

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

HILGERS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fourth day of the One Hundred Seventh Legislature, First Session. Our chaplain for today is Senator Bostelman. Please rise.

BOSTELMAN: Good morning, Nebraska. Good morning, colleagues. This morning's prayer is provided by Pastor Robert Hopkins of Centennial Lutheran Church in Superior, Nebraska. Please join me in prayer. Gracious-- gracious God, Heavenly Father, we desperately need your wisdom. You have given us a great state founded on principles and truths from your word. We need men and women who will honor you, trust you, and lead us once again back to you. We pray for servant leaders who love the things you love and who care more about others than themselves. Give us leaders with discerning hearts, bold faith, and wise minds that model your character. Teach them and us not just what is good, but what is best. Guide them in the way our state should go. Give them purity in their intentions and godliness in their convictions. Energize their spirits and bodies physically and spiritually, and keep them emotionally secure in the-- in knowing of who you are and whose they are. Help them to be big hearted and sincere, energetic in goodness and courteous in their manners. Raise up leaders with a greatness-- greatest potential of godly leadership, those who can ease confusion, heal delusion. You alone hold the power to turn the hearts of leaders. But you listen to-- but you listen and use our prayers to move them into right action. Help us to be faithful, to care and pursue your heart in prayer. Help our leaders to-- to be quick to admit failure, but ready to re-- to rebound in-- in persistent resilience. Encourage them to choose wisely and when they don't know what to do help them keep their eyes on you. Let them take a firm stand on issues that truly matter to you, regardless of the consequences or approval ratings. Make them God pleasers, not puppets, leaders filled with conviction, not corruption. As a people, God help us to desire righteousness more than rights and to mirror sacrifice more than selflessness. You know us well and you understand our flaws. Turn those weaknesses into strengths. Bathe us with your grace and mercy, though none of us deserve it. Fill us with a boldness to choose the kind of freedom that will benefit all, rather than a few. Open our eyes to see others as you do, with godly potential and value. But help us-- but help us to recognize our own pride in trying to evaluate ourselves and others above you and your purpose for our lives. We look to you and to you only, Lord. Help us make wise decisions to make us in the right direction-- to move us in the right direction. Forgive us for wanting our own way and making our own paths often the ones paved with least resistance. Forgive us for fence

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

walking or for ignoring completely the truths that can easily set us free. Deliver us from your mindless quarrels and destinations that lead us nowhere but away from you. Free us from divisiveness and melt our hardened hearts to love, not hate, and to heal, not debate. Help us to do our part in prayer-- praying and staying with what we know is right according to the truth of your word. Teach us to make our actions count and our words matter and line them both-- and line them both up with your sense of righteousness, not ours. Guide us with your eye. Grip us with your strong arm. Teach us with what we need to know to make our lives count for you. We pray for our leaders, but we ask you to make us both-- both leaders and followers, leading in the truth-- in the way of truth and following those who honor you. In your holy and precious name we pray. Amen.

HILGERS: Thank you, Senator Bostelman. Senator Ben Hansen, you're recognized for the pledge.

B. HANSEN: Colleagues, please join me in the Pledge of Allegiance. I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

HILGERS: Thank you, Senator Hansen. I call to order the fifty-fourth day of the One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call.

HUGHES: Mr. Clerk, please record.

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

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

ASSISTANT CLERK: No corrections this morning.

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

ASSISTANT CLERK: There are, Mr. President. Committee report: Your Committee on Appropriations, chaired by Senator Stinner, reports LB379, LB381, LB382, LB383, LB384, LB385, and LB380 to General File, all having gen-- excuse me, LB379, LB382, LB383, LB384, LB385, and LB380 having committee amendments. Senator McCollister introduces LB108A, a bill for an act relating to appropriations; appropriates funds to aid in the carrying out of provisions of LB108. That'll placed-- be placed on General File. Additionally, Senator Matt Hansen, legislative bill-- introduces LB442A, a bill for an act relating to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

appropriations; appropriates funds to aid in the carrying out of the provisions of LB442. That'll be also placed on General File. Agency reports electronically filed with the Legislature can be found on the Nebraska Legislature's website. Amendment to be printed: Senator Briese, FA15 to LB2. That's all I have at this time, Mr. President.

HUGHES: Thank you, Mr. Clerk. Colleagues, Senator Pansing Brooks would like to recognize Dr. Christi Keim of Lincoln, who is serving as the phys-- family physician of the day on behalf of the Nebraska Academy of Family Physicians. Dr. Keim, if you would please rise to be recognized by your Nebraska Legislature. Thank you, Doctor, for joining us today. Speaker Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I have a fairly significant scheduling update that I want to provide you all here this morning. I'm going to talk about as we enter in this last two months of-- of our work, it's really a critical stretch. And kind of continuing along with the theme that I've tried to give everyone a heads-up on where we're headed so you can prepare and plan, I'm going to cover-- I'm going to cover three topics this morning. One is sort of big picture scheduling, number two is some slight modifications to our weekly rhythm that we've established, and number three is how I intend to approach late nights. So first, on the schedule, as you know, our constitutional obligation is to pass the budget. The Appropriations Committee is kicking that budget out. We-- we should have the budget books coming out. Senator Stinner will have a briefing next Wednesday at 8:15. We'll send an email out on that, next Wednesday at 8:15, and I intend to have General File debate on the budget next Thursday, April 8. So the budget will kick off next Thursday, April 8. Now everything we do here is-- schedulingwise tends to be in pencil, so I say this and there could be some modifications. But my intent and hope and expectation is that we will complete the budget debate the foll-- end of the following week. So it's around April 15 is that last day of the following week. Right now, I think that's where I'm planning to get that-- the budget complete, again, depending on the debate and how everything goes. After that, the next two weeks, depending on how things are going, what-- my intent is to schedule all of the taxing and spending bills. So as you know, after the budget is set, there will be-- likely be money on the floor. At that point, my goal is to have tho-- those remaining bills, some we've already passed on General File, but the vast majority have not come to General File, and the reason is I wanted to have them all considered together so that the body can consider each one in context of others and we can debate our priorities. So the next two weeks, give or take, will be devoted towards those taxing and spending bills. After that,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

and then over the next two weeks, in between the budget, the days when we do the budget debate, we will be filling that in with the bills you've already seen on the agenda and others that will be coming. So we'll try to do that in a logical manner and give people enough-- enough of a heads-up. So big picture, as you think about the next month, it's going to be budget and then tax and spending will be our primary focus. Secondly, on our weekly rhythms, as you know, we sort of try to-- I've tried to have sort of the more difficult debates, the things that I think will take more time, in the middle of the week and that we've tried to bookend those with consent calendar, on the one hand, at the beginning of the week and at the end, both Final Reading and Christmas trees. We're going to continue with that process. I'm going to tweak that a little bit though. So, one, I want to make every-- I've-- I've received this question, I think, every week. Going forward-- again, everything being in pencil, going forward, the first day of each week will start at 10:00, so just-- you can kind of bake that into your expectations going forward. We will continue with consent calendar. We have Monday morning. We have one on the agenda today for next week. And I hope to have several consent calendars after that. So right now, my current expectation will be to have short content calendars to start our day, start our week for the next several weeks. In addition, and this is the slight modification, we've-- we've handled a number of Speaker priority bills, but there are still several left. So my intent when-- when I cho-- when I picked those bills, for the most part, I-- I picked bills that I did not think would take extensive amount of debate. So maybe outside of Daylight Savings Time, maybe another one or two that I can't anticipate, I didn't think that those would take a lot of debate and that has proven to be true so far. So my intent now in light of that is to-- on the first day of the week is to have after consent, to debate the Speaker priority. So the major modifications, it's not really that major, but the thing that I haven't conveyed to you before is after consent, we'll be dealing with the Speaker priority bills. We'll continue scheduling the-- the way that I've tried to schedule in the past with the difficult bills in the middle. As we get through the Christmas tree bills, and if-- if we don't have Final Reading and as the consent and the Speaker priorities sort of exhaust themselves, we'll fill in those-- those the first part of the week and the last part of the week, accordingly with what we have left to do. Last, on late nights, my-- my-- the way that I intend to approach this, in the years past-- it's a little different from years past. Years past, I think we go till 5:00 till late April and then May and then we have this sprint at the end where we're going until 9:00 and 10:00 and 11:00 at night. That's-- I-- I don't-- I would like to avoid that if we can. My-- my approach to-- my approach to scheduling and my

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

approach to this session is to try to get a good amount of kind of consistent good work done so we're not rushing at the end. So what I intend to do and approach the late nights is-- and I've got a separate memo on this so there'll be separate dates. For late nights my intent will be to-- there will be some per-- some days where I think we will go later, not really late but later, so maybe 7:00, maybe 7:30. So I've-- I've sent out, in this other memo that will come out to you this morning, those dates, and I'd ask for you to reserve those dates so that you're available, but I don't intend to go to 9:00. I don't intend to go to 10:00, 11:00, or close to the end of the day, so that way we can kind of continue to get work done but we're not doing this kind of crazy sprint late at night. That could change depending on our progress, but that is my current intent right now and I think that we can accomplish that. And so that's-- that-- those are the three big scheduling pieces as we go into our last month and a half, two months of work. The last thing, to give you a heads up for next week, obviously, we've got the budget. And as I-- I just said, we'll do consent and Speaker priorities on Tuesday, and we still have bills from this week that we didn't get to. We'll-- we're going to put some more on the agenda and I'm going to read those off now in numerical order. As I've mentioned before, and as you've seen already, there are bills that will come up that we'll put on the calendar that I haven't announced. So this isn't exhaustive and this is no guarantee, as we learned this week, that they will actually come up for debate, but these are the ones I intend to add to the agenda, so I want to give you a heads-up on those: LB2, Senator Briese's bill relating to changing the valuation of ag-- ag land for certain school district taxes; LB17, Senator Kolterman's bill changing actuarial val-- valuation, amortization provisions for certain state retirement systems, and-- and by the way, I-- I currently intend-- I think LB17 will come up-- Wednesday morning is my current intent, I've told Senator Kolterman that; LB81, Senator Hilkemann's bill providing authority for SIDs to own, construct, and maintain public parking facilities, that's a Speaker priority bill, so if it comes up you'll probably-- you'll see it at the beginning of the week, as I mentioned; LB108, Senator McCollister's bill changing provisions relating to SNAP; LB307, Senator Pansing Brooks's bill changing provisions relating to the appointment of counsel for juveniles; LB423, Senator Lathrop's bill regarding registration of home inspectors, also a Speaker priority, so beginning of the week; LB497, Senator DeBoer's bill providing for compensation under the Nebraska Crime Victim's Reparation Act; LB527, Senator Walz's bill changing provisions relating to transition services for students with a developmental disability; and LB664, Senator Groene's bill changing distributions from the Mutual Finance Assistance Fund. So that's the big-picture

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

scheduling. If you have any questions, please let me know. I know I've got-- I've received a number. I've tried to incorporate the answers to the common questions that I get into some of these announce, but-- announcements. I'm certain I'm-- I have not covered all of your questions. But if you have any, please let me know. And if there's any tweaks that we need to make to make this-- you know, optimize our scheduling and make it even better, I'm always looking for ways to improve, and I appreciate everyone who has given me that kind of feedback over the last few weeks. It's been very valuable. So with that, thanks for the work this week, enjoy the long weekend, and we'll see everyone next Tuesday. Thank you, Mr. President.

HUGHES: Thank you, Speaker Hilgers. Mr. Clerk, we will move to Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, the first bill is LB37.

ASSISTANT CLERK: [Read LB37 on Final Reading]

HUGHES: Thank you, Mr. Clerk. Colleagues, all provisions of the law relative to procedure having been complied with, the question is, shall LB37 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, John Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Halloran, Hansen, Hansen, Hilgers, Hughes, Hunt, Kolterman, Lindstrom, Linehan, Lowe, McCollister, Morfeld, Moser, Murman, Pahls, Sanders, Slama, Vargas, Wayne, Williams. Voting no: none. Not voting: Senators Machaela Cavanaugh, Hilkemann, Lathrop, McDonnell, McKinney, Pansing Brooks, Stinner, Walz, and Wishart. Vote is 40 ayes, 0 nays, 1 present not voting, 8 excused not voting.

HUGHES: Motion passes. We'll now proceed to LB169. Mr. Clerk.

ASSISTANT CLERK: [Read LB169 on Final Reading]

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB169 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

ASSISTANT CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hughes, Hunt, Kolterman, Lindstrom,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

Linehan, Lowe, McCollister, Morfeld, Moser, Murman, Pahls, Sanders, Slama, Vargas, Wayne, Williams. Voting no: none. Not voting: Senators Briese, Hilkemann, Lathrop, McDonnell, McKinney, Pansing Brooks, Stinner, Walz, Wishart. Vote is 40 ayes, 0 nays, 1 present not voting, 8 excused not voting.

HILGERS: LB169 passes. We will now proceed to LB351.

ASSISTANT CLERK: [Read LB351 on Final Reading]

HILGERS: All provisions of law relative to procedure have-- have been complied with. The question is, shall LB351 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hughes, Hunt, Kolterman, Lindstrom, Linehan, Lowe, McCollister, Morfeld, Moser, Murman, Pahls, Sanders, Slama, Vargas, Wayne, Williams. Voting no: none. Not voting: Senators Hilkemann, Lathrop, McDonnell, McKinney, Pansing Brooks, Stinner, Walz, Wishart. Vote is 41 ayes, 0 nays, 8 excused not voting, Mr. President.

HILGERS: LB351 passes. We will now proceed to LB401. Mr. Clerk.

ASSISTANT CLERK: [Read LB401 on Final Reading]

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB401 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

ASSISTANT CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hughes, Hunt, Kolterman, Lindstrom, Linehan, McCollister, Morfeld, Moser, Murman, Pahls, Sanders, Slama, Vargas, Wayne, Williams. Voting no: none. Not voting: Senators Hilkemann, Lathrop, Lowe, McDonnell, McKinney, Pansing Brooks, Stinner, Walz, Wishart. Vote is 40 ayes, 0 nays, 9 excused not voting, Mr. President.

HILGERS: LB401 passes. We will now proceed to LB476.

ASSISTANT CLERK: [Read LB476 on Final Reading]

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB476 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Hansen, Hansen, Hilgers, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, Morfeld, Moser, Murman, Pahls, Sanders, Slama, Vargas, Wayne, Williams. Not-- voting no: none. Not voting: Senators Halloran, Hilkemann, Lowe, McDonnell, McKinney, Pansing Brooks, Stinner, Walz, Wishart. Vote is 40 ayes, 0 nays, 1 present not voting, 8 excused not voting.

HILGERS: LB476 passes. We will now proceed to LB533.

ASSISTANT CLERK: [Read LB533 on Final Reading]

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB533 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, Morfeld, Mor-- Murman, Pahls-- excuse me-- Moser, Murman, Pahls Sanders, Slama, Vargas, Wayne, Williams. Voting no: none. Not voting: Senators Hilkemann, Lowe, McDonnell, McKinney, Pansing Brooks, Stinner, Walz, Wishart. Vote is 41 ayes, 0 nays, 8 excused not voting.

HILGERS: LB533 passes. We will now proceed to LB503.

ASSISTANT CLERK: Mr. President, with respect to LB503, Senator Flood would move to return LB503 to Select File for a specific amendment.

HILGERS: Senator Flood, you're recognized to open on your motion.

FLOOD: Thank you, Mr. President and members. When Senator Machaela Cavanaugh and I and Senator John Cavanaugh and I worked on this, we did a floor amendment. Bill Drafters said this-- this correction is necessary before we headed to-- back to Final, so AM733 is really just a technical amendment, simply correcting an internal reference within

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

the bill. I'd encourage your green vote on AM733 and, of course, referring this back to Final Reading. Thank you, Mr. President.

HILGERS: Thank you, Senator Flood. The question before the body is the motion to return LB503 to Select File for a specific amendment. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: Vote is 39 ayes, 0 nays on the motion.

HILGERS: Motion is adopted. Returning to Select File on LB503. Senator Flood, you're recognized to open on AM733.

FLOOD: Thank you, Mr. President. Members, again, AM733 is a technical amendment simply correcting an internal reference within the bill. I'd ask for your adoption.

HILGERS: Debate is now open on AM733. Seeing no one in the queue, Senator Flood, you're recognized to close. Senator Flood waives closing. The question before the body is the adoption of AM733. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: 42 ayes, 0 nays on the adoption of the amendment.

HILGERS: AM733 is adopted. Senator McKinney for a motion.

McKINNEY: Motion to move LB503 back to Select File-- [INAUDIBLE] to-- to Final, sorry.

HILGERS: Motion is to move LB503-- to advance it to E&R for engrossing. All those in favor say aye. Opposed say nay. LB503 advances. Turning to the next bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, with respect to LB106, Senator Ben Hansen would move to return LB106 to Select File for a specific amendment.

HILGERS: Senator Ben Hansen, you're recognized to open on AM586-- or your motion. I'm sorry.

B. HANSEN: Thank you, Mr. Speaker. Colleagues, I introduce AM586 to LB106, and I apologize for bringing this on Final Reading. I meant to bring it on Select File, but there's some wording issues that were brought to my attention, so we had to kind of correct some of those. And I have been in communication with Senator Friesen about this amendment. The goal is that we help make this bill more fiscally

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

responsible and also inform the Legislature about the progress of the update to the DMV system. And I would like to elaborate on those two points here quick. Number one, currently, the cost associated with a driver's records request is \$3, which will be increased to \$7.50 in this bill with the intent to help raise money to replace the agency's driver's license system for handling the issuance of driver's licenses across the state of Nebraska. And I have no problem with this and from my discussion with the department, sounds like it is sorely needed. This money then goes into the Operator License Services System Replacement and Maintenance Fund. As the bill is currently written, this fee increase from \$3 to \$7.50 to help raise money to pay for the system, this fee increase would be perpetual and never ending. This continuous increase intends to help pay for the maintenance of the new system. I believe we have found a better way to help pay for the maintenance of this new system without raising the fees which, in turn, increases fees on the taxpayer of Nebraska. So let me break this down a little further, took a little number crunching, but we got it, so bear with me here for a minute, just mention a few numbers here. In the current statute, the revenue generated from the records request fee is distributed three ways, so that \$3 is-- is distributed into-- into three funds here, right? So when somebody or an insurance company or somebody asks for driver's records request, the \$3 goes to these three places: 33 and a third percent to the records of Management Cash Fund in the Secretary of State's Office; 80-- 58 and a third percent into the General Fund, and only 8 and one-third percent into the Department of Motor Vehicles Cash Fund. So out of that \$3, only 8 percent of it goes to the DMV. This amendment, beginning in 2032, after they've raised the money and updated their system, would combine the DMV and General Fund distribution into the DMV Motor Vehicle Cash Fund, which would equal 66 and two-thirds percent and which can then be used to help pay for the maintenance of the new system. We would then return the driver's records request fee back down to the current levels, instead of keeping them at \$7.50, plus a 50 cent increase to help address inflation. So it's at \$3 right now; it's going to go to \$7.50 to help pay for the new system, which makes sense, and then after ten years it's going to come back down. So we did crunch some of the numbers here. So-- and I have been in communication with Ms. Lahm at the DMV to help figure out how much it's going to cost to maintain this new system, and approximately it's going to be around \$3 million to help maintain this system. And so when you combine these two funds together, it's going to equal about \$2.9 million, so pretty darn close to help pay-- maintain their system, so it actually works out really well. And so number two point I'd like to address in the amendment is we would require the Department of Motor Vehicles to report every two years on even-numbered years starting 2024 on the progress of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

implementation of the new system. The report shall include an estimated cost for completion, the operating system under consideration, and the expected time the new operator's license system will be-- become fully operational. I would-- I-- I do like the-- I would like to thank Senator Friesen, though, for allowing me to speak on this and the opportunity to address these concerns I have and help make a good bill better. Senator Groene and I have been working on this and trying to crunch these numbers and figure it all out. So again, I apologize for bringing it on Final Reading, but it's just-- this is a good amendment that's fiscally responsible, it's going to save the taxpayers money, and we're just trying to make a good bill better. So with that, I'll do my best to answer any questions. Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Hansen. Debate is now open on the motion to return LB106 to Select File. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. Colleagues, I rise in opposition to bringing it back. When we studied this, and I've-- I've visited with Senator Hansen about this, at first I viewed it as a friendly amendment, and it's not a necessarily unfriendly amendment, but it-- it's really not needed. The Appropriations Committee each year takes a look at those funds. They-- they know what dollars are in there. So in the end, a report is kind of made to Appropriations each year as they look at the budget. And I know appropriations does a really good job of sweeping all the interest earned out of those accounts and kind of taking what they can, so I know they know that there-- the money is there. And in the end, Appropriations has to appropriate the spending of the money. When DMV does finally, you know, implement the program, they'll be working on an RFP for the next several years. We're kind of building up a fund in order to pay for this program, so it's going to-- it's going to take some time for them to build those dollars up. Appropriations will be watching it, and so I don't feel that this amendment is really needed. I know there's an appropriation or a-- a transfer of money from these fees that are raised that goes into the General Fund every year. It's not a very large amount. It's a little over \$2 million. But it's just-- if you look through some of our fees that we charge, there's a lot of times a transfer to General Fund, a portion of the fees raised, so it's not unusual to see that. And so with that, I stand in opposition to bringing it back. Thank you, Mr. President.

HILGERS: Thank you, Senator Friesen. Senator Groene, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

GROENE: If you remember the original debate on this, Senator Hansen and I both asked questions about the-- there's-- very vague, not very much accountability. We're putting money together for ten years from now. None of us will be here, none of us. And they'll be-- the-- the executive branch, which DMV is part of, will be spending this money, no institutional knowledge of what-- what happened ten years earlier. What this amendment does-- all of you folks who want more accountability at HHS, this fits you-- every two years, DMV has to come back to the Transportation Committee and give a report: How are you progressing on this update of your technology? That's accountability. There will be probably two new Transportation Chairmen by then. They will be updated every two years what the progress is. This a lot of money. This is more than doubling a fee on taxpayers. We thought we had an agreement. We did it the right way, talked to the Chairman, talked to the DMV, agreed to bring it-- the amendment on Final Reading because we wanted it-- Senator Hansen wanted it accurate. So this is no surprise that this amendment was dropped. It was agreed upon previously. The other thing, folks, is we raise fees on DMV, on drivers-- drivers and insurance companies, and you know how many dollars appro-- we appropriate to DMV? Zero. I understand it's zero, pretty much zero. They survive on fees. So why are we charging excess fees to put money in the General Fund? There's another good reason for this amendment about accountability. They want to keep the \$4 fee perpetual for maintenance. So now you're the computer company or the software company and you have-- you've got the-- the contract, the maintenance. So you'll look every year, say, how much money is in that fund? DMV, the state of Nebraska, can't spend it for anything but maintenance. Oh, it's \$3 million. I guess, DMV, we want \$3 million for a maintenance contract. Sounds pretty sweet, doesn't it? If this money goes into DMV's cash fund, the head of DMV can negotiate with that company because they know any excess money that does not go to the contract can be spent for raises, for updates, for pencils and paper. Is that good government, to stick a chunk of money in a fund and say you can only use it for one thing and you only got one company? Sounds about like the-- little bit like what we did yesterday with broadband. This is a very good amendment. It lowers the fees back down \$4 and lets them keep the 50 cents. It all goes to DMV's cash fund. Why are we skimming some off, the majority off, a past Legislature to give the appropriation to the General Fund when we don't fund DMV? This is good government. This is very good government. It's accountability. It fits the term limits that we keep the body informed about a major purchase. Remember the \$12.5 million--

HILGERS: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

GROENE: --or so we lost in the software with HHS, just threw the money away because the company they dealt with wasn't reliable? That was a surprise to me because whoever made that contract in the past was probably term limited out and voted on that. With term limits, we have to look at bills differently. We look-- have to look at about accountability, so those who precede us-- or follow us, excuse me, are kept up to date. Senator Hansen wrote a very good amendment and met with DMV. And I don't know what-- who threw a wrench into this. I'm assuming it's the executive branch because they think they're going to lose power and we're telling their department, DMV, what to do, but I don't know. I thought we had an agreement. So I'd appreciate-- take a look, harder look at this, what this does. It's a very, very good amendment on accountability and to keep--

HILGERS: That's time, Senator.

GROENE: Thank you.

HILGERS: Thank you, Senator Groene. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. I think I voted for this bill, but-- before, and now I'm reminded that I have to be consistent. And I hope this body is consistent. This is raising fees during a pandemic when we have more money in our budget than we've ever had in at least the four years that I've been here. We are going to raise fees on users. We spent many times with Senator Hughes's bill last week or-- yeah, last week, and that was my argument. And so I'm asking everybody on this body to be consistent. You don't have to vote no, just don't vote for it. And this isn't the time to raise user fees. The second issue I have is with the Department of Motor Vehicles in general. Senator McKinney, did you know that in Omaha, east of 90th, there is no place to actually go, get your license testing done? I just found that out last week when we were having a conversation and people started contacting my office because they couldn't actually go in their neighborhoods or close to the-- where they lived to actually get testing done. So I know the DMV is probably watching. And I was going to bring an amendment to require, at least in the metropolitan first class, to have a testing facility in an ERA, because those are oftentimes the people who don't have the resources to get there. But talking to Chairman Friesen, I didn't want to tie this up anymore, so I didn't drop that amendment. But I hope the DMV is listening that we used to have one in my district on 30th that was removed, moved to another part of my district, which is on 56th and Ames, but they removed the testing facility, so you cannot actually get a test east of 90th Street, which is about 200,000 people who don't have access to a DMV for testing in east Omaha. So those are my two issues with this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

bill, so I won't be voting to return it to Sel-- I'll probably vote to return it to Select, but I won't be voting on the underlying bill. And I encourage everyone who was against the Douglas County fees, who are against fees being raised, and who are against fees being raised at a time that we have more money on the floor than at least we've had in the last four years, to be present, not voting. I think it sends the wrong message to raise fees during this time. Thank you, Mr. President.

HILGERS: Thank you, Senator Wayne. Senator Geist, you're recognized.

GEIST: Thank you, Mr. President. And I just stand to give a different perspective. I understand the-- the objections, but let me just offer this as a different perspective than what we've heard. And having also the same-- I-- I also don't like raising fees. However, what the DMV has done here is not necessarily what we would say is bad government, because they're projecting a need forward. They're saving money for that need. And also, the way that the money is distributed currently helps pay for the maintenance of the current software system they have, which is very high. Raising the fee not only saves money for the software that they're going to need in the future, which is going to be very expensive; and since they operate on fees, saving for a future high expenditure is a wise thing to do. What the amendment does is removes their ability to pay on their ongoing maintenance. And again, that ongoing maintenance is high. Currently, they have to pay maintenance on the system they have. The system they have is aging and as a system ages, the maintenance goes higher. They're saving for a new system. And when that system is implemented, there will also be ongoing maintenance on that system. We have a department here that runs well. It's frugal. It-- it manages itself. You hardly ever hear anything about DMV in the news, on the floor, and the reason is, is because it's run so well. I would contend to you what is offered in LB106 is good government. It's prudent thinking. It's visionary and looking ahead because they run on fees. So I am opposed to returning this to Select File, and I am for LB106. Thank you, Mr. President.

HILGERS: Thank you, Senator Geist. Senator Ben Hansen, you're recognized.

B. HANSEN: Thank you, Mr. Speaker. I'm going to echo a little bit of what Senator Geist just said. LB106 is a good bill. The DMV does run very well, and that is the reason why we have not heard from them. They do a very good job. All we're doing here with this amendment, along with their ability to report to make sure that the system is, you know, getting updated appropriately, is how they're going to pay for the maintenance. That's really what this comes down to: How are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

they going to pay for the maintenance once they get the new system in order? Do we want to keep the fees raised on the people to pay for the maintenance? We can lower that and then take the fees that we currently do have, plus 50 cents; instead of it going to the General Fund for whatever purpose it's getting used for, it goes to the DMV for what its-- what its-- what its main purpose is for. The DM-- just like I think Senator Groene said. The DMV runs on fees, but we take 58 percent of it and give it to the General Fund? Shouldn't it go to the DMV? Isn't that good government? And that's what-- it's all we're trying to accomplish with this. The fee now, instead of going to the General Fund, goes to the DMV for what it's originally intended for. They're doing a records request, it goes to DMV, and that comes up to about almost \$3 million, which is almost exactly what they need to pay for the maintenance. It works perfect. This is a good amendment. I'm-- in-- like I said, I'm going to vote for LB106 and I encourage everybody else to as well. They do a good job. My amendment just makes this better, their ability to report, to make sure that things are being run smoothly, and it's-- and also to make sure that the money that the fees are being raised on go to the appropriate spot instead of the General Fund. So I encourage everybody to vote for AM586, and I appreciate the discussion on this as well. Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Hansen. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. I just want to kind of remind everybody of what this-- what-- what we're trying to accomplish here. And to replace the software. I mean, if you look at-- this is a kind of an off-the-shelf-type software where they come in and they'll modify it to fit Nebraska's needs. But this, this type of software, is purchased by numerous states so that they do work together. And I'll just read off some of the states and what they've paid in-- to update their software. Like Minnesota, I think the final cost was \$33.8 million. Michigan was \$68.6 million; Massachusetts, 86.2. Washington was \$30 million. Colorado was \$62 million. This is an expensive program and our program is old. By the time we reach the point of having this implemented, our software that we currently have will be 40, 50 years old, and it is not going to last much longer. And the maintenance on it has been increasing exponentially. As states drop this program, there's just less and less of these programs out there that they have to maintain. And so by-- by doing it the way the DMV is doing it, and-- and Director Lahm, I-- I think she's taking a really wise approach and she's raising these fees, and these fees are paid by large insurance companies and things like that. The average citizen doesn't pay these fees. You'll have some employers that want to do a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

driver's license check that will have to pay these fees. I think Senator Clements has-- has asked for some records in the past, but very few times, as most of the majority by far is from these companies that do records checks, and that's where these fees come from in the first place. And even by doing this, I mean, it still leaves us pretty well in the middle of where everybody is at, to the lower range even. The highest fees that anybody charges is in Oklahoma for \$27.50 compared to we're going to be at \$7.50. The cheapest is down here. We were the second cheapest to start with. North Dakota would be \$4 for a records check. That was at the lowest end of that range, so we are not exorbitant in raising our fees. I think it's appropriate what she's doing. She's taking a very measured approach to this and having-- instead of having us to have budget to do this down the road, she is working towards accumulating enough in that fund so that down the road the Appropriations Committee can appropriate the cost. After they've worked through the RFP and actually want to make that purchase, it'll come before this body again and people can revisit whether or not they want to put a sunset in place. With that, I urge you not to return it to Select and let's get it passed today. Thank you, Mr. President.

HILGERS: Thank you, Senator Friesen. Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. Politics is-- politics confuse the issue. Senator Hansen's amendment does not change anything what Senator Geist and Senator Friesen said. They will collect the money for ten years. There's a sun-- there's a date in there. They have to have it done by 2032, implementation of the system. That's \$50--some million, and Senator Friesen just talked about \$30 million and \$35 million some other states have done it, larger states than us. There will be an additional \$10, \$15, whatever, million in there after they do it for the initial contract after the warranty period that would be used for maintenance. I know in this times we've just-- with pandemic money, means nothing anymore to government, and I see conservatives throwing it around like drunks, too, used to be fiscal conservatives with accountability. Senator Wayne, if that money is put into their cash fund, they may be able to put another testing site in north Omaha. If it's put in this maintenance fund, the-- the director of DMV has no control over it. It can be used for one thing; \$5.2 million a year will continue to come in and it will grow. We all know it'll grow. And that computer software firm will look at that money in there, say, find out how much money is sitting in there; according to their state statutes, it can only be used for maintenance; it's \$5.1 million, we'll be nice this year and only charge them \$4.9 million. Is that good government? In this bill, that excess money and that fees

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

coming in is for one purpose, maintenance, with one company. Sounds like broadband to me-- heck of a deal. If we put it back into their cash fund, that director can bargain with that computer company, software company, about what the maintenance fees will be, and they might have enough extra to hire some more people and put another testing facilities for motor vehicles in North Omaha. We do not-- I asked two members of the Appropriations Committee. We do not give a dime out of General Funds to DMV. It is run by fees, but we skim off \$2.5 million, the-- at least I know on that fee-- there might be more in other fees-- to put in the General Fund. Why? Is that good government? Now this has nothing to do with Senator Friesen and the Transportation's goal-- Committee's goal to build a new software system. That is still in there. They can collect it for ten years, \$50-some million. They can build it in six or five. That's-- that's-- gives management authority to the executive branch. But after ten years, whoever sits in these chairs here can decide, do they need to raise fees to fund-- to self-fund the DMV? Boy, that just sounds like great government to me. Just throw money at it. Nobody in his body will be here in eight, ten years; nobody will know what's going on. Do you really think the director, present director that we all trust, is a very well--manages the department real good-- really well, will be there in ten years? A new Governor could replace them. Then you're going to say, oh, my gosh, we put no strings on that money, no accountability on that money.

HILGERS: One minute.

GROENE: This is so common sense, I don't even know why we're arguing. I thought I was going to come today, an agreement was made, and move it down the road. I'm as-- I don't know. Nobody told me that the Appropriations Committee gets so petty they're fighting over \$2.1 million that they want it to spend on something besides a new testing facility in north Omaha. Did the Governor do it? I don't know what-- what torpedoed this. Collegiality, I'll end it with that. Thank you.

HILGERS: Thank you, Senator Groene. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB37, LB169, LB351, LB401, LB476, and LB533. Returning to debate on the motion, Senator Moser, you're recognized.

MOSER: Thank you, Mr. Speaker. The fees we're talking about here are paid by primarily insurance companies and employers that want driver's records on either people they're insuring or people that they may consider hiring. And if they want that information, they pay the fee. If they can obtain that information in other ways, they don't have to pay the fee. Our fee right now is-- is one of the lowest. And to say

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

in ten years we're going to go back to being the lowest for this fee is, I don't think a good idea. In ten years, we're going to have 3 percent a year, 30 percent total, probably, inflation expenses are going to go up in that amount of time, and to expect the Legislature to come back to this and reset that fee in ten years I don't think is a good idea. The Legislature can readdress that fee at any time. It could address that fee, you know, next year, in any legislative session. So it hasn't changed in-- I asked Senator Friesen and he said he wasn't sure of the specific date, but it's ten years or thereabouts, probably, since it's been changed. It's a-- it's more or less a cash fund to accumulate funds to pay for expenses they're going to have. It was pretty much agreed to, to this point, and at this late stage, to try to bring it back and-- and modify it, I think, is a mistake. I think I'm going to vote with the Chairman and vote against the-- the motion to return to Select File. Thank you.

HILGERS: Thank you, Senator Moser. Senator Ben Hansen, you're recognized.

B. HANSEN: Thank you, Mr. Speaker. So one other number I kind of want to throw at people here a little bit. So, again, with the bill, the fee is at \$3; it's going to go to \$7.50. That extra \$4.50 will help pay for the-- the new system. Makes sense. Again, that's-- that's fine. I have no problem with that. Our goal then after ten years after they've raised \$50 million to help pay for this system, which seems kind of expensive, \$50 million, we lower it back down to \$3.50. So we're adding another 50 cents in there for inflationary reasons. That lowering down that fee, and then, again, using those fees to go to the DMV instead of the General Fund, will save taxpayers approximately \$3.3 million a year. Senator Moser says it goes to the insurance companies, which he's right. But when raised fee is on the insurance companies, where do you think that-- they raise their fees on? The taxpayer. This will save taxpayers \$3.3 million a year. If we call ourselves fiscal conservatives, that sounds like a pretty good deal to me. That's what I'm trying to accomplish with this bill. We're paying for the maintenance. We're not saying anything about-- about the DMV. They do a great job. We're still paying for the maintenance of the system. That's not really getting jeopardized because they do about 1 point-- 1.25 million records requests a year. If we lower that down, again, by \$4, that's about \$5 million and we'd take 66 and two thirds, that's about \$3.3 million. So just to remind everybody, we're saving taxpayers quite a bit of money with this amendment, and that's what I'm trying to accomplish. That's all. We still accomplish everything else that the-- that the-- the underlying bill wants to do. We pay for the system. We update the system because it needs to be done. Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

Wayne is right. It's outdated and there's some-- DMVs are not located in-- in certain spots they need to be. So I-- and I-- I don't want to torpedo this bill. And again, I apologize for bringing this on Final Reading. I brought it on Select File, but I had to pull it because some of the wording was incorrect. So I encourage you to vote for this amendment. This will save your constituents quite a bit of money. Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Hansen. You have your close remaining. Senator Groene, you're recognized.

GROENE: Thank you. Let's be clear here. There was no behind-the-scenes surprise, or the term I like to use is "backstabbing." An agreement was made with the Chairman of the committee that he would-- Mr. Senator Hansen would-- would not present his bill on Select because-- his amendment, excuse me-- I get those two words mixed up. Senator Murman found out and I'm finding out, don't do that-- that the Chairman agreed that it-- if-- if the DMV agreed with us, with the amendment, that we could bring it back on Final Reading and put the amendment on. I don't think-- I could ask Senator Friesen that on the mike, but he-- he said that they worked together. So what Senator Moser said, at this late stage, there was an agreement. There was an agreement. Like I said, I don't know what happened between that, and I understand the-- the Chairman has to take advice from the Appropriations Chair and the-- and the executive branch, but-- but our duty is good government and this would be good government. Those of you who just got elected six years from now, if you get reelected, maybe not if you-- if we pass bills like this with no accountability, don't you want to know how that project is come-- going? That's what-- is accountability in this amendment. They have to give a report every biennium to the Legislature how they are coming, which software companies they're looking at. Maybe then you will learn how long this software company has been in business, are they are an upstart, could they be like the one that-- at HHS that was a flash in the pan and took us for \$12.5 million and went down the road. Well, that's why I'm here, to look over the-- look after the peoples and be accountable for their hard-earned tax dollars and fees. This amendment does not harm at all the original purpose-- the original purpose of LB106. What I fear is we're looking with blinders on: my bill, my priority, will-- how will they vote on it; if they do this to this one, what will they do to mine; I'm going to maybe have to vote for bad legislation or not improve legislation because it might affect me. I worry about how it affects the citizens of Nebraska. That's all I worry about. This is a very, very good amendment. Like I said, you on the left, this plays right into accountability you're looking for, Senator Cavanaugh, at

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

HHS. It does, 'cause you can point a finger at me later and say, what about this, Senator Groene, we put accountability here, how about there? And I might be with you. This is a very, very good amendment about a good-- a government-- to improving government accountability that I've seen on this floor, good legislation where you-- the committee does their job, the lobby does their job, and then the rest of us do our job on the floor. We do not rubber stamp stuff coming out of committees. And, yes, my good friend, Senator Moser, it's OK to put an amendment on Final Reading. It's in the rules. We just seen Senator Flood do it.

FOLEY: One minute.

GROENE: This isn't a hostile amendment. It does not affect the original purpose of the legislation that was worked out by the committee with the executive branch. This brings us into it and says we're going to be accountable taxpayers, fee payers, we're going to be accountable. So I would appreciate helping with a return-to-Select-File vote and then approval of AM586 and then the approval of LB106, green on all. Thank you.

FOLEY: Thank you, Senator Groene. In the speaking queue are Senators Erdman, Albrecht, Machaela Cavanaugh, and Hunt. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good morning. Listening to the comments this morning by Senator Ben Hansen and Senator Groene makes sense. For Senator Wayne's information, I probably have a higher percentage of my people in my district who live further from DMV than he does in his district, so I-- I get that, maybe a little different situation. But when this bill came up earlier, I had spoken a couple of times about the \$50 million cost for a computer system. That seems exorbitant to me. When we voted on this bill on General File, it had 26 votes to pass, 26. We don't know what kind of computer system we're going to get. We have no idea what the \$50 million is going to be used for, but yet we vote to contribute \$50 million to something we may think to solve our problem. So it's an opportunity that we have this morning, whether it be Final Reading or whatever it is, to bring it back to Select File to make an amendment that makes sense about accountability. But because it's on Final Reading, we think it's inappropriate that we make an adjustment or amend it. That is not true. Does-- we do it all the time. It's part of the rules, as Senator Groene said. So let's bring this back, let's make it more transparent of what they're going to do, and send the money where it's-- should be sent in the first place and move on, because with only getting 26 votes on General File, there may be a good chance, if we don't adopt this amendment and make it better, that it may only get 24 this time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

So if I were for LB106, I would say let's bring it back, amend Senator Ben Hansen's amendment into it, and it may have a lot better chance of making the finish line; otherwise, it may not make it. And so I'm trying to decide whether \$50 million for something I don't know about is a wise decision. So we're going to vote on this sooner or later, and I appreciate that, but I'll leave you with this. Today is Good Friday. And I got good news for you. He has risen. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Albrecht.

ALBRECHT: Thank you, President Foley. I rise in support of LB106 and opposed to AM586. I sit on the Transportation and Telecommunications Committee and I have worked with Director Lahm on several bills that come out of her-- her area. And I just-- I just really know that she has put a lot of thought into this bill, as well as the one that I carried earlier for the department. And speaking even with Senator Stinner, she works with the Appropriations to know that this is where the money needs to go. This is-- I don't believe she's going to ask for any more than she absolutely needs. And if there's a way after the-- the system is in place that she can reduce a fee, I would definitely say that that's something that they would do. It would not be used to-- to do anything more than enhance the-- their system, not-- not wages or benefits or anything like that. And even if they fell short, they'd still have to go to our Appropriations and ask for money. So at this time, I believe that LB106 in the-- in the contents that-- that they have in the bill right now should be enough, and I just ask for your green light on LB106. Thanks.

FOLEY: Thank you, Senator Albrecht. Senator Machaela Cavanaugh.

M. CAVANAUGH: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. First I would like to say that sometimes this place can be like a penal colony. Happy birthday, Senator Lathrop. Happy April 1 to everyone. Today I decided, for April 1, that I would dress like Senator Cavanaugh, who always wears a black suit and a white shirt and a tie. And I also did this a little bit in honor of my aunt and uncle, my aunt, who passed away a few years ago, my aunt and uncle, Sheila and Ken. It was their thing to celebrate April Fools', and it was a fun, silly, goofy, lovely thing that they always did, so I wanted to honor that a little bit. I appreciated Senator Groene's comments on this and trying to ensure that we hold ourselves accountable to how we vote on things and being consistent, so I appreciate those comments and oversight and accountability. As I voted this out of committee and I've voted for it previously on the floor, I feel it would be inappropriate for me to vote against it at this point. But I do think that these are really interesting and valid points that are being

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

brought up today and if there is another way to fund this computer system, I think we should be talking about that and I think it actually should be part of the budget, going through the budget not fees. But that is how the department brought it, so that is what-- how it is. But if we can come together as a Legislature and decide that we want to fund it differently, I am very supportive of that. But at this point, I'm not going to go against what we did in committee. So I appreciate your comments today, Senator Groene, and engaging on this topic. And I will yield the remainder of my time to the Chair. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. I was moving myself down to the bottom of the queue because I was still formulating my thoughts about this bill. It's-- I don't have thoughts specifically about this bill, but I like the fees talk that we're having and I've been sort of formulating some thoughts around that type of topic. I don't know-- on this bill, to speak on this bill and this amendment, I don't know if I support moving the fees from the General Fund to the Treasurer's Office. The Appropriations Committee already reviews fees, which I think is the right process to ensure oversight of the funds and to make sure that those funds are appropriated in Nebraska in the best way, through oversight of the Legislature. I'm skeptical about more agencies potentially increasing fees with the expectation that they will be able to increase their budgets outright through fees instead of through appropriations by the Legislature. And I would be interested in hearing from members of the Appropriations Committee about their views on this amendment before I make a decision about my support. It's tough when we have substantive amendments like this come up on Final Reading because, like I said, I kept putting myself back down in the queue because I was reading the amendment and I'm also getting together a request from the Attorney General and I'm working on a letter to the Board of Education and, like, a lot of moving parts and now I have to understand this amendment, and so I was trying to quickly do that. So I would be interested in what members of Appropriations have to say about it, but I like the fees talk that we're having. And we have many bills in the Legislature to increase fees, for example, to increase court costs, some of these bills coming up in the next week. And I would ask colleagues to consider legislation around fee increases in the context of the future, in a very future-facing way, especially given the movement we have in our country going around voter suppression and access to the ballot. We have a bill in the Government Committee to implement voter ID in Nebraska. And we see, of course, what's happening around our country

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

with voter suppression and things like getting rid of polling places, cutting down the time that people have to vote early, putting new restrictions on voting by mail, for example, saying that people have to get vote by mail notarized and things like that. In Georgia, they just passed this bill where they're not even going to allow volunteers to give water or food to people waiting in line to vote. And in Nebraska, we have several voter suppression bills sitting in Government Committee that are not going to come out, but, for example, voter ID. And so that's something that could potentially involve the Department of Motor Vehicles, and I don't want to do anything around fee increases, which I understand this amendment is not. But I want the Legislature to consider, when we're talking about fee increases, what the future ramifications of that could be, whenever we're talking about it, whether it's for the DMV or whether it's court fees, especially when our-- as a nation, we also have this movement around voter suppression at the ballot. And if we're going to be potentially requiring voters to get an ID to vote, how could increased fees contribute more to that voter suppression, especially, to piggyback on Senator Wayne's comments, when people in Omaha, which has such a high concentration of Nebraska's population and certainly the highest concentration of population of underrepresented groups and disadvantaged groups, people of color, people with disabilities, a lot of ethnic diversity--

FOLEY: One minute.

HUNT: --but there isn't even a DMV east of 72nd for those people to use, to say nothing of the public transportation and nothing of the polling places that we also have accessible. So this was just kind of the context that this bill was making me think in. I like to talk about fees and I think it's-- it's a pretty substantive amendment to be having on Final Reading, so I'm-- I'm still considering it. Thank you, Mr. President.

FOLEY: Thank you, Senator Hunt. Senator Ben Hansen, you're recognized to close on your motion to return to Select.

B. HANSEN: Thank you, Mr. President. I appreciate the discussion we're having today about this bill, and I would be remiss and I wouldn't feel like I'm doing my job if I couldn't find a better way to-- if I found a better way to pay for something like this that would save the taxpayer money, also accomplish what we need to accomplish with the underlying bill, and that's what we have here with the amendment. Again, this amendment saves taxpayer-- your-- your constituents quite a bit of money, actually, because when you charge insurance companies, they're going to charge the-- the client or the customer. That's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

typically how the market works. And we're still funding what LB106 needs to get funded for. And here's the great thing: If for some reason we're not-- we're a little bit off, they can come back in ten years and ask for more money. I mean, the department should be coming to us asking for money, instead of us just giving them perpetual fee increases to fund whatever they want. Again, if we're trying to be fiscally responsible with-- with our constituents' money, that's what this amendment does. So I would appreciate a green vote on AM586. And whatever happens with my amendment, I would appreciate also a green vote on LB106. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Before proceeding to a vote, I'm going to ask all members to please check in. We're on Final Reading, so every senator should be at his desk, her desk, so if you'd all please just check in at this point. Senator Dorn, check in, please. Senator Linehan. OK, all unexcused members are now present. The question before the body is whether or not to return the bill to Select File. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 16 ayes, 18 nays on the motion to return to Select File.

FOLEY: The motion is not successful. Please read the bill, Mr. Clerk.

ASSISTANT CLERK: [Read LB106 on Final Reading]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB106e pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

ASSISTANT CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Machaela Cavanaugh, Clements, Day, DeBoer, Dorn, Erd-- Dorn, Flood, Friesen, Geist, Gragert, Halloran, Ben Hansen. Hilgers, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, McCollister, McDonnell, Morfeld, Moser, Pahls, Sanders, Stinner, Vargas, Williams, Wishart. Voting no: Senators Erdman, Matt Hansen, McKinney, and Wayne. Not voting: Senators John Cavanaugh, Groene, Linehan, Slama, Hilkemann, Lowe, Murman, Pansing Brooks, Walz. Vote is 36 ayes, 4 nays, 4 present not voting, 5 excused not voting.

FOLEY: Thank you, Mr. Clerk. LB106e passes with the emergency clause attached. We'll proceed now to LB106Ae.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

ASSISTANT CLERK: [Read LB106A on Final Reading]

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB106Ae pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

ASSISTANT CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Flood, Friesen, Geist, Gragert, Halloran, Ben Hansen, Hilgers, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, McCollister, McDonnell, Morfeld, Moser, Pahls, Sanders, Slama, Stinner, Vargas, Williams, Wishart. Voting no: none. Not voting: Senators Erdman, Groene, Matt Hansen, Linehan, McKinney, Wayne, Hilkemann, Lowe, Murman, Pansing Brooks, and Walz. Vote is 38 ayes, 0 nays, 6 present not voting, 5 excused not voting.

FOLEY: LB-- LB106Ae passes with the emergency clause attached. LB22e.

ASSISTANT CLERK: Mr. President, with respect to LB22, Senator Wayne would move to return the bill to Select File for a specific amendment.

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

WAYNE: Thank you, Mr. President. And, colleagues, I'm not going to spend a lot of time on this. I'm going to make a quick point to this, and I just think it makes sense, but we'll see how it goes. This bill was passed and-- and talked about for the last couple of rounds as a consumer protection bill, but the only people who cannot do anything about it is the consumer themselves. So we list all of the standards that must be followed in statute, but if those standards are violated, the consumer has absolutely no recourse. This only allows the insurance company or the Insurance Department to try to hold those companies accountable, but at the end of the day it was the consumer who was-- did wrong. It was the consumer who we are trying to protect and it is the consumer, unfortunately, who is being left out of having any rights or ability to sue or pursue damages that was caused by the company. What my amendment does, it says that if a company violates those standards, that breach can be part of a lawsuit. It basically re-- removes the immunity that this bill provides to allow an individual who is wronged by the company to be able to sue. It's really that simple. I know Chairman Williams is against this amendment and the industry is against this amendment. But it's just hard for me to understand that if we have a consumer protection bill, when those standards are violated, why is the consumer not able to do anything? Just doesn't make sense to me. It's really that simple. I can't-- I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

can't take ten minutes to explain how simple this is. If the consumer is violated by a breach of one of these standards we are putting in the statute, according to this bill, and it specifically says, the consumer cannot use a breach of this statute-- statute as a cause of action. So what's the purpose of the standard? That's really all my amendment does. It says if they breached one of these standards, they do have a cause of action. So what's the purpose of a standard? The standard is to make sure the industry is operating or the company that is selling this annuity is operating in a way that is ethical and makes sure that they are doing certain things that the consumer needs. That's why this has been touted as a consumer protection bill. But again, if it's a consumer protection bill, why is the consumer left out of the remedy? I just think that's wrong and my amendment corrects that. And again, I can't explain it more simpler than that. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. In the speaking queue are Senators Williams, Lathrop and Kolterman. Senator Williams, you're recognized.

WILLIAMS: Thank you, Mr. President. And as simple as this seems to Senator Wayne, it is not that simple, folks. And this is clearly a consumer protection bill that was brought by the Department of Insurance to provide significant consumer protections. I would remind you that this was heard by the Banking Committee on January 25, 2021. There was no opposition testimony, including the trial attorneys that we are going to hear from this morning. They were not there. There was no opposition testimony. The bill was voted out of committee 8-0. I would remind you, this is not a friendly amendment and we are on Final Reading. There was no discussion, Senator Wayne, on Select File, which was held on a Monday a couple of weeks ago, where this should have been brought out. Also, I would remind people that if you want this kind of a change, bring a bill. That's what this is about. Let me refresh you on LB22. The original suitability of annuity transactions under the NAIC model, this is model legislation that has been adopted in nine states and is currently pending in eight others, including Nebraska. This is to protect the public interest and facilitate the fair and equitable treatment of insurance consumers. The original model was adopted many years ago. This past year, in February 2020, the NAIC made these significant changes following extensive input from, listen to this, insurance regulators, consumer representatives, and the insurance industry. The language provides these best-interest standards that are there that apply to all of the producers and the companies, and there are significant regulatory penalties, included in Section 5 of the bill, that provide for taking a person's license, compensation back, all of the kind of things that you would expect.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

Despite the precise and clarity built into the NAIC model, the nation's regulators, who drafted it, had some interest and there was some concern expressed about the obligations being overly subjective. To address this concern, the NAIC drafters put the language in that is in LB22 on page 2, lines 12 through 16. The bill makes it absolutely clear that nothing in this chapter creates a private right of action, and that's what we're talking about right now. This was the compromise that was agreed upon, and if that compromise is violated, this bill goes away and we lose the consumer protections that are provided by the regulatory framework that is established by LB22. So if we would adopt the amendment that we're talking about, we hurt consumers. Understand that: We hurt consumers. The interesting points that I think you should think about with this are the intent of this bill is to provide these regulatory protections to consumers purchasing annuities. The bill does not in any form grant immunity. The bill does not preclude a lawsuit. Senator Wayne can file a lawsuit today claiming damages, if there are damages, on annuity sales. By the way, this is only annuities, nothing else. After we pass LB22, he can file that same lawsuit. If there are problems with annuity sales, I'm going to tell you, a lawsuit isn't going to fix them. They're going to be fixed by regulation. They're going to be fixed by a strong Department of Insurance covering those kind of things. The intent of this bill is clearly not to create-- create a private cause of action. Bring a bill, then we can talk about that. If Section 2 is changed--

FOLEY: One minute.

WILLIAMS: --as I mentioned, it destroys the NAIC compromise between the industry, the producers, and the insurance regulators; therefore, the bill goes away. I would just simply remind you that we need to vote red on this, move this bill forward. It was brought by the Department of Insurance. There was no opposition testimony, including the trial attorneys, and it was voted out 8-0. I would appreciate you following the committee's recommendation and moving this bill forward after we defeat the motion to return it back to committee. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Senator Lathrop.

LATHROP: Thank you, colleagues, and good morning. Before I begin my remarks, let me just make this acknowledgment. When this was on Select File, I was in isolation and I couldn't be here. I would have done this on Select File. I-- I appreciate that this is Final Reading and that's not usually where we have these kind of discussions, but please appreciate that I was unable to participate in floor debate. That said, I want to give you some context for what we're talking about, so

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

what this is-- what this whole annuity thing is about and why are we-- why is the-- why are we about to regulate in that area. And I say regulate in that area. We already have a statute in place, 44-8100 [SIC] and following. If you look at that, we already have protections in there and standards in place. This is a new version and it comes with some language that causes some concern for both Senator Wayne and myself, and I want to talk about that. But before I do, let me tell you what the-- what the concern is. So people that sell annuities, these insurance salesman, this is the problem. They can cheat consumers in this process, and let me tell you how that happens. Now a lot of good people in this-- there is regulation in this bill. I-- I would be the first one to acknowledge that. But here's-- here's how people get cheated in the annuity market. So if you're an older person, this probably isn't a good fit for you. And so if you roll into the-- somebody who sells these and they say, you know, you're 74 years old, and they say, yeah, give me your life savings and I'll sell you an annuity, that probably isn't a good fit, OK? But the guy who's selling the annuity is going to make a big commission. All right? So this happens or Senator Williams wouldn't be here with a bill to try to regulate it. Right? Here's where the other problem is. So you come into the-- to the annuity salesperson and they sell you an annuity and it's-- basically, if you don't understand annuities, you-- you pay a premium. You pay a premium and then they promise to pay you a steady stream of income going into the future, regardless of how long you live, typically. So it's not unlike a defined benefit retirement policy, but it has an internal rate of return. So they come and they sell me the first policy and they say, Lathrop, I'm going to sell you an annuity, it will make 4 percent and we will pay you from this annuity when you reach 65 or 70 or whatever the number is. You can define these things. There's a million ways to define how it pays out. And two years later, the guy comes back to me and he says, you know, that annuity I sold you two years ago pays 4 percent. Can you guys take that somewhere? It pays 4 percent and now I can pay--

FOLEY: Members, if you could keep your conversations down, please.

LATHROP: Now-- now I got one that'll pay 6 percent, and that sounds like a pretty good deal. I'm going to make more money. But the surrender fee on the first one's 25 percent. So that's called churning. I'm going to take somebody and talk them out of their last annuity, give them a little higher rate of return, and they're going to lose money because they gotta surrender 25 percent of the value of the first one. OK? There are bad actors in this area, which is why we have regulation, which is what Senator Williams is trying to address with this-- with his bill. Here's where the problem is. Once--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

FOLEY: One minute.

LATHROP: --somebody gets cheated, they can't get their money back from anybody. Now I'm going to-- I'm going to hit my button again and ask Senator Williams some questions because he did say you can still sue and this is not an immunity. But the language that's causing the heartburn for myself and Senator Wayne is this. This bill does not create or imply a private cause of action. So can I use the standards if Grandma comes into my office and says, that scoundrel just sold me a second annuity and I had no idea I was giving up 25 percent of the value of my first annuity to make the change? See, it's consumer protection when the consumer can be reimbursed for what they've lost and if that is impaired in this bill, then we have a problem. We have a problem that causes me concern and makes me, at this point, at least, willing to support--

FOLEY: Time, Senator.

LATHROP: --Senator Wayne's AM716. Did you say time?

FOLEY: That's time.

WILLIAMS: Thank you.

FOLEY: Thank you, Senator Lathrop. Senator Kolterman.

KOLTERMAN: Good morning, colleagues. I'm that bad insurance agent that my colleague over here just referred to, and it's kind of fun to see us all sit back here and dispute a bill because we're usually on the same page with a lot of bills. I'm going to talk a little bit about the process, and-- and I understand what Senator Lathrop and Senator Wayne are trying to do here. In any industry, there's good actors and there's bad actors. There's no question about that. And believe me, I-- I was in this industry for nearly 40 years and I ran into a lot of bad actors. And there's no question, what Senator Lathrop just said, churning goes on because somebody thinks they can make a buck, a quick buck, and they've got a better deal than they had six months ago. Well, the quality agents in this state don't do that. I'm not saying it doesn't happen. It does happen. But the reality is the Department of Insurance, which, by the way, is one of the best in the nation that we have here in Nebraska, they're here to protect the consumer, the companies, as well as the good agents, but they are there to weed out the bad agents. So when this bill was brought-- and I didn't hear the bill, but I understand the bill because I've worked in this industry for a long time. When-- when Director Ramge and his team brings in an NAIC-compliant bill, a lot of work's gone into that. And that just

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

means that the consumer groups, the insurance agents, the insurance companies, the trial attorneys, anybody that wants to have input, have had input on a national basis. And then it's brought back to the states and the states are then allowed to enact or not enact NAIC-compliant model legislation. Senator Morfeld and I and-- and Senator Williams are working on some NAIC-compliant stuff right now as it pertains to pharmacy benefit managers. So they play an important role in what we're doing here. I will tell you that Director Rame is so-- he is very consumer oriented, as is the Department of Insurance. And as Senator Williams has indicated, it did have a hearing and it-- and it did advance. It advanced through General File, and I understand that Senator Lathrop was not here. I have to listen to see what the-- by the way, I'm the only one speaking that is not an attorney. Senator Wayne and-- and Senator Lathrop and Senator Williams are all attorneys. I have to find out the legal aspects that they're talking about here, and I'm-- I plan to listen to that, as Senator Williams and Senator Lathrop have these questions, but I will tell you this. I have sold hundreds of annuities, both variable annuities, which are dealt with through the Securities and Exchange Commission because they're tied to the stock market; fixed annuities, which are-- are tied to the investment returns of a specific insurance company or the person-- the company that's writing, and annuities have a strong place in our economy. And they can protect-- when you buy a-- when you get an annuity in the retirement, that means you're guaranteed a payout for the rest of your life. I'll go back to the-- the idea that there are good actors and there are bad actors. The Department of Insurance, through their regulation, can pull a person's license if they're--

FOLEY: One minute.

KOLTERMAN: --a bad actor. And I would also say that I've seen it where the bad actors and the insurance companies-- the insurance companies have had to come to the table and pay back something that one of the bad actors, one of the bad agents have-- have promoted. So with that, I would hope that we don't have to bring this back to Select File. I would hope that we could move this bill on. And as Senator Williams said, if there's-- if they want to bring a bill next year to fix what they perceive as a problem, let's deal with it then. But let's respect what the Department of Insurance has come up with here. Let's re-- let's respect what the Banking and Insurance, Commerce Committee is promoting, and let's move forward. With that, thank you very much.

FOLEY: Thank you, Senator Kolterman. In the queue: Senator Williams, Wayne, Lathrop, and Briese. Senator Williams.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

WILLIAMS: Thank you, Mr. President. There's been some discussion about annuities, which there should be because this only applies to annuities. Again, I would point out annuities are a contract between a company and the insured or the beneficiary or however you want to describe them, the-- the consumer. And all of the details of forfeiture penalties are all described in that contract. It has been too bad at times that there have been people that have unscrupulously taken advantage of a annuity owner. But there's a little difference here that even behind that, and especially it's preserved in LB22 under Section 5, are the protections that are there, that are still important to look at. But when a person pays a forfeiture penalty or something, they are still not out their money. They still have the basis of the contract that they had to start with. So the idea that-- that somebody steals their money is just just not the case with an annuity. That could be the case with some other type of investment that a person might be looking at, but not with the contractual relationship of an annuity. Here are some questions that I think, if I were a senator here not knowing a lot about this, that I would ask and want to know the answer to. Does LB22 increase the best-interest standards for those selling annuity products? Yes, it clearly does. Under LB22, anybody selling an annuity has these new best-interest standards to follow. Second question: Does LB22 give the Department of Insurance the ability to use these suitability standards in reviewing the actions of those selling annuities? Absolutely. That's the purpose of LB22, to be sure that the Department of Insurance can watch over those selling these products. Does LB22 give the Department of Insurance the ability to require an insurance company to reimburse, by the way, a purchaser for any damages if they find a violation of the suitability standards? And the answer is yes. Read Section 5. Does LB22 give the Department of Insurance the ability to remove a producer's license for violation of suitability standards? Yes. Does the consumer currently have the right to file a suit against a producer and an insurance company if they believe they have a cause of action? Yes. After we pass LB22, do they have that same right to file a suit if they believe they have a cause of action? Yes. Passing LB22 does not provide any type of immunity for a producer or an insurance com-- company. Yes. Think about it. Wouldn't you have to agree that consumer protections are increased with the passage of LB22? Absolutely, yes. I don't even think Senator Wayne or Senator Lathrop could argue with the fact that consumer protections have increased if we pass this. I know there are some questions that Senator Lathrop has of me. I'd be happy to answer those. Again, I would ask for your vote red on the amendment to move-- or the motion to move this back to Select File. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

FOLEY: Thank you, Senator Williams. Senator Wayne.

WAYNE: Thank you, Mr. President. I just want to make sure that people understand that the day this was on Select File, I had a mandatory court hearing that I could not get out of. And so the two people who were talking about this on General File were both gone that day. So it's not-- it's not a surprise to this body. The second thing I just want to quickly mention is, in our constitution, we have to have one day before we can actually vote on Final Reading. We have to have a layover for a day, any bill that we vote on Select File. The reason for that is for this body to go back and think about it. If we just decide to always pass everything on Final Reading, then we're-- why have three rounds of debate? Why not just have two? There's a reason we have three rounds of debate: to talk about these important issues. And with that, I'll yield the rest of my time to Senator Lathrop.

FOLEY: Thank you, Senator Wayne. Senator Lathrop, 4:00.

LATHROP: Thank you, Senator Wayne. I would like to ask Senator Williams some questions and have a dialogue with him if he'll yield.

FOLEY: Senator Williams, would you yield, please?

WILLIAMS: Certainly.

LATHROP: Senator Williams, you have said on a number of occasions this morning that this bill does not create immunity for the-- for the bad actor or producer. Is that your understanding?

WILLIAMS: Yes.

LATHROP: So-- and-- and I will grant you that it provides protections for the consumer. My concern, of course, is whether the consumer can be-- make a recovery for what they've been lost at the hands of a bad actor. You appreciate that that's my concern?

WILLIAMS: Yes.

LATHROP: OK. So you've said that the-- that a consumer that has been cheated by someone who is a bad actor, and I'll grant you most of them won't be and this will incent them not to be, but if I have lost money on account of someone violating the very standards in this bill, you've said earlier and you will say now that I still have the right to bring a cause of action.

WILLIAMS: That's correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

LATHROP: What's the standard--

WILLIAMS: You would have the same right to bring the cause of action that you have today. Yes.

LATHROP: OK. So if-- and you-- you are a law school graduate, so you're going to appreciate this, not that everybody else can't, but in order to sue somebody you've got to show that they violated some standard and that you have been harmed.

WILLIAMS: Correct.

LATHROP: OK. So if I-- if I bring that cause of action because someone has taken and churned my account and I've lost \$10,000, what standard do I use in that claim to prove my loss and that the person actually did something that was wrong and I'm entitled to be reimbursed?

WILLIAMS: My question back to you would be today, you being a practicing attorney and me being a 50-year banker, not practicing law, what st-- if you-- if that client came to you today with that fact circumstance, what would you tell them?

LATHROP: I'd tell him that we'd go to 44-8106 under the current law--

WILLIAMS: Right.

LATHROP: --and we have a standard set out in statute right now, and it would be the guiding principle for whether my client would be entitled to be reimbursed for what they've lost on account of somebody's misbehavior.

WILLIAMS: I would agree with that, not really.

LATHROP: OK, well, so far we're agreeing to everything, but you and I have had a conversation and we don't agree on everything, so we're--

WILLIAMS: That's true.

LATHROP: --gonna get to the bottom of that.

WILLIAMS: That's true.

LATHROP: After we pass this--

WILLIAMS: And-- and I suspect the next question will demonstrate that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

LATHROP: Yes, it will. So after we pass this, this bill will set out standards for behavior for somebody who sells annuities, and the public may benefit from the Department of Insurance pulling that person's license. But if I've lost \$25,000 because someone has done one of the very practices you want to prohibit here, can I use this statute as a measure for whether the person violated their duty to me, the client?

WILLIAMS: The answer--

FOLEY: Senator Lathrop-- Senator Lathrop, you have 0:45, then you're next in the queue, so you've got 5:45.

LATHROP: Thank you.

WILLIAMS: The answer is no to the specific question. But the general question you're answer-- asking is you would have the same right to sue that-- as you had before we passed these current standards. So if you have a cause of action today based on the circumstances and the fact pattern that you are presenting, even if we pass LB22, you would not have the ability to sue on the new standards that are created there. But the standards that you currently have today, you would still be able to sue on.

LATHROP: Yeah, but--

WILLIAMS: So you're not taking a step backwards.

LATHROP: But those standards are in 84-8100 [SIC] and following. Am I right? That's--

WILLIAMS: I'm not sure about the number, Senator Lathrop.

LATHROP: Yeah. So currently we have the Nebraska Protection in Annuity Transaction Act, which is in Article 81 of Chapter 44, and this bill amends that section and places-- it deletes some things and adds your new standards, does it not?

WILLIAMS: Yes.

LATHROP: So what-- if-- if we're deleting the old standards and putting new standards in place and your answer to me is I can use the old standards, they're no longer controlling law.

WILLIAMS: We're not taking anything out of law that I'm understanding.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

LATHROP: OK, well, we might be getting somewhere here, Senator Williams. So everything that is in existing law, that's in the Nebraska Protection in Annuity Transaction Act today, is still available to me. And so everyone understands, and you certainly do, if I'm going to bring a cause of action, I got to be able to tell the court, this is the standard this person should be held to, and it's typically a statutory standard, they violated that standard, and my client has been harmed. They're out \$20,000 because they violated these statutory standards of behavior for someone who's selling an annuity. We do have some of those standards in 81-- pardon me, 44-8100. [SIC] Right? And you're telling me we're not getting rid of any of those standards. We may be adopting new standards or additional standards of best interest, but I can still use the old standards, the-- the-- the current standards, to prove that a producer violated their duty to their insured when they sold them the second or third or fourth policy.

WILLIAMS: It's my understanding, Senator Lathrop, that any basis that you would have for a lawsuit today, you would be able to apply that same basis for a lawsuit following the passage of LB22.

LATHROP: OK, so the-- the language that's causing Senator Wayne and myself concern about it doesn't apply or create a cause of action, only applies to those things that are new to the Nebraska Protection in Annuity Transaction Act.

WILLIAMS: That's my understanding.

LATHROP: OK, thank you.

FOLEY: Thank you, Senators Lathrop and Williams. Senator Briese.

BRIESE: Thank you, Mr. President. Good morning, colleagues. Wasn't gonna say anything on this, but I think I will weigh in for just a second. When I first looked at the language, I thought to myself, well, Senator Wayne's onto something here, that-- that looks like immunity. But then as I look closer, no, I agree with Senator Williams, doesn't create immunity, says simply nothing in the act can be construed to imply or create a cause of action, doesn't abrogate the ability to file a-- a lawsuit over one of the-- over an issue arising here based on negligence. But arguably, the standard of care is in flux based upon the language in this statute. But it seems to me that over time, as agents and sellers adhere to the standards put forth in Section 4, those standards will become the standard of care upon which negligence will be assessed in future suits. So I think by default, those standards, most likely, one day become the standard of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

care for the lawsuits we're talking-- potential lawsuits we're talking about here over which negligence will be determined. So someday, negligence suits over the sale of these annuities, of these items, I think, will be based on the standards set forth in Section 4. And for that reason, I-- I don't think Senator Wayne's amendment here really is necessary. These will become the standards that will be utilized in lawsuits down the road. But anyway, I would-- I'm going oppose AM716, urge your support of LB22. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. Senator Williams, you're recognized, your third opportunity.

WILLIAMS: Thank you, Mr. President. And I-- I-- I do appreciate the conversation that we've had on this, this morning. I think that it has helped all of us understand this annuity system a little more. And with that, I will end my-- thank you.

FOLEY: Thank you, Senator Williams. Senator Wayne, you're recognized to close on your motion to return to Select.

WAYNE: Thank you, Mr. President. I do just want to highlight a couple of things, that essentially what this is about is about consumer protection, and I want to make sure it's clear to the body that the consumer has no ability to protect themselves underneath this statute, at least, is what I thought. But what I heard from the dialogue from Senator Lathrop and Senator Williams, that they still will have the ability to pursue claims underneath previous statutes and they'll also have the ability, according to Senator Briese, to reference these types of standards as a new standard of care going forward but may not-- may not be able to sue clearly underneath this statute. So with that, Mr. Clerk and Mr. Speaker-- or Mr. President, I am going to withdraw AM716 with the understanding of that legislative history, and I want to withdraw the next one, which is AM715.

FOLEY: Thank you, Senator Wayne. Those-- those amendments have been withdrawn. Mr. Clerk, please read the bill. I apologize. We must first dispense with the at-large reading. Those in favor of dispensing the reading vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 31 ayes, 2 nays to dispense with the at-large reading.

FOLEY: The at-large reading has been dispensed with. Mr. Clerk, please read the title.

ASSISTANT CLERK: [Read title of LB22]

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB22e pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, John Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Matt Hansen, Hilgers, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, McKinney, Morfeld, Moser, Pahls, Sanders, Stinner, Vargas, Wayne, Williams, Wishart. Voting no: none. Not voting: Senators Machaela Cavanaugh, Ben Hansen, Slama, Hilkemann, Lowe, Murman, Pansing Brooks, and Walz. Senator Ben Hansen voting yes. Vote is 42 ayes, 0 nays, 2 present not voting, 5 excused not voting.

FOLEY: LB22e passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following three legislative bills: LB106e, LB106Ae, and LB22e. Senator Stinner, you're recognized.

STINNER: Thank you, Mr. President. Members of the Legislature, I'm here to show you-- in the Easter spirit, we-- I am going to have distributed the proposed biennium budget by the Appropriations Committee. This is blazing orchid. So in-- in any event, we will have a briefing on this next Wednesday at 8:15 in the Warner Chamber. Just to kind of highlight and maybe focus you in, there's 269-270 pages of budget. Actually, if you paid attention to page 7, financial status, that's kind of the starting point for this. I believe that you'll see we are recommending about \$211 million to come to the floor. On page 16, you got the analysis of the Cash Reserve, which is our rainy-day fund. We talk a lot about that in-- in the Legislature here. Other significant increases and decreases are on page 37, which is-- really highlights decision making within-- within the appropriations and affects the amount of appropriations, so that's page 37. Transfers in and out also affect the bottom-line budget, on page 26 and 29. So if you really kind of wanted to focus in on those pages, I think that will give you a pretty good indication of what we're recommending from the Appropriations Committee. With that, again, it's 8:15, Warner Chamber, on Wednesday morning. Thank you.

FOLEY: Thank you, Senator Stinner. Proceeding on the agenda to General File 2021 priority bills, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB501, introduced by Senator Flood, is a bill for an act relating to real property; adopts the Uniform

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

Easement Relocation Act; and provides severability. Bill was read for the first time on January 19 of this year and referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Flood, you're recognized to open on LB501.

FLOOD: Thank you, Mr. President. Members, good morning. This is a Uniform Law Commission bill that I introduced on behalf of that outfit, specifically working with former Dean of the Nebraska Law School Willborn; Harvey Perlman, former chancellor at the University of Nebraska; Larry Ruth, someone well known to all of us here in the Legislature. This bill itself is part of a package that Senator Lathrop will explain from the Judiciary Committee. But this underlying bill codifies Nebraska law permitting the owner of property burdened by an easement to relocate it without the consent of the holder of the easement running across the property. For context, LB501 is based on recent Uniform Easement Relocation Act promulgated by the Uniform Law Commission last year. For an example, let's say Senator Aguilar owns a lot of land between two lots that I own. I have an easement permitting me to run a water pipe across the middle of his land for the purposes of irrigating mine. Senator Aguilar decides he wants to develop his lot. He'll need me to agree to move the pipe to the edge of the property to proceed with his development. At common law, an easement like this could be moved only with the consent of both parties. This would allow me to thwart Senator Aguilar's development or ask for part of the profits from the planned development to incentivize the relocation. In 2006, the Nebraska Court of Appeals addressed this very issue by adopting the restatement rule. This rule permits an easement to be relocated unilaterally-- that is, without the consent of the easement holder-- if there would be no harm to the easement holder and the property owner bears all the costs. LB501 codifies what our Court of Appeals has already held and is already in Nebraska law in an explicit manner to provide more guidance to the courts, property owners, easement holders. The act specifies the procedure to be followed, what notices must be provided, and the factors a court must consider before authorizing relocation of an easement. On the latter point, a court may authorize relocation of an easement only if the relocation would not materially (1) reduce the usefulness of the easement; (2) impose a burden on the easement holder; (3) impair a purpose for which the easement was created; (4) impair the safety of anyone using the easement; or (5) reduce the value or condition of the easement holder's property. The act requires the property owner to pay all the expenses of relocation and ensure that the easement holder's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

access is not disrupted during relocation. Certain exceptions apply. LB501 does not allow relocation of easements held by public utilities or easements that restrict development such as conservation easements and negative easements. Again, LB501 codifies what is already in Nebraska law, but in so doing it provides additional guidance to the courts, property owners, and easement holders. I encourage your vote on LB501. Thank you, Mr. President.

FOLEY: Thank you, Senator Flood. As the Clerk indicated, there are amendments from the Judiciary Committee. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President and colleagues. And thank you, Senator Flood, for introducing LB501. This is what we generally refer to as a Christmas tree bill. It is composed of bills primarily from the Uniform Law Commission. We have a couple of others that are not uniform law, but it-- but the common thread here is legal procedure. I'm pleased to introduce AM526 today. AM526 is the Judiciary Committee's white-copy amendment to LB501, and it contains four other bills that make up the committee's civil procedure package for this session. Three of the bills included are Uniform Law Commission proposals. LB501, LB348, LB403, LB470, and LB593 were heard by the committee on February 4 of this year, and each bill, as well as AM526, was advanced on an 8-0 vote. I appreciate Senator Flood's description of LB501, and the committee made no changes to LB501. And the provisions can be found in Section 64 to 77 of AM526. Included in AM526 is LB593, which would adopt the Uniform Foreign-Country Money Judgments Recognition Act and the Uniform Registration of Canadian Money Judgments Act. The bill would establish a process for recovery of foreign-country judgments against parties within the state. The Foreign-Country Act provides for a court proceeding to establish the legitimacy and recognition of the foreign judgment. The Canadian Act provides for a registration process with the court to establish recognition of the judgment. The committee amendment made minor changes in the Canadian Act to have the Supreme Court establish a registration fee. The provisions of LB593 can be found in Sections 1 through 23 of AM526. LB470 would adopt the Uniform Powers of Appointment Act. Powers of appointment are an estate-planning tool, typically with trusts, that allow appointment of a person to redirect or designate another as the recipient or owner of property. This provides some flexibility as circumstances change over time. The uniform act provides a common framework for the structure of the appointment by outlining the creation and exercise of appointment powers, rather than the current framework that is based upon common law and court decisions. AM526 makes no changes to the green copy of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

LB470 and can be found in Sections 24 to 61 of AM526. LB4-- LB348 in its original form was designed to address the proceedings of real es-- real property in small estates by an affidavit executed by successors. The committee amendment did strike new language in LB4-- LB348 that would have required only one potential successor to sign the affidavit and also removed the language adjusting the valuation after concerns were raised by title insurers and abstractors. The amended provision of LB438 [SIC--LB348] are found in Section 62 of AM526. LB403 as introduced addressed the recapture of medical assistance by adding the date of recording of a life estate as one of the dates in the five-year lookback. AM526 accomplishes a similar goal by striking current language regarding the ability to recapture property interests, including life estates, after the medic-- medical recipient's death and adding new subsection that specifies that a life estate is not subject to recapture if recorded more than five years prior to the recipient's death. These changes can be found in Section 63 of AM526. I thank you for your consideration of the Judiciary Committee's civil procedure package, AM526. I would encourage your green vote on both AM526 and the underlying LB501. Thank you, colleagues.

FOLEY: Thank you, Senator Lathrop. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Flood would move to amend the committee amendments with AM671.

FOLEY: Senator Flood, you're recognized to open on AM671.

FLOOD: Thank you Mr. President. Members, when I was at the hearing for LB501, I brought this amendment with me. Through just a technical oversight, it wasn't included in the committee amendment. So AM671 provides an additional exception to the easements to which LB501 applies. It's very specific. It includes easements or right-of-ways held by a public power and irrigation district, irrigation district, reclamation district, or canal company. I spoke about my intent to submit this amendment during the hearing. It was not included in the committee amendment due to a small technical oversight, but the committee took no issue with the amendment. I would ask the body to vote green on AM671 to LB501.

FOLEY: Thank you, Senator Flood. Debate is now open on LB501 and the pending amendments. Seeing no members wishing to speak, Senator Flood, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM671. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

ASSISTANT CLERK: 41 ayes, 0 nays on adoption of the amendment.

FOLEY: AM671 is adopted. Further discussion? Senator Clements.

CLEMENTS: Thank you, Mr. President. I had questions about the LB348 that was included in this bill. Would Senator Morfeld yield to a question?

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

CLEMENTS: Thank you, Senator. Just a clarification interest, there hasn't been much discussion about this one. I wasn't sure about the purpose of it. The-- it talks about successor claimants and changing from several of them being signing to just one signing. And what's the purpose of that?

MORFELD: Well, the original-- so you're talking about the-- the first part where it only allowed one successor to-- in interest to sign small--

CLEMENTS: Yes, one person can sign rather than everybody.

MORFELD: Yeah, well, the purpose of it was-- this was part of a clean-up from the Bar Association to actually make it a little bit more straightforward and simple. In the new version we actually are taking-- in the version that's going to be amended in here-- I have an amendment coming up-- it actually takes that part out--

CLEMENTS: Oh.

MORFELD: --because there was a little bit of back-and-forth as to whether or not they wanted to do that. So my amendment that should be coming up-- I was just walking up to make sure it was coming up soon, when you asked me to ask question-- to answer a question, should take care of that.

CLEMENTS: All right. And then changing the market value from valuation assessed value to market value, was there a purpose for that?

MORFELD: Yeah, there was a purpose for that, and that was to make it more clear after they-- after this-- the estate gets turned over, to-- to make it clear what-- what the actual assessed value is, because right now it's ambiguous.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

CLEMENTS: All right. Well, that's all I had, Mr. President. I'll be interested to see what the amendment is too. Thank you.

FOLEY: Thank you, Senator Clements. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Morfeld would move to amend the committee amendments with AM794.

FOLEY: Senator Morfeld, you're recognized to open on your amendment.

MORFELD: Thank you, Mr. President. And I'm glad that we're-- we've-- we've already headed off a little bit of this. But AM794 harmonizes the committee amendment to the amended version of LB501 by striking changes that correspond to a provision that was in the green copy of my LB348 but was not included in this committee package. To Senator Clements' point here, among other changes in the green copy of LB348, they would have had one-- allowed only (1) successor-in-interest to sign the small estate affidavit and (2) list the names and addresses of the people who may also have an interest. Current law requires that-- all parties to sign and to state that there are no other parties and interests. So the amended version, Senator Clements and others that are listening, that is a part of LB501 no longer includes that change, number one, so allowing only one successor-in-interest to sign the small-- small estate affidavit, so they'll all have to sign. And then two-- but it also leaves in number two that I just talked about, so listing the names of the people who may also have an interest. So this clarifies and makes it a little less ambiguous, when this occurs, what exactly needs to happen. And so that's what my amendment does, AM794, and I urge you to adopt it.

FOLEY: Thank you, Senator Morfeld. Senator Clements.

CLEMENTS: Thank you, Mr. President. I support this amendment. I think it's a good idea to have everybody who has an interest to sign off that they agree with the process, and that's all I had. Thank you. I'll-- I'll be voting green for the amendment.

FOLEY: Thank you, Senator Clements. Seeing no other members wishing to speak, Senator Morfeld, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM794. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

ASSISTANT CLERK: 41 ayes, 0 nays on the adoption of the amendment.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

FOLEY: AM794 is adopted. Further discussion? I see none. Senator Lathrop, you're recognized to close on the committee amendment.

LATHROP: Thank you, Mr. President, colleagues. I'm going to take this moment to talk about the committee's work for just a moment. We take up a lot of different subject matter that relate to the courts in one way or another. We have a great relationship with the Uniform Law Commission and the State Bar Association, and this bill, this Christmas tree bill, is a perfect example of the process that we use in committee and how we lean on both places like the Uniform Law Commission that come up with scholarly work to sort of address and come up with a uniform approach to handling different subject matter; in the case of Senator Flood's bill, dealing with easements. We also, as these bills were introduced, turned to the Bar Association. They have practice areas. Those practice areas include lawyers that do estate planning, that do trial work, that do wills, do collection work. You name it, they have a practice area for it. We turn to them and we-- we rely on them to sort of scrub the bills that are in front of us. These bills have been scrubbed by the Bar Association practice areas. That allows us, even though I'm not a-- an estate practicing lawyer, to have confidence that-- that what we're doing here today is good for the practice of law and for Nebraskans all across the state. Thought I'd put that plug in there. I appreciate the senators that have brought these bills before the committee, their work on it, the Bar Association, as well as HHS that worked on Senator Slama's important piece to this bill. And with that, I would encourage your support of LB526 [SIC--AM526]. Thank you.

FOLEY: Thank you, Senator Lathrop. The question before the body is the adoption of the Judiciary Committee amendment, AM526. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of committee amendments.

FOLEY: Committee amendments have been adopted. Is there any further discussion on the bill as amended? I see none. Senator Flood, you're recognized to close on the advance of the bill.

FLOOD: Thank you, Mr. President and members. I appreciate everybody's support on this and I want to thank the Judiciary Committee for their work and certainly the Uniform Law Commissioners for bringing this bill forward. I urge your adoption of LB501.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 1, 2021

FOLEY: Thank you, Senator Flood. The question before the body is the advance of LB501 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

ASSISTANT CLERK: 40 ayes, 0 nays on advancement of the bill.

FOLEY: LB501 advances. Items for the record, please.

ASSISTANT CLERK: Mr. President, your Committee on Enrollment and Review reports LB650, LB650A, and LB338 to Select File, LB650 and LB338 having E&R amendments. LB19A, introduced by Senator Kolterman, is a bill for an act relating to appropriations; appropriates funds to carrying out provisions of LB19; that'll be placed on General File. Amendments to be printed: Senator Clements to LB92 and Senator McDonnell to LB406. Bills read this morning were presented to the Governor. (LB37, LB169, LB351, LB401, LB476, LB533, LB106e, LB106Ae, and LB22.) LR81, introduced by Senator Arch, that'll be laid over. Name adds: Senator Linehan added to LB283 and McCollister to LB644. Finally, Mr. President, a priority motion: Senator McKinney would move to adjourn the body until Tuesday, April 6, at 10:00 a.m.

FOLEY: Members, you heard the motion to adjourn. Those in favor say aye. Those opposed say nay. We are adjourned.