. This destroys a civil right of a teenager to say, no, I do not want representation. You have no right if it is mandated. Should we mandate voting, folks? Should we? You have to vote or we're gonna come get you? Think about it, folks. This is bad, bad legislation. It's good, well-meaning, good in a law classroom, but not good in reality, especially rural Nebraska. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Groene. Senator Lowe.

**LOWE:** Thank you, Lieutenant Governor. I'm in opposition of LB231 also. We have a great system the way it is. If you want an attorney, you request one, and an attorney will be given to you. If you want to go to diversion, you get an attorney, and the attorney says, no, we're not gonna go to diversion. The problem can be solved without an

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attorney. If-- when, when a child goes before the judge with this, the judge will appoint an attorney for that child, whether that is the attorney the child wants or the parent wants for that child. There is no choice, they don't have a choice. They may want a different attorney. But now they're stuck with this one because that's the one the judge appointed. We live in a free country. We live in a fairly free state. By having the government tell us what we must have, must do, is not very free. I'm glad that Senator Pansing Brooks is, is wanting to help our children, but I think they already are being helped. As Senator Groene said, it may do them some good to go before a judge and not have the attorney go before the judge. I know if I was in that situation, having somebody fight the fight for me would not mean as much as looking up into that judge's face and having the sentence brought down on me, whether it's diversion or time or whatever else I need at that point. To have somebody else fight for you is not the same as you fighting for yourself. And I believe that's very important. It's a lesson that all, we all need to learn at some time. And we are doing that here upon this floor now as we are fighting for ourselves and for our rights, not for what the government wants to do for us. Be careful when they say: I'm from the government, I'm here to help you. And I think that's where we're at with this. I'd like to yield the rest of my time to Senator Groene, if he would like to have it.

**SCHEER:** Senator Groene, 2:05.

**GROENE:** Thank you. Read this bill, folks. We are gonna add another dollar onto court fees. So everybody who gets a traffic ticket now is gonna pay another buck, everybody who's in divorce court is gonna pay another buck. And remember this, folks, usually these fees, when we increase them, we have a better purpose than this. To save the General Fund budget in the past, we have taken-- increased fees to, to booster the judges' retirement plan. It's up to \$12 now out of the 50-some dollar on an average fee, \$52. But it can get up to 170 bucks, the fees can, depends what court case, what court you're appearing in. So now we're gonna add another dollar for this. And when you hear a claim that rural counties are going to get paid for, you better read the A bill, read the A bill. It's a rolling three-year average.

**SCHEER:** One minute.

**GROENE:** It's a rolling three-year average. They might get a little money the first year. And then read, read the A bill, folks, read how

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complicated it is. And ask yourself, a county with 500 peoples, how are they going to apply for this grant? And how are they gonna get it written? If you live in Lancaster County, things-- there's government employees floating all over the place. Understand your thinking. Not true in rural Nebraska. An answer looking for a problem. A problem that doesn't exist. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Groene and Senator Lowe. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, priority motion. Senator Groene would move to return the bill to the Judiciary Committee.

**SCHEER:** Senator Groene, you're welcome to open on your amendment.

**GROENE:** Thank you. This needs to go back, it needs to disappear really. I talked to my judge again this morning, and it's Judge Turnbull, Senator, Senator Pansing Brooks. Please give him a call, he'll give you an earful. By the way, folks, the last debate, Senator Pansing Brooks had the right to, went and talked to Chief Justice Heavican and read him the "riot act." Because rural judges were talking to rural senators and giving them advice on this bill when we asked it. Yes. The Chief Justice sent an email out to judges and censored them. Senator Williams used to get a group of judges together in the fall and his rural senators would get together and the judges would talk about legislation, give us insight. That stopped because of that edict. Senator Pansing Brooks has called judges up after she heard they talked to rural senators and riot-- and gave them the "riot act." If you disagree with that, Senator Pansing Brooks, please stand up and say so. This issue, issue is not that important that we have broken the trust between the Judiciary department and the Legislature and the conversation. That's how far this has gone. But I have a great judge, well-respected across the state. You mentioned Judge Turnbull and his ideals in juvenile justice out of Lincoln County, and he is well-respected. He also hears cases in Frontier County. Frontier County has about 2,600 people. They've lost population like most rural counties. He hasn't had a juvenile case out of Frontier County in two years, a misdemeanor. Why? They fear this bill. They fear other legislation that we passed on juvenile justice of the cost. So guess what happens at a beer party, a keg party in rural Nebraska? What's gonna happen? There will be no charges filed. Is that the lesson we want to give our youth? Because the county can't afford it. If I'm Wheeler County, I'd start advertising to come out here, Omaha and Lincoln, kids have a kegger. Because we're not gonna press charges. We

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don't have the funds to pay for your attorneys. That's what's gonna happen. That's what's happening already with some of the juvenile justice bills that we have passed. The cost has gone up, that there is no justice. No justice for the victims. No justice for the kids, that they learn a lesson that certain behavior is not good, because no charges are pressed. That is where we're heading with this bill. We're already down that path. It needs to go away. I could read you population: Blaine County, 508-- 476 folks. They went from 583 to 476 people since the 2000 census. Here's another one, Grant County, 660 people. How many adults, 200-300? They have a beer party at their grad-- high school and they get caught, some kid throws an egg at the town cop-- I don't even know if they have a town cop in the little town they have there. No charges will be pressed because the county can't afford the attorneys. Right now, the kid and the parent goes before the judge. They ask if they want an attorney, or bring one because you're middle class and you can afford one. And the kid gets a little bit of probation, slap on the hand, and his records are sealed. Never shows up on his job applications or his admittance into a university. So what are we gonna teach these kids? You're never guilty. You're never guilty, just get a lawyer. You don't have to stand in front of a judge, you just stay home. Attorney will take care of it. Is that what America is anymore? We don't speak for ourselves in front of a judge and do have-- we don't even have the opportunity to? I fully understand why some of the bigger courts want this or like it. It's mass production. Just ship them through one case after another. You, you look at the same attorney's face, no emotion in their voice. Well, we agreed to this, we agreed to that, rubber stamp it out the door. These judges don't want some kid crying in front of them, some mom weeping, some kid red-faced, begging for forgiveness. But let me tell you, that is repentance. Just streamline it. We don't want those kids in front of us. Just throw the attorney one right after another. And then the attorney can go back and claim he did something for the kid when he got, when he got diversion, and he would have got it anyway. Look what I did for you, I got you a diversion. He would have got that anyway. Look what I did for you, I got you promotion-- probation. He would have got that anyway. This is a lawyer employment bill, that's all it is. And by the way, we don't have a shortage of lawyers in rural Nebraska. We got more than we need now. But we don't have lawyers that are willing to work in a criminal justice system. They do estates, they do, they do all sorts of things that makes them money. Big lawsuits. They don't have time, the ones that are out there, to go do a DWI for a kid or anything else like

that. If a child commits a felony, he will have a lawyer. That is the way the system works. That's the way it works. And if he commits a felony, it's a minor one, and he goes to the county attorney and they say, well, do some diversion. He goes to diversion, he gets some probation, and he's fine or she is fine. Here's another county: Hooker, 783 people; Keya Paha, 983-- well, that's more than-- I keep looking at the 2010 census. The last line is 2018 estimates, and all these counties are losing population. Logan: 749. Loup: 618. Really? We're gonna expect those taxpayers in that county to pay for 15, 20 attorneys at a beer party that got raided, keg party? We're gonna do that? Because that's what this bill does. Or we're gonna tell the county-- there is no county, the county attorney-- or the local sheriff, just take them home, slap them on the wrist, tell them to go-- break the party up and go home. The next time, find a better place to have your party that I don't see it. Until a kid gets killed in a car wreck because it escalates, because we never were able to put a stop to it by teaching them all a lesson. Think of the consequences, folks, of a bill looking for a problem. Let's put this to rest. I understand fully what Senator Pansing Brooks, an urban senator who grew up urban, the life is different. Quite frankly, folks, I'm thinking about bringing a bill next year to repeal and protect the civil rights of those juveniles in the three large counties. The middle class families forced to hire lawyers when they really didn't get a nickel's worth out of it because the kid still ended up in diversion or probation, but had to pay an attorney. They have no right to an attorney. They have a dictate to have an attorney. This is no different than a draft in the military.

**HILGERS:** One minute.

**GROENE:** You are being forced to do something by the government. That is not a right, that is a mandate. And that should send shivers up and down everyone's back in this room. That you are gonna mandate to a middle class family that they have to have an attorney for their 16-year-old child, who don't want one, understands they made a mistake and wants to go on with their life. And what's sad about it, they're gonna pay that attorney fee and it's gonna be the same result. The same result. The same result, they're gonna get diversion or they're gonna get probation. I think attorneys, most of them have better morals than that, that they wouldn't support this bill. Attorney require-- attorney employment bill is what it is. Thank you, Mr. President.

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**HILGERS:** Thank you, Senator Groene. Debate is now open on the motion to recommit to committee. Senator Albrecht, you are recognized.

**ALBRECHT:** Thank you, Speaker. Colleagues, I'm gonna take a different spin on this. I am not in favor of LB231, but and again, for all the reasons everybody's talking about in the rural area. I have visited our courts up in my district and I actually see not only the youth, but adults coming before the, the judge and just saying, you know, whatever I've done, I'm ready to take my lumps because I deserve it. I don't need an attorney, I did wrong, so tell me what you want to do. But let's talk a little bit about what happened yesterday when Chief Justice Heavican was before us. And if you-- I know you don't have your books with you, but I'm gonna read to you what he said right before he closed. The bill that, that I brought and was taken from the, the, the-- anyway, I'm sorry. LB595 was a bill that was in the Judiciary Committee last year, and it's a bill that I brought to the floor, which is all about the youth. So the Office of Dispute Resolution, the example of such community-based alternatives is victim-youth conferencing. With the passage of that bill in 2019, the restorative justice bill, our Office of Dispute Resolution continues to partner with network of six regional communities for mediation centers for victims of youth conferencing throughout our state. The Chief Justice said that the restorative process is: A significant youth-- to the youth, their families, the victims, the community, and the court system. So this past year, over 300 youth took responsibility for their actions and participated in the face-to-face dialogues with their victims. So if they're doing these first time, you know, they've got in trouble and they need to repent and go before the, the victim and work it out with the victim, they learn so much. And then those same youth that are going before the victims and talking about what they did and why it was wrong, they go back to other youth at their schools or in their community and say, hey, don't do this, don't be-- don't, don't make a dumb thing go wrong for you. So just know that we're already, we're already addressing this in other ways. And I applaud the Justice Department for looking into this, because obviously all the judges throughout the state of Nebraska have the same issues with the youth. But to actually mandate, if you will, that a parent must pay to have an attorney represent their child, no matter what they do. If they, if they shoplift, if they throw an egg at a car, if they, I mean, any anything, the very first offense. I mean, that's, I, I believe it's a civil rights violation at all cost. But to think that in a rural area, the amount

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of time that it takes for an attorney to come from Omaha for two and a half hours to drive up to my district, they're gonna pay them for mileage, they're gonna pay them for time, they're gonna pay them for their phone calls, they're gonna pay them when they're representing them in front of the judge. Those bills start to add up. And I'm here to tell you, I don't think anyone in my district would appreciate being told that they have to do this, that the judge has to appoint an attorney for them. I just don't believe that it's necessary, I don't believe it's needed. I don't even believe in the big cities, if you took a survey of the parents that had to pay just because it was something that we as a legislative body passed. I, I just don't think that that's right. If the-- if they want to send their, their child before the judge--

**FOLEY:** One minute.

**ALBRECHT:** --and let him defend himself, it needs to happen, because I'm quite certain they probably won't be seeing that judge a second time. So again, I just stand in opposition to LB231. I want you to take a big look back at LB595. It happened for all the right reasons that we are now allowing the children to go through a mediation process that will allow them to talk to the victims and to make restitution. It still doesn't give them a free pass, they're still gonna have to pay for their damages and talk to the, to the victims that they've hurt or offended or whatever they've done. So I just believe that it's a better way to, to go and, and just keep government out of, of this situation. So thank you.

**FOLEY:** Thank you, Senator Albrecht. Senator Groene.

**GROENE:** I was just reading the bill again here. Thank you, Mr. President. I want to make sure you understand this. If the parent-- let's go back a little bit. If the court determines that a parent of such juvenile is able to afford an attorney, the court shall order such parent to pay for services of the attorney to be collected in the same manner as provided by the section of law. If the parent willfully refuses to pay any such sum, the court may commit him or her to contempt-- to contempt-- and execute, execution may issue and, at the request of the appointed attorney or the county attorney or by the court without a request. Upon entering an appearance on behalf of the juvenile, any counsel shall continue to represent the juvenile through post-disposition proceedings unless relieved by the court upon the request of the juvenile, upon the substitution of other counsel, or

for cause. So now this used car salesman, the attorney, he's got this kid in a room and he says, oh, this could happen to you. You might not get to be President of the United States if this is on your record. Are you sure you don't want me to stay on? Mom and dad aren't in the room. You can dismiss me after the opening hearing. But, geez, a lot of bad things can happen. You could get put on diversion, you could be put on probation. Duh. Kid, that's what's gonna happen to you if you'd don't have an attorney. By word of mouth talking to, to some judges who have talked to, hearsay, talked to some judges in Omaha. Very seldom in a juvenile court case is the attorney dismissed. Parents are hung with the bill. Kids are hung with the bill. The kid could have been home already doing his diversion, but no, he's taken another court appearance or two going through the court system so the attorney can charge some extra fees. Oh, there's a lot of good attorneys. I understand that. But there's a few who aren't. And that's being generous. I look at it as a business. I can charge the fees, I got this kid. You talk about abuse of a juvenile, having that much power over a juvenile by an adult. Say, kid, you gonna, you better keep me on. Because you might get diversion, duh. You might get probation. By the way, if it was a felony, the kid has an attorney. The kid has an attorney appointed. And I don't even think, I'm gonna have to double-check, but I don't think he can dismiss that attorney because he's a juvenile. Absolutely no reason, no need for this bill. There's no reason or need for it in, in the big, three big counties. Because we want to streamline the courts, we take rights away from people. Is that how justice works? We want to streamline it. We don't want that kid in front of us, mom embarrassing him, telling him, boy, you're gonna take your lumps here. And the judge is just listening because he has to.

**FOLEY:** One minute.

**GROENE:** But the reality is, no matter what mom says, the kid is gonna get the same thing: diversion or probation. I do trust my judges, I do, especially the juvenile ones. The reason they're juvenile judges is because they love kids. They want to give them a chance to straighten out, get their lives turned around. But if we never have, the child never has the opportunity to understand there are consequences to actions, their path leads, as some call it, the pipeline. Well, heck, I got away with drinking when I was a kid. I even talked my way out of that one. That broke those windows in the school, got away with that one, too. Oh, I can hold up the bank, I can

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beat my wife. Hey, I got in that fist fight. Got an attorney, I didn't even have to go in front of a judge. Attorney took care of it.

**FOLEY:** That's time, Senator.

**GROENE:** Now there's your pipeline.

**FOLEY:** Thank you, Senator Groene. Senator Friesen, you're recognized. Senator Friesen.

**FRIESEN:** Thank you, Mr. President. I stand in support of recommitting to a committee. We've heard this bill numerous times before. My main concern with this bill is that it takes away parental rights. When you look at back when I was a kid, take any kid, you give him the opportunity to be in charge of the attorney that representing them and it takes parents out of the picture. You have given them more authority than I believe that we should. When you look at the process here, I'm not objecting necessarily that attorneys at some point in time need to be present. But a parent should have that right, whether or not to waive that. If you have a low to moderate income household and suddenly, for whatever reason, whether it's an MIP or whatever else your, your kid is in front of the judge and now the judge decides you do have the ability to pay, you suddenly have to come up with the money. And in the end, maybe as a parent, you're saying that, you know, there's responsibilities come with your actions and we're not just gonna hire an attorney to get you off the hook. There's, there's consequences for your actions. Too many times these days we, we have rules and we put them in place. But in the end, there's no consequences. And as a teenager, I remember that if there were no consequences at the end of that, we did some pretty strange things sometimes. We weren't always smart enough to make correct decisions. So I, I'd look at this, and then when you take in place whether or not that attorney can be retained or replaced even with a different attorney, when it's left up to the juvenile to decide that, you've taken away those parental rights that I think parents should be allowed to make. If parents are not engaged in the process, we could look at it a different way. But right now, there is not an option. Even parents who want to be engaged in what's going on are really held at a distance. You can hire your own attorney if you want, but then you end up may paying for two of them. I don't know that you're allowed to substitute. But to me, you've now placed that parent outside of the decision-making process, and that's where I'm having my-- most of my problems with this bill. And the other is when you get

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into the rural areas of the state where there's just not enough attorneys available, and I think Senator Groene brought it up when you have group parties, and that's happened all across the state. Suddenly you need 10 or 12 attorneys, and the cost to transport them in, bring them in, because there are not-- there are some counties, obviously, do not have attorneys available in those numbers. The cost is gonna go up. And I'd agree that property taxes in the end will probably take the hit because that's usually where all this ends up, even if you have a grant program. I'm concerned that down the road that money will be used up and we raise those fees again on other court cases, so everybody ends up paying again. I just don't see this as a, as a good bill and that it's needed right now. I have not had any calls in support of this, no emails in support of this. I just don't think it's something that's of interest in most counties. I think it's being handled by the judicial system in a fair manner. So with that, I, I do not support the bill--

**FOLEY:** One minute.

**FRIESEN:** --and I would support the motion to recommit to committee. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Senator Moser.

**MOSER:** Thank you, Mr. President. I was wondering if I could ask Senator Pansing Brooks some questions, please.

**FOLEY:** Senator Pansing Brooks, would you yield, please?

**PANSING BROOKS:** Sure.

**MOSER:** Good morning.

**PANSING BROOKS:** Good morning.

**MOSER:** So what is the problem that we're trying to solve with this bill? Do you feel that there's a miscarriage of justice because juveniles are not being recep-- represented by attorneys?

**PANSING BROOKS:** Yes, I do feel that there are kids that are not represented, that are acting as a complete cost to the counties. There was a young man that was here, the mayor of Boys Town, who talked about the fact that he was in, in, in jail for weeks on end, had no idea about the charges being levied against him. And it was a cost of

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over nearly \$15,000 to his county. And if an attorney had been there, I believe he would have been, they would have been in the court sooner. And I think this is, I think that your county people should be upset about this cost.

**MOSER:** Yeah, I've had no, I've had no feedback from anybody in my district that this is a problem that, you know, that they were concerned about. Looking at the counties that I represent, the vast majority of juveniles are not represented by counsel. And so I question why we would require that. You know, if, if in the more densely populated areas, and maybe I'm getting myself into trouble making this assumption, but there may be more parental disconnect between the students, between the juveniles and their parents, because they're in the city where there's, there's, you know, more crime, more potential for getting into trouble. But out in the rest of the country, I, you know, I don't see that this is a benefit. I think it's gonna be a cost to a lot of parents. And generally if you're accused of, of the minor crimes, there aren't a whole lot of options to-- not a lot of things that an attorney can do for you, I would think. What would an attorney do for you? Say you got arrested in Senator Groene's district for minor in possession or they were "TPing" somebody's house or something, what would an attorney do for them that some other kid without an attorney would suffer from for not having an attorney?

**PANSING BROOKS:** Number one, an attorney would, would recommend that there be diversion rather than asking a child to go forward with a plea. It would be very simple to do diversion for a child like that, some, some community service. There are a number of ways that this could be handled without cost to the community. And we've added a dollar fee that everyone agrees, including NACO, that this will cover the cost to the counties of any kind of, of costs regarding representation of children.

**MOSER:** OK, thank you. I, I appreciate that, those answers. In my part of the world, this isn't a problem. I think it's a solution looking for a problem. And so I'm gonna be voting against it. You know, I just don't see that we want to interfere in parents and their choices, what they want to do with their children. Their children are their responsibility, it's up to them to take care of them and raise them. I don't think we should be interfering with it. If they want to hire an attorney, an attorney, they're entirely able to do that if they want.

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I just don't think we should get in the middle of it. Thank you very much.

**FOLEY:** Thank you, Senator Moser. Senator Chambers.

**CHAMBERS:** Mr. President, members of the Legislature, one of the worst things about having education is that you have to work with people who have none. And the less they know, the more they talk. I wish that some of the people on this floor had taken the time, which they would not do, but which I did even before I went into law school, to read some of the statements that were made by people who put together the constitution of this country. I was always looking for an explanation of why white people, white children in those days were treated so much better than I. And as I moved along through school and got into high school, I became aware of this constitution and so forth. When I read some of the statements that those men made-- there were no women. Abigail Adams had to tell her husband, don't forget the ladies, because women were second class. And men like those on this floor would say, they don't need any rights. You don't need to know anything about having a baby except drop-- putting your panties down and your legs up. That's all you need to know and that's all you need to do. And what these men show is their lack of integrity, their lack of intelligence, their inability to show or manifest empathy. If they had a child or if they themselves came before the bar of justice, they would want every right accorded under the constitution and the laws. But that person does not know all of those things. So he will retain a lawyer. A lawyer might show that this matter should not even be in court because there was no probable cause to stop this person in the first place. Without probable cause, there can be no legitimate legal action taken against an individual. Senator Groene talks about things he did when he was little. He should learn not to judge every child by what he did because he certainly, in my opinion, is not the paradigm, the model, the example of anything except somebody who talks without knowledge, speaks without thinking. And because his scope is narrow, he thinks the world is no broader than his narrow scope. People like that can see no farther than the inner surface of their eyelid. And when that is all of this magnificent world and profound universe can be understood, that person would be totally adrift if he were required to open his eyes and see what is going on around himself. It would be a waste of my time to counteract statements like those of Senator Moser. This has not, in my part of the world this hasn't been this or this hasn't been that. People don't call you all because they know it won't do any good. They watch us and they see your lack of compassion,

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your lack of concern for children. So why should they waste time calling you? But they'll call me. They don't know me. They have never visited me at my home. They don't eat lunch with me. We don't socialize. But they listen to what I say and they watch what I do. And when their child has a problem that falls within the purview of the kind of things that I will do, they'll call me not one of you. Because you all don't care and you show you don't. So what you're establishing now by the things you're saying is the way this session should progress. When things come along that have meaning to you, I can always say, well, nobody in my district called me about that.

**FOLEY:** One minute.

**CHAMBERS:** So I'm against it and I'm going to fight it. It's too bad. And I'm speaking in generalities. It would take way too long to give the kind of lecture necessary to raise the veil of ignorance that's been displayed here. If you all would study and learn what the Greeks meant when they said, the ideal is a sound mind and a sound body, that by itself would broaden your scope. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. Senator Hughes.

**HUGHES:** Thank you, Mr. President. Good morning, colleagues. I was wondering if Senator Pansing Brooks would yield to some questions, please.

**FOLEY:** Senator Pansing Brooks, would you yield, please?

**PANSING BROOKS:** Sure.

**HUGHES:** Senator Pansing Brooks, how many times have you brought this bill, do you remember, in your legislative career?

**PANSING BROOKS:** I think two times before. Something similar to this.

**HUGHES:** OK. So this is the third time around. So where, where did this bill come from? Who brought you this, that thinks that this is a problem and needs to be done?

**PANSING BROOKS:** When I arrived the first week in the Legislature my first year and heard that children across the state did not have a constitutional right being given to them across the state except for in Douglas County, I became riled up. If we were talking about Second Amendment, everybody would be up in arms. But boy, the, the, the

chill-- the child's right to counsel, a constitutional right to counsel, I got fired up about that. And--

**HUGHES:** OK. So I guess you'll have-- not being an attorney myself, you'll have to help me understand. I thought everybody was entitled to counsel. So is that not true?

**PANSING BROOKS:** Well, what is true is everyone is supposed to have a right to counsel. And my understanding is that judges will say, do you want to waive counsel? The problem is that the Supreme Court also ruled that children are supposed to waive counsel in a knowing and voluntary and intelligent manner. And until they can understand exactly what they're doing, why they're doing it, it's not knowing or intelligent. And they're has to be a soliloquy, some sort of a form of, of plea, a statement by the judge that truly helps each child understand their predicament and what is going to happen to them by this guilty plea that they're making without any kind of knowledge, any kind of ability to understand the complexities of the, of the justice system.

**HUGHES:** So have you been in court and witnessed that or, I mean, is it a widespread problem or-- you know, I've, I've not been in court. I've not been in that situation. The only, the only knowledge I have to draw on is from the judges who I visited with that are in my district. And they're telling me that this is not a problem. I, I, I struggle to understand why we need this bill. Your, I think, Douglas, Sarpy, and Lancaster County, is that correct, have juvenile attorneys? The county has deemed that necessary and the county is willing to pay for that. Is that correct?

**PANSING BROOKS:** That is correct.

**HUGHES:** And, and they feel that it is a, a cost savings to them because of the volume or why, why, why is, why is it a cost savings to them?

**PANSING BROOKS:** Because what happens when a child comes to court and has to make a plea, they ask the child to say, are you guilty of this? And then the child says, well, I guess. If you read the 2009 study, which I have on my, on my desk, the, the child doesn't know and thinks, well, maybe things will go lighter for me if I, if I go ahead and plead guilty to this. And then, and then I'll make the system go-- it'll make the system go better and it'll be better for me. So the

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child will, thinking they're being agreeable and owning up to the wrong that they did, as Senator Groene said, says, yeah, I did it. And then all of a sudden, all of these things pile onto them. Their ability to get a job, their ability to get, go to college. And what happens is once they plea, if the, if the attorney-- if the judge says, would you like to waive counsel, and the child, says, no, I really think I do want counsel, everyone has to leave the court at that point and they have to bring back a counsel. So talk about expense.

**FOLEY:** One minute.

**PANSING BROOKS:** Rather than having somebody there to explain it at the beginning.

**HUGHES:** So are there a lot of juveniles are showing up without any adult supervision, their parents or guardian or somebody helping them navigate through the system?

**PANSING BROOKS:** I would dare say that most people who come up and try to understand the court system without any kind of training would be little help to those children. So they're generally coming without any kind of counsel, anybody with any kind of knowledge of the law. To punish them and use them, use the judge for disciplinary purposes rather than recognizing the long-term effect on these kids is, is just bogus.

**HUGHES:** So I guess the, the relationship that I have with the judges in my district, and I, I don't have relationships with any of other, any other judges, I guess that's why they're appointed to those positions is because they are the chosen arbiters for--

**FOLEY:** That's time.

**HUGHES:** Thank you, Mr. President. Thank you, Senator Pansing Brooks.

**FOLEY:** Thank you, Senator Hughes and Senator Pansing Brooks. Before proceeding, we have some guests visiting today. We have with us 50 representatives from the Black Hills Energy company from all across the state of Nebraska. Those guests are with us up in the north balcony. If they could please rise, like to welcome you to the Nebraska Legislature. Further debate. Senator Lathrop.

**LATHROP:** Thank you, Mr. President and colleagues. Good morning. I support this bill. And I'd like to tell you why, and maybe be a little more, a little more explaining of the circumstances that we're talking about. So imagine, imagine, because this is what we're talking about-- this really is not about appointing a lawyer for everybody that goes through juvenile court as much as it is about trying to ensure that a child in juvenile court knowingly, intelligently, and voluntarily waives their right to a lawyer, to contest the charges against them. There are a lot of waivers that have to happen here. And this conversation or this debate has centered on the hypothetical child that got caught shoplifting. Mom and dad are mad at him, dragging him up to county court to sit in front of the juvenile court. And this is a, the belief that they will show up in county court or juvenile court and that the judge will slap their hand and they'll be out of there in five minutes. Let me start with what ends up happening and then you'll appreciate the gravity of what this bill is trying to do. You go to Geneva, you go to Kearney, and there are kids in there for shoplifting. OK? MIP. That's what ends up happening in many of these cases after a couple other things have been tried. Right? And before they ever get to that, they've been in court for the first time. And everybody thinks it's all gonna resolve in a couple of-- let's just get this over with. Yeah, we waive everything, we waive everything. Yeah, yeah, yeah. He did it, we waive everything. May have a defense, but we want out of here. We want it done in one day, let's get out of here. Right? Judge is just gonna slap his hand, give him probation, and we'll be out of here. But that's not how these things work out in many cases. The consequences can be as bad as if you're going through adult court. In fact, they can be worse. Because once you let the juvenile court into your life with a plea, I'm going to tell you they're gonna do, they're gonna be involved, not just in the youth, but now they're gonna do drug and alcohol testing on mom and dad. And they're gonna try to get to the bottom of it. These things are very, very consequential. Very consequential. And they start with the first appearance. And now imagine that you don't know anything about it. Everything you know about, everything you know about the court system you saw on a couple of episodes of Law and Order, and your kid just got picked up and now you got to go to the juvenile court. And guess what? Mom and dad are nervous about it. It might not be a mom and dad, mom or dad or somebody's guardian. They want it over because it's a hassle and they don't know how to deal with it. The kid is taking their cue from mom, who wants it over with because she doesn't have time for a second court appearance. What we're doing with this bill is

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simply saying a lawyer ought to be there to say: This is what's gonna happen. OK? You don't need the, you don't need to hire a lawyer. You don't need to have one. But before you make that decision, let somebody who's on your side tell you what all the consequences are and whether you have a defense. You know, a lot of people, and we saw this with the, with the bail reform hearings that we held, a lot of people end up going into court and saying, I've been locked up for two months for something that's not that big a deal. I plead guilty, time served, and I'm out of here. And they had a defense. So this is about the knowing, intelligent waiver of things--

**FOLEY:** One minute.

**LATHROP:** --that happen in that first hearing. Did you say time?

**FOLEY:** One minute.

**LATHROP:** Thank you. It's about a knowing, intelligent waiver in that first hearing. And how can we expect people who are unfamiliar with it, including a juvenile who probably plays video games and never even gets to watch Law and Order, where the rest of you get your background. These people need the benefit of a lawyer, and we're not talking about whether we're going to repave a street or put asphalt on it or redo the whole thing so we can talk about money here. We're talking about one thing that is fundamental to government, the institution that gives people the idea that things are fair in this country and fair in this state. And it starts out with a lawyer. And I'm proud to be a lawyer, by the way. And I'm, I don't look at them cynically. We got plenty of work to do. But there are people who are committed to representing juveniles, not--

**FOLEY:** That's time, Senator.

**LATHROP:** --for the money. Thank you.

**FOLEY:** Thank you, Senator Lathrop. We'll pause the debate for a few minutes while we get some items read into the record. Mr. Clerk.

**ASSISTANT CLERK:** Thank you, Mr. President. New bills. LB1187, introduced by Senator La Grone, is a bill for an act relating to professions and occupations. Requires occupational boards to issue an occupational license or government certification based on occupational license or government certification, private certification, or work experience in another state; provide for jurisprudent-- prudential

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examinations and appeals for denial of the license; harmonize provisions; and repeal the original section. LB1188, introduced by Senator Howard, is a bill for an act relating to juveniles. Provides duties for the Office of Juvenile Services relating to education; changes the definitions of interim-program schools; harmonize provisions; repeals the original section; declares an emergency. LB1189, introduced by Senator McDonnell, is a bill for an act relating to firefighters. Adopts the Firefighter Cancer Benefits Act; provides an income tax exemption for such benefits; provides an operative date; and repeals the original section. LB1190, introduced by Senator Briese, is a bill for an act relating to infants and juveniles. Changes provisions related to grandparent visitation; and repeals the original section. LB1191, introduced by Senator Howard, is a bill for an act relating to state employees. Requires the Department of Health and Human Services, the Office of Juvenile Services, and the Department of Correctional Services to allow employees to speak to members of the Legislature and the Public Council as prescribed; harmonizes provisions; and repeals the original section. LB1192, introduced by Senator Linehan, is a bill for an act relating to revenue and taxation. Limits the total amount reimbursed by the state for the homestead exemptions; harmonize provisions; and repeals the original section. LB1193, introduced by Senator Linehan, is a bill for an act relating to elections. Change-- provides changes and eliminates provisions relating to elections for certain purposes; harmonize provisions; repeals the original section; and outright repeal several sections. LB1194, introduced by Senator Walz, is a bill for an act relating to public defenders. Change provisions relating to appointment of public defender in certain counties; and repeals the original section. LB1195, introduced by Senator Morfeld, is a bill for an act relating to public records. Changes provisions relating to access to public records; and repeals the original section. LB1196, introduced by Senator Morfeld, is a bill for an act relating to pharmacy benefits. Transfer provisions related to pharmacy benefits; requires an audit as prescribed; provides a duty for the Revisor of Statutes; repeals the original section; declares an emergency. LB1197, introduced by Senator Morfeld, is a bill for an act relating to the University of Nebraska. Changes the distribution of session laws and legislative journals to the College of Law; and repeals the original section. LB1198, introduced by Senator Stinner, is a bill for an act relating to appropriations. Appropriates funds to the Department of Administrative Services. LB1199, introduced by Senator Lindstrom, is a bill for an act relating to insurance. Changes provisions relating to

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motor vehicle service contract reimbursement insurance policies; defines the term; provides requirements for motor vehicle service contract providers; provides an operative date; and repeals the original section. Legislation-- LB1200, introduced by Senator Brewer, is a bill for an act relating to livestock. Renames the Livestock Brand Act; redefines and defines terms; renames the Nebraska Brand Committee; renames a fund; provides for certain livestock identifiers; changes and provides fees; change inspection provisions; provides for violations and penalties; changes registered feedlot requirements; changes provisions relating to estrays; harmonize provisions; and repeals the original section. LB1201, introduced by Senator Bostelman, is a bill for an act relating to natural resources. States legislative findings and intent; creates the Flood Mitigation and Planning Task Force; provides duties; requires reports; and provides for a termination date. LB1202, introduced by Senator Linehan, is a bill for an act relating to revenue and taxation. Adopts the Opportunity Scholarships Act; provides for tax credits; harmonizes provisions; provides an operative date; provides for severability; and repeals the original section. LB1203, introduced by Senator Linehan, is a bill for an act relating to revenue and taxation. Changes provisions relating to income tax deduction for dividends received or deemed to be received from certain co-op-- corporations; repeals the original section. LB1204, introduced by Senator Cavanaugh, is a bill for an act relating to the Disabled Persons and Family Support Act. Defines and redefines terms; requires submission of a waiver application; provides for a family support program; provides power-- powers and duties; harmonize provisions; repeals the original section. LB1205, introduced by Senator McCollister, is a bill for an act relating to renewable energy. Adopts the Renewable Energy Standards Act; and provides for an operative date. LB1206, introduced by Senator Vargas, is a bill for an act relating to education. Requires the reporting to Nebraska Early Childhood Professional Record System; and repeals the original section. LB1207, introduced by Senator McCollister, is a bill for an act related to redistricting. It adopts the Redistricting Act. LB1208, introduced by Senator Vargas, is a bill for an act relating to treatment and corrections. Names the act; provides changes and eliminates definitions; changes and eliminates provisions relating to discipline, confinement status, solitary confinement, restrictive housing, immediate segregation, disciplinary segregation, and rules and regulations; provides duties to the Department of Correctional Services; prohibits double bunking; provides requirements and procedures for the use of statements or testimony by informants;

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eliminates obsolete provisions; harmonizes provisions; repeals the original section; and outright repeals several sections; and declares an emergency. LB1209, introduced by Senator Vargas, is a bill for an act relating to criminal procedure. Names the act; provides for caregiver diversion programs; harmonizes provisions; repeals the original section; and outright repeal several sections. LB1210, introduced by Senator Vargas, is a bill for an act relating to crimes and offenses. Creates the offense of sexual exploitation of a student; defines terms; harmonizes provisions; and repeals the original section. LB1211, intro-- introduced by Senator Ben Hansen, is a bill for an act relating to the Nebraska Budget Act. Changes requirements for the preparation of proposed budget statements; harmonizes provisions; and repeals the original section. Legislation-- LB1212, introduced by Senator Ben Hansen, is a bill for an act relating to revenue and taxation. Adopts the Property Tax Request Act; harmonizes provisions; and repeals the original section. LB1213, introduced by Senator Ben Hansen, is a bill for an act relating to government. Changes the valuation of real property; adopts the property request-- Property Tax Request Act; changes inheritance tax rate; changes the sales tax rate; changes and eliminates certain sales and use tax exemptions; imposes sales and use tax exemption on certain services; changes individual income tax rates; terminates the Tax Equity and Educational Opportunities Support Act; adopts the New School Aid Act; harmonizes provisions; provides an operative date; repeal, repeals the original section; outright repeals several sections; and declares an emergency. LB1214, introduced by Senator Friesen, is a bill for an act relating to economic development. Adopts the Rural Economic Development Grant Act. LB1215, introduced by Senator Walz, is a bill for an act relating to appropriations. Appropriates funds to the Department of Health Human Services to fund all persons on the waitlist for the develop-- developmental disability services waiver. That's all that I have at this time, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Continuing discussion on LB231 and pending motions. Senator Pansing Brooks.

**PANSING BROOKS:** Thank you, Mr. Lieutenant Governor. I just want to clarify a couple of things for the record. First off, to say there is no way to waive is untrue. All that's happening is making sure that somebody is helping the child understand everything that's going to happen to them. And the right-- repercussions, the long-term repercussions. In the 2009 study of the, of juveniles in the courts, I'm gonna quote from it, one case mentioned in the report was

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especially troubling to me. Quote-- this is a quote from the report: A 17-year-old boy appeared before the court with his mother accused of a minor drug charge. In front of a packed courtroom, the judge asked if he understood the rights given to the group at that day's mass arraignment. The youth said yes. The judge then told him he had the right to request the case be transferred to juvenile court. The youth said he didn't want that. The judge then advised him again that he had the right to counsel and the juvenile decided to proceed without counsel. The court entered a guilty plea. This entire exchange happened in about three minutes. Once the youth had pled, the judge proceeded to disposition and asked the juvenile if he planned on going to college. The youth answered yes and named his top choice for schools. The judge said then, quote, You realize that you now have lost any ability to receive federal funding for financial aid because you just pled guilty to a drug offense? End quote. There was an audible gasp of shock from both the youth and from the people waiting for their cases to be called, unquote, from the rest of the, the, the study and report. So the other thing that-- so clearly this is about making sure people understand. And to say the parents should be able to do this for him, for them, I'm gonna read you from a Georgetown study that has been done that's really excellent from the Office of Justice Programs on juvenile justice issues. And it talks about parent involvement in legal decision making. Parents are often thought to be beneficial addition to child's legal decision making and/or thought to act in an advocacy role. This picture is further complicated by the parent's own capacities. Underlying the idea requiring that adult be present are several assumptions. One, the parent understands the rights they're expected to help their child interpret. Two, the parent will assume a protective role. Three, the parent's interests are in line with the child. And four, the parent will provide advice or counsel regarding to assist the juvenile in asserting or validly waiving their rights. I want to further state to you, I was going to ask some senators on the record, but I decided not to embarrass people. So I ask each of you as your-- I want to ask you some questions, and you answer in your own mind if you think you could answer this and understand it, in representing your own child in a juvenile court. What is a petition? What's legally required to appear on it? What is the difference between notice and service? What is a capias? Why might you want to cancel a capias and how might you go about it? What steps are necessary to request discovery from the county attorney? Why would someone need discovery? What, if any, practical difference-- what, what, if any, practical difference is

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there between pleading to a truancy charge or pleading to shoplifting? What is the difference between a motion in limine and a motion to suppress? What is the deadline for the filing of such motion? How do you subpoena a witness? What is the burden of proof in a juvenile court? What is a hearsay objection? And what are the exceptions to the hearsay rule? What kinds of court orders are appealable?

**FOLEY:** One minute.

**PANSING BROOKS:** And what are the steps to do so? I dare say, because I can't answer every one of those questions, and I've gone to law school, I dare say that almost everybody in here cannot answer those questions and could not properly represent their own child in a court of law. So it's wonderful to say the kid needs to buck up, pull himself up by the bootstraps, accept his punishment. Accept the fact that you're not going to be able to get a student loan to go to school. Yeah, you, you screwed up. So too bad for you. You don't need an attorney. Just go ahead and waive it because everyone else is waiving it. So to presume that the parent has any idea what is going on in that courtroom, is wrong. And I would advise every single person in here, if you're ever in trouble, you should get an attorney as well. And I'm not trying to help the practice. We're doing fine. I'm just trying to protect rights, my friends. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Pansing Brooks. Senator Murman.

**MURMAN:** Thank you, Mr. President. I, too, as has been mentioned several times on the floor this morning, have not got any emails from the district or had heard from anybody in the district that there is any demand for this kind of thing in, in greater Nebraska. And I am also very concerned about parental rights, that the child automatically has an attorney without, you know, despite what the parents might think is best for the child. And I realize all-- a lot of children in the juvenile justice system don't necessarily have a parent or two parents to advise them on these things. But if our system is working correctly, they should have a probation officer or guardian to advise them well on this. I guess it would be the guardian. My other concern, of course, is how expensive this would be to the, the whole state. As has been mentioned many times before, the cost of a judge to drive out in rural Nebraska is-- all that time. And that's, that's gonna add to our taxes somewhere along the line, whether it be property taxes or our taxes at-- on the state level. And

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then, of course, the, the dollar fee to the, just the cost of court cases. A dollar here, a dollar there, it all adds up. I am, of course, against the bill and would yield the rest of my time to Senator Groene.

**FOLEY:** Thank you, Senator Murman. Senator Groene, 2:50.

**GROENE:** Thank you, Mr. President. Senator Lathrop still in the, on the floor?

**FOLEY:** Is Senator Lathrop on the floor?

**GROENE:** Well, that's fine. I want to clarify something to Senator Pansing Brooks, and I understand where you're coming from on this. It's a good debate. But you answered Senator Murman's question earlier-- not, excuse me, Senator Moser's question, when he asked you what would a lawyer do? And you said, well, the lawyer would offer-- tell him to take diversion. Well, excuse me if I'm reading your law, your bill wrong. It says here: Any juvenile court petition is filed alleging jurisdiction of a juvenile pers-- pursuant to subdivision and the matter leading to such finding has not already been resolved through a juvenile predoc-- pretrial diversion program established pursuant to section such and such, counsel shall be appointed for such juvenile. Do I read that right, Senator Pansing Brooks, that the diversion is offered by the county attorney prior to the appointment of an attorney? Yeah, could you answer that to clarify how you answered Senator Moser.

**FOLEY:** Senator Pansing Brooks, will you yield, please?

**PANSING BROOKS:** Yes, there is-- what is stated in law is that, that the diversion is supposed to happen prior to the plea, and no attorney would need to be appointed in that case.

**GROENE:** But you told Senator Moser the attorney, appointed attorney would, would, would tell the, the juvenile that he needed to take diversion and a diversion--

**PANSING BROOKS:** That's still an option. But, but generally--

**GROENE:** Thank you. Thank you.

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**PANSING BROOKS:** --a county attorney would. But some cases, county attorneys wait until after the child has pled.

**GROENE:** Thank you.

**FOLEY:** One minute.

**GROENE:** Also, Senator Lathrop-- excuse me, I can't find it. I had a little piece of paper here. I'll have to read it off my phone, I guess. Senator Lathrop made a comment referring to the YRTC. I have a question for, for Senator-- I was gonna ask him, but if Senator Pansing Brooks would take the question.

**FOLEY:** Senator Pansing Brooks, another question, please?

**PANSING BROOKS:** Yes.

**GROENE:** Can a juvenile end up in YRTC in, in Kearney not having a lawyer represent them in trial prior?

**PANSING BROOKS:** I, I believe so, yes.

**GROENE:** That cannot happen. It would have to be a felony. It is not an MIP offense--

**PANSING BROOKS:** No--

**GROENE:** --because--

**PANSING BROOKS:** --they are not felonies, there are not fel-- they are not-- all charges are the same.

**GROENE:** No, they're not all felonies. Let me correct you. Here from my--

**FOLEY:** That's time, Senators.

**GROENE:** Time?

**FOLEY:** That's time.

**GROENE:** Thank you.

**FOLEY:** Senator Lowe. Speaker-- Senator Hilgers has asked for a moment to make an announcement. Senator Hilgers, you're recognized.

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**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I wanted to follow up on the Speaker's announcement earlier this morning and remind everyone today is the last day of bill introduction. We will be adjourning today at noon. In order to meet that deadline, we'd ask that you try to get your bills to the desk by about a quarter till. We understand from the Revisor's Office all bills have been delivered. If you don't have those bills, please get in contact with the Revisor's as soon as you can. So again, we are adjourning at noon. If you think it's gonna be close, please find me and we'll work with you. But adjourning at noon, this your 55-minute warning. Please try to get them in about a quarter to. Thank you.

**FOLEY:** Thank you, Senator Hilgers. Senator Lowe.

**LOWE:** Thank you, Lieutenant Governor. I love this country. This country was founded by free people, freedom to choose. And then we give them their rights. With the Sixth Amendment of the U.S. Constitution, it gives you seven rights. The right to a speedy trial, the right to public trial, the right to an impartial jury, the right to be informed of pending charges, the right to confront and cross-examine adverse witnesses, the right to compel favorable witnesses to testify at trial through the subpoena power of judiciary. And the last one, the right to legal counsel. These youth already have the right to legal counsel. Judges are an understanding group. They have been chosen out of all the other attorneys to represent law, and I believe they do do that. Our rights have already been given to us. And we don't need LB231 to tell us that we have to do this. When a youth goes to YRTC, it was said that they can go there by shoplifting. Well, that may be true. I'm not sure what the charges are of the youth that are up there. I have talked to the youth up there. But to go to YRTC in Kearney, that's your last chance. You have committed several other crimes before you've gotten there. They don't send you there anymore because you shoplifted a piece of gum, shoplifted bubblegum cards, a picture, or something like that. You have gotten there because of choices you have made in the past. Maybe you have gotten off because you did have an attorney and you didn't need to appear in court because your attorney was there. You weren't there to face that judge. Maybe if more of our youth would, would face the consequences that they're given early in life and not given an attorney-- I want them to have an attorney, but maybe if they are able to face the consequences and, and do some diversion early, they wouldn't be at YRTC. Maybe they learned their lessons. I don't believe we need LB231. I believe we have a great legal system. I believe in our judges and

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they know what they need to do. With that, I think Senator Groene would like to continue to ask Senator Pansing Brooks. So I'd like to yield my time to Senator Groene.

**HILGERS:** Senator Groene, 1:15.

**GROENE:** Thank you. Wise men on a subject matter, ask those who know. So I, on this, refer to attorneys and judges.

**HILGERS:** One minute.

**GROENE:** Here's what I was told on the YRTC. Refer back to what I started with earlier in the debate. A minor can't be sent to YRTC or taken out of the home without being appointed an attorney. Even an attorney, even if an attorney is waived at the first hearing, an attorney is appointed at the probation violation when there is a possibility of being removed from the home. YRTC is being removed from your home. They have an attorney to end up in Kearney or Geneva. We cover those instances when a child's future could be harmed by legal action. We take care of them. Sealed juveniles--

**HILGERS:** Time, Senator.

**GROENE:** Thank you.

**HILGERS:** Thank you, Senator Groene and Senator Lowe. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. Speaker. Fellow senators, friends all, I, I have to say that I hadn't planned on standing up on this bill. But I'm to the point now where my heart is so sad hearing some of the things I'm hearing on the mike today. And I, I must speak. This reminds me of a debate last year where Senator Lowe said, you know, sometimes I'm for the kids and sometimes I'm against the kids. And Senator Lowe, you just told me that you are against the kids again. We just heard you say that we have a great legal system. And you know what, Senator? We do, and it works when we allow it to work. And that is exactly what this bill is about. I always wonder if everybody stayed on the floor during debate, what our debates would truly be like as opposed to going off into dark corners and being told what to say on a piece of paper or having everybody push their lights to make sure that you got out the same message over and over again. If we all stayed on the floor and truly debated what was in our hearts and our minds, I think our debates would be very different. What I want to say about this

bill and why I oppose Senator Groene's motion and support the bill that has not been said is adult citizens-- may I have the gavel, please? Adult citizens who are punished and commit crimes are in some ways complicit in their actions, and punishments of government because of-- are complicit in the actions and punishment of government, because as adults, we have entitlement to exert influence over the government. And we do that through our voting and through our ability to have free speech protections. But when you're a young citizen, those protections are diminished in what they can say and do when it comes to the law. They don't have the right to vote and their speech protections are very few. So when you appoint an attorney to better understand their rights, that's the American way, right? We talk about justice for all. Not just for some, but for all. Later today, we're gonna talk about a sex trafficking bill. What you don't understand, and I keep hearing it's like, well, aren't there going to be parents with them helping them understand what's going on? Well, yes, parents may be there. But guess what? This child may be acting out because this child is abused. This child may be experiencing sexual abuse. This child may have mental health issues. This child may be trafficked. That is always the most curious thing to me when we're on this floor: Some children deserve more justice than others. All children deserve justice without exception. So one of the things that my friend, Senator Groene, said is what are we teaching our children when we give them justice apparently? What we teach our children is our children learn that everyone can be treated fairly under established rules and laws. That all people can be treated with honesty and respect. That in Nebraska we want to give all equal opportunities to succeed. That we stand up for everyone, everyone, no matter who they are or where they come from. We talked about consequences through actions. You know, that's a phrase that I, I, as a parent and a grandparent and a citizen of Nebraska and a policymaker, I believe there are consequences for actions. But what we're not talking about are the circumstances behind those actions. And what this bill does is protect these children that may come from circumstances where it is not a benefit to have their parents or other family members with them.

**HILGERS:** One minute.

**BLOOD:** An attorney gives them that opportunity to say, I need help, and this is why. And I want to leave you with a poem from a famous doctor that this reminds me of. I know up on top you are seeing great

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sights, but down at the bottom, we too should have some rights. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Blood. Mr. Clerk for a motion.

**ASSISTANT CLERK:** Thank you, Mr. President. Senator Chambers would move to bracket the bill until Friday, January 24.

**HILGERS:** Senator Chambers, you are recognized to open on your bracket motion.

**CHAMBERS:** Thank you. Mr. President, members of the Legislature, sometimes I have to educate my colleagues here. I'm listening to more nonsense, ignorance, and stupidity than I've heard in a long time. And to go to somebody like Senator Groene, who has not spent a day in law school, to ask him to expound on the law is preposterous. For Senator Lowe to go through his little homily, I'm wondering if somebody gave him those things. Here's what people like Senator Lowe, Senator Groene, and the rest of you all don't know. You read words in the constitution and you think, that's it. If you would go into a library and read all the cases on the Sixth Amendment. Now you mention, what, what does the Sixth Amendment to the constitution deal with? Because you just read it. So I'd ask Senator Lowe a question.

**HILGERS:** Senator Lowe, would you yield?

**LOWE:** Yes, I will.

**CHAMBERS:** Senator Lowe, with what does the Sixth Amendment to the constitution deal?

**LOWE:** Your personal liberties.

**CHAMBERS:** Which one?

**LOWE:** The right to justice.

**CHAMBERS:** OK. Who gave you that information?

**LOWE:** I looked it up on the Internet. The Internet is a wonderful thing now.

**CHAMBERS:** OK, but you didn't know it before you did that, did you?

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**LOWE:** No, I did know there was a right to, right to defense.

**CHAMBERS:** But you didn't know-- OK, that's all I need to ask. Here is what you all's theme song should be. And I can't sing, but I don't even care about that now. We don't need no education. We don't need no thought control. No dark sarcasms in the classroom. Teacher, leave them kids alone. Hey, teacher, leave them kids alone. And why should you leave them alone? All we are is just another brick in the wall. We are nothing but another brick in the wall. You all have as much intelligence as a brick. I've been critical of Senator Groene as chair of the Education Committee because he does not manifest the traits of an educated person. Syntax, grammar, the ability to speak coherently, the rambling, the scrambling. But you know what I will not do to him? See, he put himself in that position. He put the target on himself voluntarily. So he's got to take whatever slings and arrows are directed toward him. But I'll tell you what I will not do. I will not grill Senator Groene or anybody else not trained in the law and who did not make a pretense of knowing the law on technical aspects of the law. I wouldn't ask, for example, somebody on this floor not trained in the law what does quantum meruit mean? They may have heard it and they might know. Quantum valebant, what does that mean? They would probably say, well, it probably means some like pax vobiscum, because I don't know what either one of them means. And you all, while you talk, manifest to the people who watch us how little is known about the subject matter. And you'll stand on this floor and say, I didn't get an email on this from anybody in my district. There are a lot of bills you get up here and yammer about and you didn't get emails on them from your district. There might be nobody in your district who even watches what goes on here, and they may not even know you are the senator who represents them. So you come up here with this nonsense. I didn't get 10 messages on this one. Well, if you got 10 messages, would that change your mind? That stuff is irrelevant, is silly. I can see the kind people you talk to in your district. They swallow that stuff. And you know why kids leave the rural area? It's properly called a brain drain. Those with brains don't stay there. They say, good God, let me out of here as soon as I can get out of here. You think I want to grow up and be as dumb as these people? I cannot even talk to anybody in this town about anything that makes sense. The problems that young people have, the meaning of the law. They don't know, why should I stay here? All I learn when I go off to college is that I've been living in the wrong place all my life. And by God, when I'm in a position to get out of Nebraska, I'm gonna get the Hades out

of there. You all read all the time about the brain drain and the young people don't want to stay here. If they sat here and listened to us, you think they want to be around you? What can you show them? What can you teach them? What are you an example of that they would like to emulate and say, I want to be like him? I want to talk like him. I want to be where I don't need to know no grammar. All I know about sin tax is that's the tax you pay if you is buying alcohol or tobacco or prostitution. That's what sin tax is. These kids don't need no lawyer. I talked to a judge and the judge said they don't need no lawyer. Why do you think I'm a judge? I'm appointed a judge because I love children. That's not why people are appointed to be judges, Senator Groene, and the rest of you all who are as intelligent as that post over there. It is a political decision made by a governor. And the Governor vets these people to see how they feel on specific issues. They had a woman whom I described as a virago. You all don't know what that is and you can't look up in the dictionary because you don't know how to spell it. She was a virago and she had a reign of terror going on in the juvenile court in Douglas County. And nobody could move her. But once I get on the trail, I do not stop until I achieve my goal. That woman's name was Liz Crnkovich and nobody could get her out. Judges came to me and told me that she was so ensconced. But I watched and I waited and I watched and finally I got what I needed. She didn't like something going on in her courtroom that involved a couple of lawyers. So she had them taken upstairs in the courthouse and confined. And I jumped on that like Senator Groene jumps on things that he doesn't know anything about but he talks all the time about real loudly. And there were other things I used to fill out the picture. And you know what happened when I filed my complaint? She decided that she'd rather resign. Nobody could get rid of her. They thought she was untouchable. There are judges from you all's districts out there in western Nebraska who I got taken off the bench, who I got disciplined. And one of the worst judges was called Deacon Jones. And he was vicious. He urinated on a fellow judge's carpet in Douglas County. And guess who the judge came to to have something done about it? Not the Judicial Qualifications Commission, not to the presiding judge. But she sent the word--

**HILGERS:** One minute.

**CHAMBERS:** --to Ernie Chambers. And when I got the word, I began the meticulous research and gathering of information that I do. And when that was presented, the information that I used, the discussions that I had that I documented meticulously with notes became the basis for

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getting rid of him. And every one of the charges that I brought was lodged against him. It was sustained and he was kicked off the bench. And he was deemed to be one that nobody could touch because complaints had been made and they had been dismissed. You don't want me after you. But I'm a black man and these were white men doing the things to white women and white weak people. And other white people couldn't or wouldn't do anything about it. And then I have to sit here or stand here and listen to this nonsense.

**HILGERS:** Time, Senator.

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

**HILGERS:** Thank you, Senator Chambers. Debate is now open on the bracket motion. Senator Wishart, you are recognized.

**WISHART:** Thank you, Mr. President. I rise in support of LB231. This has been an interesting discussion. The way I see this bill, it is not taking away parents' rights. It's giving rights to youth in the state that are due to them so that they aren't unfairly incarcerated and slapped with a record that will haunt them for the rest of their lives and put into concrete cells surrounded by other people that will only harden them in their life. So I really support Senator Patty Pansing Brooks from bringing this bill. You know, I've heard a lot today parental rights, big government, free people, freedom to choose, and I've heard that from all of the senators who were determined to sink my medical marijuana bill last year. And I find it very hypocritical. When you want to talk about big government, think about a government where, in every other state pretty much surrounding us, someone has the ability to give the medicine from a plant, from a plant, and mind you from a plant you cannot fatally overdose from. They have the ability to even grow that medicine and provide it to a family member that needs it for healing. Talk about parental rights. All of you, all of you who have gotten up and spoken about parental rights were willing to sink the most parental right bill you can possibly imagine that was brought last year to allow parents whose kids are suffering hundreds of seizures a day, hund-- some thousands. I just visited a family whose kid has a thousand seizures a day from a rare disorder. And one state over in Colorado, there are kids with a similar disorder that have gone to zero seizures a day. And yet you want to treat all of these parents like they're criminals, like they're criminals in Nebraska, where in one state over they can, they can have the right to provide healthcare for their family. I find it very, very

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hypocritical. With that, I'll yield the rest of my time to Senator Wayne. Thank you.

**HILGERS:** Senator Wayne, 3:00.

**WAYNE:** Thank you, Mr. President. Thank you, Senator Wishart. So I just want to talk to people who are kind of sitting on the fence. If you already made up your mind, it's, I mean, you can go do something else. I don't want to waste your time. But for those who don't know, I actually practice in juvenile law. So I actually get to go in front of a couple of different counties throughout the state and practice. So I want to remind people that we're talking about juveniles, and they can't enter into contracts legally. They can't enter into a contract. And everybody in this body would agree that if you're under 18, you probably shouldn't be entering into contracts. But the first hearing is typically like an arraignment hearing for an adult. You go in, you kind of get your notice of what's going on. And the judge does ask, would you like, do you-- would you like to waive your right to counsel? The same person who can't enter into a contract per state law, it's their right to whether they want to waive counsel or not. In order for them to waive that right, they should at least know what that right is. In order to know what that right is, because if any judge tells that child, here's what this means, they're actually going outside the scope of them being a judge. They're providing legal advice, which is barred. So the judge can't explain what counsel is. Judge can't explain what will happen afterwards. Because if they do, then they've already made a predetermination of the outcome of the case, which they can't do. It's illegal. Or if you want to say it's illegal, it's unethical. They can be put-- taken off the bench. So there's nobody in the room who can legally explain what that right is, except for that attorney. Think about that. Think about every right you have, whether it's the Second Amendment, whether it's the First Amendment. You can call somebody-- excuse me, you can call an attorney, apologize, and you can get that right explained to you as an adult. You can hire somebody, understand that right.

**HILGERS:** One minute.

**WAYNE:** But a juvenile can't do that because they can't enter into a contract. They can't call a judge-- or attorney and say, I need legal advice, come in and see me. We're gonna enter into a contract. They don't have that right. And when you walk into the courthouse for your first hearing, the judge can't explain you the right or they're giving

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legal advice. So you're in this catch-22. That's why this right is so important for typically a public defender to be there at notice, and you're usually in groups, and you explain to them, hey, here's what a right to counsel means. And the other reason why it's important is instead of diversion, it still shows up on your record, you might actually win the case. Then it's no longer bind to you for the rest of your life. You can explain that and you can know that within the first 30 seconds of understanding the facts, whether they kind of have a case, whether they don't. Whether they have what's deemed probable cause, which most people in here don't know what that means.

**HILGERS:** Time, Senator.

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

**HILGERS:** Thank you, Senator Wayne and Senator Wishart. Senator Arch, you are recognized.

**ARCH:** Thank you, Mr. President. Senator Wayne, I, I would like to continue the discussion. And I have some questions for you, because this was actually where I was going with that. Would you yield to some questions?

**HILGERS:** Senator Wayne, would you yield?

**WAYNE:** Yes.

**ARCH:** So currently it, if-- is, is the youth informed at any time that they have a right to an attorney? Not by the judge, as you explained, but at any time in this process are they informed that they have a right to the attorney?

**WAYNE:** Well, it depends on where that kid's at. Because we have three counties, they do have that right at the beginning, and the rest of the state we don't.

**ARCH:** But when they're-- if they are arrested, is that not part of, is that not part of the rights that's explained? Is that ever explained to a youth?

**WAYNE:** That's a, that's a great point, because if it's not a felony, you're actually not arrested. You are detained until a parent shows up and then you show up to court. So you can't arrest the kid unless they're gonna harm themselves or they've committed a felony. Other

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than that, state law says you are detained and immediately notify the parent. So you don't actually know the charges and pending charges until you almost show up to court.

**ARCH:** OK. So, so is that-- would you consider that a gap in our system, that we're not explaining that as a, as a right?

**WAYNE:** Well, no, because police officers are not the charging authority. They, they can cite you for criminal mischief or disorderly conduct. But actually, it is up to that prosecutor to actually formally charge you or not. So just because you get a ticket for driving, you're not actually charged until you walk into court. You just have notice of a potential citation. You're not actually charged until the filing is actually charged, unless you waive that and pay a fine. But you're not actually charged. You're just notified here's what the police believe probable cause that you violated a crime. But you're not charged until the prosecutor decides to file.

**ARCH:** So is there, is there a time right now for the youth of the age that we're talking about here, is there a time right now where there is an automatic assignment of an attorney?

**WAYNE:** Well, in the three counties, the big counties there is. So when that, when that youth is charged, there is a public defender who is in the court when they first walk in to make sure they understand what's going on. And oftentimes in juvenile they'll reach out ahead of time because there is some pretrial stuff that we can probably do to get this thing taken care of before you go to court.

**ARCH:** Is there, is there ever a time where a youth commits a more serious crime where there would be an automatic appointment of an attorney?

**WAYNE:** Again, in the three counties there's always automatic of appointment.

**ARCH:** Right.

**WAYNE:** And now if it's a felony, they will eventually be given the opportunity to waive counsel. But we're going to this, the portion critical here is the opportunity to waive counsel. They don't know what that means. So if you walk in, if I was a--

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**ARCH:** They do have the right, though, to waive counsel. So there is an assumption that they would know what that means?

**WAYNE:** Well, there's an assumption-- no. The right belongs to the, the individual, human rights or basic right, you have a right to counsel. It also applies to the juvenile. We have taken the position and the Supreme Court has taken the position it has to be knowing-- knowingly and intelligently. What does that mean? And that's what we're talking, that's really what we're talking about here, is how do you know what the right is? And I would argue that anybody under 18 probably does not know that right. Otherwise, we can allow them to vote at 16, we can allow them to enter into contracts at 16. But this body does not think they know enough to do those things.

**ARCH:** But they are given the right to waive? Even under this bill, they are given the right to waive. If they choose to waive, they may waive.

**WAYNE:** If it's knowingly and intelligently.

**ARCH:** Right. There is that assumption that that is, that's in place.

**WAYNE:** No, it's not an assumption, sir. It's not an assumption. Actually, the judge has to specifically find that it's been knowingly and intelligently. The assumption is you don't know, and that's all rights. The assumption is you don't know your rights and if you want to waive any of them, like a right to trial, you have to do so knowingly and intelligently. So actually, it's backwards. The law says you don't know.

**ARCH:** All right. I've just got a-- I've got a couple more questions.

**WAYNE:** Yes, sir.

**HILGERS:** One minute.

**ARCH:** So at the present time, if, if the, the youth, the youth is asked if they may-- if they waive, correct?

**WAYNE:** Correct.

**ARCH:** Parent, guardian, what role are they playing at that in, in our current situation right now?

**WAYNE:** Actually, they're playing the role of support.

**ARCH:** So the youth is the one that has the decision as to whether or not to waive under our current, under our current situation?

**WAYNE:** Correct.

**ARCH:** And if, and if a parent, if a parent advises, if a parent is part of the process or not, independent, the youth is the, the youth is the decision maker of, of waiving. If a parent requests, may the parent-- parent may request, parent may go obtain an attorney to represent the youth. And that is allowed, correct?

**WAYNE:** Yes and no. Yes, the pare-- the parent may request and go obtain an attorney. But it is clear when I have those obligations that I represent the kid, not the parent. So me and the kid talk by themselves, so we don't waive attorney-client privilege.

**HILGERS:** Time, Senators. Thank you, Senator Wayne and Senator Arch. Senator Erdman, you are recognized.

**ERDMAN:** Thank you, Mr. President. Been sitting and listening to the conversation this morning. It's a, a little concerning to me that we sometimes deviate from talking about the subject to talking about individuals and their intelligence. But that's what we do here. I wonder if Senator Pansing Brooks would yield to a question.

**HILGERS:** Senator Pansing Brooks, would you yield?

**PANSING BROOKS:** Yes, I will.

**ERDMAN:** Senator, you sent a-- you sent around an, an article or a piece of paper that talked about the appointments in the counsels in every county in the state. Do you have that document there?

**PANSING BROOKS:** I do.

**ERDMAN:** So there are several counties on here that have no, no cases. Is that because there were no cases or it wasn't able to track, which is the answer to that?

**PANSING BROOKS:** Excuse me, what? Because they didn't have cases or what?

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**ERDMAN:** Like in Arthur County. You see Arthur County, the third one down?

**PANSING BROOKS:** Yes.

**ERDMAN:** There are no cases there. Is that because there were no juvenile cases in that county or they're just not available, the information?

**PANSING BROOKS:** I didn't hear the last part of or-- or the whatever, but that's because there's no cases.

**ERDMAN:** So the kids didn't break the law at all there?

**PANSING BROOKS:** That's correct.

**ERDMAN:** OK. So as you go down through there, those counties that currently are outside of the big three that have to do this, let's look at Kimball County. There are 12 cases and there are 12 cases who had representation, right?

**PANSING BROOKS:** Yes.

**ERDMAN:** Every one of those children had a lawyer, is that right?

**PANSING BROOKS:** Isn't that fabulous? Yes.

**ERDMAN:** OK. So as I look down through there, it appears to me that those counties that have had the opportunity or the kids needed a lawyer got one. So I'm having a hard time understanding, because even in Lancaster, County, where is it a requirement, not every child had an attorney. Would that be fair to say that?

**PANSING BROOKS:** I'm confused about that number, because it's my understanding they will have it 100 percent of the time. They may be taking the cases that were waived. I'm not sure, I'll have to check on that.

**ERDMAN:** OK. Because in Sarpy County there are 445 cases and 445 cases were represented by an attorney. Right?

**PANSING BROOKS:** Yes.

**ERDMAN:** In Douglas County, 1,440 cases, 1,358 had an attorney.

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**PANSING BROOKS:** OK, yes.

**ERDMAN:** All right. And then over in Lancaster County, 429, and 398 had representation. So if it's a requirement in those three counties, why did two of them not have an attorney in every case?

**PANSING BROOKS:** OK. I'm looking at this, and this must be the old numbers because Lincoln was at 65 percent a couple of years ago. So we are now at 100 percent representation of juveniles.

**ERDMAN:** That's not what your document says.

**PANSING BROOKS:** Correct.

**ERDMAN:** Why is that? Why don't they have an attorney--

**PANSING BROOKS:** It's hard to get all those numbers to everybody, but--

**ERDMAN:** But if it's a requirement that every one of those young people have an attorney in those three counties where it's required, why didn't those two counties have a representative, a counsel in every one of them?

**PANSING BROOKS:** I believe that they did. So I'm looking at it again. So sorry. I'm not sure. I was handed this document by some--

**ERDMAN:** Well, the point I'm trying to make is we are trying to take care of our juveniles in the best way we possibly can. I spoke with one of my county attorneys about this, and he said that we do the job that we need to do to make sure that these young people are taken care of. And it appears that, like taking Kimball County, for example, 12 cases, 12 juveniles were represented by an attorney. So I believe that they're taking the opportunity to represent those people and have, make sure they have representation when they need it. The other issue that I'd like to talk about, and Senator Pansing Brooks talked about the document that Senator Slama sent around with the number--

**HILGERS:** One minute.

**ERDMAN:** --of lawyers in each county. And I look at some of my counties and, for example, my county says it has, it says it has five attorneys. I know we have two of them that are retired, one is a county attorney, and the other two don't practice juvenile law or any kind of law, just do contracts or whatever else. So Senator Clements'

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brother is an attorney, he doesn't practice law in the courtroom. And so there are a lot of attorneys that are on this page here that probably wouldn't be available to represent juveniles anyway. So I'm not in favor of bracketing, but I am in favor of Senator Groene's recommit to committee. Thank you for your time.

**HILGERS:** Thank you, Senator Pansing Brooks and Senator Erdman. Senator Halloran, you are recognized.

**HALLORAN:** Thank you, Mr. President, colleagues. Good morning. It's coming to the end of a lengthy debate on an important issue. It's-- I have to disagree with Senator Chambers. Senator Chambers made a comment that, suggesting that if we get a lot of emails on a subject then that sways our opinion and we should-- unless I misunderstood him. The implication was, is that we shouldn't, we shouldn't be listening to those emails or those phone calls. And I may have misunderstood, Senator Chambers, so you can correct me. But, but, but, that's what we should be doing. We can't live in a vacuum here, and sometimes we do. Sometimes we come up with the bills that we think are brilliant and that there is a huge need for that bill. And yet, we heard from no constituent on it, others heard not from their constituents on the bill. But we think it's very necessary. So I guess my question-- I'd like to ask Senator Briese to yield for a question, please.

**HALLORAN:** Senator Briese, would you yield?

**BRIESE:** Yes, I will. Excuse me. Yes, I will.

**HALLORAN:** Thank you, Senator Briese. Quick question. I'm sure you listen to your constituents' emails, phone calls and so forth.

**BRIESE:** Well, I certainly try to, yeah.

**HALLORAN:** Certainly try. We all try to. So has this been a burning issue in your district? Have the judges been calling and saying we need some, some law to take care of this?

**BRIESE:** I don't believe I've heard from anyone in the district suggest, suggesting this is a big problem or that anyone clamoring for this in my district.

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**HALLORAN:** OK, thank you, Senator Briese. Senator Albrecht, would you yield to a question?

**HILGERS:** Senator Albrecht, would you yield?

**ALBRECHT:** Certainly.

**HALLORAN:** Same question, Senator Albrecht. Have-- you, I know, are very conscious of listening to the concerns in your district. So has this been a burning issue? Have you been getting calls, emails on this subject?

**ALBRECHT:** Nothing.

**HALLORAN:** That we need to do something on it?

**ALBRECHT:** No, none.

**HALLORAN:** OK, Senator Albrecht. Thank you. Senator Slama, would you yield to a question?

**HILGERS:** Senator Slama, would you yield?

**SLAMA:** Yes.

**HALLORAN:** Same question, Senator Slama.

**SLAMA:** Actually, those in within my district that I've sought advice from this bill on have advised me that it does not solve any problems within the district we're currently facing and may create more problems than it intends to fix.

**HALLORAN:** OK. Thank you, Senator Slama. Senator Lowe, I think we know how you feel. Senator Dorn, would you answer that question, please?

**HILGERS:** Senator Dorn, would you yield?

**DORN:** Yes, I would be glad to. I have not received any email or had any conversation with anybody from my district on, on this bill.

**HALLORAN:** OK. Thank you, Senator Dorn. Senator Lowe feels like he's been passed over. Senator Lowe.

**HILGERS:** Senator Lowe, would you yield to a question?

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**HALLORAN:** Same question, Senator. Well, sparky.

**LOWE:** Here we go. You know, I answer a lot of emails from my constituents. They do send me a lot of emails and I answer them. They send me letters and I try to answer them. I have not received one letter or email concerning this, but I have contacted my county attorney.

**HALLORAN:** OK. Thank you, Senator Lowe. I could belabor this and go around to all the rural senators and ask the same question. And I've done this privately, and I've gotten the same answer. No, it's not a burning issue. It's, it's something that the judges in the respective courts are managing very well. And I'm gonna give a personal example on this. And my son will probably not be happy with this. When he was a young man, he was caught DWI. And the call I got was from him. He was at the county jail and he called, explained what happened. And I said, well, guess what? You're spending the night in jail. And he said, I understand.

**HILGERS:** One minute.

**HALLORAN:** It was tough love, OK? And I could have hired an attorney and I told him I could have hired an attorney, but I didn't do that. He had to take his lumps. And, you know, today he is very grateful for that. Now that may be puzzling to some people, but he says I'm a better person for it. I would have probably repeated that behavior if I hadn't taken those lumps. And he's grateful. Thank you, Mr. President.

**HILGERS:** Thank you, Senators Lowe, Dorn, Slama, Albrecht, Briese, and Halloran. Colleagues, before we proceed with debate, a reminder, we are adjourning at noon today. This is your third, and the 15-minute warning. If you have any bills to introduce, please get them into the desk before noon today. Proceeding with debate, Senator Groene, you are recognized.

**GROENE:** Thank you, Mr. President. Referring to-- I believe Senator Arch asked Senator Wayne a question. And I do, do not speak lawyer language. So what I say is very, very clear in my diction. Senator Arch asked him, what about the parent? Can, can-- who decides if you want to not have a lawyer? And the answer was, well, the juvenile. And then Senator Arch asked, well, what about the parents? And we got some answer that was very "lawyrese." But here's the truth. Counties with

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population want a mandatory appointment when a minor requests for an attorney. Next, when a parent or guardian request an attorney. See Nebraska Revenue [SIC] Statute 43-272-- 2017. Checks and balances. The kid doesn't want an attorney, parents can say they want one. This is not something I researched, this came from my judges. So I think that's what Senator Wayne said in a back roundabout way, but he does represent the juvenile. But the parents can ask for an attorney. On the backside of that, the parents can't refuse an attorney, only the child can. Let's go back to what we're talking about here. We're talking about misdemeanors, mostly some small felony. And usually we have such strict guidelines on sentencings and punishments for, for those fines and for those actions that usually with or without an attorney you end up the same way. And the other thing was said about-- Senator Wayne said the court must consider the age, intelligence, and education of the juvenile, along with the emotional stability of the juvenile and the complexity of the proceedings. The reason I'm Education chair, Senator Chambers, is that word, is that word in there: education. Nobody in this, in Nebraska the age of 14, 15, 16, shouldn't have a basic understanding in their civics classes of what their rights are. If they are standing before a court and they don't know their civil rights, we have a problem with our public education. I've been trying to fix that. Senator Slama brought a bill, and by the way you helped with, Senator Chambers, at the end of the day to reinforce that these young people should know their civil rights when a policeman stops them, when they stand in front of the courts. If they do not, we have failed miserably those children in our educational process. No statute should be written by this body that the average citizen should not be able to understand. If we have reached the point that we have to have an attorney in our lives to decipher everything in our actions, contracts, hiring procedures, MIP, then we are going down the wrong path. We have too many laws, too much vagueness in them that we have to hire an attorney. And I'm sorry you don't understand the rural dialect, Senator Chambers, I'm multicultural. I can understand your dialect and I accept it. The other thing I got a real concern about this bill is even--

**HILGERS:** One minute.

**GROENE:** --they say-- Senator Pansing Brooks says they're gonna pay for this. Well, let me read you how they're gonna pay for it. To be eligible for a grant under the program, a county shall demonstrate to the commission that after the operative date of this act, the county per capita juvenile court costs have increased during the past fiscal

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year as compared to such counties per capita juvenile court costs for the preceding three fiscal years. The county shall provide the commission with the data showing that such increase in costs was due to the implementation of this legislative bill and pinpointing the factors contributing to such increases. Those rural counties have three county commissioners, maybe only have five or six employees in the entire courthouse. They combine offices. Who's going to do this? And after two years or three years, let's say they don't-- they, the average is certain costs. They get no more money. It's over with folks. It's on their budget. As that average, three-year average goes up--

**HILGERS:** Time, Senator.

**GROENE:** --it's on their budget. Thank you.

**HILGERS:** Thank you, Senator Groene. Senator Chambers, you are recognized.

**CHAMBERS:** Thank you. Mr. President, members of the Legislature. People not trained in the law think that you can read words in a statute book and that's the law. The Legislature does put words in the law, but the law is what the court says it is. The judges construe, they interpret, they apply. And if you don't read the case law, you will not necessarily know the meaning of a statutory provision. It takes a certain amount of education in the law to understand even what the quote term "the law" means. People on this floor, even some who've been in, been to law school, don't understand because they don't read the cases. They might read a digest, they might read an opinion about it. Some people don't know the difference between the opinion of the court and the decision of the court. The decision is whether you're guilty or not guilty, whether you win or lose. The opinion is the written text of the court explaining its position. Then it gives the decision. So when people say this is the court's decision, they mixed those two terms together because they don't know. And when people on this floor don't know what they don't know, they cannot be instructed. I don't care if they take offense at what I say. And as for what Senator Halloran said, he didn't even have to invoke my name. If he'd have been listening, he wouldn't have had to go through all that. I pointed out how some senators aren't concerned about this because they said they didn't get an email from anybody. And I pointed out that there are a lot of bills that you deal with where you got no email. That's just some nonsense and silliness. It's juvenile, it's childish.

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Sometimes I feel like I'm engaging in child abuse. The adult who's in the sandbox with children who think they know or want to give the impression they know, and they would work in a milieu where the sound of their voice and the tone would make it seem they know and they won't be asked a question. There is a term in loco parentis. It doesn't mean parents are crazy. It means that the state stands in place of the parent to do what is in the best interests of a child because some parents who are in charge of that child will not do what ought to be done toward the child, Senator Lowe. You cannot turn these parents loose and say, do what you want to in raising your child. They had a Christian man who had given a kid 26 hits with a strap because the kid said something about the church or something that the man didn't like. And the man was convicted. You'd say, well, if that's the way the daddy raised the child, let him do it. Then let a cop go upside your head with a club because he thinks you violated the law. But you don't want it applied to you. Neither does Senator Halloran nor Senator Groene. You all cannot even stand up under words. And these children are being subjected to abuse and you don't care. I care more about your children than you do. But the law provided that the state can take the place of the parent because, as George Bernard Shaw said, and you all don't know who George Bernard Shaw was. And you don't know anything he said. Parents are the very ones who ought not to have children. And he based it on experience, what he had observed. When the laws and constitution were put together in this country--

**HILGERS:** One minute.

**CHAMBERS:** --many of the things they wrote and gave protection against had never happened in America. It had not happened to anybody. They got no letters or anything else. But they had witnessed what happened in England and they were guarding against that kind of thing being legal here. So when you say it hasn't happened in my county, the judge told me this, the county attorney told me that, I stopped listening to you right away because you don't think. You have somebody who tells you what it is, and that's what it becomes. Ordinarily, that's all right. But when it comes to the welfare of children, it gets on the fighting side of me, and I will do all I can to defend them and their rights. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Chambers. Senator Gragert, you are recognized.

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**GRAGERT:** Thank you, Mr. President. I've been sitting here listening to debate like I always do, and this is just one I want to jump in on. And a couple of my concerns with this bill is in our-- been brought up time and time again in the rural areas, the lack of lawyers, first of all. As I went and observed the county and, and district courts in, in a couple of my counties in my district, I noticed right off, right off the, right away that the district public defender, actually the first time that he was able to see his client was the day of the trial. And I just thought, man, that, that's pretty crazy, you know, that this is the first time he's even meeting this individual. So that's a real concern I have. And after, after being raised with 12 other brothers and sisters, raising 3 kids of my own, you know, it's just the fact is, is at 14 to 17, that's pretty much the age is where you have the right to make a few mistakes. And for the 14 to 17-year-old to be able to override their parents or guardians in a, in a decision like this is just a concern of my-- myself. After being raised, you know, if you want, by my parents that some might consider harsh or some might consider proper, which I guess I consider after-- it wasn't very good while it was going on, but as I look back on it, they did an awful good job. And I just feel this age group at 14 to 17 there's-- to have to be-- or being able to either refuse and or request a lawyer is just a real concern I have raising kids. Thank you.

**HILGERS:** Thank you, Senator Gragert. Mr. Clerk for items.

**ASSISTANT CLERK:** Thank you, Mr. President. First, new bills. LB1216, introduced by Senator Vargas, is a bill for an act relating to economic development. Adopts the H3 Rural Renewal Award Act; provides duties for the Department of Labor; creates funds; and provides for termination. LB1217, introduced by Senator Wayne, is a bill for an act relating to schools. Requires individualized response plans following a report of certain types of incidents involving students as prescribed. LB1218, introduced by Senator Wayne, is a bill for an act relating to economic development. Adopts the Nebraska Historically Underutilized Business Program Act; provides a penalty; and provides an operative date. LB1219, introduced by Senator Wayne, is a bill for an act relating to hemp. Provides changes and eliminates definitions; changes authorized activities relating to hemp; changes and provides duties for the Department of Agriculture; changes requirements for transportation of hemp; changes provisions relating to the appointment of and to the Nebraska Hemp Commission; provides for no preemption of certain local regulation; change provisions of the Uniform Controlled Substances Act; prohibits the sale of post-processed hemp and

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consumable hemp products to minors; prohibits the possession of such hemp or products by minors; provides for labeling requirements; prohibits the manufacturer of consumable products for sale within Nebraska; prohibits the distribution of consumable hemp products within Nebraska; provides penalties; adopts the Nebraska Hemp Transportation and Sales Licensing Act; harmonizes provisions; provides an operative date; and repeals the original section. LB1220, introduced by Senator Wayne, is a bill for an act relating to the workforce development. Authorizes High-Wage Jobs and Capital Investment Creation Fund entities; defines terms; provides grants, loans, and economic assistance to such entities; creates a fund; provides duties for the State Treasurer and the Tax Commissioner. LB1221, introduced by Senator Wayne, is a bill for an act relating to the Uniform Controlled Substances Act. Redefines terms; removes cannabidiol and tetrahydrocannabinol in a drug product approved by the federal Food and Drug Administration from the controlled substance schedules; designates nabiximols in a drug product approved by the federal Food and Drug Administration a Schedule III controlled substance; harmonize provisions; and repeals the original section. LR299, introduced by Senator Bolz, congratulating Mitchell Texel on achieving the rank of Eagle Scout. That will be read and laid over. Legislative 300-- constitutional amendment 300CA, introduced by Senator Erdman. Prohibits the state and all political subdivisions from imposing any form of taxation other than a single-rate consumption tax rate and requires the Legislature to enact such a tax. LR301, introduced by Senator McCollister, congratulates Dr. Kevin Corley for the naming in his honor of the Dr. Kevin Corley Endowed Chair in Pediatric Endocrinology at the Children's Hospital and Medical Center in Omaha. That will be read and laid over. LR302, introduced by Senator Hilkemann, recognize the accomplishments of exemplary organizations as they celebrate significant anniversaries. That will be read and laid over as well. Notice of committee hearings. The Health and Human Services Committee, the Appropriations Committee, and the Revenue Committee, and the Transportation and Telecommunications Committee all give notice of committee hearings. Committee report from the Health and Human Services Committee on a gub-- gubernatorial appointment to the Division of Health-- Public Health. Committee report from the Government, Military and Veterans Affairs Committee on the gubernatorial appointment to the Nebraska Tourism Commission. A report from the Government, Military and Veterans Affairs Committee to the State Emergency Response Commission. Amendments to be printed: Senator Dorn to LB107; Senator Chambers to

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LB518. Series of name adds: Senator Matt Hansen to LB206; Senator Matt Hansen to LB534; Senator Arch to LB825; Senator Ben Hansen to LB825; Senator Cavanaugh to LB825; Senator Hilkemann to LB1019; Senator Matt Hansen to LB1040; and Senator Bolz to LB1148. Notification from the Revenue Committee that they will meet today in Executive Session at 1:30 in Room 1524, Revenue Committee today at 1:30 in Room 1524. Finally, a priority motion, Senator Quick would move to adjourn the body until Friday January 24, 2020 at 9:00 a.m.

**HILGERS:** Thank you, Mr. Clerk. Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. Motion carries, we are adjourned.