

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 13, 2020

**HUGHES:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-fourth day of the One Hundred Sixth Legislature, Second Session. Our chaplain for today is Reverend Chris Jorgensen from the Hanscom Park United Methodist Church, Omaha, Nebraska, Senator Howard's district. Please rise.

**REVEREND JORGENSEN:** I invite you into a moment of prayer and meditation as you are comfortable. Let us pray. Gracious and generous God, as our work begins, open our hearts to the people you have called us to love and serve. Open our eyes to the family at the hospital bedside wracked with grief, who in the midst of their profound human loss, wonders if the bills will bankrupt their family. Open our ears to the farmer struggling to get a loan and worried about whether her grandchildren will be sustained by the land we have used. Open our arms to so many new Nebraskans who have fled poverty and violence filled with hope for a better life here in this prosperous country. Let us see. Let us hear. And let what we see and here change us. Fill us with the courage to set aside our own distorted agendas, the death dealing pursuit of riches and power for our own gain, and fill us with the resolve to work on your agenda, the pouring out of our very selves in compassion and solidarity with your people. May we give ourselves over to you and your priorities so that we may all receive the abundance of life you have promised. In your holy name, we pray. Amen.

**HUGHES:** Thank you, Reverend Jorgensen. I call to order the twenty-fourth day of the One Hundred Sixth Legislature-- Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

**HUGHES:** Thank you, Mr. Clerk. Are there any corrections to the Journal?

**CLERK:** I have no corrections.

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

**CLERK:** There are, Mr. President. Enrollment and Review Reports LB944 and LB329 to Select File. Communication from the Governor: Engrossed Legislative bills LB4, LB4A, LB30, LB68, LB76, LB93, LB107, LB148, LB230, LB236, LB582, LB731, LB740, LB741, and LB880 were received in my office on February 6. These bills were signed and delivered to the

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Secretary of State on February 12. Transportation Committee reports LB996 to General File and LB961 to General File with amendments. Priority Bill designations: Senator Kolowski, LB1188; Senator Geist, LB814. And, Mr. President, the acknowledgment of agency reports received as well as the lobby report as required by state law. That's all that I have.

**HUGHES:** Thank you, Mr. Clerk. Colleagues, today's treats are compliments of Senator Carol Blood in celebration of her newest grandchild, Pauline Sarah Manley. This is Senator Blood's tenth grandchild. Congratulations, Grandma. Speaker Scheer, you're recognized.

**SCHEER:** Thank you, Mr. President. Colleagues, last day of the week. It's only Thursday, but who's counting, correct? Time is running out, folks, in decision regarding your priority designations. Remember, next Wednesday is the final day to submit a request for a Speaker's priority. And as well, the priority bills for individual senators and committee is next Friday. One thing again to remember on the Speaker priority, you may like my bill, but you can't request my bill. I have to request my bill as a Speaker priority. And if you are going to prioritize a bill other than your own as your personal priority, remember you still have to have the principal introducer of that bill sign the letter of prioritization as well. So they have to agree that-- for your priority as well. It's just a little heads up, a reminder in relationship to that. At this point, I don't have any priorities that I know of that will show up on Tuesday. They just haven't hit. But I will reserve that if there are things that come in today. Certainly they could show up on Wednesday and Thursday and Friday of next week. Again, not that you probably have forgotten, but we're off tomorrow and Monday. It's a nice four-day weekend. So hopefully everybody will take the time to sort of rest, relax. If you have to campaign, go campaign. But at least we'll have a little decompression time. So with that said, any questions, please don't hesitate to contact me or my office and have a great weekend. Thank you, Mr. President.

**HUGHES:** Thank you, Speaker Scheer. Mr. Clerk, we will proceed to the General File, LB518A.

**CLERK:** LB518A by Senator Linehan is a bill for an act to appropriate funds to aid in carrying out the provisions of LB518.

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**HUGHES:** Thank you, Mr. Clerk. Senator Linehan, you're recognized to open on LB518A.

**LINEHAN:** Thank you, Mr. President. Good morning, colleagues. I'm here today to introduce LB518A, a trailing A bill to my bill LB518 that has already been advanced from General and Select File. As a reminder, the intent of LB518, the Support for Trafficking Survivors Act, is to prevent, identify, and respond to the crime of sex trafficking in Nebraska and to support the safety, well-being, and economic stability of its victims. LB518 creates the Office of Support for Trafficking Survivors within the Department of Health and Human Services. It also creates a Trafficking Survivors Advisory Board to develop, oversee, and coordinate a statewide, multi-agency trafficking response, primarily through the creation of a state plan and strategies to address the provisions of supportive services for victims. Board membership includes trafficking survivors, service providers, and representatives of law enforcement and the criminal justice system. LB518A includes funding for the Department of Health and Services staff, the implementation of a statewide plan, and to provide administrative support to the Advisory Board. The original bill had requested \$500,000 for providing services for fighting trafficking--trafficking in our state. However, as amended, the bill now provides only the framework for granting dollars to service providers. I would ask for your support in continuing to prioritize this issue in our budget decisions. With that, I request your green vote on LB518A. Thank you.

**SCHEER:** Thank you, Senator Linehan. Turning to floor discussion. Seeing none, Senator Linehan waives closing on the advancement of LB518A. Question before us is, shall LB518A advance to E&R Initial? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

**CLERK:** There are 42 ayes, 0 nays on the advancement of the A bill.

**SCHEER:** LB518A is advanced to E&R Initial. Mr. Clerk, we'll move to Final Reading. Members, please return to your seats in preparation for Final Reading. Mr. Clerk, first item is LB287. Mr. Clerk, the first vote is dispense with the at-large reading. All those in favor please vote aye; all those opposed vote nay. Please record.

**CLERK:** 32 ayes [SIC], 4 nays to dispense with the at-large reading.

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**SCHEER:** The at-large reading is dispensed with. Mr. Clerk, please read the title.

**CLERK:** [READ TITLE OF LB287]

**SCHEER:** All provisions of law relative to procedure have been complied with, the question is, shall LB287 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Mr. Clerk, please record.

**CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, Moser, Murman, Pansing Brooks, Quick, Scheer, Vargas, Walz, Wayne, Williams, Wishart. Voting nay: none. Not voting: Senators Chambers, Hilgers, La Grone, Lowe, Slama, Stinner, Bolz, and Morfeld. 41 ayes, 0 nays, 6 present not voting, 2 excused and not voting, Mr. President.

**SCHEER:** Thank you, Mr. Clerk. LB287 does pass. We'll now proceed to LB310.

**CLERK:** [READ LB310 ON FINAL READING]

**SCHEER:** All provisions of the law proceeding have been complied with, the question is, shall LB310 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

**CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Halloran, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Groene, Ben Hansen, Lowe, Bolz, Stinner. 44 ayes, 0 nays, 3 present not voting, 2 excused not voting, Mr. President.

**SCHEER:** LB310 passes. We'll now proceed to LB310A.

**CLERK:** [READ LB310A ON FINAL READING]

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**SCHEER:** All provisions of law relative to procedure have been complied with, the question is, shall LB310A pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

**CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Crawford-- Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert-- excuse me, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Vargas, Walz, Wayne, Williams, Wishart. Voting nay: none. Not voting: Senators Groene, Bolz, and Stinner. 46 ayes, 0 nays, 1 present not voting, 2 excused and not voting, Mr. President.

**SCHEER:** Thank you, Mr. Clerk. LB310A passes. We'll now proceed to LB381. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor please vote aye; all those opposed vote nay. Please record.

**CLERK:** 31 ayes, 11 nays to dispense with the at-large reading.

**SCHEER:** The at-large reading is dispensed with. Mr. Clerk, please read the title.

**CLERK:** [READ TITLE OF LB381]

**SCHEER:** All provisions of law to procedure have been complied with, the question is, shall LB381 pass? All those in favor please vote aye; all those opposed vote nay. Mr. Clerk, please record.

**CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Vargas, Walz, Wayne, Williams, Wishart. Voting nay: none. Not voting: Senators Bolz and Stinner. 47 ayes, 0 nays, 2 excused and not voting.

**SCHEER:** LB381 does pass. We'll now proceed to LB387. Mr. Clerk, the first vote is dispense with the at-large reading. All those in favor please vote aye; all those opposed vote nay. Please record.

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**CLERK:** 35 ayes, 8 nays to dispense with the at-large reading.

**SCHEER:** The at-large reading is dispensed with. Mr. Clerk, please read the title.

**CLERK:** [READ TITLE OF LB387]

**SCHEER:** All provisions of law to procedure have been complied with, the question is, shall LB387 pass? All those in favor would you please vote aye; all those opposed vote nay. Mr. Clerk, please record.

**CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Vargas, Walz, Wayne, Williams, Wishart. Voting nay: none. Not voting: Senators Bolz and Stinner. 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

**SCHEER:** LB387 passes. We'll now proceed to LB541.

**CLERK:** [READ LB541 ON FINAL READING]

**SCHEER:** All provisions of law relative to procedure have been complied with, the question is, shall LB541 pass? All those in favor please vote aye; all those opposed vote nay. Please record.

**CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Vargas, Walz, Wayne, Williams, Wishart. Voting nay: none. Not voting: Senators Bolz and Stinner. 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

**SCHEER:** Thank you, Mr. Clerk. LB541 does pass. We will now proceed to LB643.

**CLERK:** [READ LB643 ON FINAL READING]

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**SCHEER:** All provisions of law relative to procedure have been complied with, the question is, shall LB643 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

**CLERK:** Voting aye: Senators Albrecht, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Vargas, Walz, Wayne, Williams, Wishart. Voting nay: none. Not voting: Senators Bolz and Stinner. 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

**SCHEER:** Thank you, Mr. Clerk. LB643 passes. We'll now proceed to LB734. Mr. Clerk, the first vote is dispense with the at-large reading. All those in favor please vote aye; all those opposed vote nay. Please record.

**CLERK:** 34 ayes, 8 nays, Mr. President, to dispense with the at-large reading.

**SCHEER:** The at-large reading is dispensed with. Mr. Clerk, please read the title.

**CLERK:** [READ TITLE OF LB734]

**SCHEER:** All provisions of law relative to procedure have been complied with, the question is, shall LB734 pass? All those in favor please vote aye; all those opposed vote nay. Please record.

**CLERK:** Voting aye: Senators Arch, Blood, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Gragert, Groene, Halloran, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Linehan, Lowe, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Vargas, Walz, Wayne, Williams, Wishart. Voting nay: none. Not voting: Senators Albrecht, Bostelman, Geist, Lindstrom, Slama, Bolz, and Stinner. 42 ayes, 5 nays-- excuse me, 42 ayes, 0 nays, 5 present and not voting, 2 excused and not voting, Mr. President.

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**SCHEER:** Thank you, Mr. Clerk. LB734 does pass. We'll now proceed to LB734A.

**CLERK:** [READ LB734A ON FINAL READING]

**SCHEER:** All provisions of law relative to procedure have been complied with, the question is, shall LB734A pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

**CLERK:** Voting aye: Senators Arch, Blood, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Friesen, Gragert, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Linehan, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Vargas, Walz, Wayne, Williams, Wishart. Voting nay: none. Not voting: Senators Albrecht, Bostelman, Erdman, Geist, Groene, Lindstrom, Lowe, Slama, Bolz, and Stinner. 39 ayes, 0 nays, 8 present and not voting, 2 excused and not voting, Mr. President.

**SCHEER:** LB734A passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB287, LB310, LB310A, LB381, LB387, LB541, LB643, LB734, and LB734A. Moving to the agenda, Select File. Mr. Clerk.

**CLERK:** Mr. President, LB312, Senator Slama, E&R amendments pending.

**SCHEER:** Senator Slama, for a motion.

**SLAMA:** Mr. President, I move that the E&R amendments to LB312 be adopted.

**SCHEER:** Colleagues, you've heard the motion. All those in favor please say aye. Opposed nay. Enroll-- E&R enrollment amendments are adopted.

**CLERK:** I have nothing further on that bill, Senator.

**SCHEER:** Senator Slama, for a motion.

**SLAMA:** Mr. President, I move that LB312 be advanced to E&R for engrossing.

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**SCHEER:** Colleagues, you've heard the motion. All those in favor say aye. All those opposed. LB312 is advanced to E&R Engrossing. Mr. Clerk.

**CLERK:** LB126 does have E&R amendments, first of all.

**SCHEER:** Senator Slama, for a motion.

**SLAMA:** Mr. President, I move that the E&R amendments to LB126 be adopted.

**SCHEER:** Colleagues, you've heard the motion. All those in favor please say aye. All those opposed. The E&R amendments are adopted.

**CLERK:** Senator Hughes would move to amend AM2380.

**SCHEER:** Senator Hughes, you're welcome to open on AM2380.

**HUGHES:** Thank you, Mr. President. Good morning, colleagues. As you remember, we had quite a discussion on this bill a couple of weeks ago. Senator Bostelman and I have worked out some of the differences. We have come to an agreement on changes to the bill that we think makes it better. The main changes to the bill, it does take from five days to three days that the landowner can hunt on his property. Probably the biggest change is that we do require a \$5 fee to be charged for those permits. This basically eliminates the fiscal statement for the Game and Parks Commission by charging a minimal fee. They do qualify for the federal funds that come back to Game and Parks for every hunting permit that is sold. We also did make a requirement on age of the individuals who can hunt. Of the four permits, two of the permits are for 18 and under. So we're trying to encourage more youth to get into hunting. The other two are for 19 and older. So I would certainly appreciate your green vote on AM2360 [SIC] and ultimately on LB126. This has been a process. I'd like to thank Senator Bostelman for helping get us this far. I don't think he's probably going to support it yet, but I don't know how vigorously he will choose to not endorse it. I would also point out that Game and Parks has signed off on this latest change. So the state agency that is charged in-- that we give the responsibility to managing our wildlife in the state of Nebraska has signed off. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Hughes. Senator Gragert, you're recognized.

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**GRAGERT:** Thank you, Mr. President. Good morning, members of the Legislature. I stand in opposition of LB126 and its amendments. LB126, what it was, what it did, and what it is. LB126 was a bill addressed-- initially to address wildlife damage through free park permits-- or sorry, free hunting permits, opened up 50 percent of the land by landowners to hunters, early hunting season for landowners. What it did, it brought the Game and Parks to the table as intended. Game and Parks is listening. Senator Hughes has told me this one. What it is, LB126 is now nothing more than a feel good bill that does nothing for overpopulated wildlife herds or excessive crop damage. It will cost the Game and Parks thousands of dollars to implement the early hunting season of only three days. And this still doesn't-- does nothing to address the damage-- damage problem. It is a bill that the Game and Parks agreed to not oppose. This is different than saying Game and Parks is on board, I believe. I believe LB26 [SIC] has served its purpose and should now be put to rest. As the Natural Resource Committee heard testimony on a similar bill yesterday, there is a lot of opposition to this bill, LB126, even from landowners themselves. Landowners that actually have wildlife damaged crops know this bill will do nothing for them to solve the problem. Early-- or really who benefits from this bill is the landowner with no wildlife damage to their crops because this, again, is a feel good bill letting the landowner get first chance at the big buck. Please vote no on LB126 and amendments. Thank you.

**SCHEER:** Thank you, Senator Gragert. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. Would Senator Hughes yield to a question?

**SCHEER:** Senator Hughes, would you please yield?

**HUGHES:** Of course.

**CLEMENTS:** I understand a landowner who owns 80 acres or more can get one permit. What if I own 60 acres in Section 15 and 40 acres in Section 16 across the road for 100 acres, would that qualify for a permit or not?

**HUGHES:** Yes, it is-- it does not have to be 80 acres in the same legal description. It's-- it's total or cumulative. So if you own more than 80 acres-- but I will point out that you do have to hunt on your own

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land. If-- if you choose to take this permit, you have to hunt on your own land, you can't hunt on your neighbors.

**CLEMENTS:** All right. And regarding relatives who can hunt, would my nephew be able to use my permit?

**HUGHES:** No, it is only for the individual who owns the land and for their issue or their-- their children and spouses of children.

**CLEMENTS:** OK, my children could. OK, thank you. I wasn't sure about that. Would there be any fee for me-- to get a permit, is there a fee for the landowner?

**HUGHES:** Yes, that's one of the things that we changed in AM2380 is there is a \$5 fee that the landowner does have to pay. And the reason we did that is because there are federal dollars that come back to Game and Parks from a surcharge on, on ammunition sales and those for every paid permit that Game and Park sells, hunting permit, they do qualify for additional federal dollars and those dollars are used to promote Game and Parks in the state of Nebraska.

**CLEMENTS:** So that'll help offset some of the cost of Game and Parks for administering this program also, will it?

**HUGHES:** Yes, absolutely.

**CLEMENTS:** OK, good. I-- I think that's reasonable. Has Game and Parks ever offered to pay damages for crop damages to landowners?

**HUGHES:** Not that I'm aware of.

**CLEMENTS:** Oh, so was this somewhat of an alternative or for recognizing landowners with crop damage?

**HUGHES:** That-- that's one of the aspects. One of the positive aspects about this bill is it is giving the landowner some recognition for the damage that they incur from feeding the state's wildlife. But probably the biggest benefit to this, I-- I truly believe this will open up more land for other hunters. If the landowner can go and harvest their deer ahead of time, they are much more likely to open up their land to other hunters for the later rifle season.

**CLEMENTS:** And when the landowner does harvest a deer, do they have to turn it in to tag it like in the regular hunting season?

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**HUGHES:** Yes, the-- the harvesting of the deer would be exactly the same, whether you take it as a-- as a bow hunter, as a muzzle loader, or rifle season, they still have to be checked.

**CLEMENTS:** Thank you. I-- that's all the questions I had for Senator Hughes. Thank you, Senator Hughes. I'm in support of AM2380. I had had some emails from hunters who are not in favor of this, but this does shorten the hunting time for the landowner and also provides for a fee that will help Game and Parks offset some of the cost of implementing this. As a landowner, I have not been a deer hunter in the past and I don't think this is going to make me a deer hunter. And I think it's, in general, those of us landowners who have not been hunting will not likely start. I do allow hunters to hunt on my land--

**SCHEER:** One minute.

**CLEMENTS:** --with-- with permission and I think I'll keep doing that. I don't think this is going to affect any of the hunters that I have allowed to hunt on my property. And I don't-- I don't plan to start hunting so that they aren't able to use my permission. And so I'm in favor of AM2380 and LB126. I appreciate the amount of damage that some of the farmers have for their crops. And I know-- although I'd probably rather have them get paid for the dollar amount they suffer, I am glad to recognize that the state does want to give them somewhat of an allowance and I thank you for hosting the population of the deer. With that, Senator-- Mr. President, thank you.

**SCHEER:** Thank you, Senator Clements and Senator Hughes. Colleagues, the cookies being passed out this morning are in recognition of Ava Kay Vegas'-- Vargas' first birthday. Senator Vargas'. And those that are passing the cookies out, remember I'm up here, not back there. Returning to the queue. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. President. Good morning, Nebraska. Couple of things to speak on this morning, I may use this time. If I need more, I'll take one more time. I told Senator Hughes I would not take the morning the whole time on this bill. AM2380 changes the bill. I do not support in any way what so form LB126. The reason is, as Senator Gragert kind of touched on it before, the reason why the bill came out-- and, first, we're not addressing the depredation problem we have in the state. And this-- this has a lot of implications, that weekend is pheasant season opener. There's a lot of people in the field. There's other implications that come along with this. We're not--

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we're not taking does, we're taking any animal. If we want to deplete the population, we need to deplete the does and not the bucks. So there's challenges with that. So I'll say it does change it. And I did work with him to make those changes. And I did tell him I would be opposed to the bill. I feel that-- that the better place to address the-- the farmers' issue is through the depredation program, which we're working on. Keep in mind that I can own land, but I don't farm at all. So there's a large number of property owners in the state that don't farm. So this doesn't--they have no loss. They have a cash rent or a sharecrop perhaps, so they'd have no loss with-- with the depredation. So really what we want to do is get to the depredation side and handle those animals to reduce those populations accordingly. We heard yesterday in testimony on another bill, specifically on elk hunting, an individual had a cow tag and they-- they worked hard and had landowner permission around the area where they're hunting in, but the one landowner in the middle refused to give them permission and that's where all the elk went. Guess what? Nobody killed any elk. They didn't take that animal. Those type of things are gonna happen. So again, my opposition to the bill is not to-- not to deny that there's-- there's any-- there's not an issue with depredation. I think Game and Parks realize that and is gonna work very hard on it. There's a fiscal impact with this. We've taken care of the federal funding side of it. We did put a youth portion of it in there. But still the underlying cause or reason for the bill I don't think is necessary. I receive-- anyone can receive a landowner's permit. A landowner's permit gives you basically four seasons that you can hunt on what you normally would have to pay for two of those. I don't have to pay for habitat stamp. I get a reduced price for my-- my tag. Those things are already in there, I already provide those. There are other programs out there as a landowner I could benefit from. There's multi-peril insurance. If you have a large loss, you could-- you could benefit from. So there's things in there that I think that are workable within Game and Parks. We had an individual from northeast Nebraska come in yesterday, a landowner who said he had a significant deer problem on his property and he worked with Game and Parks for-- for several years and basically eliminated that-- that problem by letting hunters on, by doing depredation. They took an active role and they-- they were very positive with what Game and Parks did. That's what I want to work on. That's what we need to do in order to help our farmers out there, those who are having lost hayfields, lost haystacks, corn, whatever it might be. You know, you had a letter-- this-- this cuts across the grain in the state. It's not one group of people. This is people, your

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family, your friends, your neighbors. It's all walks of life, those who go out and enjoy the outdoors and hunt. It affects all of them. So really taking a step back, I think the better course of action is what's working on is really going to the depredation side. You know, if-- if you think about it, we-- you had one email from an individual talked about beavers destroying corn. You want to see something destroy corn, beavers will go in and wipe out a field--

**SCHEER:** One minute.

**BOSTELMAN:** --pretty darn quick. Thank you, Mr. President. The other thing, you know, you don't want to go down there, where does this lead us to? What other type of damage by animals or other things that-- that happens in the state, does this mean now homeowners or others will happen-- will be able to receive some type of recognition, financial compensation, or otherwise by damage by other types of animals or insects that we have? That's stretching it, I understand that. But really-- well, once we open that door, is that really someplace we want to go with it? So once again, AM2380 changes the bill, however, I am still opposed. And I think the majority of sportsmen that you've heard from across the state oppose the bill and a-- and a great number of landowners oppose the bill as well. And again, that cuts across all segments of life that we have all-- all across our state. It's not just rural, it's urban as well so I--

**SCHEER:** Time Senator.

**BOSTELMAN:** Thank you.

**SCHEER:** Thank you, Senator Bostelman. Senator Brandt, you're recognized.

**BRANDT:** Thank you, Mr. Speaker. Would Senator Hughes answer a question?

**SCHEER:** Senator Hughes, would you please yield?

**HUGHES:** Of course.

**BRANDT:** Senator Hughes, and my question sort of falls along with, Senator Clements was asking before, but in a little different vein. So if I have a landowner permit, is that good just for the three days or does it carry over into the season the next ten days?

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**HUGHES:** No, this, this is a special permit just for these three days.

**BRANDT:** So then I would have to-- so an individual could get the land-- landowner permit for three days and then would have to apply and get a permit for the next ten days, right?

**HUGHES:** That is correct.

**BRANDT:** OK. Thank you.

**SCHEER:** Thank you, Senator Hughes and Senator Brandt. Senator Vargas, for what purpose are you rising?

**VARGAS:** It's a point of personal privilege.

**SCHEER:** Please proceed.

**VARGAS:** Thank you. I just want to thank everybody in the body. You have these cookies and I-- I appreciate Speaker Scheer calling me Tony Vegas again. The reason why these cookies are here, it is my daughter's first birthday tomorrow. It has special significance to me because she was born last year when we were in session, and so many different things happened during-- during those 24 hours. I had two different hearings on one night. I had to leave Lincoln really quickly to get over to Omaha. I was fortunate enough that I had somebody introduce my bills for me. And over a 24-hour period, the most amazing thing happened, my first daughter was born, Ava Kay Vargas, and she was born at 5:11 p.m., which actually have as a reminder, I have this watch that does not tell time so people constantly ask me. It's just set to 5:11 p.m. just to constantly remind me when my daughter was born. That has just completely changed my life in, in so many amazing ways. I'm really lucky to have an amazing wife, Lauren, who is-- been an amazing mother in this first year and will be the best mother for Ava Kay. And both my parents-- both my in-laws and my parents are flying in because we only get one first birthday. So I just appreciate this body because last year at this time when there was a lot of-- my-- my daughter came about six weeks early, was in the NICU for about a week and a half. The support that I got from this body was amazing. And I'm just thankful to have colleagues and friends here. And thank you for helping me celebrate Ava's birthday.

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**SCHEER:** Just to clarify, Senator Vargas, I did not call you that, I just called you Senator Vegas Vargas. Returning to floor discussion. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. I stand in support of any effort to help farmers who are harmed by depredation on their land from wildlife. But as you've heard, and I really, and I support Senator Hughes' and Erdman's attempts to address that issue, but this doesn't do it. This has absolutely nothing to do with that. This is giving a special hunting permit-- permit, which game is owned by the people in the state of Nebraska to certain individuals because they happen to own land. I own land-- I mean, but I don't believe I own the birds or the deer on it because at one time I didn't own land and individuals let me on their land to hunt in between the time my dad sold his farm and I bought my own ground. But this has some real problems. I would fully support a depredation season. The other thing about this bill that's wrong is depredation only takes place in limited areas, usually along a creek, treed area. Deer or riparian animals, they don't like to live in a cornfield. They-- they congregate in the wintertimes along the rivers and the creeks. That's where the problem is. It's not out on the open farm ground. And the Game and Parks knows that. And they could address that with some late season permits, antlerless deer in designated valleys and river lands, but this doesn't do it. And the second problem I have with the bill is-- I used to pheasant hunt, never did go deer hunting, but there was always disagreement between the upland game folk and the big gun deer hunters that that first week in November was you were safe going out with your shotgun and-- and going pheasant and quail hunting, because it wasn't-- you're not-- weren't gonna get mistaken for a deer because there was no rifles out there. That's a big weekend, that fills our hotels, that brings people in to go pheasant hunting. And now we're gonna have rifles out there. The two don't mix. We-- we need to leave it the way it is. That first week in November, pheasant hunt. Pheasant hunters normally would stay home the second week because that's when the big game hunters were out there, the deer hunters. Now we're mixing them. In fact, I had a hunter pull on my-- my place one day when I was out working and I was all dressed in orange. I had my orange stocking cap and my vest on, and he came up and he said, well, you-- you hunt? Could I hunt your land? I said, no, I don't. And he said, why do you got orange on? I said, I got orange on so you don't shoot me, because there's a lot of rifles out there. Now we can be nice and do this bill, but it is not good game management at all, it's legalized game hunting. Those

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landowners already have the right to control who gets to shoot that trophy deer. All they got to do is post it. They post it, that second week in November, they're the first ones out there and get to pick the deer they get to shoot. They already can do that, and a lot of them do that, bring their family and their kids and their brothers. They go out and deer hunt that first weekend and then they decide if they're gonna let anybody hunt on their land. I'm not filibustering this by no way, I will--

**SCHEER:** One minute.

**GROENE:** --it needs to be voted on. But I agree with Senator Gragert and Bostelman. I-- I just can't support this, and I really want to support my friend, Dan's, bill. When he brings a dep-- a true depredation bill or the Game and Parks does or whoever or who represents, anybody brings one I will be there in support, because I've seen the damage. I've seen it along the rivers. There's a lot of trouble with this bill and there's a fiscal note to it also. And I just-- it doesn't work. Thank you. And I-- I'll be voting red on it, but we need to vote on it, though. Thank you.

**SCHEER:** Thank you, Senator Groene. Seeing no one in the queue, Senator Hughes, you're welcome to close on amendment AM2380.

**HUGHES:** Thank you, Mr. President. I appreciate the discussion this morning, but a couple of points I-- I really want to reiterate. This is not about depredation. This is just giving the landowner who's feeding the state's wildlife 365 days a year a chance. And I want to emphasize a chance to harvest the deer. It's not about trophy hunting. It's not about depredation. It's a chance for them to go out and hunt on their own property, their own property a few days early and not be worried about the rest of their property. I truly believe this will open up more land for the regular hunters. If the landowner has had a chance to harvest his deer, they're gonna open up their land for other hunters, especially if they have a deer problem. And I would remind everybody that Game and Parks has signed off on this bill. They have agreed that this is something they can do and should be done. So with that, I would appreciate your green vote on AM2360 [SIC] and ultimately LB126 to move it on. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Hughes. The question before the-- my colleagues is the adoption of AM2380 to LB126. All those in favor

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please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

**CLERK:** 27 ayes, 3 nays on adoption of Senator Hughes's amendment.

**SCHNEER:** AM2380 is adopted. Colleagues, Senator Erdman would like to welcome former Senator Steve Louderback from Ashland. He is seated under the south balcony. Would you please stand and be recognized. Mr. Clerk for items.

**CLERK:** Mr. President, very quickly, just two announcements: the Urban Affairs Committee will meet in Exec Session in Room 2022 now, Urban Affairs, Room 2022. The Exec Board underneath the south balcony immediately, Exec Board, south balcony. Mr. President, I have nothing further on LB126.

**SCHNEER:** Thank you, Mr. Clerk. Senator Geist would like to thank Dr. Rob Rhodes here in Lincoln in her district for providing us the family physician of the day. He is seated under the north balcony. Would you please stand and be recognized. Returning to floor discussion. Seeing no one in the queue, Senator Hughes, you're welcome to close on LB126. He waives the closing. There's a request for a machine vote. Mr. Clerk. I'm sorry. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

**CLERK:** 25 ayes, 6 nays on the advancement of the bill.

**SCHNEER:** LB126 is advanced to E&R Engrossing. Next item, Mr. Clerk.

**CLERK:** Mr. President, General File, LB328 [SIC LB238], a bill by the Judic-- I'm sorry, by Senator Pansing Brooks. It's a bill for an act relating to executions. It requires two-- two members of the Legislature to be present for executions as prescribed. The bill was introduced on January 14 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. I have no amendments to the bill, Mr. President, at this time.

**SCHNEER:** Thank you, Mr. Clerk. Colleagues, let's use our inside voices. Senator Pansing Brooks, you're welcome to open.

**PANSING BROOKS:** Thank you, Mr. President. 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. So I thank you. I-- I want you

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to know that LB238 corrects a profound wrong in how our last execution was carried out, the execution of Carey Dean Moore in August of 2018. I am aware, clearly aware that Nebraska voters have spoken when they voted to reinstate the death penalty in 2016. And I acknowledge that vote by the people. To be sure, I-- as most of you know, I do oppose the death penalty. However, LB238 is not about whether the death penalty is right or wrong. It's about whether we have proper government accountability and transparency in carrying out this grave and somber event as required by law. It is clear as day that we did not have that transparency in the last execution and we failed to live up to the national and international transparency standards. I have passed out a couple news articles to you to show there were 15 minutes during the last execution where those permitted and/or required to view the execution under execution protocol were blocked from seeing what happened during the key moments of the event. Fifteen minutes into the procedure, about a minute after Moore-- Moore's eyelids appeared to open-- reopen slightly, the curtains closed. They closed, my friends, for the next 14 minutes of the execution. We know this from media reports of the account. Media present at the event show the-- the following timeline, and I'm passing that timeline out to you so that you can look at it yourselves: 10:24 a.m., the curtains opened, Moore is strapped to the table, white sheet pulled up to his chest, two IV lines set, soundproof glass cuts off all sound from the death chamber; 10:25 a.m., Moore nods and mouths I love you to the two relatives and two friends who attend. He then positions his head on the pillow, looking up at the ceiling; 10:26 a.m., Moore turns his head toward his witnesses and appears to try to speak. Moments later, his eyes shut and his expression relaxes. Over the next couple of minutes, his chest rises and falls steadily. His fingers twitch a few times before they fall silent; 10:29 a.m., Acting Warden brushes Moore's eyelids, checks pupil with pen light, and leans in close, speaking to the inmate. Moore does not react; 10:30 a.m., Moore coughs a few times and his breathing becomes more labored. His chest becomes-- begins heaving and his mouth gapes open, complexion turns red; 10:31 a.m., Moore's chest movements subside and his face gradually takes on a purple hue; 10:31 to 10:38 Moore is still, no visible sign of breathing, purple in his face deepens and spreads to his fingers; 10:38 a.m., eyelids crack open, gaze vacant; 10:39 a.m., curtains close; 10:53 a.m., after 14 minutes, the curtains open again, the sheet has been moved up to his neck, Moore still not breathing. This account is very troubling to me. It should be troubling to all of us. What happened during the 14 minutes? Does any one of you know? Why

was a curtain put up to block the view during some of the very most pivotal moments of the execution when witnesses could have seen if things were botched? The 14-minute, nontransparent window means we had no outside oversight of our government's most powerful act, the taking of a human life. A Washington Post editorial that I provided to you talks about how states are adding secrecy to the lethal injection process after botched executions in Ohio, Oklahoma, and Arizona heightened public awareness and created a human outcry. The premise appears to be that-- that the problem with botched executions is that people see them or that people know about them. That's not the case. The prob-- problem with botched executions is they're botched. We have to know when this happens to put safeguards in place to ensure the execution goes according to plan. To say we're the government, trust us, is not transparency. We all know that. We must hold ourselves to the highest standards when the state is carrying out the grim and sombering task of executing someone. It is the most invasive act a government can take and the most onerous of all penalties. An execution isn't something to get wrong. Testifiers at the hearing for the bill showed that Nebraska did not keep with the national and international transparency standards in how we conducted this execution. The American Bar Association passed an Execution Transparency Resolution in 2015 that states, quote, The American Bar Association urges federal, state, and territorial legislative bodies and governmental agencies, including Departments of Correction and the military, that impose capital punishment to require that an execution process of setting IVs be viewable by media and other witnesses from the moment the condemned prisoner enters the execution chamber until the prisoner is declared dead or the execution is called off, unquote. Nebraska Revised Statute 83-970 specifies who is permitted or required to be present for an execution. By this statute, at least two persons designated by the director shall be professional members of the Nebraska news media. We have this requirement in statute because the-- the press provides an important check on our system. LB238 specifies that those persons required to be present shall continuously, continuously witness the execution process from the moment the convicted person enters the chamber until the convicted person is declared dead or the execution is halted. It also states that no one shall authorize or permit any person to obstruct, limit, shield, or otherwise impede the witnessing or viewing of an execution by any person permitted or required to be present at such execution. To deal with any issues raised about confidentiality of those administering the execution, those individuals may request to wear a mask or

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otherwise conceal their identity from the witnesses. LB238 also requires two members of the Legislature chosen by the Executive Board to be present to view the execution process. I believe we need this check and balance from our legislative body. I believe we are all complicit in any execution that is improperly done. As the Lincoln Journal Star pointed out in its editorial endorsing my bill, quote, Anything to increase transparency and accomplish-- and accountability in how the state administers its most severe punishment would be greatly welcomed given the cloud that still hangs over its most recent use, unquote. I want to note that LB238 could have, probably should have gone much farther. Robert Dunham with the Death Penalty Information Center issued a report which shows that there are other troubling aspects of how we are carrying out our executions. I was quite alarmed when I read this report. So LB238 is a commonsense, middle ground, transparency provision that we should support regardless of where we stand on the death penalty itself. We're talking about transparency. And I want to reinforce and reiterate my sorrow for all the families who have had loved ones murdered. This bill is not about that heart- rending issue. The Judiciary Committee advanced this bill unanimously. And with that, I ask you to vote green on LB238. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Pansing Brooks. Going to the queue, Senator La Grone, you're recognized.

**La GRONE:** Thank you, Mr. President. I have a few questions about the process on this bill. Would Senator Hilgers yield to a couple questions?

**SCHEER:** Senator Hilgers, would you please yield?

**HILGERS:** Yeah, absolutely.

**La GRONE:** Thank you, Senator Hilgers. Senator Hilgers, the bill requires that two members of the Legislature chosen by the Executive Board be present at executions. Can you-- do you have any indication of how that process would work for the choosing of those two individuals?

**HILGERS:** Not from the face of this, not from my read of the bill, there's no particular process. I would assume, I would assume, but I don't know if this would be true that people would volunteer. My read of the bill is that maybe it would require the Executive Board to make

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a decision on two people whether or not people volunteer or not. So at some point the Board would have to either, either pick amongst volunteers or just pick two people from the body.

**La GRONE:** So if there is a situation where more than-- that we didn't have two members of the Legislature volunteer, the Executive Board might be put in a position where they had to require members of the Legislature to attend that might not want to. Is that correct?

**HILGERS:** That's my read, that's my read of the bill.

**La GRONE:** OK. Thank you, Senator Hilgers. It's a-- it's a process issue I have-- I recognize it's a process issue, not a substantive one, but I'll be listening to discussion on this bill. I do think there are a couple of technical things like that issue that need to be worked out. Thank you, Mr. President.

**SCHEER:** Thank you, Senator La Grone and Senator Hilgers. Senator Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I was wondering if maybe Senator Pansing Brooks would yield to a question?

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

**PANSING BROOKS:** I'd be happy to.

**HILGERS:** Good morning, Senator Pansing Brooks.

**PANSING BROOKS:** Good morning.

**HILGERS:** I did-- I wanted to follow up maybe on the questions that Senator La Grone was asking in the provisions that would require the Executive Board-- was there any consideration or is there any consideration maybe making that voluntary, having people volunteer, and if there weren't volunteers, maybe making that discretionary from the Legislature's perspective? I was wondering if you could expand on that a little bit.

**PANSING BROOKS:** Yes, we, we-- I purposely left it completely open because I didn't want to dictate what Executive Board would do or choose to do. It's my understanding you have the ability and authority to create any kind of system to choose those people. So whether it's voluntary, whether it's appointment, whether it's people signing up,

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and so I-- I just left it open to the Executive Board. But I'm happy to add an amendment that specifically requires it to be a certain-- in a certain manner.

**HILGERS:** Would you be-- thank you, thank you very much for that, Senator. Would you also be open to-- what, what-- my-- one concern I have is if, if individual-- no one from the body volunteered or put their names, and then the Board would be required, at least as the current language as I read it, would be required to pick people. Would you be open to some provision so that it was limited only, individual senators who in other words volunteered for it, and if there weren't any, then maybe there weren't any witnesses. Would you be open to that? Or what do you-- how do-- would you react to that?

**PANSING BROOKS:** I don't know. I-- I feel like it's really important to have a check and balance and make sure that things are going well and that our branch of the government is recognizing what's going on. I hope-- I certainly don't want to go be a witness, that's for sure. So I understand that problem. I don't know if we could include an amendment that asks the Ombudsman's Office to represent the Legislature or another group. But I do think it's important for us to have representation to understand what is happening. Obviously, the executive branch and Department of Corrections are, you know, integrally involved. And it's just important, too, to make sure that-- that the process is transparent and open and clear. So I'm happy to work with you if-- if you think there's better language to better determine, but I did think it was important to have our body engaged.

**HILGERS:** Thank you, Senator Pansing Brooks.

**PANSING BROOKS:** Thank you.

**HILGERS:** I appreciate-- appreciate the dialog and I-- I apologize I didn't give you a heads up before I went on the mike that I was gonna ask questions and I'll-- I have a couple of questions I may talk, speak with you about off-line, off the mike. So-- one of the two concerns I have, at least from looking at this, is the first one that we just were dialoging about, which is from the Executive Board perspective, even from an individual senator's perspective, the idea of maybe being required to or being chosen to attend or participate in, in the execution does give me, does give me some pause. I certainly understand Senator Pansing Brooks' rationale and logic for having that kind of oversight and having that kind of transparency and

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having the accountability. And I get that. I do worry from an institutional perspective about how that process would play out internally. I do have a couple of other questions and I'll-- I'll speak with Senator Pansing Brooks off-mike and maybe come back on the mike to talk through some of-- some of just some process questions. But with that, I'll continue to listen to the debate, and I appreciate the time this morning. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Hilgers and Senator Pansing Brooks. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President, and good morning, colleagues. As everyone can see from the committee statement, I did vote in favor of this bill coming out of committee. I just had one more additional question for Senator Pansing Brooks. And again, I'm sorry, I didn't give you a heads up beforehand about this, but I was wondering if Senator Pansing Brooks would be willing to yield to a question.

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

**PANSING BROOKS:** Of course.

**SLAMA:** Thank you. So Senator Pansing Brooks, do you know of any other states that have the death penalty that requires state lawmakers to witness executions?

**PANSING BROOKS:** I-- I didn't research who is, is requiring executions, but I do know that we already have it in state statute that people are required to watch. The media is there, too, and required to watch. And since it didn't happen according to the requirements of statute, I felt it was necessary to add-- add some people from the Legislature.

**SLAMA:** Thank you, Senator. I was just curious just in case that information was out there as to other states if they already have a model for selecting potential state lawmakers as witnesses to these executions, if those states may be used as models for Nebraska to look at, just as we address the procedural questions raised by Senators La Grone and Hilgers, which I think are very fair questions. And I think there's a willingness to work off the mike on some minor procedural issues with this bill. So I'm, too, am going to continue listening to debate and hope that we can get some agreement on resolving some of these procedural questions either now or between now and Select File. Thank you, Mr. President.

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**SCHEER:** Thank you, Senator Slama and Senator Pansing Brooks. Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President and colleagues. I thought I was further down the queue than that. We heard this bill in, in the Judiciary Committee and I'd like to tell you why I support it. So we've had one execution since we've gone to the lethal injection, it was Carey Dean Moore. And what we learned from that experience is there was part of the critical steps in the execution process during which the witnesses were not able to observe what was taking place. Why is that important? It's important because if you go back to when we had the electric chair, it was the people who witnessed electrocutions or the taking a life by electrocution who testified in the cases that ultimately resulted in the court determining that this is a cruel and unusual form of punishment. That's something that happened right in our Supreme Court. When you close the curtain, no one knows if this is a cruel or unusual form of punishment. Perhaps it is as sterile as it sounds like it would be, not unlike going in for a surgical procedure or maybe it isn't. But there's-- but no one knows that unless you leave the curtain open for people to observe the process and be able to be transparent about it and say this is what took place during the process. It is or it's not cruel and unusual. Maybe the decedent went into convulsions, we don't know that because the-- the curtain was closed. This is just a process bill. It's important for transparency. It's important for people who support the death penalty to say it is as simple as being anesthetized for a surgery or it isn't. But now we don't know. We don't have witnesses to this. No one can testify to it. We'll never know who was-- who was behind the curtain, and perhaps for good reason. But the people who are there to be witnesses are there to witness the execution and part of it is to tell the rest of us, through the media, through their own accounts, what took place. The state, if they're going to take life, needs to do it in a fashion that is not cruel and unusual and we don't know in this case. We don't know with this procedure unless the entire procedure is visible. I will tell you personally, I have no interest-- if I find myself on the Exec Board, I have no interest in signing up for this responsibility. On the other hand, to the extent we have witnesses, and they typically include people that are in the media, to the extent we have witnesses, it's important for transparency. It's important to take away the questions that remain after an execution done behind a curtain. I would encourage your support. This is a pretty simple, straightforward thing. And I do believe that if you are

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a supporter of the execu-- of, of the death penalty, incidentally, you can say we had witnesses there, it is sterile, it is a humane way to take life to the extent that's possible. And so I would encourage you, colleagues, to support LB238 as every member of the committee did when this bill came out. Thank you.

**SCHEER:** Thank you, Senator Lathrop. Senator La Grone, you're recognized.

**La GRONE:** Whoops. Thank you, Mr. President. Would Senator Pansing Brooks yield to a couple questions?

**PANSING BROOKS:** I'd be happy to.

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

**La GRONE:** Thank you, Senator Pansing Brooks. And this is on what I talked to you about off the mike the-- the required versus permitted language. So I'm on page 2, line 7, we're adding the-- the word-- the words "or required." And I get why we're doing that because it interacts with the section that requires two members of a Legislature to be there. My concern with the process of that, just the process of that is the substance that you were getting into with Senator Hilgers of what if no member of the Legislature wants to go. So my question would be something to the effect of would there be a way to make it permissible but not necessarily required? Would that make sense?

**PANSING BROOKS:** I'm-- I'm, of course, happy to work on any language. I purposely left it more vague so that the Executive Committee could-- could choose this as they chose-- as they would like. I will just add that during the, during the execution of-- prior to the execution of Carey Dean Moore, Senator Ebke, as Chair of Judiciary, did send a letter to the Department of Corrections asking whether either she or Dick Clark, her legislative legal aide, could attend the-- the execution to serve as a legislative oversight representative, and that request was denied citing that-- that it provides-- that the statute provides a list of persons who are eligible to attend and she is not within that group. So the Legislature was not allowed to attend or send a representative as the law stands now.

**La GRONE:** And I understand your point, so I totally understand why you want to add the Legislature to that. My concern is that the upping to the required standpoint because--

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**PANSING BROOKS:** If-- if more permissible language is needed, I-- I can certainly talk with you about that and-- and work on it off mike. I'm happy to if we can-- I just want some representative from the Legislature, whether it's the Ombudsman's Office or whatever it is.

**La GRONE:** Because my concern is that if we couldn't come up with anyone that wanted to go, I-- I don't know if it would be right to force a member of the Legislature to go if they did not want to be there. That's all I have. Thank you, Mr. President.

**PANSING BROOKS:** Thank you.

**SCHEER:** Thank you, Senator La Grone and Senator Pansing Brooks. Senator Chambers, you're recognized.

**CHAMBERS:** Mr. President, members of the Legislature, this very discussion shows the grotesquerie associated with the state killing somebody. There is no humane way for the state to deliberately extinguish a human life. I was not going to say anything because this bill does not address whether or not there will be a death penalty, but only the matter of how it's going to be observed when the execution occurs. There were several things that happened in the Carey Dean Moore case which should have outraged Christians if there are any, which I don't believe there are any, of the kind that Jesus would have approved. The first thing the Attorney General asked that the execution be carried out on my birthday, July 10. I had something to say about that, so that was scrapped. They wanted to pretend, oh, they just pulled that date out of a hat, it had no particular significance. The execution was put on the fast track by Mike Heavican, the Chief Justice of the Nebraska Supreme Court, and it was done as a favor to the Governor and to those who wanted the execution. Those drugs were going to expire. So rather than allow all of the legal issues that were alive, that were viable to be addressed, the Chief Justice led the death penalty court that now exists because this Governor made sure that the people he put on it would favor the death penalty. He has now appointed a majority of those on the court. They indeed are a killer court. They did not show the ordinary common decency that a judge routinely should manifest in handling a situation such as this. I was requested during the days when they had electrocution to come out to the Penitentiary, and the one who was gonna be executed was a young guy named John Joubert. He had murdered two young boys. Harold Clarke was the Director of Corrections at that time. He called me. He knew how strongly I oppose the death penalty. He asked me because they

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had a process where they could have observers not watching the execution, but observing the process leading up to it. Would I fill that role? I said, Harold, you know, I don't want to do anything like that. He said, and ordinarily I would not call you, but the Sheriff of Sarpy County wants to come and be an observer, and I can't stop him. But he's made it clear that his intent is to harass, taunt, and make life as miserable as he could for John Joubert, who was on death row and had an execution date set. And he was convinced, the Director of Corrections was, correctly, that if I were present, there would be none of that. So I told him, you and I and anybody else who discusses my presence will have to make it clear that this in no way express approval of the state killing somebody. Well, when Sheriff Thomas, I think that was his name, found out that I was gonna to be on the scene, he changed his mind,--

**SCHEER:** One minute.

**CHAMBERS:** --he did not want to show up. But since I had come to that place, that horrendous place where a supposedly civilized state was going to engage in this barbarity, which amounts to a high tech burning at the stake, I had talked to Joubert and he needed somebody to be there with him during his last days and his last hours. So he didn't ask for a preacher. He didn't ask for a priest. He didn't ask for a rabbi. He didn't ask for a white man. He asked for a black man. And that man is speaking to you and my light is turned on. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Chambers. Senator Albrecht would like to welcome the following guests, four members of the South Sioux City Student Council and Superintendent Todd Strom, and the Adviser, Lance Swanson. They are seated in the north balcony. Would you please stand and be recognized by the Nebraska Legislature. Thanks for driving down. Turning to the floor discussion, Senator Geist, you're recognized.

**GEIST:** Yes, thank you, Mr. President. And if Senator Pansing Brooks would yield to a question, I'd appreciate it.

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

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

**GEIST:** Yes, thank you. Senator Pansing Brooks, I had just spoken to you a minute ago about talking about the executioner and their team or

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the individual-- I don't know the protocol and-- and how this process works, but on page 3 and it starts at line 3, "The person or persons administering or conducting the execution under the execution protocol may, upon request, wear a mask or otherwise conceal their personal identity from the witnesses." Could you explain how you see that taking place?

**PANSING BROOKS:** So I-- I think that the-- we kept it very broad because we want-- we said they can "wear a mask or otherwise conceal." Because of course, my first thought was a surgical mask could be used, but somebody may think that they need a-- a larger coverage to--

**GEIST:** Um-hum.

**PANSING BROOKS:** --for sure not be seen or-- so we've included anybody within that room has an ability, if they are concerned, to cover themselves to disguise their identity.

**GEIST:** Would-- it's not just facial, could it be scrubs--

**PANSING BROOKS:** Oh, no-- oh, yes, anything.

**GEIST:** --and a mask and a covering on their head or--

**PANSING BROOKS:** Yes,--

**GEIST:** --however--

**PANSING BROOKS:** --anything they feel to cover their identity, so--

**GEIST:** OK.

**PANSING BROOKS:** --and from any kind of identification or recognition.

**GEIST:** OK. So we're not-- the intention here is not to make the executioner known. It's just to give them a way to conceal themselves if they should choose.

**PANSING BROOKS:** Absolutely. Because, you know, some people may want to not be seen. They're doing an act on behalf of the state as part of their job and--

**GEIST:** Um-hum.

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**PANSING BROOKS:** --they may not want to be visibly identified as engaging in the execution.

**GEIST:** And I appreciate that. And I also appreciate that the option is there for that individual because I think that's important. Because as you said, that individual is doing their job and maybe uncomfortable with it for whatever reason, and I think that's important that that individual would be able to conceal their identity. So thank you very much. Thank you, Mr. President.

**PANSING BROOKS:** Thank you, Senator Geist.

**SCHEER:** Thank you, Senator Geist and Senator Pansing Brooks. Senator Brandt, you're recognized.

**BRANDT:** Thank you, Mr. Speaker. I voted to bring this bill out of committee, and I still support that vote. I think we in the Legislature have a somber obligation. This is-- this is not something anybody should take lightly. Would everybody want to do this? No. If asked, maybe you should think about it. Today, there are gonna be 14 people in that room. This bill would add two more. Those 14 people would be the Director of Corrections, 2 people from the Legislature, the clergy that is with the condemned, 3 people known by the condemned, 3 people of the victims, 6 people appointed by the Director of Corrections, 2 of those will be news media for a total of 16. I think the very least the Legislature can contribute two to that total. And with that, I would yield the rest of my time to Senator Brooks.

**SCHEER:** Senator Pansing Brooks, 4:00.

**PANSING BROOKS:** Thank you. Thank you, Senator Brandt. I just wanted to say that I understand all the discussions about the technical issue, about how the Executive Committee would go forward and probably I should have gone to talk to them before, but this was brought last year so this is coming up from last year's bills, and so I'm, of course, willing to work. But I-- I would just also say-- I said that I would not want to view an execution. But the people have voted for us and even, you know, we are supposed to represent our constituents. And if the constituents have said that-- that there shall be a death penalty, then I feel that if-- if nobody was willing in this body to view the execution, I would step up because I feel I have a somber duty to perform the laws of our state and to engage as the voters have stated that we should. So just with that, I wanted to say that I

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understand that there may be an entire 49 people who do not feel a responsibility to step up and ensure the transparency, but I sort of doubt that would happen. But I'm happy to work on some sort of format that the Executive Committee and Senator La Grone and others feel comfortable with, so. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Brandt and Senator Pansing Brooks. Senator Hilgers, you're recognized.

**HILGERS:** Thank you. Thank you, Mr. President. Good morning again, colleagues. I had a good conversation with Senator Pansing Brooks off the mike here. I understand what she's trying to do. I support the concept of-- of-- of empowering the Legislature to have that role of accountability, increasing transparency. Just so we're making a record as this goes to Select File, I just want to make sure my concern and the discussion that I've had is on the record. So my biggest concern is that this is a-- is a requirement, it's a-- it has "shall" language. I think that deviates from what I see is already in the 83-970 where the other individuals who can witness an execution they may be present, here it requires, so we've talked a little bit in detail about forcing members of the Legislature, especially in the instance in which no one volunteers or would like to go, forcing two members of the Legislature to be present. Senator Pansing Brooks and I had a good conversation about some potential changes to that language. We-- we will have more conversations between this round and the next I am sure. I understand her-- her concern to make sure that if it's permissive, there's still some affirmative effort from-- on behalf of the Executive Board to try to encourage individuals or give individuals the opportunity to attend or be present, and so I understand that concern. And hopefully we can work that out through some legislative language, I'm willing to work with her. As the other-- the other provisions here, there's nothing that strikes me as sort of on its face objectionable. This is a process that I'm not as familiar with as others here, especially on the-- on the Judiciary Committee, I'll do some additional investigation research on some of those issues. And if I have any issues, I'll-- I'll raise them with Senator Pansing Brooks to see if she would be willing to work with us between General and Select. So I'll reserve judgment on the remaining provisions. Appreciate the conversation on the-- on the requirement provision from Senator Pansing Brooks and the body this morning. And I intend to vote green on LB238. Thank you, Mr. President.

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**SCHEER:** Thank you, Senator Hilgers. Senator Chambers, you're recognized.

**CHAMBERS:** Thank you, Mr. President. If there must be these executions, what Senator Pansing Brooks is suggesting should be mandatory, but I'm listening to how calmly my colleagues are talking about somebody who feels there is something so wrong with what he or they are doing that they want to conceal their identity. This is killing in the name of the state. When men go to war and they kill a lot of people, not only does people-- not only do people know who that individual is, but he'll get an award called a Congressional Medal of Honor and be out there for the whole world to see. So if this is such a wonderful thing for this Christian state, this God-fearing state, this Catholic Governor, whose Pope and Church have declared that the death penalty is forbidden in all cases whatsoever, but he says he has a higher duty to do what the people told him to do than to obey his Church, you have all of these weird, strange activities going on like the discussion we're having today. But it's necessary due to the way that execution of Carey Dean Moore is carried out. Probably the only one who could do this justice would be Edgar Allan Poe. He had an affinity for horror and knew how to create in the one reading the emotions he wanted his words to elicit. What we don't know is that Carey Dean Moore may have been suffocated because the drugs didn't work in the way they were supposed to. This was an experimental drug cocktail never used before. There was no way to know whether the use of one drug would nullify the action of the other drug. If it took 14 minutes for the death to occur, something did not go the way it should have. And Carey Dean Moore, in my opinion, was suffocated. When they had an autopsy, the only thing looked at was what the drugs were supposed to do. There should have been an independent autopsy that the family would have insisted on. But we'll never know the answer to those questions. You have a Director of Corrections who when he came to talk to the media was totally unprepared to do so. He did not answer questions and he got out of there like a bat out of Hades. Something went terribly wrong. But I don't think the members of the Legislature particularly care. I listen to these Catholics on the floor. I listen to these so-called Christians on the floor who talk about being pro-life and they can discuss the state killing somebody almost clinically. When I was with John Joubert, I told him the reason I was there was to make sure they didn't do anything other than take his life. I wouldn't let them take his dignity. I would not let anybody taunt him. I would not let any of those bad things happen that cruel, sadistic people who

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work for the Department of Corrections would want to do. He was in a so-called hospital room. It's a place that they call the hospital. The blinds were drawn in the daytime. Joubert said, I wish that I could have some sunlight. I ought to--

**SCHEER:** One minute.

**CHAMBERS:** --just stop talking and let those who want to talk have the floor. You all don't take this seriously. You're talking about killing in your name. You bring these antiabortion bills and tear up. You walk out in the cold weather to say you are against fetuses being destroyed and then you talk like you do today, conduct yourself in the way you do when the state, which is supposed to be the civilizing agency, is going to do the most barbaric, uncivilized thing that can be done. You as a nation cannot get into the European Union if you have a death penalty. You cannot get in. It has been totally done away with. Life sentences for murder don't even equate to life sentences.

**SCHEER:** Time, Senator.

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

**SCHEER:** Thank you, Senator Chambers. Mr. Clerk.

**CLERK:** Mr. President, several things. First of all, an announcement. The General Affairs Committee is having an Executive Session now in Room 2022, General Affairs immediately. Items for the record: LB1199 from the Banking Committee placed on General File, LB886 General File with amendments; Business and Labor LB788 General File, likewise LB962, LB1016 General File with amendments; Natural Resources LB858 to General File with amendments. Priority bill designations: Senator Howard, Health and Human Services Committee has selected LB1140. I have-- OK. Hearing notice, Mr. President, the Education Committee, General Affairs Committee, Revenue Committee, Natural Resources Committee. And a priority bill designation by the Business and Labor Committee, LB1016. Bills read on Final Reading were presented to the Governor at 9:46 a.m. (Re LB287, LB310, LB310A, LB381, LB387, LB541, LB643, LB734, and LB734A) Apparently, Mr. President, the General Affairs Committee will meet at noon, noon in Room 2022 as opposed to now. That's all that I have. Thank you.

**SCHEER:** Thank you, Mr. Clerk. Returning to floor discussion, Senator Hunt, you're recognized.

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**HUNT:** Thank you, Mr. Speaker. There's a lot of chit-chat and there's a lot of laughter and a lot of loud conversations happening in this Chamber right now. But there have been, and I'm grateful for the announcements that came across the desk that actually refocused us instead of this conversation about the death penalty, about state-sanctioned murder, as I see it, which should bring a very somber tone into this Chamber and not the chit-chat and laughing that I'm hearing that I'm ashamed of. Nebraska law doesn't guarantee right now that witnesses can view a prisoner during an execution process. We don't guarantee that witnesses can hear what's happening in the execution chamber. We don't guarantee that witnesses can know what drug was administered or how the-- how the executed prisoner died. By preventing witnesses from observing and listening to the entire execution process, we're limiting meaningful discussion and oversight that we have responsibility for in this very, very serious carrying out of executions in Nebraska. For Carey Dean Moore, we don't know what happened behind that curtain. It was closed for a long time. And if any of you are so sure that this is the right thing to do, then you should agree that you would witness it. I think that people who support the death penalty and Governor Ricketts are cowards. I think it's very cowardly, and I think that the Governor should have watched the execution of Carey Dean Moore if he's so sure that it's the right thing to do. Ultimately, this policy of secrecy has prevented the public from engaging in discussion about the morality of the death penalty and engaging in knowledge about the extremes to which our government is willing to go to carry out the most severe and irreversible punishments. If one person from the Legislature doesn't want to go witness an execution, as Senator Pansing Brooks's bill calls for, then we should not have executions in Nebraska. Us here are responsible for the death penalty in Nebraska. We've had opportunities year after year to get rid of it. And if it's possible that none of us here have the courage to go witness this law that we say must be carried out, then that's not something that we should have in Nebraska. I'm somebody who would be willing to witness an execution in Nebraska because I feel like we have a responsibility to be accountable for what this state is doing to people. I wonder if anyone in this room who supports the death penalty would be willing to carry it out themselves. Why should somebody with a mask be injecting somebody with an illegal drug? In the case of Nebraska, when Senator-- or when Governor Ricketts spent \$54-- \$56,000 of taxpayer money on illegal death penalty drugs that were never even delivered, probably lost in a post office somewhere, we don't know. All of you in here,

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your Bible says that you shall not kill. It does not say you shall not kill innocent life. It's just something that you tell yourselves to make yourself feel better about your hypocrisy. So that's how I feel. When I watched Governor Ricketts stand in front of that giant Choose Life license plate and talk about how we're a pro-life state while putting hundreds of thousands of dollars into his own-- of his own money into the campaign to bring back the death penalty after this body overturned it, it was grotesque and honestly embarrassing to see. So I rise in support of this bill. I commend Senator Pansing Brooks for having a cool head about an issue that is very, very emotional and very important in Nebraska. And I commend her for being willing to-- to work with opponents and compromise on the number of people in the Legislature who have to witness this or whatever. If it was my bill, I'd say we'd all have to witness it and so would the Governor, and then we wouldn't have a death penalty anymore because none of you would be able to handle it. Thank you.

**SCHEER:** Thank you, Senator Hunt. Senator Wayne, Vargas, McDonnell, Chambers, Cavanaugh, Arch, and Lindstrom would like to welcome 19 members of the Nebraska Civic Leadership Program. They are from the Omaha area high schools: North, Central, South, Benson, Burke, and Bryan. They are accompanied with six teachers. They are in the north balcony. Would you please stand and be recognized by the Nebraska Legislature. Thanks for coming down. Returning to floor discussion, Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. As written, I will not support LB238. I do not think that we need to require anyone. You can make it a place that two legislators may attend if they wish. But when you say that we have to require attendance-- you know, if-- if you're looking for volunteers, I'll do it. But again, I don't think that this should be a requirement of our jobs. Otherwise, maybe we should be required to attend the sentencing to life in prison with no chance of parole. To me, that's same as a death sentence. You're locked in a cage for the rest of your life. And if you don't take that seriously, then this shouldn't be any more serious. We have discussed these issues, and I think this body has deliberated the death penalty since I've been here, at least fairly seriously. It was a big issue. It was a tough issue for a lot of people. Now whether or not the witnessing I'm-- I'm-- if they can draw a curtain, I don't care about a lot of that. But I don't know that we would require two members of this body to be here unless we're gonna require two bodies to be here when they sentence someone to life in prison. We do pass laws here. When someone

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has no chance of parole and you're gonna be locked up forever, that to me is a death sentence. And it is a-- that is a major sentence, that is something that is supposedly can't be undone either. So I do think we're taking this seriously. I think this doesn't change any of the whole issue of the death penalty. It's just a matter of who views it, who doesn't. But again, to say that we're gonna require two members of this body to be there, I-- I think is wrong. Thank you, Mr. Speaker.

**SCHEER:** Thank you, Senator Friesen. Senator Chambers, you're recognized, and this is your third time at the mike.

**CHAMBERS:** Thank you, Mr. President. First of all, Senator Pansing Brooks has said she's willing to talk to any and everybody who would like to discuss the bill, so the present form of the bill is not the final form. You cannot compel anybody to watch an execution, so the mandatory wording can easily be rectified. When I accompanied two men all the way to the execution chamber, I did not want to watch the execution. I would not have watched it. I wanted to watch over those men, because under those circumstances, if anybody needed somebody to look out for their interests, those men who were going to be killed by the state were in that situation, and I was going to be there. But for Joubert, as I was pointing out, he was in this room, cinder block room, it had a window. He said he wished that they would open the blinds so he could look out. And I said, well, why won't they? He said, well, they just won't. So I had somebody summon the Deputy Warden and I said, open these blinds. He said, well, Senator, I can't. I said, if you don't, I'm going to open them and you won't stop me, but tell me why you don't want to open them. He said, because when "Wili" Otey was executed, which was in the dead of night, he stood in the window, and when people saw him, it infuriated them. I said, that has nothing to do with this. This man is going to be executed, not now. He wants the blinds open so that sunlight can come in. He can look at the rest of the world that he will never see again. Open the blinds, and he opened the blinds. A simple thing like that, and nobody else cared. When I was looking at the individuals who were stationed in the hallway, they seemed very arrogant but they could not deal with me in a stare down. They became uncomfortable, they would shift from foot to foot, they would look away and look back, and I didn't stop looking at them. Then invariably they dropped their eyes and never raised their head. If this is a wonderful thing, that's not the way for anybody to behave. But at any rate, I accompanied Joubert to the execution chamber. He had to go down an elevator. Now they had six huge, I guess the biggest lummoxes they could find working for the

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Department of Corrections who would do this. John Joubert was about 5 feet, 6 inches tall, two-- these lummoxes towered on each side of him, one was in front, one was in back. He had a thick leather strap around his waist, and the one in back was holding it as though he somehow was gonna break loose and run away. So I didn't say anything, I just looked at him and they wouldn't look at me. We got on the elevator and not a word was uttered by anybody. And I stood next to Joubert and they had a little touch that Edgar Allen Poe would have appreciated. If you stepped off the elevator, to your immediate right was a door where you could look in to it, and in that room was the gurney they were gonna take Joubert's body out on. Don't you think that is an appropriate touch? The man to be executed has the opportunity to see the gurney they're gonna wheel him out on. We went across the hall into the execution chamber--

**SCHEER:** One minute.

**CHAMBERS:** --and I watched them as they strapped him in. When they had finished their gruesome work, none of them would look at me. I tried to make eye contact, they wouldn't. His veins turned blue because they had to strap him so tightly that his body wouldn't be battered when the electricity was administered. He was so small that he had to be lifted up on the chair. And I would not watch the execution, I didn't have anything to say to him except that they were going to take his life, but they couldn't take his dignity. And if he was able to hold onto that, then that would see him through this. And I didn't try to do any comforting, I didn't bring up religion because if people had religion, that execution would not have occurred. I'm going to support Senator Pansing Brooks's bill, and it shouldn't be necessary, but--

**SCHEER:** Time, Senator.

**CHAMBERS:** --there are unethical people in this-- you said time?

**SCHEER:** Yes, Senator.

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

**SCHEER:** Thank you, Senator Chambers. Senator Moser, you're recognized.

**MOSER:** Thank you, Mr. President. Well, I've got two areas of-- of discussion on this bill. First of all, we started out talking about transparency in executions, and I have an issue with requiring two state senators to be present at the execution. If they want to be

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present, I don't object to that, but it's nothing I'd want to do. And I, you know, I don't think anything useful would be accomplished by requiring two state senators to be there. And then from there, it kind of evolved or devolved into a discussion of the death penalty. And at first, the bill is supposed to be about transparency, but now it's evolved into whether the state should take somebody's life for the heinous acts that they commit. And the citizens of Nebraska spoke on this issue. The citizens in my district overwhelmingly support the death penalty. It's not something to be taken lightly. It's nothing to-- to be boastful or proud about. But it's important in, I believe, in justice for the victims who suffered the heinous acts of these criminals. I-- I just can't see senators being required to be there. And the discussion of the death penalty has pretty much been resolved for me. The citizens already have spoken, and I think there's no point in-- in trying to change the will of the people when they've spoken. Thank you.

**SCHEER:** Thank you, Senator Moser. Seeing no one in the queue, Senator Pansing Brooks, you're welcome to close on LB238.

**PANSING BROOKS:** Thank you, Mr. President. Well, just a couple things. Senator Friesen talked about life without parole that we'd all have to be caged to-- to have the same kind of oversight. And of course, we do have oversight. We have people from the Ombudsman's Office checking in all the time on those prisoners who are sentenced to life without parole. What we're talking about is oversight and transparency as the most somber act as occurs in our state, the execution of a human being. I said at the beginning, and maybe Senator Moser missed that, that this is not about the death penalty, that the people have spoken. But it's a way-- it's about the way our death penalty is enacted. And I have passed out to you the letter to Director Frakes asking that Dick Clark, their legal counsel, be allowed to witness the execution and the response back that there will be no other-- no other observers. So I guess when I put the language saying that it was going to be required, I really was thinking about requiring the Director, requiring the Department of Corrections to allow members of the Legislature to come. So if we're hung up, clearly, as I have said many times to both Senator Hilgers and to Senator La Grone, I am happy to work on this. I don't intend to force people to experience something as hideous as watching a death because it is a hideous thing to observe. Again-- but I do hope to have a process set up and we'll work on it. I talked to Senator Hilgers, we'll work on a process that is set up that is substantive. It allows people to know that the option

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is-- is coming and that some of us feel there's a responsibility to go forward. But the crux of this is not to have a curtain that goes up for the last 14 minutes so that we don't know whether or not the state did it with-- in-- in a positive and humane way. So with that, I will ask you to vote green on LB238. It is a somber bill. Again, we are-- we give our deepest concern and love to the families of those who have been murdered and had-- and been hurt by heinous acts in this-- in the state. But again, this is not about that. So I appreciate it and would appreciate a-- a green vote, and we will work between Select with Senator Hilgers. Thank you so much.

**SCHEER:** Thank you, Senator Pansing Brooks. Colleagues, the decision-- discussion is ended. The-- the question before us is shall LB238 advance to E&R Initial? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

**CLERK:** 33 ayes, 7 nays, Mr. President, on the advancement of the bill.

**SCHEER:** LB238 does advance to E&R Initial. Mr. Clerk, LB131.

**CLERK:** Yes, Mr. President, if I may just, Banking Committee will meet in Exec Session now, Banking Committee in Room 2022. LB131 is a bill by Senator Pansing Brooks. It's a bill for an act relating to crimes and punishment. It changes provisions relating to minimum sentences. Introduced on January 10 of last year, referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments, Mr. President.

**SCHEER:** Thank you, Mr. Clerk. Senator Pansing Brooks, you're welcome to open on LB131.

**PANSING BROOKS:** OK. Thank you, Mr. President, members of the body. LB131 would reassess-- would reestablish the one-third rule which will ultimately become the one-half rule pursuant to an amendment being discussed by Senator Lathrop right after me. This is a sentencing measure-- reform measure to help address our prison overcrowding crisis. I first brought this bill in 2015 to restore an element of sentencing policy that was previously in place from the 1970s until the 1990s and worked very effectively. I continue to believe that this bill should have been-- should have made it into the LB605 Justice Reinvestment package, as was unanimously voted by the Judiciary Committee that time in 2015. It was part of the Council of State Governments' original recommendations. While LB605 has had important

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reforms, it has not resulted in the reduction of prison-- in prison overcapacity that we had hoped to see. We clearly need to do more on sentencing reform, and that is why I bring this bill today. As we all know, we have been plagued with a prison overcrowding crisis. We are currently at 159 percent of design capacity. Given this crisis, I want to offer a little background on what led to this proposal. In the 1970s, the Legislature began to change the correctional system in Nebraska to a model that was more treatment and rehabilitation focused. Wow. Think of that, treatment and rehabilitation in adult Corrections. The Legislature amended the criminal procedure code to provide for a sentencing framework that allowed for those inmates who were sent to prison to work toward reforming themselves and assimilating back into the community after being rehabilitated once they are released from incarceration. The Legislature developed at that point the one-third rule which provided that the minimum sentence imposed could not be more than one-third of the maximum possible for the category of penalty available. This one-third rule provided that the offender would have-- have time and opportunity for rehabilitation in the prison system before being paroled and would also ensure meaningful time for the offender to be supervised once paroled into the community. Inmates had the incentive to actively participate in constructive rehabilitation programs within the prison system so they were better candidates to be paroled when they became eligible. Additionally, the one-third rule allowed judges to impose a significant maximum sentence for offenders to be supervised while on parole or incarcerated should such inmates not comply with the terms of parole-- of their parole conditions. The one-third rule was the law in Nebraska from about 1971 until 1993 when it was removed, partly because of the tough on crime stance we were taking at that point. We have searched the legislative history, which provides little explanation why that particular rule was eliminated. And from what I have heard, it's pretty clear that the one-third rule was removed surreptitiously in an omnibus bill. Here's a warning to all of us on those omnibus bills. To bolster that conclusion, I would add that we have been unable to locate any record of a public hearing or discussion on the floor of the Legislature concerning the removal of the one-third rule. We have now moved forward 25 years and Nebraska has the second most overcrowded prison system in the country. Judges are now imposing sentences with maximum and minimum sentences that are nearly identical, leaving almost no time for any meaningful parole, which results in more frequent jam outs. According to CSG Justice Center in fiscal year 2013, 17 percent of people newly admitted to

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prison received a sentence with a parole window of one month or less, a parole window of one month or less, or no parole opportunity at all. The slim or nonexistent parole windows of these flat sentences ensure that individuals would leave prison without supervision when released. In fiscal year 2013, 57 percent of flat sentences were for terms of one year, which equates to a six-month length of stay in prison after good time is applied. Especially considering that 95 percent of the people incarcerated in our state prisons will be released back into our communities, we should all be concerned by the short window of time for inmates to become parole ready. This bill doesn't purport to by itself solve our overcrowding crisis, although the numbers from the Fiscal Office from 2018 were highly encouraging. What this bill does do is set a framework whereby people can get the rehabilitation and treatment they need so they don't stay in prison longer than they-- than necessary and then jam out, thereby entering back into our communities as less productive citizens, potentially more dangerous, and at a greater risk of recidivism. The Council of State Governments during its initial report that led to LB605, showed that minimum sentences have grown in proportion to the maximums which has narrowed the parole window. I've submitted a page, page 36 from the CSG report, which shows the minimum sentence length as a percentage of the maximum sentence length. The average inmate will have only one chance at a parole hearing, according to CSG. The Justice Reinvestment final report also says, quote, Courts frequently impose sentence structures that allow no opportunity for parole or so short a period that it provides little chance of meaningful post-release supervision, end quote. LB131 will alleviate this problem, allowing more of those 95 percent of individuals who are going to be released back into the community earlier access to parole so they can enter our society ready to-- to be productive citizens and not recidivate. In turn, it will provide a cost savings to the state and keep our communities safer. Finally, we've heard complaints that with the one-third rule, which will be the one-half, inmates will be released earlier when actually it is a mechanism to get-- it is truly a mechanism to get before the Parole Board, who will then clarify the programming that they need to receive before being released. In addition, the question of good time has caused some county attorneys to question the ability of judges to appropriately sentence. But judges are fully aware of the existence of good time when they sentence, so all that gets factored in already. Further, good time serves as a completely different but also important purpose. It is an incentive-based system that rewards good behavior while someone is in prison, a carrot of encouragement amidst a system

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of punitive sticks. When I brought this bill in 2018, the fiscal note estimated that 660 inmates-- let me repeat that, 660 inmates could be placed on-- on parole per year because of that bill. The fiscal note thus showed a cost savings of \$2,209,290. However, this was dwarfed by a cost savings of \$31,271 per inmate for a total of \$20,638,860. Talk about property tax relief. The differential would be more than 5.7 millions in savings to the state. According to the fiscal note, this-- this could have moved our state to 136 percent of design capacity, exactly where we're supposed to be this July, 136 percent of capacity. You will notice the same agencies didn't provide the same information for this current bill, even though the bill is exactly the same as when I brought it before. Perhaps someone realized they revealed too much. In closing, I want to mention that Senator Lathrop will introduce the committee amendment shortly, which will make this the one-half rule instead of the one-third rule. So the minimum sentence would be no more than half their sentence instead of a third. Surely we can agree to this compromise. We have tried to meet with the county attorneys and get to a reasonable stop-- reasonable spot. It's time for all to step up and help us solve this over-- prison overcrowding crisis. We must all step up, all of us, every branch of government, we have to do something. So I ask you to advance LB131. It's time to get serious about our prison overcrowding crisis, and it's clear to me we can't build our way out of this and we cannot do this without significant sentencing reforms. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Pansing Brooks. Going to the queue, Senator Pansing Brooks, you are first in the queue. You had your light on. Oh, I'm sorry, Senator Lathrop. I apologize, there are committee amendments from Judiciary, would you please open?

**LATHROP:** I'd be happy to, and thank you. Colleagues-- colleagues, I'd ask you to stick around for this. This may be as consequential as the property tax relief we're concerned with and as consequential as business tax incentives or the Nebraska Medicine project to this session. AM1549 makes a-- a simple amendment to Senator Pansing Brooks's bill. LB131 provided for indeterminate sentences with the lower number being one-third of the greater number. This is a modification of that to the conservative side of things, basically providing that the lower number in a sentence should be no more than half of the higher number. I want to take this opportunity to visit with you and take you into some of the jargon that deals with and give you a little bit of background so you have some context for the debate we're going to have on LB131. A judge can sentence someone to a

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determinant sentence in certain circumstances or an indeterminate sentence. I'd like to define those for you. A determinant sentence is a sentence that is flat. I sentence you to five years in prison. That's a determinate sentence. An indeterminate sentence is when the judge sentences someone to a range of years. So I sentence you to 10 to 12 years. A person with good time is eligible for jamming out. We call it jamming out, when you serve your time, you're not-- you do not get paroled, you leave on your mandatory discharge date assuming you keep your good time, that's half of the bigger number. So if you've got a 10 to 30 year sentence, your jam out date is 15. OK. The lower number-- the lower number in a sentence, you are eligible for parole at half of that lower number. All right. So if you get 10 to 30 years, you're eligible for parole at-- at 5 under this amendment. Why is all of this important? Senator Pansing Brooks indicated the-- the rule used to be in Nebraska that your lower number needed to be a third of the bigger number. So everybody had a significant incentive to participate in programming, get their stuff together, and get in front of the Parole Board, because if they don't, they're going to spend an awful lot of time, additional time in prison. That indeterminate sentence requirement went away in a repealer. It was not debated. It was stuck in there by Senator Carol Pirsch years ago and indeterminate sentences, or at least the one-third rule went away. Now I want to talk to you about prison overcrowding. OK. By the way, just because you're parole eligible doesn't mean you're gonna get parole. Right now in our overcrowded Department of Corrections with a looming emergency and room for maybe 150 more adult men, we have 900 people who are beyond their parole eligibility date. I tell you that because the Parole Board is not a rubber stamp. When you get to your parole eligibility date, that does not mean that we're gonna give you the stamp, you go in front of the Parole Board and it's perfunctory and everybody's paroled. It's not happening. If you're misbehaving, if you don't have your programming done, if you're not doing what you need to do while incarcerated, the Parole Board won't parole you and you'll continue on in your sentence until you get to your jam out date. OK. Now let me talk to you about where we're at and why I ask you to stick around and listen and participate in this debate and why it's important. And for those of you on Appropriations Committee, this is gonna sound like you've heard it before. I handed this out and I'd like you to take a look at it. OK. It's important or consequential for two reasons. On the back page is a-- a transcript of a conversation I had with Sen-- with Director Frakes in November. In that transcript you will see Director Frakes has indicated at a time when the

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population is exactly or nearly exactly where it's at today, that he's got room for 150 more adult men. Now you might say that's not particularly consequential until you find out that we've grown the population by 400-- pardon me, 200 over the last year-- or 400 over the last four-- 200 over the last year. In other words, we're going to get to a place where we are out of room at the Department of Corrections. This is more consequential, the statement by Director Frakes, it's in that transcript, is more consequential, colleagues, than the emergency that's going to be declared July 1. Now let me talk to you about-- now let me talk to you about a development in the last month. The Department of Corrections entered into a contract with a group called JFA. JFA does-- they're-- they're experts on predicting population growth at the Department of Corrections. That's your second page. I've spared you the entire report, it is in a draft form yesterday in front of the Judiciary Committee. Director Frakes indicated he didn't expect those numbers to change when it went to the final form. I've taken the opportunity to turn that into a graph to make this really, really easy and bring it home. So if you'll look at this handout that I've provided you, on the bottom is a blue line. That blue line represents design capacity of our beds-- bed space at the Department of Corrections. You will see that it takes a couple of bumps up and then levels out. Those are the projects that we have in the works. So the 384 high-security beds that we approved last year, there's 100 beds going to the Pen and a project that will increase capacity marginally, but create some efficiencies over at the Lincoln Correctional Center. The green-- the green line or the one next above represents operational capacity. Operational capacity is 125 percent of design capacity. The red line represents the overcrowding emergency line-- the overcrowding emergency line. The black solid line is our population. Our average daily population is represented by the solid black line. There is a break and then a dashed line. That dashed line represents the projections of our population at the Department of Corrections according to the experts who just issued a report a couple weeks ago. You can see the line from the projected population going away from the flat line of overcrowding emergency design capacity and operational capacity at an alarming rate. I hope you're still listening because here's the punch line. When I went in front of the Appropriations Committee with a bill to add 300 beds, the Director said he doesn't need them and doesn't want them. Yesterday, he was in front of the Judiciary Committee-- listen to this because this is important, colleagues. Yesterday, the Director was in front of the-- the Judiciary Committee and said, with these projections, we will

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need-- need to build 200 beds a year, 200 beds a year just to be at the overcrowding emergency number, 200 beds a year. Senator Stinner can tell you what this stuff costs. We spent \$50 million on 384. We're going to have to decide this year, colleagues, whether we want to try to build our way out of this--

**SCHEER:** One minute.

**LATHROP:** --200 beds a year at a time or if we're going to do some sentencing reform. This bill is a consequential bill because we can't build our way out of this. You cannot-- you will not appropriate the money. You can forget about property tax relief. You can forget about business tax incentives. You can forget about properly funding the schools, because we're going to be building brick and mortar if we can hire the guys to staff it. And typically it's 10 percent of the cost to build it to run it every year. I'm not opposed to building more capacity. OK. But it's not the only solution or we will have to build 200 beds a year to keep up with this trend line. And I'll tell you, this is about the fourth projection of population that I've seen and every one of them since 2006 has been spot on. These things--

**SCHEER:** Time, Senator.

**LATHROP:** --are accurate. Did you say time?

**SCHEER:** Time, Senator.

**LATHROP:** Thank you.

**SCHEER:** Thank you, Senator Lathrop. Going to floor discussions, Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President, and good morning, colleagues. Though I rise in opposition to LB131 and the amendment, AM1549 for reasons that I'll get into later, I do think there is common ground between Senator Lathrop, Senator Pansing Brooks, and myself in agreeing that this is a very, very important debate on the floor of the Legislature. And I wanted to take some time just before we really got into discussion this morning just to review again what this bill with the committee amendment is going to do, because I want everybody in this body, everybody watching at home to fully understand what the repercussions, the potential repercussions of LB131 with committee amendment AM1549 could be. And I hope by the end of today's discussion, or if it even goes into next week, everybody on the floor

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will at least have a grasp as to why I stand where I stand on this bill. So LB131 with the committee amendment introduces a one-half rule in sentencing, so this was originally introduced as a one-third rule, but that was changed in AM1549. It also eliminates a potential minimum life sentence for Class IB felonies. And I wanted to note for the record what Class IB felonies in our state are. They can include manslaughter, aggravated assault, burglary, and sexual assault of a child in the first degree. A lot of debate centering around LB131 will be dealing with judicial discretion. However, eliminating this ability for a judge to give someone who is convicted of the most heinous of sexual assaults on a child, the tying of the judge's hands in preventing them from giving a minimum life sentence and saying you have committed an act so heinous you cannot be treated, you cannot be rehabilitated, you need to be locked away for the rest of your life with the keys thrown out is wrong to me. That is not something that will impact our prison populations. I'm getting statistics now that should be up by the end of the day today. If not, I'll have them early next week to clarify this. But Class B felonies are things that happen few and far between for felonies that are heinous but fall just short of Class IA and Class I felonies which include murder, arson, and kidnapping. So colleagues, just keep in mind as we're discussing this bill, we are talking about a very serious concept. And I know it's towards the end of the week, but I really do hope you pay attention to this debate. So just to clarify that first part of LB131, the reform of the sentence, so it would mandate that the maximum minimum sentence would be no greater than one-half of the maximum sentence for that crime. So for example, it's common right now for a judge to sentence a habitual child molester to 19 to 20 years in prison, prison with the maximum sentence for that offense being 20 years to ensure the offender is off the streets. With LB131, the best the judge could do is 10 to 20 years in prison with the offender eligible for parole in as little as 5 years. Now a judge in cases like this we oftentimes see the reasoning as being we need to give the victims some closure in these cases. We need to give them enough time so that they can recover and know that the person who has victimized them, who has molested them, who has assaulted them is off the streets and they can take comfort--

**SCHEER:** One minute.

**SLAMA:** --thank you, Mr. President-- that that offender will be off the streets for a long enough time that they can go on with their lives. Sorry, I lost my spot here. So we've also heard argued that the

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one-third rule was enacted successfully from the 1970s to the 1990s, but we did not have day-for-day good time during that period. This bill would essentially turn-- it's called the one-half rule, but in reality, when paired with our good time rule, it's more like a one-quarter rule. It ties our judges' hands. It takes away from judicial discretion. That is why I'm opposed to LB131, AM1549, and I will continue to discuss that on the floor of this body. Thank you, Mr President.

**SCHEER:** Thank you, Senator Slama. Senator Murman, you're recognized.

**MURMAN:** Thank you, Mr. President. I'm here on the floor listening to this debate. I-- I know this is a very pressing and important issue for this state, and I want to be as informed about it as I can. My number one priority in this situation is the victim of the crime. And I know the judges do take that into consideration, especially on sentencing. So I think, you know, the judges know at the time of sentencing, of course, what is really important, the-- the important things to determine to be fair to the victim. Later on in the prisoning process, no matter what happens, you know, that judge at the time of sentencing knew what was most important at that time, so I don't think we can just throw that out. And I'd like to hear more of this discussion, so I would yield my time to a person that I really respect on the Judiciary Committee, Senator Slama.

**SCHEER:** Senator Slama, 3:30.

**SLAMA:** Thank you, Mr. President. And thank you, Senator Murman, both for your attentiveness to this debate and for yielding me time. I wanted to add a point that I wasn't able to get to in my last term on the mike. Again, as we discussed, LB131 and its relation to prison overcrowding, it's worth noting that a similar one-third rule was enacted in 2000 for Class IV felonies to address overcrowding. You can go back through the transcripts and double-check my work. And it turns out the number of inmates serving time for Class IV felonies actually rose. So letting these people out earlier, tying the hands of our judges is not automatically gonna solve all of our problems when it comes to prison overcrowding. In fact, we have evidence to show that this would lead to the opposite effect. If we're following what happened with Class IV felonies when this was enacted in 2000, it stands to reason that the number of people in prison for the felonies that we would be tying the judges' hands on would go up. And I would just like to reiterate, again, what kind of crimes we're talking about

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here when it comes to Class IB felonies: manslaughter, aggravated assault, burglary, and sexual assault of a child. In all four of those cases, the judge has discretion, both in the level of felony-- the prosecution has discretion, both in the level of felony the person that's charged with. The judge has discretion as to whether or not they will sentence that person to a 20-year mandatory minimum or anything up to life in prison as a minimum. So the judges on a case-by-case basis now have the power to look at a case of one of these four crimes and a few others and say this person is beyond rehabilitation. This could be someone who is a habitual offender or has committed an act so heinous that a judge believes it's reasonable that this person is incapable of rehabilitation and does not deserve to see the light of day again. Now if that's how we're going to address the prison overcrowding situation in our state, so be it. But I'm gonna fight that every single step of the way, especially when you consider that those who have been given a mandatory minimum--

**SCHEER:** One minute.

**SLAMA:** --thank you, Mr. President-- life sentence for these crimes, those victims have closure right now. They know that the person who has assaulted them, victimized them to such a high degree will never see the light of day again. Do not take that closure away from these victims. Please stand opposed to AM1549, LB131, and let's consider to what lengths we're willing to go to address the prison overcrowding issue in this state. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Slama. Senator Stinner, you're recognized.

**STINNER:** Thank you, Mr. President. Members of the Legislature, I stand in support of this and I stand here as one frustrated legislator. Six years ago, I came into this Legislature, we had prison overcrowding. We were number two in the country, prison overcrowding. I hate to report to you today, we're either one or two, depending on what Alabama's doing. They haven't done anything. But we have, in all fairness, we have. Right now-- I usually don't even comment on this, but this is in the budget lane, folks, because I think we have a lot of other priorities than to build prisons. The way we reduce prison overcrowding is either get smart about sentencing-- we did specialty courts. We put \$2.5million in additional specialty courts. We got probably \$7 to \$8 million in specialty courts, that's front door. We passed LB605 that was supposed to be the answer. And guess what happened on LB605? After two years that this task force met and tried

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to bring everybody to the table, I was called out at the last second and the prosecutors are out there railing, you can't pass that, you can't pass that. Where were they? Where were they at the table for prison reform? Last minute. And I get the fact the AG, the Governor, all of these law enforcement people want to stay tough on crime and they're probably against this. But I'm gonna read to you what we've done since I've been here; 19-- or 2016 we opened up 100 new bed-- community custody beds at CCC-L. We opened up 160 new beds at CCC-L for females. That was \$24 million. I remember that because I voted against it. I thought it was bad. It's not even full. The agency added another 100 dormitory beds in Lincoln. We've already transitioned a former 36-bed control unit. We are going to build 384 more beds. That's 800 beds since 2015, 800 beds. Guess where we're gonna be? Number one or two in prison overcrowding. Wow, we're really solving this problem, aren't we? And then I have this study that was presented and it's in draft form and I apologize for bringing up a draft form study, but it is a study that projects the population to go from 5,500 where we-- actually 5,700 where we're actually at in 10 years to 7,300. Do the calculation, folks. You're already 150, 160 percent overcrowded. If we add the 384, we'll probably still be right in that 145 to 155 category. We almost have to double the size. Do you want to spend precious appropriation dollars, precious revenue dollars on upsizing your prison? You're almost gonna have to double it in ten years. Now 384 maximum security beds are \$50 million, do some math. It'll be \$4 to \$500 million that we're gonna have to spend, but that doesn't include the operating costs associated with it. This Legislature needs to get a grip. You know, we-- in Appropriations, we continue to appropriate dollars that were requested, dollars for programming. We need that because we got to have people eligible for parole, eligible for community custody beds, eligible to move out into lower-cost overhead situations. Last year, I looked at their budget,--

**HILGERS:** One minute.

**STINNER:** --\$24 million in carryover. They're not using it. So what did we do? We took \$12 million out, and I told Frakes if he doesn't use it, precious dollars, we'll use it some other place. This is serious, serious, serious situation and we don't talk near enough about it. But if you want property tax relief, if you want incentive programs, if you want work force, you want all of these things, you keep coming in, this is where the money is gonna be spent for minimal to no productive use that I see. Now not only does the Legislature need to come together, we have to convince the Governor that if we allocate money

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for beds that we need to take care of this, this is a priority. So I would ask you to advance it to Select, send a message. We got to get-- we have got to get this under control. I do not want to leave--

**SCHEER:** Time, Senator.

**STINNER:** --this Legislature eight years from now number two.

**SCHEER:** Time, Senator.

**STINNER:** Thank you.

**SCHEER:** Thank you, Senator Stinner. Senator Chambers, you're recognized.

**CHAMBERS:** Thank you. Mr. President, members of the Legislature, I've been listening, I've been observing, and I've spent a lot of years working on these problems. And I see happening right now what happened during all those years. You have people with very little knowledge of what actually happens in penology standing up here talking about victims. They don't even know how criminal law came into being. It-- they started in England. But before I go into that, Senator Stinner had hard, solid, concrete information and people are bored, the others are not here. Senator Lathrop is very knowledgeable and had discussed the way the dynamics-- this kind of legislation will work. Nobody listened. Senator Pansing Brooks has been doing yo-- it's yeoman, but I say "yeoperson" work in trying to bring a lot of things together, make it understandable, put it into a proposal. Then somebody stands on this floor and talks about victims. That's not why the criminal justice system exists primarily. In England, there were not a lot of people. When there were wars among different groups, the king's army would be drawn from Englishmen. Well, they also had at that time what were called blood feuds. If you did something to my family, I did something to your family. It was a personal kind of vengeance. The king said this cannot happen because there are too many people who would be needed for warfare who are being killed in these operations. So from now on, if a person damages one person's property or whatever, that can be a personal thing and handled in court through the granting of damages. But when it comes to these crimes, one person against another, it's not brought in the name of the person who is damaged. It's brought in the name of the king, brought in the name of the crown. The crime was considered to be a crime against the state. Even now, if you look at the caption of criminal char-- cases, it's the

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state versus the-- criminal law is not designed to satisfy a desire for revenge to be used by shallow politicians to invoke what they call victims. But to show how hypocritical they are, they're not interested in hungry people, poor people, homeless people, those kind of things. So when the state was sinned against, the punishment was because you had sinned against the state, not an individual. Right now they inject these so-called victim statements. They get people who are teary-eyed, as anybody would be, but that corrupts the system. So the politicians, the county attorneys, and the Governor is the top politician will play on the emotions of the public. That's what happened in Nebraska. And now you're running neck and neck, if not ahead of one of the most backward states in the country when it comes to prisons, Alabama. And you've got people standing on this floor talking about increasing sentences, make it harder to get a parole, and contributing to the worst problem in Corrections that right now probably exists in this country. I'm not gonna try to change the mind of these kind of people. You think I would engage with Senator Slama, she just got here.

**SCHEER:** One minute.

**CHAMBERS:** She hasn't even been in the world very long. That's why she reads her statements. These are just words that have no practical application. They do not realistically address the issue. So if Senator Murman wants to learn something, he needs to listen to people who've been here, who know something. But sometimes old eyes look at young people and they get lost. Did you say time?

**SCHEER:** Twenty-eight seconds.

**CHAMBERS:** You said time now?

**SCHEER:** No, sir, you have 30 seconds.

**CHAMBERS:** Oh, well, look at the Chamber, how empty it is, and you all are not interested in this. I'm gonna take a very deep interest when you all bring these property tax bills out here. And I'm gonna show you what one man can do who has watched you ignore the societal problems that are very damaging. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Chambers. Senator Geist, you're recognized.

**GEIST:** Thank you, Mr. President. I do stand in opposition to this. However, I-- I do want to clarify that I am interested in the correctional system. I have spent some time, though I am no expert and

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I have a lot to learn. I-- I do want to be clear, though, we do have an overcrowding situation. Our prisons are crowded, but it's not because we have-- we're incarcerating so many people. It is because the num-- the size of our facilities, given the size of our state and the number of people we have aren't "comparable" to other states possibly. I have not looked across other states to see how many facilities they have for incarceration. However, our incarceration rates per capita are not the worst in the country. We're about middle for how many people per capita we incarcerate. And I'll give you an example. There is a smaller state that I happen to come from, and I compare it to that because I happen to know a little bit about the state of Arkansas, and they have double the population of our state. However, their prison population is four times the state of Nebraska. So it's not that we are incarcerating so many people, it's that we don't have room to put the people we are incarcerating. And I just want to be clear about that, because when we come to the floor and we talk about prison overcrowding, it seems to cast dispersions on our law enforcement and our judges, those who are working in the correctional system, and the fact is those people are doing the very best job that they can. In many cases, just like every other profession, there may be some bad apples out there, and I would acknowledge that, but there are in every profession. So I am not gonna stand here and cast dispersions upon those who go down the list of getting someone incarcerated. This bill, however, in my opinion, we're talking about IB felonies, this is a public safety issue. These are not the individuals we want to look at as letting out into the public sooner. We-- in my opinion, a good correctional model is one that has firm, knowable, corrective sentencing and robust, caring programming that helps individuals with a background of trauma and terrible circumstances that they have come through, helps them heal, get better, and transition back into the community. That's where dollars need to go. That's where we need to look at improving and getting involved as a community, as a state with the individuals, with Corrections, we're all in this together and helping those in our community heal so that they can come out and be better citizens. But letting them out before they're ready to come out or giving a smaller sentence to someone who needs to be taken off the streets, in my opinion, is not a good answer. And with that,--

**SCHEER:** One minute.

**GEIST:** --I would give one minute to Senator Pansing Brooks.

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**SCHEER:** Senator Pansing Brooks, 55 seconds.

**PANSING BROOKS:** Thank you very much, Mr. Speaker. Thank you, Senator Geist, I appreciate it. I just wanted to clarify a couple of things. This isn't about letting people out early. It's about getting people before the Parole Board earlier so that they can then have their requirements met and they can take the programming required. This isn't about letting people out. And Senator Slama is not correct, we did not get rid of the life sentence. If you read the whole statute prior to that part we crossed out, what we're saying is no more flat sentences, no more life to life. You can sentence 100 years to life for that 1B if you want, but you cannot sentence life to life. That's all. If she wants that back in, I'll be happy to bring it back in, but that's a misunderstanding of what this bill is doing. So thank you very much. Thank you, Senator Geist.

**SCHEER:** Thank you, Senator Geist and Senator Pansing Brooks. Senator Ben Hansen.

**B. HANSEN:** Thank you, Mr. Speaker. While I do have to admit that this topic is not in my knowledge base or purview, I feel like it is my job to sit here and listen and learn, and so I do appreciate the discussion that is occurring here. I do appreciate Senator Lathrop's and Senator Slama's legal expertise and their discussion on this matter. I do appreciate Senator Stinner's emotional appropriation opinion as well. I think that all helps. And so with that, I'd-- I'd just-- I'd just like to continue to encourage the debate so I can listen, so I can learn along with other senators. With that, I would like to yield the rest of my time to Senator Hilgers.

**SCHEER:** Senator Hilgers, 4:15.

**HILGERS:** Thank you, Mr. President. Thank you, Senator Hansen. Good morning, colleagues. I appreciate the conversation on this. I do rise in opposition of LB131 and the accompanying amendment. I do want to thank Senator Pansing Brooks. In my time, in my years here in the Legislature, she's been a leader on these issues. I respect the knowledge and-- and the depth, the commitment that she's had to these issues. I-- I-- I listened very closely to what Senator Lathrop had to say. I appreciate what the-- what the Judiciary Committee has done. I-- I know they have dealt with these issues, they struggle with these issues, and I appreciate that we're having the conversation on the floor this morning. I do think that ultimately, if you take a step

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back-- and I got to admit, I think if you're watching at home, you're trying to sort all-- through all of this, it can be-- it can be very complex and very confusing when you start to talk about the minimum or the maximum and the half of this and the third of this other thing, but let's take a step back. Ultimately, what I hear on the floor, and I understand Senator Pansing Brooks's comments a second ago that this isn't intended to get people out early. It's intended to get them to their parole date early. But what I heard on the floor from Senator Stinner, as well as Senator Lathrop, is that ultimately we have an overcrowding problem and that this will help. Now the only way this will help, in my view, is if it gets people out of prison. If the-- if one of the policy justifications of this bill is to get people to help our overcrowding problem, the only way that it does that without building new prisons is getting people out of prison. And so ultimately, the functional impact of this bill is to get folks out of prison earlier than they otherwise would. Now on its face, that could be good or it could be bad. I think we need to look into the details of what this would-- what this would do. And so if you look at the amendment, and this is true in the underlying bill, this applies to a number of different felonies, excluding, among others, Class III, Class IIIA, and Class IV felonies. And so what are those felonies? So if you-- if you don't practice criminal law, you may not know the difference between a Class I felony, or Class II felony, a Class IV felony-- which one's the worst kind of felony. Is a Class IV felony really bad, or is a Class I felony really bad? I'm not sure. So what-- I think it's important is we put a little record around what types of crimes this would apply to, and so I'll just give a few examples of what would be a IC or a ID felony. Here's just a couple of examples: sex assault of a child, on-line enticement of a child for sex, child pornography, first-degree assault on a police officer, making or dealing cocaine, heroin, or meth. There are some other-- there are other examples that apply to those when-- those convicted of use of a firearm to commit a felony, so we talk about gun violence and that includes manslaughter, assault in the first degree, attempted assault, kidnapping, attempted robbery, strangulation, arson in the first degree. So, so when we-- when we take a step back and we look at what this ultimately is intended to do-- in one form or another, it's meant to have certain individuals who have committed certain crimes that I-- some of which I just described, out of prison earlier. Now we may think that's a good thing or a bad thing, I don't think that as a policy judgment of the Legislature in the state of Nebraska that is on its face a good thing. And the reason I oppose it is I don't think

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this should be our solution to overcrowding. If you agree with the premise that we're overcrowded-- and by the way, I think Senator Geist did a very nice job attacking that premise and saying, look, there's a difference between design capacity, operational capacity, and depending on which metric you use, we might be near the bottom of the list of states or we might be in the middle, and I think that matters. But assuming that we all agree with the premise, and I know we don't that we have this overcrowding problem, assuming that, we don't necessarily agree on the policy solution should be,--

**SCHEER:** One minute.

**HILGERS:** --should be building more-- thank you, Mr. President, should be building more prisons or letting people out of-- out of prison. This does the latter. What this ultimately will do will-- if it works as intended, as we've heard on the floor, the idea of this is to lessen our overcrowding by getting people out of prison. Well, the people who will-- forget about victims for a second, talk about public safety, the people who would be let out of prison earlier are people who have committed some of the crimes that I just described. In my view, as a policy matter from a public safety perspective, those-- that is not where we ought to address any overcrowding issue that we might have. I just don't think that's the right policy solution to that potential problem, so I do oppose AM14--1549, the underlying bill. I appreciate the conversation on the floor. I know we'll pick this up again next week, I look forward to the continued discussion. Appreciate Senator Hansen for-- for the time this morning. Have a good weekend, everyone. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Hansen and Senator Hilgers. Mr. Clerk.

**CLERK:** Mr. President, the Agriculture Committee reports LB803 to General File, likewise, LB972; Revenue reports LB974 to General File with amendments. Senator Kolterman offers LR314, LR315, LR316, LR317, LR318, and LR319. Those will be laid over. I have a confirmation report for Health and Human Services Committee and the Agriculture Committee. Priority bill designations: Senator Linehan as Chair of the Revenue, LB974; and Senator Morfeld, LB997. That's all that I have, Mr. President.

**SCHEER:** Thank you, Mr. Clerk. Colleagues, just so that you are all aware of it for next week on General File, we will be able to discuss LB909, which is the Banking Committee-- one of the Banking Committee

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priorities. We have a Senator priority bill, Senator Brandt on LB996. The Revenue Committee has released and prioritized LB974. And as noted, Senator Morfeld's priority was also ran through this morning. All those will be available for next week. With that, Mr. Clerk.

**CLERK:** Mr. President, Education Committee will meet upon adjournment underneath the south balcony. Senator DeBoer would like to add her name to LB786, LB1208. And Senator Quick would move to adjourn the body until Tuesday morning, February 18, at 9:00 a.m.

**SCHEER:** Colleagues, you have heard the motion. All those in favor please say aye. Those opposed say nay. We are adjourned.