**FOLEY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-ninth day of the One Hundred Seventh Legislature, First Session. Our chaplain for today is Senator Halloran. Please rise.

**HALLORAN:** Good morning, colleagues. Please join me in an attitude of prayer. Heavenly Father, we are grateful to you for the many blessings you have granted us. We are thankful to you. You have blessed us to live in a country and a state which honors and protects our liberties and freedoms, which you have granted us, among others, the freedom of speech, freedom of press, freedom to assemble, freedom to petition, and freedom of religion, not freedom from religion. Thank you for the liberty to offer you prayer in this assembly. Foremost, thank you, Heavenly Father, for your son, our redeemer, Jesus Christ. Amen.

**FOLEY:** Thank you, Senator Halloran. I now recognize Senator Gragert to lead us in the Pledge of Allegiance.

**GRAGERT:** Please join me in the Pledge. 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.

**FOLEY:** Thank you, Senator Gragert. I call to order the seventy-ninth day of the One Hundred Seventh Legislature, First Session. Senators please record your presence. Roll call. Mr. Clerk, please record.

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

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

**CLERK:** Mr. President, on page 11-- or on page 1415, in line 31, strike "Zoeray" and insert "ZoeRay"; line 35, strike "Pen Syl" and Pennsylvania; and on line 37, strike "Sgt." and insert "Sergeant." That's all that I have, Mr. President.

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

**CLERK:** There are. Enrollment and Review reports the following bills as correctly engrossed: LB18, LB26, LB39, LB39A, LB51, LB51A, (LB64), LB84, LB103, LB108, LB131, LB131A, LB147, LB147A, LB185, LB274, LB306, LB306A, LB336, LB366, LB366A, LB388, LB388A, LB396, LB396A, LB406, LB406A, LB428, LB428A, LB40-- LB432, LB452, LB452A, LB544A, LB561,

LB566, LB566A, LB572, LB595, LB630, LB630A, and LB682, all reported correctly engrossed. In addition, the following bills reported to Select File: LB568, LB649, LB376, LB376A, LB139, LB54, LB57-- LB579, and LB236. Some of those have Enrollment and Review amendments attached. And finally, Mr. President, an amendment to be printed to LB72 by Senator-- LB572 by Senator Stinner. That's all that I have, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Members, Senator Geist would like us to welcome Dr. Rachel Blake of Lincoln, Nebraska, who's serving as today's family physician of the day. Dr. Blake is with us under the north balcony. Please rise, Doctor. We'd like to thank you for being here today. We'll now proceed to the first item on the agenda, Select File 2021 senator priority bill. Mr. Clerk.

**CLERK:** Mr. President, first bill this morning, LB241. Senator McKinney, I have Enrollment and Review amendments.

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move that the E&R amendments to LB241 be adopted.

**FOLEY:** Members, there's-- there's-- there's a couple of members in the queue, but I'm going to pass over you and just get these E&R amendments out of the way, please. Those in favor of the E&R amendments vote-- say aye. Those opposed say nay. The E&R amendments have been adopted. Mr. Clerk.

**CLERK:** Senator Slama would move to amend, AM1330.

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

**SLAMA:** Thank you, Mr. President, and good morning, colleagues. Today, I rise in strong opposition to LB241 and AM1330 would reflect that opposition. I-- I stand firm in my opposition from the first round in that this bill creates an unnecessary set of requirements for meatpacking plants and will hinder our meatpacking industry. I've been in discussions with individuals working in the meatpacking industry and they brought up some concerns that I think are worth discussion today. So as written-- as LB241 is written, it would be impossible for plants to regulate and enforce the six-foot radius requirement in the break rooms and common areas. It's just not workable. If this provision remains in the bill, many meatpacking plants would be forced to ask employees to take breaks in their cars and shut down food service programs. This would cause a strain on workers who would have

to start planning to bring their own lunch instead of being able to take advantage of the food that's provided for them. There's simply not enough space in many of these facilities to accommodate a six-foot radius for every single team member during their breaks. For one meatpacking plant I spoke to, the only way they could achieve CDC guidelines in their facility by implementing barriers in the workplace, as outlined by LB241-- those barriers are still in place in the amended version of this bill that came to the second round-- according to that representative, there would be no physical way to six-foot distance or have those barriers in place. At the very least, LB241 should reflect the realities that these plants are facing. Also, it is my belief that the language of LB241 is too vague in regards to how long the facility would need to pay employees when they get tested for COVID-19 during work. It is not clear whether the employee would be paid for the time it would take for them to go and get their test or if the employee would get paid that entire day of work or even if they would get paid until they receive their test results. I believe that this legislation absolutely needs to be more straightforward on what meat-- meatpacking plants are required to do in regards to paying employees while they get their tests. That being said, another issue with LB241 is the language related to an employer allowing their team members to be tested or receive a vaccine on work time. This is a liab-- liability issue for meatpacking facilities. If someone were to clock in to work and then leave on their own to obtain a test or vaccine, the company could be held liable for anything to happen to them when they were not in the facility. The idea here is that a worker is on the company time, so any-- any injury that would happen to them would be on the company time and the company could be held liable for that injure-- injury. It would not be fair on the plants to be held liable for those injuries when the employee is off site but on the clock. There is a specific provision in Section 4, subsection (8) that requires the employer to identify all workers who worked in the same area on the same shift as someone diagnosed with COVID-19. However, a work area is not defined in this bill and could be subject to a lot of different means of interpretation. Facilities across Nebraska could confuse the subject-- subsection of LB241, and as a result, this legislation could be disproportionately implemented just based on how each facility interprets what a work area means. LB241 does not provide a strong standard to follow. I believe that this specific issue might be amended by saying that the company should engage in contact tracing with guidance from the local health department. This has been the norm for Nebraska across the board. In addition, the fines in LB241 are-- are quite high, but also unclear. The outline for the fine structure does not specifically define what a violation actually means and would cause confusion for the industry.

To give you an example, if an inspector went to a facility and stated that they must be fined for mask wearing, it-- it raises a number of questions. Is that based on one employee not following the guidelines and not wearing a mask, or is that based on the entire crew? Would you require a facility to oversee all employees at all moments of the day to make sure that one mask doesn't fall below their nose? This language is incredibly unclear and could cause immense confusion and administrative challenges down the road. In addition, this legislation does not place any responsibility upon the employee, but puts the entire burden on the employer for the decisions employees make. It would be a very difficult task for these plants to oversee every single employee at all plant-- points during the day. At the very least, if we plan on putting restrictions on these important businesses, we need to make sure that they can actually, realistically follow and implement them. Personal accountability for employees has to be a factor in the decision-making process and the structure of LB241. That isn't present right now. Finally, this legislation does not allow these businesses to remain fluid and pivot based on appropriate CDC guidances, which is critically important based off of last week's CDC guidance that those who are fully vaccinated can go maskless in gatherings, both indoors and outdoors. Senator Vargas has included Section 8, which at first glance appears to grant the Department of Labor this authority. But that raise-- raises more questions than it does answers. This language could, in fact, be unconstitutional, and our body may not be able to provide that authority to the Department of Labor. Depending on how you interpret the language, we could be required to retain this authority ourselves, which limits the ability of these plants to quickly change based on new guidances. Not only have we now required businesses to fall under unclear regulations, but we have further hindered their chance at being ready to adapt to new guidelines. These businesses cannot remain efficient underneath unclear fines and regulations, liability concerns, and also reducing their ability to adapt. Overall, I do not believe that LB241 is a necessary piece of legislation. It creates impossible guidelines for meatpacking plants to follow through by the letter of the law, both in its vague language and putting too many requirements on employers. Much of LB241 is not un-- under the control of the facility owner but on the employee. Also, in many cases, some of the requirements spelled out in LB241 are simply impossible for these plants to follow. And I'll just close with saying I completely understand where Senator Vargas is coming from and his interest in passing LB241. What's happened across our state, especially in our meatpacking facilities, has been heartbreaking. We've lost lives. Folks have lost family members. And that-- that is sad, but that does not justify, in my mind, passing LB241, which simply does not address

any of the challenges that meatpacking plants are following now. The rates of infection at meatpacking plants in the state of Nebraska right now are well under 0.1 percent statewide. Moreover, meatpacking employees have some of the highest rates of vaccinations of any workforce in the state of Nebraska with their vaccination rates between 70 and 80 percent. LB241 comes from a good place, but it's just not necessary right now. I-- I'm going to bring this amendment. I plan on having a long discussion, but I do believe that one of my colleagues intends to bring a bracket motion, which I will support because I think it does give all of the stakeholders involved, both proponents and opponents, a chance to regroup over the interim and craft a bill that more adequately addresses any of the future challenges that our meatpacking plants may face. So I-- I hope you'll rise with me in opposition to LB241 if it comes to it, but I do hope you'll support the forthcoming bracket motion, because I think, regardless of what side of this bill you're on, that gives LB241 a chance at new life. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. We have four members currently in the speaking queue. Senator Aguilar, you're first.

**AGUILAR:** Thank you, Mr. President and members. I rise in total opposition to the amendments and support the under-- underlying bill. This is necessary and this is something Senator Vargas has worked on for over a year now. And with his amendments that he's put on it, it was-- it did make it able for these plans to be in compliance. I don't know which one Senator Slama has been talking to, but everything we've heard is that these plants are in compliance at this time. So what we're asking them to do is just continue that compliance for another year. I don't think that's out of the question. Senator Slama said she spoke to meatpackers. Well, so did I. I have 2,500 of them in my-- as my constituency, and they all shared a fear of going to work if these compliances aren't in place. These workers had to go in and work because they were deemed essential workers. They had to go in at the height of COVID-19, the height of the pandemic, and they did so. And many of them didn't finish. They didn't make it. So that kind of shows you the necessity of why we need to do this. And like I said, we're only asking to continue to do this for a year. With that, Mr. President, I'd yield the rest of my time to Senator Vargas.

**FOLEY:** Senator Vargas, you've been yielded 3:00 and you're next in the queue, so you've got about 8:30.

**VARGAS:** Thank you very much. Colleagues, I'm just going to paint a picture here on where we landed. First of all, I appreciate the conversation so far. In the first round of debate, I did promise that

I would engage with meatpackers, the-- specifically the plants, to then gain feedback. Many of the things that Senator Slama brought up, which I appreciate, are some of the things that we heard from the plants themselves. Many of those items will be addressed in a later amendment. Those items include a lot of things, specifically the social distancing requirement, but the crux of the issue is why we're here. I believe we're here because when we're putting forward legislation, we're putting forward statute, we're not doing it only to be reactive or solely just proactive. We're also looking at it to then make sure we're doing something that is both-- both within those two different extremes. I think this is both of those things. I think this is something that we could have done last year. A different version of this was done last year, but a more pared down version that are guardrails is what we're looking at this year. I appreciate Senator Aguilar's comments because it's exactly what I have been doing. We have been working on making it more and more reasonable with what I consider to be very pragmatic aspects that are informed by what UNMC had provided as recommendations when they went into plants, and what I've also heard from many of the plants, that they are holding themselves to this standard. Why this is important is because of the nature of the industry itself. Nobody's here to point fingers. That's not the goal or objective of what we're trying to do. What we're trying to do is react and make sure that we are being also proactive. This next year, there are still a lot of questions on what could or could not be happening. What we do know is there are high-risk sectors that exist across the state, high-risk sectors we've seen in terms of the data. How they've been engaged this last year, how COVID-19 has interacted with them, is critical, is important to understand. Meatpacking plant industry is one of those. If you haven't and you're on your computer, you just Google meatpacking plant industry and COVID-19, you will see across the country it's a high-risk profession. It already is a profession that has its own separate regulations. The question is not whether or not it has its own regulations; the question is whether or not we can put in place something temporary for the next year that will then provide protections, in place now, in case anything were to get worse or in case there was inconsistencies of application of-- of these standards. We're setting a standard. We are not further elevating and creating a new onerous step or regulation. We're creating a standard that we have heard has been what has been communicated to us from the plants. I've heard that this is something-- many things that they're already doing. And so that's the reason why I'm bringing in this-- this version and what we'll talk about here later, as in the more amended version, as well, specifically because that is what is necessary. We react to what is necessary and needed, not necessarily only trying to point a finger

and say that you are to blame. The question of the matter is not whether or not this is a high-risk sector. It is a high-risk sector for COVID-19. The question is, the individuals that are working in these plants, is there something that we can do best practices to put into statute for the next year? And the answer is yes. Data is informing this decision. Data is informing the legislation and what we do from here on in. It's plain and simple, exactly what we're doing here. I applaud those that have engaged in this conversation in the past, have voted to support this very reasonable measure. I've been sort of negotiating, not against myself, but listening to-- I listened to the hearing transcript. I-- sorry. I listened to the hearing. I listened to the opposition. And in rereading the hearing transcript, listening to the opposition, I reacted to those different aspects in policy and I made those changes accordingly in the bill. And the same thing is still true of these last recent more meetings. I'm doing the exact same thing and I plan on doing that. But the only issue here is whether or not we can put something forward that is pragmatic, commonplace, com-- compassionate, but also is not onerous. That's what LB241, especially with a new amendment that will be added here shortly. I am against AM1330 because there are some provisions that I'm more than happy to talk about that I think are flexible, that we can work on. The next two amendments that Senator Slama has, one of them is on reporting of data to the Legislature, specifically to the Department of Labor, is important. Removing the data reporting each month of the number of cases, number of deaths is a very commonsense thing that provides us the ability-- or, specifically, Department of Labor the ability to react, so that's something I-- I-- I don't support, which is why I don't support AM1330. And the under-- other the other amendment that's coming, I also don't support that amendment because it-- it is taking away another provision that I think is important for this statute. But there are other things that Senator Slama brought up that I'm more than happy to work with and-- and-- and-- and will, if-- if she would like to, because I think that's the way that things get better and how we work on them. Colleagues, I'm asking you to-- to-- to vote no against AM1330 and we will get to more substantial conversation on what some of these other changes we're making here shortly. I want to thank you for this good conversation and thank you for supporting LB241. Again, please vote red on AM1330. Thank you.

**FOLEY:** Thank you, Senator Vargas. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, priority motion, Senator Lowe would move to bracket the bill until June 10. Senator Lowe, you're recognized to open your bracket motion.

**LOWE:** Thank you, Lieutenant Governor. Well, here we are, almost at the end of a pandemic, and we're passing this legislation. I raise-- I rise today against LB241. I was opposed to this bill on General File and I'm still opposed to it today. At the beginning of the COVID-19 pandemic, there were mistakes made because very few entities were prepared to face a global pandemic. That is just the very sad truth about it. There were efforts made in the past to be ready for something like COVID-19, but they were largely forgotten shortly after they were started. There were warnings given by experts that the United States was not ready for the next global pandemic. Those warnings fell on deaf ears. This is something generations will look back on with confusion, frustration, and likely contempt on will-- on full-- on fully admitted to those things. But my issue with LB241 today is that we are not at the beginning of the COVID-19 pandemic. We are not in the middle of the COVID-19 pandemic. Quite frankly, it appears we are not even at the beginning of the end of the COVID-19 pandemic. God willing, we are in the final stages of this pandemic, or we are almost completely out of it. We can see the light at the end of the tunnel. Shots are going in the arms throughout the country and-- and the state. Shots are not being used because we have so many of them. The United States has put in a lot of effort when it comes to vaccines. We are the most vaccinated country in the world. The state of Nebraska has put forth a great effort to get the shots in the arms of as many people as are wanting the shots. I mention all this because LB241 deals with preventing and the spread of the COVID at our packing plants in Nebraska. At this point, the best way to prevent the spread of COVID at the meatpacking plants or any else in the state is by getting the COVID vaccine shot in the arms. I will fully admit that I do not know what the vaccine rollout has looked like at the vaccine-- at the packing plants. I do not know the numbers of employees who have received the vaccine. But the focus at this point should be, in my opinion, should be to get more and more employees vaccinated. The vaccination seems to work; by that, means the state needs to do more to help more shots become readily available to those that need it or that want it. Maybe that means the state needs to do work with interested parties to come up with information to help convince employees that getting-- get one of these-- these three COVID vaccines might be a good idea. Worst case, maybe we need to look at the state of Ohio and come up with incentives to help convince people that it is a wise idea to get the COVID vaccine shot. LB241 becomes unnecessary if we can get Nebraskans vaccinated at a higher rate. LB241 becomes unnecessary if we can ensure the employees of the meatpacking plants feel comfortable choosing to get one of the three COVID vaccine shots. The upcoming amendment did not neutralize any opposition to this bill, and this bracket motion will keep Senator Vargas' bill alive if he

wishes it. I believe there are enough votes to take this four hours and the bill goes away. If he feels any compassion for those people in the meatpacking plants, I would hope he would take this bracket motion as a friendly amendment so that he can do further work to help those in the packing plants. And with that, I'd like to yield the rest of my time to Senator Vargas if he would like to respond to any of my comments.

**FOLEY:** Thank you, Senator Lowe. Senator Vargas, you've been yielded 5:25.

**VARGAS:** Thank you, Senator Lowe, my friend, for passing bills from General Affairs this last year. Listen, I-- I-- I appreciate your comments, Senator Lowe, and my-- my only comments here are, yeah, absolutely, vaccinations are important. They're helping us get to a different place. That's great. I think that's going to be critical for what we do. I also think that information is going to be really important and I-- and we're not out of the pandemic yet. But at the end of the day, we often put in guardrails into statute because we want to avoid something else from happening here in the future, and we differentiate and figure out how to treat, look across what are real issues. And some of those issues right now are this is a high-risk population, the high-risk population and a high-risk sector, because those are the two things. We have a lot of Latino, Hispanic refugees working in the center. There is turnover in the sector and the sector has had a higher risk than other sectors with COVID-19, largely because of just the nature of the work. It's an important reason to put in some basic guardrails. We're talking about making sure people have the safety and sanitation that they would need to have in-- in-- in the actual plants, making sure there's hand-sanitizing stations, making sure there is even a trigger to make sure that people-- the-- if the CDC is lifting guidelines, that there's something else that can be done. Data is a really important aspect, being able to get a test or vaccine. These are the very important things that I still think are critical. And when we're not talking about social distancing requirements anymore, we're left with what is a very pragmatic set of protections. So that's my reaction. I-- I appreciate your-- your-- your thoughts, Senator Lowe, but I think it's that simple. We're not saying that people are not doing their job, but to make sure that we don't have any fall through the cracks, because we're talking about workers and people, this is a pragmatic way of doing that. So thank you very much, Senator Lowe.

**FOLEY:** Thank you, Senator Vargas. Senator Albrecht. I apologize, I apologize. My error. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. I appreciate that, and good morning. Senator Lowe said he is opposed to this bill when it first came up, and I, as well, have been the same way. I began to look at things about what happened in the meatpacking industry. And then I reached out to some people that I know in the packing industry. And as I researched some of the things that happened last year-- excuse me-- Smithfield-- Smithfield is the largest pork producer in the United States, processor. And last year they had 783 cases reported and they had 2 deaths, 2 deaths out of 200-- out of 783 people who had COVID. And-- and I'm sorry that those two people lost their lives. One life is very, very important and I appreciate that. Here's the issue. We've taken the opinion or we've drawn the conclusion that these packers don't care about these employees. That is not the case because, you see, once those people didn't show up for work, they could not process any animals. So these packers understand that without workers, they have not a company. And so they've done everything they can to try to protect these people. And so let me tell you what one packer is doing, and I think this is the way it is with most. I just know this for a fact because I heard it from them myself. They test the employees' temperature when they arrive. They give them PPE, a face mask and a shield. They have placed a stainless steel divider between each person on the belt, where possible. They then have, between each shift, a team that disinfects the whole plant. And those-- those people leaving the ship then have their temperature taken again. So what I'm going to tell you is these people are not getting infected. They're not catching the virus. They're not becoming exposed to the virus at work. All right? And so these packers have done everything that they possibly can to protect their employees at work. Where these people are getting infected is this. These workers tend to communicate together-- I mean commute together. They ride together in the same vehicle, and sometimes they ride together in a company-operated bus for an hour at a time. And then also they may live in a facility where there's multigenerational people sharing that home. These workers that have been contacting [SIC] COVID aren't getting it at work because these-- these industries that require employees to do the work these employees do are very, very cognizant of the fact, if we don't have employees, we don't have a job, we don't have a company. And so what we're going to try to do here is we're going to try to tell businesses how to run their business. We're going to tell these businesses this is what you must do. And I'm not so sure that we need to get into management of these businesses. But I can tell you that these employees are very, very first and foremost in these packers' minds, because if they don't show up tomorrow, we don't have any-- anybody to do the processing of these animals. It's foreign to me to think that government should be the solution to everything there is. These people

understand that they need to take care of these employees. And if they didn't, they wouldn't have a company. We have missed the mark when we think that government is the answer to everything. And so I'm in favor of Senator Lowe's bracket motion. And if the bracket motion doesn't move, I am opposed to LB241, and I believe that's the way anybody with common sense should approach-- approach this bill. Thank you.

**FOLEY:** Thank you, Senator Erdman. Now, Senator Albrecht, thank you.

**ALBRECHT:** All right. Thank you, President Foley. And good morning, members. I'd just like to rise, number one, in opposition of LB241 and in support of the bracket motion. And I just want to let you know this is the first time I've discussed this and talked about it on the mike. I didn't speak to the issue the last round, but I feel compelled to rise and walk this body and the second house through what really happened in District 17 in northeast Nebraska, in Dakota City, at the beginning of COVID. First, I represent the largest Tyson Food plant in the country. It's a beef plant that employs 4,300 employees. I want to let Tyson Foods and every employee-- that we are thankful for all of them. The second, when COVID hit, we must remember that there weren't enough tests. I watched Governor Ricketts contact plant managers, the Health Department, the emergency manager, and members of the community to come together to figure out how we could communicate with all employees. There are many, many different languages spoke in that plant. So the Governor's Office called and asked what the state of Nebraska could do. How can we get this message across to all employees? And they began TV, radio, newspaper, and they shared their announcement so that everyone would understand exactly what was taking place. The community had a hard time getting the Hispanic community to shut their businesses down. Once the level of urgency became apparent, then the sense of emergency started to kick in. And as we know, in the beginning, there were no tests-- or not enough tests even available. So the department, the health department in Dakota City or the Dakota County Health Department, along with the emergency manager, contacted the fire chief at the Dakota County Fire Department, and they began testing as soon as the kits became available. The national-- the Nebraska National Guard came and tested every single person in that plant over a three-day period. We-- when we reconvened for the remainder of the session and Senator Vargas had asked for that hearing, I just want to say that our office fielded just a couple of calls. I was up there and I was present during all the testing, working with the health department, the emergency manager, and the community the whole time this was going on. So I knew that we may very well have had some folks that-- and there was loss. But I'm telling you, those people, they love their jobs. The Tyson plant loves their

employees. They asked for the Nebraska Department of-- like OSHA came in, that they had the-- the UNMC came in and-- and looked at what their practices were. We were all working very, very, very diligently to get this-- get control of it. And we-- all of us-- none of us really knew what was going to happen. But the Tyson Food plant and I visited often, and I was very confident that they cared a lot for their employees. They cared a lot for them. They did so much for the community while all this was going on. This isn't something that-- that truly was not being paid attention to. And when you have 4,300 employees coming and going in a facility like that, whether they're-- they're getting-- getting the infection or the virus in the plant or outside of the plant, in their homes or in the community or in their schools, we don't know where it all came from. But I really believe, and I'm going to take time to read into the record exactly what-- what the Tyson Food plant had to say about their people and what they're continuing to do. They were called in by the President of the United States as essential workers.

**FOLEY:** One minute.

**ALBRECHT:** And being an essential worker is feeding-- feeding America. And I know that the-- that was a very risky time for everyone. But you know what? We've all lost loved ones. It-- it's not just in that plant. It's throughout our country in all forms of businesses. And I'm very sorry for that. But I'm-- I'm here to tell you, I do believe that-- that just-- just working with the meatpacking industry, you know, or the-- that industry shouldn't just be singled out. There's-- we've-- again, we've all lost loved ones, and I-- I'm very deeply sympathetic to that. In our household alone, we've-- we've lost many family members as well. But I applaud everyone for standing up and talking to this particular issue, because I just don't think that it's for us to-- to make more regulations for a company that-- that really does care about their employees. Thank you.

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

**VARGAS:** OK. Thank you very much, colleagues. And I appreciate Senator Albrecht for-- for chiming in here. And I do know that she has workers and she has a Tyson plant in her district. And I know that people have reached out to her office. I know you acknowledged that. I know you said some. Maybe a lot of them are also contacting your office and they've been contacting my office. The most important thing here is not whether or not-- and I think somebody said this on the mike before. It's not whether or not somebody-- a plant doesn't care about their employees. You're not going to hear that from my mouth. I don't like generalizations made about me. I don't like generalizations made

about the industry. There is a need for consistency. Even people that don't have malintent can be the same individuals that may not apply the same standard and enforce or-- or make sure the standard is set in their plants. As you know, if you've ever been in a plant, they're-- it's-- it's regulated in terms of the meat safety is regulated by the Department of Agriculture. Right? There's-- there are standards in place for the meat safety, for the well-being of public health and our-- our-- you know, the supply of our meat. However, what I'm talking about here is not whether or not somebody's intentionally doing-- doing something to not support or protect workers. It's putting in place what we have seen and heard from good examples, from work-- from plants and from what UNMC's study and analysis and even really, really early on, the Heartland Workers Center did an analysis of what are the best protections, and that's what we're putting into place. And they're pared down so they don't affect any of the assembly-- any of the line and the speed and the-- the product. It's done in-- on purpose. That's what we've done. The place where we're at is far different from where we started. I think that's how good legislation is. So that's my response to this. This is not trying to say that things are bad or good blanketly, but we all-- we do need to react and put basic guardrails in place for the next year. I think that is a prudent thing. We put in guardrails in place for so many other things with far less data, far, far less data. The other thing that I want to make sure to respond to here is just what we're seeing across the country. I understand that somebody is saying that this is just from the communities themselves. We have had studies, a study that was referenced in verywellhealth.com that looked at counties with meatpacking plants had more COVID-19 cases. This is specific to the sector. Again, there have been improvements put in place. There have been standards put in place on-- on-- from specific plants, and we're putting those same standards in the statute for the next year. This is very, very basic. We also have-- studies show that these meatpacking plants have been COVID-19 hotspots within-- within specific counties across the country. That's why I'm reacting to the data rather than saying that-- vilifying one plant or another. This is a very reasonable way of talking about why legislation is needed. We need basic guardrails in place. That's why I'm against the motion 69 to bracket the bill and I am in support of LB241 and I'm against the underlying amendments from Senator Slama, because I think what we're discussing here is whether or not we can do something reasonable. And if we want to talk about some of those reasonable things-- I've had some of those conversations with Senator Hansen off the mike-- I'm happy to do that and work on those. I have been so with pretty much everybody that's talked to me because I think that there are some things that we can and should put in place. So please vote against

bracket motion 69 by Senator Lowe and against the underlying-- the underlying amendments as well. Thank you very much.

**FOLEY:** Thank you, Senator Vargas. Senator Ben Hansen.

**B. HANSEN:** Thank you, Mr. President. So I hope my colleagues can hear me here, but I am in favor of the motion to bracket this bill by Senator Lowe and I am against the underlying bill for a multitude of reasons which I've mentioned before on the mike. And so I think the bracket motion by Senator Lowe, if-- if you want to think of it this way, is a-- is-- is a compromise amendment. I have a feeling that if not, this-- this conversation might go a long ways and the bill will probably eventually die. I'm assuming, can't say for sure. So I think this-- this amendment by Senator Lowe is a-- is-- is a good compromise to say, look, in light of new science that's coming out, in light of new evidence, in light of what meatpacking establishments are doing currently, this is a good way to hold off on the bill, creating a new law to target one specific industry, of all the stuff that they're currently doing already. We're seeing numbers come down dramatically, almost no cases right now of positive cases in meat-- in many meatpacking facilities. Vaccinations are now currently being underway. The CDC has recently, I think as of yesterday or the day before, just got rid of the regulation that now-- or the requirement for wearing masks for vaccinated individuals. It's my understanding, when talking with other colleagues and other-- and other people in the industry, that USDA, OSHA will start loosening a lot of the requirements here in the next day or two, or even this week, saying, look, meatpacking facilities are doing their job, they're doing a good job, numbers are coming down, we're not seeing the-- the red alert come up anymore. And so right now, in my opinion, this bill is not needed. We can push it off, see how things go. It can always come back again next year, still alive, or I have a feeling that it's just pretty much going to die and it'll be-- and it'll be done for good. So this is a compromise amendment. So I encourage my colleagues to vote for the bracket motion by Senator Lowe. This is not a flippant bracket motion to just filibuster a bill. This is actually for a purpose. I know we see bracket motions come up here all the time that people just introduce to push a bill or talk longer. But this is actually for a purpose, and so I appreciate what Senator Lowe has done here. So if people really want to kind of keep the bill alive, maybe look at again next year if we need to, I encourage you all to vote green on the bracket motion by Senator Lowe, which I'm hoping will come up here pretty soon. With that, I will yield the rest of my time to Senator Slama if she so wishes. Thank you.

**FOLEY:** Thank you, Senator Hansen. Senator Slama, 2:00, if you care to use it.

**SLAMA:** Thank you, Senator Hansen. And thank you, Mr. President. I-- I wanted to rise and echo all of Senator Ben Hansen's points on the mike. Right now, current CDC, USDA guidance for meatpacking plants do not align with the current text of LB241. It's clear to me that this bill needs some time to sit. It needs some time to sit over the interim. Right now, we are in a place where our meatpacking plants can safely operate. The overwhelming majority of our meatpacking employees have been vaccinated against COVID-19, again, at higher rates than other areas of employment in the state of Nebraska. So right now, I think this bracket motion, whether you like the bill or dislike the bill, is the best way to keep LB241 moving forward, because honestly, right now, I do not believe that LB241 has the votes, especially if this becomes an extended discussion, which I anticipate. So, please, I'd encourage everybody to just vote green on the bracket motion and we can revisit this over the interim and craft a-- a better bill that's more reflective of all of the knowledge we're gaining about COVID-19 here and now. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. In the speaking queue are Senators Lowe, Kolterman, Albrecht, Brandt, and Erdman. Senator Lowe, you're recognized.

**LOWE:** Thank you, Lieutenant Governor. I rise again in support of my bracket motion to try to keep this bill alive so that Senator Vargas can take time to see what's going to fall out from the CDC, what's going to-- what's going to fall out over the interim. COVID-19 cases are falling in Nebraska and around the United States. That-- that is they're falling. COVID-19-- the vaccine in Nebraska and around the United States is on a rise. There's more vaccine out there now. The United States is one of the countries furthest-- furthest along the route of convincing people to get one of the three COVID vaccines. Right now, LB241 has an e clause, but Senator Brandt has a floor amendment that would strike the emergency clause. If we do end up striking the emergency clause, LB241 will not going in-- into effect until 90 days after the Governor signs it into law. Ninety days ago was a pretty bad time in the country when it comes to COVID. Think of where we were 90 days ago, three months. We're in the midst of February. We're coming off a spike. But today, we will still have to work to do the caseload and to get the deaths way down. The eligible number of people to be vaccinated 90 days ago was pretty low. Today, everyone 12 and up can get a vaccine shot if they wish to. With all that in mind, I am hopeful that 90 days from now we will be in a very

good position when it comes to dealing with the pandemic. For that reason, I will not be supporting LB241 at this time. It needs to sit; it needs to wait. Senator Vargas, I hope you take my bracket motion to heart and let's see where we're at 90 days from today. With that, I'd like to yield the rest of my time to Senator Erdman, if he would take it.

**FOLEY:** Thank you, Senator Lowe. Senator Erdman, 2:20. Senator Erdman, you've been yielded 2:20.

**ERDMAN:** All right, thank you. Thank you, Senator Lowe. I appreciate that. You know, Senator Lowe made a comment earlier in his comments that we're at the end of the pandemic. And, Senator Lowe, I couldn't agree with you more. I read an article this morning. In the-- in the state of Texas it's been two months, two months since they've had a death from COVID in the state of Texas. And the President said, when Texas opened up, that it was going to be the end of Texas and they were going to have all kinds of COVID outbreaks and it was going to be terrible. And so in the last two months, they haven't had a death. And so we're at-- we're at the end of this. And so now we're putting in protection. This is kind of like closing the barn door after your horse got out. And so this is not needed, as Senator Lowe had described very thoroughly and adequately. And so we'll move forward with this bracket motion, if we do this bracket motion. Senator Vargas' bill is still alive. He can come back next session and revive it; and if not, we'll go to the vote on the bracket motion and we'll see if-- if he has the votes or not, but I think that's a dangerous move. This is an opportunity for us to make a commonsense decision about staying out of the businesses' way. And we talk all the time here about removing regulations. That's what we talk about, removing red tape.

**FOLEY:** One minute.

**ERDMAN:** That's one of the issues we always talk about, we've got to remove red tape, and here we are placing red tape back in place. This doesn't make any sense that we would do this. These workers are being protected as best they can. And so we need to move forward and do the other bills that are on the agenda. And I appreciate the opportunity to vote on the bracket motion. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator Kolterman.

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. I rise in support of the bracket motion and-- but I would like to say a few things about Senator Vargas' bill. First and foremost, I understand

where he's coming from. I-- I'm-- I was concerned a year ago, just like he was. None of us knew where we were going with this pandemic and it-- it has certainly been challenging to every business in the state of Nebraska. My biggest concern, and-- and I've talked to Senator Vargas about this, is this is a bill that one-size-fits-all, and that's not necessarily the way it can work in this industry. There's different-- different types of packing plants. There's different types of mechanisms that take care of the actual packing and slaughtering of these animals, and so I just don't see the necessity of it. I will talk a little bit about, as you know-- as most of you know, I have a close relationship-- I have a daughter that works for Lincoln Premium Poultry, known as Costco. Just yesterday, I visited with her a little bit about this situation. She said that on Friday they-- they heard from CDC and OSHA that changes are coming down the pike. They've-- they probably won't even have to be wearing face masks as-- as we end this come-- this-- this current week that we're in. And I think we need to keep some flexibility and let them make the business decisions that they need to make. I will also tell you that in visiting with the-- the lobby, Tyson, Smithfield, Lincoln Premium Poultry, Cargill, the-- the infection rate is very low right now in all of their facilities. They're doing what they can. They want to keep their employees safe as well. As-- as this industry evolves and mechanizes itself a lot better and-- and less people are being needed on the lines, I think that will take care of some of the problems in the future. The idea that we could put this off until June 10, which would be our next session-- in essence, our next session, gives us time to monitor it. It doesn't actually kill the bill, as we all know, and it would allow us to move forward. The other concern that I have is that this bill is not business friendly. So what's-- what's next? In fact, I think that we have a bigger problem in-- in our nursing homes. The challenge in our nursing homes is pretty extreme and actually the infection rate there was higher than probably was even in the packing plants. What about our restaurants? We're having a hard time getting people to come back to work in restaurants. We-- we can't pick and choose what industry we want to attack. And I-- I-- I completely understand where Senator Vargas is coming from, but I've-- I've worked in the business sector my entire life, and I hate to see us start picking and choosing which business we want to attack and which businesses we don't. So I won't talk again on this. I haven't talked before. But I-- I just don't see the necessity of this bill. Senator Vargas and I have talked about it and he knows my position and has known it since day one. But I do appreciate the-- the conversation we're having here today. So with that, I'd yield the rest of my time back to the Chair. Thank you.

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

**ALBRECHT:** Thank you again, President Foley. Members, I'd like to just read into the record for the second house about a letter that-- or testimony that was given at the Business and Labor Committee by Justin Brady. He was appearing before the committee as a registered lobbyist for Tyson Foods in opposition to LB241: Unfortunately, Dan Turton, senior vice president and global government affairs at Tyson Foods, was unable to be here today, but he had been able to put his thoughts together and would like to share. As a representative of Tyson Food that was unable to attend the meeting, I request that the contents of this letter be made part of the record. Given the measures that we have taken in response to COVID-19 pandemic, we are opposed to LB241 as drafted because, as said below, Tyson has undertaken significant action to address team members' safety and the spread of COVID-19 in our facilities. Tyson is an essential part of America's food system, supporting farms and providing food for the country's population. Tyson employs approximately 120,000 team members at operations in 27 states throughout the United States. In Nebraska specifically, they're proud to employ almost 11,000 Nebraskans across the plants in Dakota City, Lexington, Madison, Omaha, Tecumseh, and Waverly. In addition to commodity chicken, beef, and pork products, Tyson also produces some of America's most iconic brands, including Jimmy Dean, Hillshire Farms, Ballpark, Tyson chicken products, as well as a growing line of alternative proteins. The health and safety of our team members is and remains our top priority. Since the very beginning of the pandemic, we have invested hundreds of millions of dollars in team members' safety and benefits, implementing extensive protection measures to ensure the well-being of our team. Tyson has followed-- in some cases, they've gone beyond guidance from the CDC and the federal Occupational Safety and Health Administration, OSHA, on which we believe the standards proposed in LB241 are based. Tyson first convened a company-- companywide Coronavirus task force in mid-January of 2020 and in late February, based the information available at that time, issued its initial COVID-19 mitigation plan to the Tyson plants to initiate viral spread prevention measures. From that point forward, Tyson frequently issued and continues to update policies to protect team members while simultaneously--

**FOLEY:** Excuse me, Senator. Excuse me. Members, we can't hear the speaker. Senator Albrecht.

**ALBRECHT:** Thank you-- while simultaneously adjusting the company's processes, implementing new practices, and providing a consistent food supply for millions of Americans across the nation. Tyson also puts

into place significant protective measures and further enhanced resources for its team members to help protect them inside and outside of its facilities. This includes procuring walking-through temperature scanners, erecting workstation dividers, implementing a data-driven, three-prong testing approach, creating a chief medical officer position, and adding almost 200 nurses and administrative support personnel to the company's health service team, bringing it now to 600 strong. Given the fluid, unprecedented nature of the pandemic and Tyson's commitment to a proactive response, Tyson continuously reviews and updates its policies in response to changing scientific data and evolving federal and state guidance. In doing so, Tyson has worked to keep team members healthy and safe. Its policy has been to focus on encouraging sick or symptomatic team members to self-identify and stay home, identifying and isolating positive team members, protecting team members while at work, and educating team members well on ways to remain safe--

**FOLEY:** One minute.

**ALBRECHT:** --at home, and in their communities. Thank you. Further, Tyson has and continues to frequently collaborate with federal, state, and local officials, many of whom have visited the company's facilities to help desig-- design innovative, industry-leading Coronavirus mitigation strategies that often went beyond regulatory requirements. For example, in April and May of 2020, we provided tours for the University of Nebraska Medical Center team in our Dakota City, Lexington, and Madison plants to see firsthand the measures that we had taken. We received positive feedback from the team who stated that they were appreciative that Tyson had already implemented several of the measures they consider best practices. I'll continue this on my next time up. Thank you.

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

**BRANDT:** Thank you, Mr. Lieutenant Governor. Thank you, Senator Vargas, for bringing LB241. And thank you to the thousands of hardworking Nebraska meatpackers out there that show up every day and do the heavy lifting. Safety is not an unnecessary burden. There is nothing more important than safety in all of our plants. My concern is not the past or the present, but the future. What happens if a new COVID variant renders our vaccinations useless? This is about foresight. Does a reasonable person believe we will never see another pandemic? If anything, the discussion so far shows we do not know a lot about COVID. So to be clear, I oppose the bracket and I support LB241. And with that, I would yield the rest of my time to Senator Vargas.

**FOLEY:** Thank you, Senator Brandt. Senator Vargas, you've been yielded about 4:00.

**VARGAS:** Thank you very much. Colleagues, I want to state this very, very clearly. This is not a friendly amendment. It's not a reasonable amendment, motion 69 of Lowe to bracket the bill to later. I'm firmly, unequivocally against this. We introduced a bill last year, or tried to introduce a bill, and then eventually had a hearing, and at that time, not me, workers were told to wait. Since that time, there have been ten more individuals that have died, there have been hundreds of people that have tested positive, and there have been even more individuals that have been in hospitals. The question is not whether or not this needs to happen then or now. The question is, how do we make sure that lives or hospitalizations or people getting sick can be avoided down the line and we have best practices that are in place? And this is making sure that standard is held accordingly. Bracketing this to 6-10-21 would send a message to every single worker across the state in meatpacking plants that we are willing to push off you and this issue for another year and leave it up to them to self-advocate. I have a lot of respect for every single of my colleagues, but when I hear that the lobby thinks this, my first inclination is, what about the people? What about the individual workers that are working right now, as we speak? What about the loved ones of those workers? This is to make sure that there is a balanced approach to it. This is not any sort of overregulation or antibusiness. This is-- has nothing to do with whether or not we're targeting an industry, as I shared with you studies, and even the feds have been investigating meatpacking plants because they want to better understand and need to understand what exactly has and has not happened well to lead and get to this-- to this point. This question is about whether or not we can put basic guardrails in place to better protect workers. That's it, fundamentally, and voting for this bracket would tell them, every single worker, you're worth pushing off for a year, there's a few more people testing positive from potential variants or potentially getting hospitalized, and that's OK with us. What I heard is that some of the plants are doing these things and are holding themselves to a standard. I applaud those plants. Rather than getting in the mud with saying who is or has been fined or has been cited by OSHA or how many deaths have been at each plant, I'm focusing on the fact that when there is an issue, we focus on solutions and the solution here is not a gotcha--

**FOLEY:** One minute.

**VARGAS:** --but a guardrail in place. Bracketing this motion-- on motion 69, Senator Lowe, for those that are saying this is reasonable, that is absurd. This is not reasonable. This is sending a very clear message to those people that can't even maybe watch this because they're working, maybe their loved ones that might be watching or listening or the media, that it was OK to push forward, push out these regulations and safeguards for a year, and now we're going to do it once again. We continue to do other things. We've passed a COVID-19-- or will be passing COVID-19 liability bill. We've supported businesses in many other ways throughout this last year. The question is, how can we make sure that if something gets worse, especially with COVID-19 variants, many new ones that have actually been identified in the last several months, even in the last couple of weeks, can we make sure that the high-risk sector, high-risk population has a safeguard in place to protect--

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

**VARGAS:** --those workers

**FOLEY:** That's time.

**VARGAS:** Thank you.

**FOLEY:** Thank you, Senator Vargas. Senator Matt Hansen.

**M. HANSEN:** Thank you, Mr. President, and good morning, colleagues. I'll try and keep this brief, but two things that I just wanted to state, and this is kind of more for-- for the record, more for the public watching, more just to get it in the debate to make sure that people, aware and observing, know two things. One is that a bracket motion kind of inherently is not friendly, especially when you bracket it past our adjournment date. This kills the bill just as good as voting it down, just as good as failing on cloture. So if you've got 25, you've got 25. I understand it. But it's not necessarily a friendly way to kill a bill over the introducer's objections, and there's no way you can frame it to be that way. It's still going to take a priority next year. It's still going to take-- it's-- it's still dead for the year. Short of IPPing it, it's as dead as any way a bill can be killed on this floor. Secondly, just for the record, it was kind of stated earlier, some-- some numbers on Texas, and I know we're not Texas, but I want to be very clear. We are definitely improving. We are-- things are definitely getting better. I, like others, am reading the news, reading the guidance, you know, changing my behavior. Things are getting better, but we're not out of the pandemic yet. Texas has not solved the pandemic yet. And I'm just

going to quote a Houston Chronicle article that was published yesterday that said: Texas records zero COVID-19 deaths for the first day in over a year. I'll just read the first couple of paragraphs: What was statistically Texas's best day of the pandemic was followed by a sobering number one day later. On Sunday, the state's Department of State Health Services reported its first day without recording a COVID-19 death since March 21, 2020. So they went one day with no deaths for the first time in well over a year. Going back to the article: The good news was dampened less than 20 hours later when DSHS reported 23 new COVID deaths Monday, the highest Monday count in nearly two months. So-- and I'll stop the article. Again, it was published yesterday in the Houston Chronicle, if you want to read. We are seeing some improvement. There are trends that are improving, but we are not out of the pandemic. People have not stopped dying. The-- the place we're at is tenuous, and we do need to continue moving forward by encouraging people to, you know, be responsible, to get vaccinated, to observe local health directives and things of that nature as well. I'm as optimistic as anybody, but at the same time, we cannot just declare publicly that the pandemic is over when it isn't. There's no reason not to share optimism. I'm optimistic, but we cannot just act like it's over and we don't have to pay it any mind because it is still killing people. It is still drastically influencing people's lives. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hansen. Senator DeBoer.

**DeBOER:** Thank you, Mr. President. I was wondering if Senator Vargas would take some time-- I'll yield at the end of-- of asking this-- and really talk about how the timeliness of this is important, even in light of all the new CDC guidelines and all of this sort of thing. So if Senator Vargas could address some of those issues about timeliness and why the bracket motion would affect that timeliness, I would appreciate it. So with that, I'll yield my time to Senator Vargas.

**FOLEY:** Thank you, Senator DeBoer. Senator Vargas, 4:30.

**VARGAS:** Thank you very much, Senator DeBoer. The timeliness is critical here. First, bracketing this bill will bracket it until the next legislative session, which means there's nothing that can be done for the next year. The way this bill is drafted right now, it is a guardrail standard for the next year to ensure that when we are not in session, there are some basic things in place for workers, workers that are working every single day to try to put food on their table and are working amidst and have been working amidst this pandemic. Colleagues, over this last year we have had hundreds of hospitalizations. I know some people mentioned deaths. If that number

of hospitalizations was happening in a specific sector that was close to you, I guarantee you, we'd be having a conversation about that specific sector and what we can do differently. We put in place measures to then better protect people, and this is for a year with a very narrow focus, with the ability to lift some of these things. It is more timely than ever and it is even more important when we look at how the COVID-19 variants across the country are still affecting workers across the country. Somebody mentioned to me just about five minutes ago that even Texas is-- still had 20-plus deaths just in the last few days. We are by no means done because there are high-risk populations that are still at risk. You and I may not work in a meatpacking plant. You and I may not have had that experience, necessarily. There's a few of us that have had some experience working with plants, and those that have understand that there is a reason and a rationale for safeguards, not an investigative committee, not un-- unheralded-- a number of visits to then see "gotcha" moments. These are very basic provisions and bracketing this bill for the next year, because that's what essentially it would do if you vote for the broke-- bracket this bill, sends a message that we're leaving it up to just the current standard that's been set. We are not the first or only state that has gone down this road to try to better protect workers, to make sure that there is-- there are some guardrails in place, let that be very, very clear. This industry has put some standards into place, and they're looking at me right now through the glass. And if they're putting these standards into place, I ask you, then what is the problem with putting standards into place for the next year? The answer is there is none. If they're meeting the standards that they say that they are, then there's going to be no impact of this bill and it's just to make sure that we're putting a safeguard in place for workers. That's it. The only way that this would be onerous is if there are some plants that are not holding that standard consistently. And as a result, we're very thankful on behalf of workers that some of these things would be put in place, extremely thankful. You can't get more reasonable than that. And we deal with sometimes very, very sweeping ideas of-- of bills, and we're not bracketing all those. This is not something we can do next year. It's not something we can do five years from now. We're talking about reacting now--

**FOLEY:** One minute.

**VARGAS:** --based off of data and best practices. This is reasonable, common sense, and that's what we're putting into place for the next year. So I'm against the bracket specifically to Senator DeBoer's question, which is why this is timely. We can't afford to have a year

with more variants or some pullback or spread of any viruses and it affecting workers. And if everything is going well, like what I'm hearing, then this is not going to have any impact on the industry, but thank God we will have something in place on behalf of workers in case there is a problem. Thank you.

**FOLEY:** Thank you, Senator Vargas. Sen-- Senator Albrecht.

**ALBRECHT:** Third time?

**FOLEY:** It's your third opportunity, Senator.

**ALBRECHT:** Thank you, I'm going to continue to read the rest of the testimony in the Business and Labor Committee: We continue to work with local authorities and healthcare officials to regularly share data and insights to help tackle the community spread of the virus. In some locations, we are conducting regular calls with health departments. We have also partnered with experts in the health and safety, including and retaining Matrix Medical to advise us on and implement strategies to keep our team members safe and healthy. Looking ahead, as the supply of COVID-19 vaccine starts to increase, Tyson is currently working tirelessly with the trusted medical partners and health officials to ensure our frontline team members have access to a vaccination when local regulations and availability permit. The vaccine will be available through our partnership with Matrix Medical Network, a trusted Tyson partner and medical leader in the clinical services that has supported Tyson's testing strategy. Tyson and Matrix are working closely with local, state, and federal health officials. Matrix is deploying mobile health clinics and expert clinical staff to support vaccine communications and administration at Tyson Plants. We will not require team members to take the vaccine, but are focusing our efforts on education and to make the vaccine easily accessible to those who want to take it, at no cost. We will also compensate team members for up to four hours of regular pay if they are vaccinated outside of their normal shift or through an external source. We are providing extensive information in multiple languages to our team members on how the vaccine works and to help them make an informed decision on whether they want to receive it. This includes handout materials for all frontline team members at our plants, with additional planning information shared with plant leaders. Tyson's health services team will be on hand to answer team member questions throughout the vaccination process in the weeks and months ahead. In closing, I want to reiterate that our team members' health and safety is our top priority. Tyson implementation-- is fully committed to continuing to implement proactive measures to protect our workers during this national crisis. We also take seriously our

responsibility as part of the United States' critical-- critical infrastructure to maintain our food supply chains to the American people without compromising this commitment. Our Nebraska plants and the most-- and the most 11,000 Nebraska team members who support them are indispensable part of our supply chain that includes farmers, ranchers, truckers, grocers, hospitals, and many others. As stated above, they were opposed to LB241 because Tyson has undertaken significant action to address team member safety and the spread of COVID-19 in our facilities, consistent with the guidance from the CDC and OSHA. I'd be happy to provide answers to any follow-up questions. You know, again, this is where I-- I just don't believe, again, that this-- that these businesses, these plants, that it's intentional not to take care of them. It's intentional to take care of them, and they have provided all of the information to us. If-- if-- if you're not working toward that and you're not willing to come before Business and Labor and talk about this and defend what you've done for your employees, then I think we might have an issue to talk about. But I really do believe that they-- they have a significant investment in not only their facility, but their people. And they want them to come to work safe and healthy. And they want to keep them from getting any of the COVID and taking it into the community and to their families. And-- and I do believe that they've worked very diligently with all of us at the state level, OSHA, and I do believe it's-- it's something that's not needed at this time. Thank you, President Foley.

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

**AGUILAR:** Thank you, Mr. President. Members, again I rise in opposition to the bracket motion and I contend it is not a com-- compromise motion by any stretch of the imagination. It is designed to kill the bill. That's not what we want to do. I'd like to speak to some of the issues like Senator Albrecht's been talking about, and that is the-- some of the plants that are doing-- doing well right now, they're-- they're applying the standards that were put in place. GBS in Grand Island is doing just the same thing. They-- they're doing what the CDC asked them to. All we're asking is for that to continue for-- for another year. It's-- it's a must, folks. We got to keep that going. And I would assure you there are plants out there that if these standards go away, that line is going to speed up and all the standards-- or most of the standards will go out the window because it is important that they speed up the line. That's how they make their money. And it's become obvious to me that some of my colleagues care about families; they care about the workers. And some of them care about the lobby. That's just craziness, folks. We need to get back on track here and take care of our people. I've heard it said that the

pan-- pandemic is over. I would ask you, why are these shields still up in front of us if the pandemic is over? We're still being careful, and all we ask for these workers, that we continue for a year to be careful for them. It's necessary. It's imperative. I'd also like to speak to an issue that Senator Erdman said. He didn't think that infections were coming from the meatpacking plant. Well, where-- where I have 2,500 workers, I assure you that's where it come from. That's how Grand Island got to be the hot spot in the nation. That's more than obvious, and it wasn't until people stepped in, put the standard in place, that the numbers start going down. And I applaud them for putting those standards in place, but we must continue them for another year. Listening to this bracket motion, makes it go away, that is absolutely the wrong direction we need to take. With that, I will yield the rest of my time to Senator Vargas if he wants it.

**FOLEY:** Thank you, Senator Aguilar. Senator Vargas, 2:20 if you care to use it.

**VARGAS:** Thank you very much. Thank you very much, Senator Aguilar, for your profound words. There's not much more I can add than what Senator Aguilar just said. The data and studies-- data has shown that this is a high-risk sector. It's also a high-risk population in that sector. It's why it is needed. Supporting this bracket, I'm fundamentally against. We have been pushed off for a year. This is critical guardrails that we need to put in place. And there are workers that are listening and watching us, ensuring that we provide a balanced approach to how we react to this pandemic. Not being a-- putting-- being able to put in basic things is going to send a very, very disturbing message to communities, specifically black and brown communities, that your perspectives and your voices are not as important in how we provide better protections, statutory protections for the next year. I ask you to vote against the bracket--

**FOLEY:** One minute.

**VARGAS:** --and against motion 69, Senator Lowe, because of this reason, because we are supposed to listen to all sides of a perspective, all those that are impacted by this. Thank you.

**FOLEY:** Thank you, Senator Vargas. Senator Lowe, you're recognized to close on your bracket motion.

**LOWE:** Thank you, Lieutenant Governor. Well, here we come. This is a good bracket. Most of the time we use brackets to-- to stall, to try to go to closure. This is a good bracket. This keeps the bill alive. We can find out where we're at with COVID when we come back in

January. We have done a great job in Nebraska with all industries, including the meatpacking industry. It took a heavy toll on the meatpacking industry in the very beginning. It took a very heavy toll, and our sympathy does lie with those families and with that community. But we are winding down. The vaccines are working. People have learned to do things differently. Our life is coming back to normal. We're not seeing the spikes. Matter of fact, we're seeing quite the opposite. It's falling day by day by day. We have looked at our businesses. We have seen our faults in our businesses. We have corrected many of those faults. And the people are happy. They're working. By implementing many of this-- these things that Senator Vargas has in LB241, our factories will not grow. The people will not come back to fill those positions because it takes space to implement these things. I urge you to vote for the bracket motion so that we can continue to look at this, that we can continue to talk with those factories to make sure that they are implementing safe procedures for the people that are working there. This is a good bracket motion. Senator Vargas, I applaud you for bringing this-- this bill, I applaud you for supporting the people that work in these factories, but we must also look at the way that businesses run. We must look at the way that Nebraska has run, that the United States has run through this virus that we did not see coming 18 months ago. Eighteen months ago, think where our life was at; think what we were doing 18 months ago. We're finally getting our life back and now we want to continue what we've been going through the last year and a half. I urge you, this one time, vote for this brack-- for a bracket motion. If you never vote for bracket motions, this is a good bracket motion, keeps the bill alive, and our businesses keep moving forward. With that, I'd like to yield the rest of my time to Senator Ben Hansen.

**FOLEY:** Thank you, Senator Lowe. Senator Ben Hansen, 1:25.

**B. HANSEN:** Thank you, Mr. President. I'm going to echo a little bit of the sentiment that Senator Lowe was mentioning before, earlier, and something I mentioned on the mike as well. We have this kind of negative connotation of the word "bracket motion" here in the Legislature, because typically it's used as a-- as a tool for filibustering, to get more time. And so some of us have hesitancy sometimes to vote for bracket motions. But like Senator Lowe was saying, you know, this is one of two options, pretty much. And when you see the lay of the land, you kind of know what happens with a bill.

**FOLEY:** One minute.

**B. HANSEN:** This is a way to push the bill off. This does give-- I know some people say this, in-- in-- in their opinion, kills the bill. In my opinion, it doesn't. With this, it gives Senator Vargas the time to visit with other senators, see the lay of the land as time goes on this year, see what happens next year, tweak the bill if we need to based on, you know, what's going on, you know, currently at the time. And so it does keep the bill alive. And in my opinion-- this is my opinion; it's not Senator Vargas'. But in my opinion, I think this is a good compromise as opposed to just killing the bill and it's done forever. And so I-- I-- I urge my colleagues and everybody else on the floor here to vote green on the bracket motion. There's one time you want to vote yes on a bracket motion, this is the time to do it. And so with that, if I could, Mr. President, have a call of the house and do a roll call vote in reverse order.

**FOLEY:** Thank you, Senator Hansen. There been a request to place the house under call. The question is, shall the house go under call? Those in favor vote-- vote aye; those opposed vote nay. Record, please.

**CLERK:** 16 [SIC--17] ayes, 1 nay to place the house under call.

**FOLEY:** The house is under call. All members please return to your desk and check in. The house is under call. All senators please return to the Chamber and check in. The house is under call. Senator Walz, check in, please. Senator Aguilar, we're under call. Senator Groene, under call. All unexcused members are now present. The question before the body is whether or not to bracket the bill. A roll call vote in reverse order has been requested. Mr. Clerk.

**CLERK:** Senator Wishart voting no. Senator Williams voting yes. Senator Wayne. Senator Walz not voting. Senator Vargas voting no. Senator Stinner voting yes. Senator Slama voting yes. Senator Sanders voting yes. Senator Pansing Brooks voting no. Senator Pahls voting yes. Senator Murman voting yes. Senator Moser voting yes. Senator Morfeld voting no. Senator McKinney voting no. Senator McDonnell voting no. Senator McCollister voting no. Senator Lowe voting yes. Senator Linehan not voting. Senator Lindstrom not voting. Senator Lathrop voting no. Senator Kolterman voting yes. Senator Hunt voting no. Senator Hughes voting yes. Senator Hilkemann voting yes. Senator Hilgers voting yes. Senator Matt Hansen voting no. Senator Ben Hansen voting yes. Senator Halloran voting yes. Senator Groene voting yes. Senator Gragert voting yes. Senator Geist voting yes. Senator Friesen voting yes. Senator Flood voting no. Senator Erdman voting yes. Senator Dorn not voting. Senator DeBoer voting no. Senator Day voting no. Senator Clements voting yes. Senator Machaela Cavanaugh not

voting. Senator John Cavanaugh voting no. Senator Briese voting yes. Senator Brewer voting yes. Senator Brandt voting no. Senator Bostelman voting yes. Senator Bostar voting no. Senator Blood voting no. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting no. 25 ayes, 18 nays, Mr. President, on the motion to bracket.

**FOLEY:** The bracket motion is successful. I raise the call. Do you have any items, Mr. Clerk?

**CLERK:** I do, Mr. President. I appreciate it. Thank you. Mr. President, your Committee on Revenue, chaired by Senator Linehan, reports LB502 to General File with amendments. New resolutions: LR152, Senator Bostelman, a study resolution; LR153, Senator Slama, that will be laid over; and LR154, Senator McDonnell, that's another study resolution. That's all that I have, Mr. President.

**FOLEY:** Mr. Clerk.

**CLERK:** Mr. President, the next bill for this morning's agenda, LB298. It's a bill introduced by Senator McDonnell. It's a bill for an act relating to labor; it redefines public benefits; it changes provisions in the Employment Security Law relating to disqualification of certain aliens; introduced on January 12 of this year; referred to the Business and Labor Committee; advanced the General File. There are committee amendments, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Senator McDonnell, you're recognized to open on your bill, LB298.

**McDONNELL:** Thank you, Mr. President. Good morning, colleagues. My priority bill, LB298, I want to start off by thanking the people who have been working with me on this bill and correct an oversight in our-- our current statute, and to join 49 other states in making unemployment benefits available for all eligible, work-authorized, and legally present workers in Nebraska. I want to emphasize that: work-authorized and legally present workers in Nebraska. This bill is supported by the Nebraska Chamber of Commerce and Industry, the Greater Omaha Chamber of Commerce, the Lincoln Chamber of Commerce, Heartland Workers Center, Immigrant-- Immigrant Legal Center, and the Nebraska Catholic Conference and others. The purpose of this bill is fairness and to address the gap in access to unemployment benefits currently being denied to otherwise qualified and legally present workers in the state of Nebraska. The bill will end the state's current mandate that our local businesses pay unemployment taxes to the Unemployment Trust Fund on behalf of workers to then only deny these workers access to their benefits when they need them. In

Nebraska, employers pay unemployment insurance taxes for all of their employees, including eligible, legally present, work-authorized immigrants. Nebraska employers are required by law to verify the work authorization status of their employees, and the Department of Labor is required by law to verify the work-authorized status of every unemployment insurance applicant; and only legally present, work-authorized employees can qualify for the unemployment insurance benefits for their employers; must pay into the Unemployment Trust Fund on their behalf. LB298 does not change that. LB298 only clarifies our statute to join 49 other states in including all work-authorized, legally present workers in the state of Nebraska. The Nebraska Department of Labor currently pays unemployment claims for other qualified aliens, including people with status like seasonal work visas, victims of trafficking or other crimes, or for temporary protected status related to a natural disaster or other emergencies in their home country. Nebraska has language similar to other states, but our state has interpreted our statutes differently than other states and excludes many lawfully present workers and LB298 will correct that. This is about fairness. This bill is about the people that are legally present in our state, work authorized, are paying taxes on the federal level and the state level. They're going to work every day, and their employer is playing-- paying into the unemployment trust. COVID hits. These people go to get their benefits because their employer told them, it's time for you to apply for unemployment insurance because I've been paying into it, you're a good employee, and you deserve it, it's well earned. At that point, they're denied. They're denied because we have not harmonized our language in our law with 49 other states and the federal government. We are the only state that are denying these authorized, legally present workers, and I think we should change that today. Please vote green on LB298. Thank you, Mr. President.

**FOLEY:** Thank you, Senator McDonnell. As the Clerk indicated, there are amendments from the Business and Labor Committee. Senator Ben Hansen.

**B. HANSEN:** Yes, thank you, Mr. President. Good afternoon, colleagues. AM251 makes one change to the underlying bill, LB298. Excuse me. During the public hearing on LB298, Commissioner John Albin of the Nebraska Department of Labor provided the only opponent testimony. The Department of Labor, with explicit direction from the U.S. Department of Labor, stated that LB298 would create a conformity issue between our state and federal guidelines. More specifically, unless LB298 implemented use of the Systemic Alien Verification for Entitlements Program, or what's commonly used terminology called SAVE, our state would risk losing tens of millions of dollars from the federal

government by not conforming to U.S. Department of Labor guidelines. AM251 does just that. The amendment adds an additional direction under Section 2 that requires the applicant to be processed through the SAVE program. This is already being done at the department level and shouldn't create any additional work for the department, the employer, or the applicant. AM251 is the result of great work and communication between Senator McDonnell, the Nebraska Department of Labor, and the U.S. Department of Labor. It maintains the original intent of Senator McDonnell's priority legislation and eliminates the conformity issue presented by the department. I would ask for your green vote on AM251 and look forward to Senator McDonnell providing the further information on the underlying bill. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hansen. Debate is now open on LB298 and the pending committee amendment. I see no members wishing to speak. Senator Hansen, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of AM251, committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 32-- 33 ayes, 0 nays on adoption of committee amendments.

**FOLEY:** The committee amendment has been adopted. Any discussion on the bill as amended? I see none. Senator McDonnell, you're recognized to close on the advance of the bill.

**McDONNELL:** Thank you, Mr. President. I appreciate the assistance of the Business and Labor Committee, Senator Hansen, for helping me and my staff improve this bill. Please vote green on LB298. Thank you.

**FOLEY:** Thank you, Senator McDonnell. The question before the body is the advance of LB298 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 26 ayes, 9 nays on the advancement of the bill, Mr. President.

**FOLEY:** LB298 advances. Proceeding now to Select File 2021 committee priority bills, LB529. Mr. Clerk.

**CLERK:** First of all, Mr. President, with respect to LB529, Senator McKinney, I have Enrollment and Review amendments.

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move that the E&R amendments to LB529 be adopted.

**FOLEY:** The question is whether or not to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments have been adopted. Mr. Clerk.

**CLERK:** Mr. President, Senator Walz-- Senator Walz would move to amend with AM678. Senator, I have a note you wish to withdraw AM678 and substitute AM1090.

**WALZ:** Yes.

**FOLEY:** Senator Walz, you're recognized to open on your amendment. I'm sorry, excuse me. The previous amendment with-- was withdrawn and now we have a substitute amendment. Senator Walz, you're recognized to open on your substitute amendment.

**CLERK:** AM1090.

**WALZ:** Again, this is just a technical change on the lottery bill which provides scholarships and assistance to kids who are wanting to go to college and some after-school programs, teacher support programs. Thank you.

**FOLEY:** Thank you, Senator Walz. Debate is now open on LB529 and the pending amendment. Senator Matt Hansen.

**M. HANSEN:** Thank you, Mr. President, and good afternoon, colleagues-- or, sorry, good morning, colleagues-- getting ahead of myself. You know, I do want to speak to this bill because I think we're going to have some good discussion on the amendments and the underlying bill. I do support AM1090 and do support or want to support LB592. And just to kind of give a lay of the land here, I still do view some of the amendments coming later in the day as poison pill amendments in the sense that it will cause me, and cause-- I know cause many others to lose their support of the lottery funding bill. The lottery funding bill has a number of provisions in it that I think we all want to support, scholarships and a number of other things. As this is the-- a-- a number of things that can happen and can have-- a number of things that could happen as this is-- as people who have watched the Legislature know, this is a revolving process where the money put into the lotto fund account from the Nebraska state lottery, the portion that goes to education, it is typically reviewed by the-- the Education Committee on a revolving basis. I believe the last time we might have done a substantive change was my freshman year in 2015, so about six years ago. And I bring that up to say is, again, with-- as I said on some of the other tax bills and some of the other bills that we've been dealing with this year, you know, the problem with

Christmas trees-- and I'm a fan of Christmas trees in my own right. I've helped put some together. The problem with Christmas trees is that balance to make sure you have the right number of ornaments on them; and that if you have too many on or too controversial of an ornament, it does ultimately tip over the whole thing. And that's why-- fundamentally why I kind of like the metaphor of Christmas trees. I know Senator Pahls recently has been discussing Easter baskets because you have to find the Easter egg. Sometimes in Christmas trees, the glaring, glitzy, you know, problem-- problem ornament is fairly obvious, and that is some of the ones we've been talking about over a number of years and some of the amendments we've been talking about over a considerable amount of time. So that's where I stand on this bill. I really do want to get to a point where I am willing and able to vote for everything on the board, that I'm willing and able to vote for the lottery funding bill, that I'm able to vote for LB529. But if LB529 needs to not move forward today, if we need to delay it for a year, that's something that I am personally willing to do. I know that's not the most over-popular or most overwhelming position in terms of items on how to move forward. I know some people want to vote for this bill, but I just wanted to make it 100 percent clear where the lay of the land was moving forward. Personally, I do want to appreciate Senator Walz and the Education Committee. There's a number of moving parts to this and they have done a considerable amount of time and effort bringing together some quality committee priority legislation to the floor. And so I'm-- throughout this process, will be conflicted with my desire to, you know, respect and have deference to the committee process, but at the same time know I'm kind of fighting and opposing some people who also are kind of bucking the-- the-- the committee process in terms of having hostile amendments come on, on General and Select File, hostile amendments of entirely different bills, because I think that's the subject matter. We're here. You know, this isn't objecting to a tweak. You know, it's not like a tax bill where you want 10 percent, I want 5 percent, we settle on 7.5. This is entirely new subject matter being amended in from a different bill that's already had its-- already had its day in committee and ultimately the committee did not move it forward. So with that, Mr. President, I would yield the balance of my time to the Chair.

**FOLEY:** Thank you, Senator Hansen. Mr. Clerk.

**CLERK:** Mr. President, I have a priority motion. Senator Machaela Cavanaugh would move to recommit LB529 to the Education Committee.

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

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I stand in support of LB529 and AM1090. However, as Senator Matt Hansen just talked about, there are several amendments on this bill that are poison pills. And I am putting up this motion to recommit to committee so that we can have time this morning to spend on LB529 and its underlying purpose, not poison pill bills that come from another bill that couldn't get passed and are being put on a very important bill for scholarship money and lottery money in order to kill it. I don't think that's appropriate. There's a lot of bills that don't make it as-- as far as we hope that they will, and I don't think it's appropriate to kill a committee bill because your bill didn't make it to where you wanted it to be. This is a really important bill that impacts the lives of many people across the state. So I hope, when it comes time, that people will vote for cloture for this bill and we can vote on the amendments on the board. But until that time, I'm going to discuss LB529 and the amendments that are not on the board that I am in opposition to. It came to my attention last week that there was a new amendment on LB529, and I'm sure lots of you have been getting emails about it. It is AM1422. And in addition to that coming to my attention, that there was a new amendment, I read that amendment and immediately it had a lot of issues for me. I thought long and hard about it and if there was a way to make a compromise that I wouldn't have issues with, that I could move forward with, and I came to the realization that there is no compromise when it comes to the school restraint bill. There are those that want to allow for restraint of students without appropriate teaching, without appropriate coaching, without appropriate safeguards in place, and there are those who don't want that. I don't want that, and I am not going to allow anything less than perfection, in this case, pass. Our children deserve perfection when it comes to school restraint. Every child should be valued equally and children with disabilities and children of color are not valued equally in AM1422. There are no safeguards for those children and, therefore, I cannot allow AM1422 to be amended on to LB529. I spoke with Senator Walz about this and she is aware of my feelings. She is not in support of my efforts this morning, so I don't want to paint it as though she has given me her green light or that this is a friendly amendment. A motion to recommit to committee on this bill is not a friendly amendment. This is intended to ensure that we do not get to other amendments on this bill that are poison pills. So to that end, we will be on this bill until whatever four-hour mark there is, unless the amendments that are pending after AM1090 are withdrawn. I do realize that the AM1090 is an

amendment that Senator Walz worked on that stripped away some of the other things out of LB529 and kept in just the most essential parts of how the money, the lottery money, should be designated for scholarships. If the body decides that we want to move forward with our day and all of the amendments, with the exception of AM1090 are withdrawn, then we'll move forward with our day. But until that time, we will be on this for four hours. So I've gotten emails from Omaha Public Schools that they are opposed to this amendment. It would appear that they feel that this amendment is hurtful to the bill and has been indefinitely postponed under LB673 and, therefore, it's putting the lottery funds at risk. I'm hearing from advocacy groups with their concerns. When a student is removed from a classroom following disruptive behavior and is placed in a seclusion room, school employee-- a school employee must be able to see and hear the student at all times. All seclusion rooms equipped with a locking door shall be designated to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room. I don't know how that works. That sounds expensive. The seclusion of a child shall not exceed 20 minutes. The physical-- the use of chemical and mechanical restraints in Nebraska schools must be prohibited. Physical restraint shall be removed as soon as the student is calm and shall not exceed 20 minutes. In applying physical restraint, school personnel shall not place a student in a face-down position, place the student in any other position that will obstruct a student's airway, or otherwise impair a student's ability to breathe, obstruct a staff member's view of the student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso or straddle a student's torso. Any incident of seclusion or restraint shall be immediately reported to building supervision and the parent. Any incident of seclusion or restraint shall be documented in a written report that is made available to the parent within 24 hours, and that is maintained by the school district. So one of the things in the AM1422 that caused me personal distress was the lack of a school's ability to take disciplinary action against a teacher. The threshold for disciplinary action was extraordinarily high and did not take into account if a teacher was systematically targeting a specific student. As long as they maintained within certain guidelines, if they repeatedly restrained a specific student or repeatedly removed a specific student from the classroom, the school could take no disciplinary action as long as they didn't have gross negligence. So they couldn't take into account that they were perhaps-- that a teacher was perhaps biased and targeting a specific student, which is hugely problematic. OK, so this amendment, it's-- there's so much here-- takes away administrative accountability, does not protect due process, does not set conditions

for class removal, does not maintain 24-hour notice when restraint was used, does not avoid targeting kids with disabilities, does not protect local control, does not provide for data reporting, does-- is not research supported, does not provide adequate training, and does not prevent prone restraint, which is restraint on the ground. I don't know why we keep having this conversation, but we keep having this conversation and there's a lot to unpack here. And I know that there's others that are in the queue that will unpack some of this as well. I just-- it's time to move on. People this morning were tired of other bills and wanted to just move on. It is time to move on from the school restraint bill. It is absolutely, categorically time to move on. If you are tired of this,--

**FOLEY:** One minute.

**M. CAVANAUGH:** --then join me in moving on from this. I am tired of this. I am tired of this continually being added to other people's bills as a poison pill. No one wanted to include this bill as part of this, except for two senators. Now people this morning might feel like they're being held hostage by Senator Machaela Cavanaugh. You are being held hostage by Senator Dave Murman and Mike Groene. That's who's holding you hostage today. I have made it abundantly clear over almost three years that I will never let this school restraint bill pass without a fight. And now it's on a bill that isn't even theirs for a second time. It already did this on-- they already did this on General and now we're on Select. We've got like five days left of session. I'm not the one holding you hostage.

**FOLEY:** That's time.

**M. CAVANAUGH:** Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator McKinney.

**McKINNEY:** Thank you, Mr. President. I rise, not in support of the motion to recommit, but in support of AM1090 and LB529. But I rise to speak of a potential amendment, AM1422, that I strongly oppose for a lot of reasons Machaela-- Senator Cavanaugh just stated as well. I'll never support anything that gives teachers the immunity to possibly physically harm a student and there's nothing that the student or the student's parents can do about it. My problem is with this amendment. Very creative language, "emergency safety intervention." It sounds good, but it isn't. First thing, Section 7, line 12 says an emergency safety intervention does not include any physical action that is intended to cause bodily pain or to punish a student. My question is, what if a teacher does cause bodily pain and punishes a student? What

do we do then? Next is-- next I move on to page 2, line 10: No administrative, teaching-- teaching or other school personnel shall be subject to professional or administrative discipline for harm caused by an act or omission by administrative, teaching, or other school personnel relating to the use of emergency safety intervention pursuant to this section, unless the harm was caused by gross negligence, a conscious, flagrant indifference to the rights or safety of the individual who was harmed, or willful conduct, criminal or reckless misconduct, including misconduct that constitute-- constitutes a crime. Why are we trying to give administrative staff, teaching staff, and other school personnel immunity and raising the standard of negligence in the process? What if a teacher is negligent? What are-- what is a student and their-- and their parents supposed to do? Because we're raising the standard to gross negligence. I-- I-- I just don't get it. I don't understand why this bill continues to keep popping up. I'll never support it. And if this ever is attached to LB529, I won't support LB529 either. This just doesn't make any sense. So then you move down to line 22, part (D) for conduct that occurred while administrative, teaching, or other school personnel was under the influence of alcohol, liquor or drugs. Who is drug testing and alcohol testing these students [SIC] after they slam students in schools? Is it automatic? Does the teacher go directly to a testing facility? Who's going to do this testing? Who determines if a teacher is under the influence? I'm just saying, how do you prove it? It's not clear. Then you move down, line 30 on page 2: Emergency safety interventions means physical intervention intended to hold a student immobile or limit a student's movement, where body conduct is the only source of physical restraint, or where immobilization is used to effectively gain control of a student or to protect a student or other-- other-- other individuals from physical injury as immediate response to emergency situation. So we're basically just going to hold students on the ground, put our knees on their back, and keep them there just to say we're--

**FOLEY:** One minute.

**McKINNEY:** --restraining them. It's not clear what is holding a student immobile or limit a student's movement consist of. What is that? Is it sitting them on a chair and putting your hand on their shoulder? Is it laying them on the ground and pinning your knee on their back? I don't understand. How do-- how would you hold a student immobile? And is that even legal, to hold somebody's kid on the ground for long periods of time because you deem them as a safety hazard? Imagine your kid being held on the ground for a long period of time. Would you accept that as a parent? I don't-- I don't think I-- I-- I know for sure I

wouldn't. So I don't-- I mean, if you will, that's on you. But if you hold my daughter on the ground with your knee in her back, we're going to have a huge problem. And with that--

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

**McKINNEY:** --I yield the rest of my-- oh, all right.

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

**GROENE:** Thank you, Mr. President. Let's get some rational thinking in-- going on here. The lottery bill I wrote two years ago, and I appreciate 98 percent of it being continued by Senator Walz. I appreciate Senator Walz working with Senator Murman and I. Nebraska, let me tell you, there was a meeting between Senator Morfeld, Senator Walz, Senator Lathrop, the ACLU, Arc of Nebraska, NSEA, the school boards, the administrators, and they looked at Senator Murman's AM990 and they came up with some recommendations, Senator Murman and I and Senator Arch and a few others looked at it, talked to the union. We renegotiated. We came with some changes. Senator Walz, as far as I'm concerned and I believe she's saying that, believes Senator Murman's amendment is now a friendly amendment, substituted by AM1422. That's how the process works; that's how collegiality works. Senator Machaela Cavanaugh said there's two senators who are pushing this. There was 30 of them that returned from LB147 vote last year that are pushing this. Four senators, I understand-- Senator Vargas, Senator Machaela Cavanaugh, Senator Hunt, and Senator Matt Hansen-- are belligerent about it. They are more powerful than the Governor. Governor takes 20 votes to uphold his vetoes. So they can take this four hours and kill a friendly amendment. And, Senator Cavanaugh, they are not tired of it. The parents whose children have been harmed in school, special education students who have been harmed by violence, they are not tired of this bill coming forward. The children who have done violence, who have to live with the memory because they tore up a room because nobody was able to step in, have to live with that violence they did, they're not tired of this. The schoolteachers, 380 of them, at least two years ago, who had to take workman's comp because they were harmed in the classroom, were not tired of this bill. The kids who-- who drop out of school, who end up in the State Pen, Senator McKinney, are not tired of this bill because if somebody taught them boundaries when they were five, six and seven and eight years old, they probably would not have ended up in the State Pen. What we are doing here is giving teachers the necessary tools and the school administration how to step in and be trained, Senator M. Cavanaugh-- to be trained, Cava-- Senator Cavanaugh. In the first part, it says such policies shall include training requirements related to use of an

emergency safety intervention. Later on, it's redundant. It says, in addition to the preamble, training shall be provided on emergency safety intervention pursuant to Section 7 of this act, along with other training. The bill, the amendment states they have to first try, after they are trained with the lottery money, trained in de-escalation techniques-- techniques. I don't know where you get prone out of this. I don't know where you get that. Read it. It is very clear they will be trained like the people at Boys Town are, who handle a lot of disruptive children in their programs. This language comes out of the federal language that they have to follow. You talk about-- last I knew, 35 states had similar language. This is-- this is mild compared to some.

**FOLEY:** One minute.

**GROENE:** A friendly amendment is going to be stopped by four senators because they twist the words. All of this stuff about seclusion? There's seclusion already. The bill says they have to return the student as-- as soon as possible. Presently they don't have to. Shackles? I checked the department head. There hasn't been shackles used in a public school for years. By the way, the public safety officer, if he gets a kid with a gun and he's a police officer there, he can use handcuffs, but not a teacher or any school employee. I'm going to be blunt about this Arc of Nebraska. They have a lobbyist who lies to their members to raise funds, to scare the heck out of them about handcuffs and prone positions that don't exist in the schools anymore.

**FOLEY:** That's time, Senator. Thank you, Senator Groene. There are nine senators in the speaking queue. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Good morning, Nebraskans. First, I have to give some genuine respect to Senator Murman and Senator Groene, who have not given up the fight to allow teachers to put their hands on students, for the last four and five years, with immunity to-- to restrain these kids. That's no joke to me. I see the dedication. I see them retooling the original bill in every which way to hang it on any Education bill possible so we can continue the debate over a bill that's been killed over and over and over. And I see that determination and it's like, OK, game recognize game. I've got issues like that, too, where you're like a dog with a bone. And if this is the hill that they want to die on, OK, I see that and we can die on that hill then because this underlying bill is not going to pass if we're going to hang the child restraint bill on it. Senator Murman and Senator Groene and others have hung their student restraint bill, which is like a zombie that keeps

getting killed and keeps coming back to life over and over and over again, now as AM990 and AM1422, and there is no scenario where I will support a bill with a student restraint bill attached to it. As long as that bill is getting hung on things, that bill is going to go the distance. And I'm willing to kill the lottery funding bill to prevent the student restraint bill from being adopted. I'm also not happy with what just happened with Senator Vargas' meatpacking plant bill. It is so disingenuous to get up on the microphone, on the official record of the Nebraska Legislature, and say that a motion to recommit a bill to committee is a friendly amendment. First of all, it's not an amendment, it's a motion, so you should know what you're talking about. And second of all, the intention of that entire strategy, which was Senator Slama's amendments designed to take out the provisions of the compromise that Senator Vargas had already made with meatpacking plants, with stakeholders, with people affected who are workers, to take all of those things out of the bill that had come through compromise and continue to debate the underlying bill instead of the amendment that everybody had come to an agreement with. So that was really disingenuous, and then it's disingenuous to throw all those amendments on there and then put a motion on to recommit to committee and say it's friendly and that you're trying to improve the bill. I couldn't believe my ears when Senator Lowe said to Senator Vargas, if you care at all about these workers, you'll recommit it to committee so we can continue working on it, like he hasn't been working on it for over a year, like many, many, many of us haven't been working on it for over a year. All of you had the opportunity to come to listening sessions with meatpacking plant workers, but instead you're taking your cues from the people out in the lobby who get paid six figures to defend the income and the revenue of these multinational corporations that have plants in Nebraska. And you read these things on the mike and I know you're reading things that were handed to you because I can literally see on the floor what you're reading with my eyes. And now that bill is back in committee, but we all know that that bill is dead because it doesn't have the support to come back out. And I-- I'm not one to criticize procedural shenanigans. I'm seriously not. I don't-- I don't care if you want to put a thousand amendments on something. I don't want to care-- I don't care if you want to make every motion because I do the same thing. And I think that's the game. Game recognize game. When you follow the rules, you can do things according to the rules. And, you know, success is doing what's--

**FOLEY:** One minute.

**HUNT:** --available for you to do, and those are motions and procedures that are available for you to do. But don't get up on the mike and then act like you're doing anything except hurting workers, that you're doing anything except standing up for the big multinational corporations who are, I'll say it, many proponents of that bill wouldn't say it, but who are abusing their workers and who are treating essential workers as disposable workers, all to protect their bottom line. That's something that needed to be said on the mike, so just get up on the mike and say that that's what you're doing, say, I want to kill the bill. Don't say, this is friendly and I'm trying to improve it. That's a lie. So don't be out here lying. Just say what you mean. I'll say what I mean. I will kill LB529 if that hit-the-kids amendment is put on it. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Hunt. Senator Murman.

**MURMAN:** Thank you, Mr. President. I hope we can get to AM1422 today. The whole reason for this amendment is to protect all children, all teachers, all employees, everyone in the school, and especially to protect disabled students and minority groups. The-- that is the whole reason that the training is included in the amendment, because quite often a child, a student with a disability, will be the one that is bullied or picked on by other students and this amendment will protect that student. We're all disabled in some way, but those that are more disabled, maybe, possibly, than others are the ones that do get picked on. And also in-- with minority groups, someone that is different maybe than-- in some way than other students will quite often be the-- the student that is pointed out or possibly ridiculed or picked on. And with the training and the protection from everyone that-- in the school that is trained, hopefully we can-- the goal of the-- the amendment is to protect those people. I appreciate all of those that worked together to-- to make up AM1422, especially Senator Walz and Senator Arch that proposed certain language. And also, we worked especially with the NSEA. They have been working with the-- all of us for years to get some kind of a protection for teachers. And I appreciate the Education Committee. And-- and also we-- we did confer with all stakeholders, including Arc and other disability group proponents and all-- all of the school groups also, NA-- NASB, NRCSA, and-- and others to come up with the language in AM1422, so I very much appreciate everyone working together on this. As-- as was mentioned earlier, there are probably four senators that are holding this up. You know, it's not myself that's holding up this debate. It's the four senators that feel inspired to stop what the language and-- and the amendment that all of the interested parties worked on and agreed to, or at least the majority of Sen-- Senator Walz and the

Education Committee did work together to come up with this. So I'll just read a little bit of some of the language that is in the amendment. And some of it comes from the Code of Federal Regulations, and that's CFR Section 483.356.

**FOLEY:** One minute.

**MURMAN:** And it says emergency safety-- utilizes the term "emergency safety intervention" when addressing the protection of minors in long-term psychiatric residential treatment facilities. I appreciate Senator Arch for helping us with that, also out of the Minnesota Statute Section 125A.0941 with regard to the definition of "emergency," "physical holding," and then the Mississippi Statute Section 37-11-18.1 with regard to the definition-- definition of "disruptive behavior," so we used all the appropriate language. We worked together. AM1422 is a great amendment that improves the bill and I hope we can get to that today. And let's move forward with a great amendment that protects all students and everyone in the school. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Murman. Senator Matt Hansen.

**M. HANSEN:** Thank you, Mr. President. And let's be 100 percent clear what happened and what got to this point. The reason this is even being loosely framed as a friendly amendment is because of supporters of the corporal punishment, student discipline, student restraint bill, the hit-the-kids bill. Supporters of that bill, that amendment, threatened to filibuster and kill the scholarships. They threatened to kill the scholarships, to kill the whole lotto bill if their amendment didn't get adopted. That's where we're at and that's where we got here, and that is why I am so upset about this, because they know they cannot prevail on the merits. They know it's a terrible amendment. They know it's a terrible bill. They know they're just pandering. And they are threatening to kill committee priorities if they don't get their way, which is why I am in no mood to act like I am being out of-- being unreasonable or being the one who's, you know, off on the fringes and everybody else is singing Kumbaya. A number of senators have been blackmailing Senator Walz and the Education Committee for the whole session, and it's been open; sometimes on the microphone we've acknowledged it. That's where we're at, people of Nebraska. That's what the Legislature-- is happening here, is happening today. And to say that all of the stakeholders were at that meeting and agreed to it, I will have you know, I've been a stakeholder, I've been strongly opposed to this concept for-- ever since it was first brought, I was not at the meeting, which is fine. You might not want me at the meeting. You might not care about getting my support, but to

act like I'm just making something up when I've been opposed to this issue on every round, on every vote for multiple years, is just kind of ignoring the obvious. Yes, there's been a new version of the amendment, and there had to be a new version of the amendment because, remember, this bill got indefinitely postponed in the Education Committee. It got killed for the year, so they had to change it. So the fact that they are acting like they made some concessions by changing it, procedurally they had to change it anyways. They had to change it anyways because they already lost with the most direct version of the bill when it got killed by the Education Committee. Colleagues, folks, people of Nebraska, this is the concept we're at, so we are either reviving a bill that's already been dead or we're a wholesale creating something out of new cloth or vice versa. It's been kind of referred to as both. I think people are being disingenuous when they acknowledge that they're trying to argue that it isn't the original Murman bill, that it isn't the original Senator Groene bill from a couple years ago. The-- this is entirely aimed at the exact same issue, which is providing some measure of immunity to teachers to use physical discipline on children. It's a corporal punishment bill, like true and true, straight through. This current bill, somebody came up to me under the micro-- under the balcony was like, well, I saw they watered it down, what opposition do you-- could you possibly still have? Colleagues, in the amendment there is no professional or administrative discipline unless you hit a gross negligence standard, which is an incredibly high standard, way more than regular negligence, which means a teacher could be repeatedly negligent. They could injure kids repeatedly as long as they were just being negligent and not gross negligent, and there would be literally nothing the school could do about it under this law. This is the clunky, ham-fisted, doesn't-make-any-sense language we're trying to ram through as a hostile amendment or, at minimum, poison pill on the fifth-to-last day of session on a different bill, with a different introducer, with a different priority. To pretend that this is some sort of Kumbaya, we've sorted out an issue with the lottery bill and we're moving forward, is simply not true. This has been a brute force attempt to get a bill that was not prioritized and was killed by the committee that heard it adopted this year by holding scholarships for thousands of students hostage. And that is where we have been. And that is where people have acknowledged we've been. And that is why people felt they had to agree to support the amendment.

**WILLIAMS:** One minute.

**M. HANSEN:** Unlike others on this floor, I'm not going to call people out by name because-- at least at the moment, I'm not going to call

people out by name, because we have a variety of different things, different going on. But I've spoken to a number of people who were at that meeting. Nobody was happy about it. Nobody was happy about the amendment. I think a lot of people felt pressured that they had to cave to save the scholarships. It wasn't that they thought that this was good policy, that they liked the bill, that it was becoming a friendly amendment. It was, what do we need to do to break a filibuster? And, colleagues, people like that have put Senator Walz in a rock and a hard place because this bill is going to get filibustered from the other side if the hit-the-kids amendment does get adopted. And we've made that clear to her and to Speaker Hilgers so everybody at least knew this was coming. But, colleagues, people of Nebraska, this is where we're at today. This is why we're stuck between a rock and a hard place. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Matt Hansen. Senator Kolterman, you're recognized.

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. I rise in support, strong support of LB529 as well as AM1090. I probably won't support the recommit to committee because this bill needs to move forward. And I don't want to get in on all the other amendments that have been attached to this bill. You're going to hear plenty about that today. But I want to bring some focus to what this bill, as it currently stands with-- and then adding AM1090, really is all about. First of all, NOG sunsets at the end of this year, so we need to move this bill this year and we need everybody's vote on this. And the reason why is there's 13,000 students across the state of Nebraska that rely heavily on this bill to pay-- help pay their tuition and their expenses as they go to all of our in-state higher education facilities. Whether it's UNL, whether it's Creighton, whether it's Kearney, University of Nebraska at Kearney, whether it's Wayne State, whether it's my alma mater, Peru, those-- those institutions all benefit tremendously and-- and the children-- or the young adults that go there need that support. Expanding [SIC] Learning Opportunity Grants, that's 3 percent of this bill; that's $559,000 a year. Community College Gap Assistance Program, that's 5 percent; that's $932,000. Excellence in Teaching Cash Fund: 8 percent, $1.491 million. Nebraska Opportunity Grant, this is huge: 58 percent of this bill, the lottery funds go to NOG; that's $10.8 million. And then $559,000 goes to distance education incentives. That helps all of our students from around the state. So let's not get bogged down in the minutiae of this bill. Let's talk about what it really does. Then-- then there's a couple of other bills in here: LB568, Senator Morfeld's, mental health training, that's important; so is-- Kolowski had a-- had a bill that

was brought back, LB1168. Those are all-- all huge things that need to pass this year. So let's-- let's look at this bill for what it does. It helps use lottery dollars to educate students to come-- to become citizens of our state, to help our workforce development. And there's just all kinds of positives under LB529 as it currently exists. I don't want to see any more poison pills put on a bill that-- that will kill it. So if it takes four hours, then I think we take the four hours. We advance the bill as it currently sits with AM1090 and let's-- let's get on with this and move to the next bill. But with that, I would yield the rest of my time to the Chair. Thank you.

**WILLIAMS:** Thank you, Senator Kolterman. Senator Pansing Brooks, you're recognized.

**PANSING BROOKS:** Thank you, Mr. President. Well, this bill has had a significant and long history, and I've been actively involved since the beginning until just recently. Early on, Senator Walz and I worked with Senator Groene. We worked with the teachers. We worked with the administrators. This was all like two-- two-and-a-half years ago. We worked with the child advocates to find a bill and we actually found a version that all sides basically could agree to. The administrators had the most angst, but-- but the child advocates were on; the-- the teachers were on. And this keeps popping back up. Supposedly-- I'm-- I'm confused if-- number one, I don't even see how this is germane. I don't understand how this is being attached to this bill. Then I'm hearing, is it substantially similar or is it a whole new bill? Well, when I look at what-- what the bill says, to me, it looks like a-- a brand new bill. It's totally different than either of the versions we've had before, totally different. And a decision was made. You don't always have to have all the people in the room that were working on it from the beginning, but that does cause a problem when people have a lot of knowledge about something, have been working on it from the beginning, and then all of a sudden find out some crazy new version has come up. I will speak on the next time on my mike about how this is a terrible decision for the teachers. This is-- this is awful. But I'll speak to that the next time I'm on-- on-- I'm up on the mike. So we-- we've dealt with this restraint bill numerous times on its own, sponsored by various senators, Senator Groene and now Senator Murman, and that bill was killed this year in committee, as you may remember. Then a substantially-- a, quote unquote, substantially similar version was brought out and it had to be substantially similar or they would have a hearing on it. So it was ruled to be substantially similar on this exact bill, LB529, on General File. Then that bill was killed, so now we have another amendment again, and if it's substantially similar, we've killed it.

If it's a different bill, it needs a hearing. So which is it? Which are we dealing with today on this amendment? So, again, I-- I don't think this is germane. We have four more days of session, basically, after today, four more days. Bring it next year, Senator Murman. You've had so many chances, so many bites of the apple. How long do we allow this to continue? If I kept bringing-- bringing that up, like every year, and it was turned down and turned down, I-- I've had troubles with my right to counsel and with-- with other bills, but I bring it back. I don't try to keep putting it on people's bills as a poison pill. All of us could play that game, all of us. I choose not to. I choose not to take down somebody's priority. I choose not to take down a committee priority that has incredible value. As many of you know, I am a huge supporter of NOG and I want to confirm a lot of what Senator Kolterman said. This is one of the most important bills, LB529 and AM1090, that we've had this year.

**WILLIAMS:** One minute.

**PANSING BROOKS:** NOG-- thank you, Mr. President. NOG is the state of Nebraska's only need fin-- need-based financial aid program for postsecondary students, the only one. In '19-- in 2019 to 2020, $18,740,000, more than that, was awarded to-- to almost 13,000 students. NOG is primarily funded through the distribution of lottery funds. I'm concerned a little bit about it because with casinos opening, there's a chance the lottery dollars will be down a little bit. I'm worried about NOG. NOG is important for our people that are in poverty and in high need. So to me, to be playing around with this bill that's highly important, that Senator Groene admitted that he helped write and that Senator Walz has-- has added to and brought forward from the committee this year, we cannot keep--

**WILLIAMS:** Time, Senator.

**PANSING BROOKS:** --messing around with this. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Pansing Brooks. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. President. Well, I rise in support of LB529 and AM1090 and I guess in opposition to the motion to recommit. There's a lot of good things in LB529. And we had this conversation, I think, when it came up on General File, which seems like a long time ago now. But I-- well, there's a couple of thoughts that came to me while people were speaking about this. And Senator Groene and Senator Murman's position on this, I respect their stated objective here, which is to create a safe learning environment where people can learn

and-- and to deal with issues presented by either mental health or other related problems that present for kids. And I think that's an admirable goal and I think that's one that we should seek to address, but it made me think of a few things. So yesterday, Senator McKinney and I had the opportunity to tour the Douglas County Youth Center, which is the temporary detention center they use in Douglas County for youths who are in juvenile court or in adult court. And we decided to go on that visit after the conversations we've had here in the last couple of weeks about the juvenile justice system and-- and kind of what issues are presented and how to deal with those. And they have a lot of good programming at that facility. But one of the takeaways that Senator McKinney and I kind of both, I think, talked about was the-- when we're dealing with issues after the fact, we are not-- we-- we are specifically not addressing them up front. And this is a similar approach where we are-- we are trying to address problems that are presented, but we're not addressing the root causes of the problems. And that is really-- that's the harder thing to do, but it is the thing we should do. And part of LB529 and one of the reasons I like it is it specifically addresses some money to behavioral health training and behavioral health programs and mental health treatment. And we should be investing in those sorts of programs, early intervention, early aid to kids, teaching teachers how to identify these problems, what are some constructive things we can do, and how to get to the root cause of that, because if you're just saying we are protected in our marshal responses to acting out, being our-- our physical responses to people acting out, that is not solving the problem. That is-- that is addressing a symptom, not treating the-- the disease. Senator Murman handed out an article-- I think this was Senator Murman's article-- about a shooting that happened at a school in Idaho. And I-- I assume it was meant-- because the part that's highlighted says a female teacher eventually disarmed the student and held her until Rigby police arrived and took her into custody. I assume that was meant as an example of a time in which it is important that we use a physical response to a child acting out. And I would be curious if this is not currently allowed under Nebraska law and this would be remedied by the conversation we're having. But broader to me is, this raises a whole lot of other questions. Why does a sixth grader have a gun? What problems were-- were presented by the sixth grader prior to this that went unnoticed and unaddressed that led to the point where she came to school with a gun? We have an epidemic of school shootings in this country and just tackling kids is not the answer. That is how you can mitigate the immediate issue, but it is not going to prevent kids from bringing a gun to school again or a kid bringing a school-- a gun to school at a different school, and we will

continue to have this crisis going forward. So teachers being able to tackle kids that have guns--

**WILLIAMS:** One minute.

**J. CAVANAUGH:** --is not the answer to the school shooting problem. We should be addressing finding out ahead of time what's wrong with these kids, why they-- they are so desperate to be in that situation, how they are getting access to these guns. So there are easy answers, but they're not the right answers. We need to be looking for the right answers, which are solving the underlying problems presented by kids before they act out in these situations and building a constructive environment for them to address these issues going forward so that we can have a good learning environment for everyone, a safe learning environment for everyone, for teachers, for kids. So I respect the objective of Senator Groene and Senator Murman, but I respectfully disagree with their approach, and so that's why I support LB529, AM1090, and I would not support the amendment if we get to it. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator John Cavanaugh. Speaker Hilgers, you're recognized.

**HILGERS:** Thank-- thank you, Mr. President. Good morning, colleagues. I rise in support generally of LB529. I certainly rise in support of the compromise that Senator Murman, Senator Groene, Senator Morfeld, and Senator Walz put together. I'm going to make a couple just brief points. Number one, the primary thing that I-- that I support in LB529 is the scholarships. Those-- those young men and women are relying on those scholarship dollars and I'm confident that this body, one way or the other, will not let those dollars not get to them. So first, I want to make-- I want to underscore that point. I support that and those dollars are going to get to them, one way or the other, this year. Secondly, I think conceptually, taking a step back, I think the fact that two people who ran against each other for Education Chair, Senator Walz and Senator Mike Groene, and two people who have fought vigorously on the opposite side of this issue, Senator Murman and Senator Morfeld, got together. Maybe they didn't love getting together, but they got together and they got experts in the room. Maybe it wasn't all the experts that people would have wanted to have in the room, but they got them into the room and worked out a compromise. And I think that is a great credit to this institution that you can have those-- those people that I-- who I just described, each one of whom do a great job here, but on this issue, have a lot of history fighting one another and got together and actually came up with a compromise. I think this body ought to applaud that and insist,

ought to insist that that compromise have the opportunity to be heard on the board, voted on, and get on the-- on the-- onto the bill. If you have that, we ought to-- we ought to reward that kind of cooperation in this body. But under our rules, which are our rules, people can stop that from happening, and I disagree with that and I think that-- that amendment ought to have the chance to get heard. Now I-- I want to underscore one last thing. At the beginning of this year-- this has actually happened in the past. When people come together between General and Select and come up with amendments that can actually resolve disputes from a policy perspective, from a process perspective, it ought to be something that we encourage and it ought to be something that we ought to allow those parties to-- to have their bill become better through that compromise. The rules currently don't allow that, colleagues. And at the beginning of this year, I brought a rules-- proposed rules change that would give the introducer of the bill the first-- the opportunity to be in pull position on Select File so that someone couldn't use priority motions or other procedural mechanisms to block that amendment from ever being heard, put on the board, and so blocking that amendment from ever being voted on. And I think that is good, smart policy. I don't care what side of an issue you might be on, on this one or any other bill, it's going to cut both ways for people what-- no matter what the bill is going down the future. Having that is good-- is good, smart process. Now we agreed in the Rules Committee-- and I'm not criticizing the decision of the Rules Committee. I sit on that committee. We agreed to only kick out bills-- or rules proposals this year that didn't have any opposition, and I agreed with that at the time and I agreed with that now. But I will tell you, this-- colleagues, this is bad process. Independent of this-- this particular bill, this is bad process and we ought to allow, no matter what the bill is, to allow people the opportunity to get a compromise heard on the board and not have it blocked through procedural mechanisms. And I will-- I will bring a rules change next year, and I understand it's going to be difficult-- difficult because it's an amendment to the permanent rules and we can't really do it for another two years. But I'll bring a rules change because I think it ought to be-- we ought to have the opportunity to have these types of compromises heard. And I will say one last thing for Senator Groene and then I'll-- I'll-- I'll yield my time to him. You know, Senator Groene, in the last couple of weeks, has worked through these types of compromises on Senator Pansing Brooks's bill on the juvenile right to counsel. We had a late-night compromise on that. And last week he voted for LB474, cloture on the medical marijuana bill. And so I think the spirit of compromise-- Senator Walz has done similar things. So I think-- I think the spirit of compromise in that group, I applaud, I appreciate.

I think this body ought to insist that they get a vote. There's no rule that will force them to-- to have-- be able to have a vote on this, and that's unfortunate, but those are the rules that we are dealing with today and we have to abide by those rules.

**WILLIAMS:** One minute.

**HILGERS:** Thank you, Mr. President. And I will yield the remaining time to Senator Groene.

**WILLIAMS:** Senator Groene, you're yield-- yielded 55 seconds.

**GROENE:** Thank you, Senator Hilgers. And he made a good point. Senator McDonnell and I worked on his big lake bill. He accepted the point, an amendment to-- said it had to be competitive bids. It was a friendly amendment. It got some no votes. Senator Pansing Brooks and I worked on the-- on an amendment. She agreed it was a friendly amendment. It still got a couple of no votes, I believe. It's called a friendly amendment. If we are getting to the point here where friendly amendments that have been compromised on can be blocked by four or five radical individuals who bully the rest-- yes, Senator Matt Hansen, bully the rest, as you accused me of doing, the majority of the senators, because you're one of the few that want to vote no.

**WILLIAMS:** Time, Senator. Thank you, Senator Groene and Speaker Hilgers. Senator Arch, you're recognized.

**ARCH:** Thank you, Mr. President. I want to talk about Section 7 of AM1422, because I was intricate-- intricately involved in the drafting of this language. I've listened carefully last year, this year to this concept of restraint when it comes to schools. And of course, my background is restraint when it comes to a psychiatric residential treatment facility, a residential treatment center. We are not talking about the same thing here. I want to make that very clear. We're not talking about training teachers, according to this Section 7, to take a child down, to seat them on the floor, to-- to be fully trained in all restraint methods that-- what-- that a psychiatric residential treatment facility would be trained in. But when I heard some of the debate that occurred last year, or-- or earlier this year on this particular issue, one of the-- one of the comments that was made was this-- this-- this comment of it's-- it's a free-for-all. It is slamming children against the wall. It is-- it is just out-of-control restraint because the language that was being used in that particular bill at that time was a concept of reasonableness. And I-- when I heard that, I thought, wow. I mean, when it comes to a psychiatric residential treatment facility, that language is not enough. It is

very prescriptive. Centers for Medicare and Medicaid Services have given us very prescriptive language as to what is restraint. So I went back to that. I went back to that language and I thought, well, maybe-- maybe-- maybe putting this into a very clear box as when a teacher is allowed to restrain, and I'm not-- I-- you know, yes, it-- can it be tackling a child? Well, I suppose if the child had a gun, perhaps, but most of the time what you're talking about in restraint is anytime you-- anytime you restrain physical movement, right? Grabbing a wrist, that is restraining a child. So under what conditions do you restrain a child? And what is written into Section 7 here is what is the terminology called an emergency safety intervention. It is to protect-- (3)(a), line 15 of-- of page 1-- to protect persons from harm or secure property, secure property if such action may protect. So a child has a chair over their head and they're about to launch the chair across the room. That could do a lot of harm. You can at that point hold, stop that child from launching that chair. And so all of it is to ensure safety. The schools adopt a policy, but emergency safety intervention does not include certain things. And it defines what imminent serious physical injury means. It means serious physical injury to a student or others occurring currently or highly likely to occur in the immediate future. Serious physical injury means death, disfigurement, or protracted loss or impairment of-- of the function of a bodily member or organ of a student or others. It is not a student talking back to a teacher. It is not a student refusing to obey directions from the teacher. It is-- and-- and some of the language that was worked out in a compromise was-- was really good. The additional things, like don't-- you're not-- you're not restraining a child for diving under the desk, for avoiding discussion over-- over some direction that's being given. This is serious bodily injury that is imminent and a-- and a-- and a teacher knowing that they can hold, they can stop a child, but only that-- only as long as that. And when that passes, there is no more restraint that is allowed.

**WILLIAMS:** One minute.

**ARCH:** I mean, I-- I felt as though that the language was put in here that-- into-- into Section 7, which is what I'm talking about, very reasonable and it gives very clear guidance to teachers so that they know that if there is this imminent-- and-- and this was the discussion of, do we put this in statute or do we depend strictly upon case law? I-- I felt as though that we have this very clearly in regulations in a psychiatric residential treatment facility. I-- I felt having this in statute was a very good thing. It is very clear what is allowed and when it is allowed. So with that, I-- I do support

obviously AM1422, and I hope that we can get to it because I think LB529 is a good bill. Thank you.

**WILLIAMS:** Thank you, Senator Arch. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. As to continue where I-- we do friendly amendments all the time. We negotiate, we compromise, and then we go through. There was talk that Senator McDonnell's LB298 would have been filibustered. It was not, got 26 votes and a lot of no votes. That's how you do things with friendly amendments and bills that have been worked out. You don't filibuster it after everything's been worked out. Senator Arch said it. We're trying to protect kids, we're trying to stop the racism. We're trying to stop the poor kids getting picked on by other kids and school personnel because we train them in this bill to look at the behavior, not the student, to stay calm, to know a technique when that one moment in time in a teacher's career-- it might be 30 years where some-- something violence happened. If we continue to live in the past where I got beat up in school, I got kicked out of class, I-- these things happened to me. I got hit with a dowel rod once by a teacher, got my ear about pulled off by another one. I always joked that teacher figured out A-- ADD a long time ago and she knew one ear was shorter than the other one; when she got it the same length, it cured me. If you want to live in the past, that is not happening anymore. The pendulum has swung the other way. Teachers don't have control of their classrooms. Boundaries are not taught, just behavioral, simple behavioral boundaries, like you don't do that or you might be removed from the class because you don't have a right, love your neighbor more than yourself, don't disrupt the whole class while those other kids are trying to learn, then the whole class learns a good value lesson. That's all we're trying to do here. Many other states, all of this "what if," "but ifs" about prone and things like that, I have an amendment available if you want to talk about prone, but it wasn't agreed upon, wasn't agreed upon by Senator Walz and Senator Morfeld and Senator Lathrop and others, so I'm not bringing it. This is good, good legislation. We want to keep them out of jail? You bring up a child the way they should go and you do it when they're young. Mental health, Senator John Cavanaugh, not everything is mental health. Humans revolt against authority. If you want to believe everything is mental health, then get rid of sin and throw your Bible away, because we do revolt. We do bad things as humans. What we do is we try to bring up our children in a way to have boundaries. That is all Senator Murman's amendment is trying to do, give teachers control of the classroom. Who is the adult in the classroom? It's very clear that the school has to have a policy. Schools don't have policies in some cases. Did you know that?

Teachers have no idea what they're supposed to do and what they should do, and they hesitate and then children are harmed. Children are harmed because they hesitate. This dictates they will have a policy. And by the way, they can be fired if they don't fire-- follow policy. They are then covered by, if they follow policy, by the State Torts Claims Act. They're already covered by laws that cover self-defense or the protection of others, but they're not trained and they're not told when to use it. That's what this bill does. If you have never grabbed a child who is about ready to run out in traffic, then you haven't raised a child. If you have never broken up the two siblings fighting, then I don't know where your-- how perfect your family was, but they're a heck of a lot more perfect than mine.

**WILLIAMS:** One minute.

**GROENE:** That's all we're asking teachers to do. When we drop our children off at the front door of that school and we put their custodial care-- in their care, we want to make sure we know they're safe. But for every kid that disrupts the classroom, there's ten that want to learn and they want every minute they can possibly have to learn. They don't want to sit there for an hour while a kid destroys a classroom. That young person, after a year or two, remembers how he destroyed the classroom and it haunts him for the rest of his life, but that's what you want because that is present practice in our schools. That is present practice. This is a good amendment. It's been part of the conversation for years. I brought this bill originally, attempt a bill like it, not even close to this thing-- it really gave teachers too much control. But it evolved and it evolved through this perfect amendment, AM1422, that's agreed upon by the Education Chair and major proponents and opponents--

**WILLIAMS:** Time, Senator.

**GROENE:** --who have worked together for years on this. Thank you.

**WILLIAMS:** Thank you, Senator Groene. Senator McKinney, you're recognized.

**McKINNEY:** Thank you, Mr. President. Again, I'll discuss AM422 [SIC--AM1422] which I'm opposed to. First off, I would just say that the kids that are most disproportionately affected by school suspensions and discipline look like me majority of the time, but I was not included into the conversation to talk about this amendment, so don't tell me you care about those kids, because if you did, you would have invited me or Senator Wayne or maybe Senator Vargas, as well, or Senator Aguilar. So don't say you care about those kids. I

don't feel inspired to kill this bill. I feel enthused because I strongly oppose any type of immunity for teachers. And you're not going to box me into a corner and say we need to pass this bill for lottery to convince me to support a horrible amendment. It's just not going to happen, so I'll just vote no if you all attached this to it, because I'll never support it. I promise you, I won't. If I'm radical for standing up for kids, then just keep calling me radical every day, because this is-- this is insane, honestly. This amendment isn't reasonable. Teachers having immunity-- immunity isn't reasonable. And then this is also attempt to try to use the word "friendly" and "friendly amendment" to continue to oppress kids and to potentially oppress kids and not give kids and their parents any recourse if a-- if a kid is harmed by a teacher, administrative staff, a janitor, a cook in the cafeteria. And I could go on. I guess it's just anybody that works in a school. Then you talk about keeping kids out of jail or something, or whatever else you said. A lot of times kids are deemed bad or not acting or behaving in class, it's because they come from environments like my district where the-- the facts are true that, you know, we have the highest poverty. Imagine living in poverty and waking up with no food on the table or going to sleep without nothing to eat. I'm not going to go to school to try to listen to any teacher because I've been there before, you-- your clothes dirty, you don't feel comfortable, why-- and-- and the teacher's not asking a question, but you want a teacher to be able to harm these kids. So please don't tell me you care about these kids. Please don't. This is a horrible amendment that I oppose. So if I'm with whatever people you want to deem as radical or whatever, please keep saying it. If you say we're going to kill a lottery bill, then I feel great killing a lottery bill because I hate this amendment. How could you have a compromise without inviting those that are representing communities that are most affected to the table? How is that a-- a friendly compromise? That makes no sense. I've stated on General File-- I think I stated in between before this came back-- that with-- with that immunity, I'll never support this bill. Yes, I think teachers should be trained, but they should not have immunity. Why do they need immunity? Please explain it to me. And then you-- you would like to raise the standard from negligence to gross negligence. Why does the standard need to be-- be raised? It-- it's just baffling, honestly. If-- I mean, if you honestly care so much about this bill or this amendment, Senator Groene and Murman, just write the amendment for your districts. Please stop bringing it.

**WILLIAMS:** One minute.

**McKINNEY:** And I yield the rest of time to the Chair. Thank you.

**WILLIAMS:** Thank you, Senator McKinney. Mr. Clerk for items.

**CLERK:** Yes, Mr. President, I do. Thank you. Series of study resolutions: LR155, Senator McDonnell; Senator Pansing Brooks, LR156 and LR157. Enrollment and Review reports LB298 to Select File. Announcements: Health and Human Services Committee will meet in Executive Session at approximately 12:30 following their confirmation hearings, and that's in Room 1510. And the Redistricting Committee will meet at 2:00 in Room 2022 this afternoon. Mr. President, Speaker Hilgers would move to recess the body until 1:00 p.m., 1:00 p.m.

**WILLIAMS:** Members, we will be retaining the queue to begin debate again at 1:00 p.m. You've heard the motion to recess. All those in favor say aye. Opposed. We are in recess till 1:00 p.m.

[RECESS]

**FOLEY:** Good afternoon, ladies and gentlemen. Welcome to George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

**FOLEY:** Thank you, Mr. Clerk. Do you have any items for the record?

**CLERK:** I have nothing at this time.

**FOLEY:** Thank you, Mr. Clerk. Members, we're going to pick up right where we left off before the noon break on LB529. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. I hope everyone had a nice lunch break. So I-- I want to share a letter. I-- I believe that everyone in the Legislature received this letter, but I am-- I'm not 100 percent sure it came through today, and it is from the Nebraska Council on Developmental Disabilities. So if you look in your email, you should have it. This is from the state of Nebraska's Council on Developmental Disabilities. So it's-- it reads: I am writing on behalf of the Nebraska Council on Developmental Disabilities to express our concerns with LB529's AM1422. Although the council is appointed by the Governor and administered by the Department of Health and Human Services, the council operates independently and our comments do not necessarily reflect the views of the Governor's administration or the department. We are a federally necess-- mandated, independent council comprised of

individuals and families of persons with developmental disabilities, community providers, and agency representatives who advocate for system change and quality services. The council serves as a source of information and advice for state policymakers and senators. When necessary, the council takes a nonpartisan approach to provide education and information on legislation that will impact individuals with developmental disabilities. The council met on February 5, 2021, where we voted to support LB529. A letter of support was submitted on March 8, 2021. The Behavioral Intervention Training and Teacher Support Act would provide evidence-based behavioral awareness training statewide to ensure that teachers and school personnel learn how to recognize signs of trauma, as well as proactive behavior, support, and teaching strategies, including verbal intervention and de-escalation techniques. The council feels strongly that evidence-based behavioral awareness training reduces the need for physical interventions, restraint, and seclusion for students with disabilities. Unfortunately, the council cannot support LB529 with AM1422. The amendment allows administrative, teaching, and other school personnel to utilize what is being called an emergency safe [SIC] intervention to protect individuals from harm or imminent physical injury. The actions taken in order to prevent [SIC] individuals may very well cause the types of serious physical injury the amendment is seeking to prevent. The council's understanding is that AM1422 was created as a compromise to AM990, which we also do not support. Although the language in AM1422 provides a better description of the range of physical interventions, there are still serious problems with the amendment, including the lack of clear definitions and the risk of jeopardizing due process for students with disabilities related to classroom removal. Senators need to be aware that currently there are no protections found within the Individual and [SIC] Disabilities Education Act-- Act Section 504 or within the federal ADA law against seclusion, restraint, physical interventions, or emergency safety interventions for children in schools. As a result, 45 states have passed laws and/or regulations with safeguards to protect students. Nebraska needs legislation or educational regulations that address the use of seclusion and restraint, rather than having legislation that opens the door to harmful practices. How much time do I have left?

**FOLEY:** 1:18.

**M. CAVANAUGH:** OK, I'm going to pause. There's two more paragraphs on this. I want to acknowledge-- it was brought to my attention by people outside of the Chamber that there's a concern that this is-- that the conversation today is disparaging about teachers. It is not my intent,

nor do I believe it's anyone's intent in this body, to be disparaging towards teachers. If--

**FOLEY:** One minute.

**M. CAVANAUGH:** --if I have-- thank you. If I have learned anything personally over the past year during this pandemic, it's how unbelievably challenging the work of our teachers is every single day. I feel like a failure of a teacher for my own children when they were home doing virtual learning and I am ever so grateful. I was always grateful to the teachers that educate my children every day, but having to-- to attempt to supplement their job, I realized just how ill-equipped I am to be a teacher and how valuable the work is of our teachers. And my children thrive by going to school every single day. This is not about teachers wanting to harm children. This is about making sure that we are being proactive and taking the best steps possible every single day to protect children, not from teachers, but from any individual within the school structure that might cause undue harm to children. And this is about making sure that--

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

**M. CAVANAUGH:** --we have the appropriate-- thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Hunt. I do not see Senator Hunt on the floor. Moving on to Senator Erdman.

**ERDMAN:** Thank you. Good afternoon again. So we have a bill up there and an amendment, AM1090. We've been talking about AM1422 ever since AM1090 was put up there. And I was wondering if Senator Walz-- Senator Walz would yield to a question.

**FOLEY:** Senator Walz, would you yield, please?

**WALZ:** Yes.

**ERDMAN:** Senator Walz, refresh my memory. Tell me what AM1090 does, will you?

**WALZ:** AM1090 provides funding to-- let me grab it. AM1090 provides funding to-- for the Nebraska Opportunity Grant Fund. It provides funding to the Community College Gap Assistance Program, Access College Early Scholarship Program, Excellence in Teaching Program and Career-Readiness for Dual Education funds. It also funds a new program that we started called The Door to College Edu-- Door to College Scholarship Fund--

**ERDMAN:** OK.

**WALZ:** --that funds kids who go to the YRTCs so they have an opportunity to go to college. It also provides after-school summer programs, expanded learning opportunities, assistance for poverty kids, and it provides training for teachers for behavioral/mental health.

**ERDMAN:** OK. You-- you know, I appreciate it. Thank you for-- for describing that and explaining that again. I think we've-- we've missed it here because we've been talking about AM1422, which is not even on the board yet. And what Senator Walz just described to you is what we actually are discussing or should be discussing in AM1090. It appears to me that's something we should pass. Would you agree?

**WALZ:** AM1090?

**ERDMAN:** Yeah.

**WALZ:** Absolutely.

**ERDMAN:** So why don't we move on, vote for the recommit to committee, vote that down and then vote on AM1090, and then we can move on from there with the other amendments if we get that far? So that's what I'm thinking. So I would encourage you to vote down recommit to committee, vote for AM1090, and then we'll move on with the other amendments that are in place. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator Matt Hansen.

**M. HANSEN:** Thank you, Mr. President, and apologize for being a moment late to the colleague-- mike, colleagues. So a couple things: One, procedurally, Senator Hilgers-- Speaker Hilgers earlier talked about the need and the desire to allow the introducer of a bill the opportunity to file the first amendment on Select File to fix things they wanted on the bill, and he proposed a rule this year and next year to do that. I would like to point out that Senator Cavanaugh, myself, and others allowed Senator Walz to do that. AM1090, as was just explained by her to Senator Erdman, is a fix-it amendment that was needed on Select File that we talked about. So procedurally, what was-- the spirit of what was mentioned earlier is happening. We are trying very hard to thread the needle, to not mess with Senator Walz's bill. We are intending to try and stop amendments that the-- Senator Walz and the Education Committee got their arm twisted and forced to accept as kind of hostile poison pills that are maybe now compromises to some, certainly not all, certainly not me. So I want to put that

very clear. If we were talking about deference to the introducer, you know what bill didn't get deference to the introducer? The very-- this very morning, we bracketed Senator Vargas' bill over his objections with compromise amendments that never got considered. We bracketed somebody's personal priority bill that they worked on for over a year like three hours ago. So the fact that we're going to take some time to address a hostile amendment on this bill or a poison amendment on this bill, please-- like, please keep in mind, you know, I guess-- I'm trying to think of an expression, maybe something with glass houses. But please, please, please, if you're going to make a procedural argument about what we should do here or the courtesy we should give introducers or yada, yada, yada, keep in mind, 25 of you voted to bracket a bill over the introducer's objection to block consideration of a compromise amendment just this morning, I think like literally less than three hours ago, so I don't want to hear any more process arguments on what we are doing this afternoon. If we want to reform this body, if we want to take some rules out of the rules book because we don't like them, that's fine. Let's have that discussion. Let's have that discussion in Rules Committee. Let's have that discussion on the floor. Let's not pick and choose that we get to kind of paint a hostile-- hostile motion as a, quote, friendly amendment for several hours this morning, go through with it, then turn around and-- and shed crocodile tears that it's happening when it's no longer in your favor. So procedurally, this is fair and square. This is-- I'm not even like going into, you know, it's fair-- you know, I'm not even necessarily thinking it's fair for me to do because you all did it. I think it's just fine. Sometimes you just do motions on things. I've had a bill bracketed myself before. I know people are talking about we're surprised bracket motions go through. I've had a priority bill bracketed. And that's just something that happens. That's a rule that happens. That's something that if you get 25, it saves the body time rather than letting the bill go on and on. I bring all of that up to say, again, if you want to reform the body, let's reform the body. Let's not just make process arguments when one group or one side is doing it on a bill. Two, second thing, this has been framed a couple of times is just a couple of people, four people, whatever, a group of radic-- radicals, whatever, as doing this, we're out of touch, we're not connected with anybody. Senator Cavanaugh has already read a letter from one disability group. I know of another disability group doing this. And furthermore, I don't have to have lobby groups backing me up to be able to read an amendment--

**FOLEY:** One minute.

**M. HANSEN:** --and know what it does and know I have problems with it. Certainly helps my argument that multiple disability rights groups oppose this and oppose this amendment and would oppose this bill. But just because some groups agreed with it doesn't mean all groups agreed with it, and that doesn't make it a compromise amendment from ev-- from everyone. If Senator Walz or Senator Morfeld, whose names have been mentioned, want to get up and explain their thoughts on it, they can. But you notice they're in a tough spot because I really do think you twisted their arms to accept a compromise, to avoid a filibuster. I mean, you blackmailed them. That's, straight and simple, what happened and we can acknowledge that and we can acknowledge that and acknowledge that. But if you're playing with those hardline rules, I think we get the ability to take some time and explain why an amendment is bad. Thank you, Mr. President.

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

**PANSING BROOKS:** Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues and Nebraskans. I rise to discuss the amendment that isn't up yet and to speak about-- I-- yeah, I'm all about trying to find compromise and trying to find common ground. And I have talked to Senator Walz about the fact that this was decided without the child advocates being present, without-- without my participation. That's fine. That's a decision that-- that had to be made and-- and whether good or bad, I respect Senator Walz for going forward as she saw fit and with people with whom she felt were necessary. But all of a sudden, I think some people are like aggravated at her. And I'm one that-- that's been saying I can't agree to this amendment. And she has made an agreement and is sticking by it and that's-- that's what Senator Walz needs to do. So I'm not critical of that. But I want the teachers especially to understand and listen to what this bill does, because this bill is actually way more conservative than anything we've had before. AM-- AM1422 on-- as it would be amended to LB5-- LB529, creates a section in Section 7, sub-- subsection (7)(a) about emergency safety intervention and it says that emergency safety intervention is used only to protect a person from imminent serious injury. That's Section 7(3)(a), imminent serious injury. It goes on to say what that serious injury would be. A serious physical injury equals death, disfigurement, or protracted loss or impairment of the function of a bodily member or organ of a student or others. Now I've asked, and supposedly this comes from federal language. I think it's the most bizarre language I can think of: protracted loss or impairment of the function of a bodily member or organ of a student or others. But the main thing is that they're defining a serious injury as death, disfigurement, or that protracted loss or impairment of a

function. And then it goes on to say "during an emergency safety situation," which is defined as a situation where immediate invention-- intervention is needed to protect a student from just physical injury-- that's Section 7(3)(b)-- until the emergency safety situation has ceased. So basically, in my reading and-- and others' reading of this, if there is use of an-- if-- if they use the emergency safety situation because they see that a student is in-- at risk of death or disfigurement, that's a high standard. Death or disfigurement? Jenni Benson had a video that went around that showed a teacher standing back when another student was punching her grand-- her granddaughter. Well, there was no indication of death or disfigurement in that video. Yes, a student was getting hurt, but it was not death or disfigurement, so the teacher or administrator is not liable unless the harm was caused by gross negligence, conscious-- conscious, flagrant indifference, willful, criminal, or reckless misconduct, including crimes. That's Section (7)(6)(a). So basically, this is a very convoluted amendment, just-- just letting you know that. And from the reading that I have, a teacher or administrator is not authorized to use or protected from liability in use of an em-- in use of an emergency safety intervention without risk of immi-- imminent serious phys-- physical injury, i.e., death or disfigurement.

**FOLEY:** One minute.

**PANSING BROOKS:** They are not authorized to use that. So there's no authority to use emergency safety intervention to prevent just a physical injury. So what in the heck are the teachers thinking on this? The only time that their basic-- daily allows them to come in on a reasonable situation, it's the reasonable person standard. This thing says teachers can't come in unless-- unless they're going to protect a student from death or serious disfigurement or that crazy protracted line that's supposedly in federal law, but clearly, if there's something that doesn't make sense, we need to clarify into normal language. Thank you, Mr. Lieutenant Governor.

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

**VARGAS:** Thank you very much. Colleagues, I stand-- well, let me see this. LB529, I'm supportive of LB529. I'm against-- you know, I was not part of the negotiations, nor was in the room for them. I understand the intent. Sometimes we go into a room. People try to negotiate things. Not everybody is party to it. And then people try to make good-- you know, bills better. However, I do think there's a fundamental difference between this subject matter and other subject matters. We-- we've had a lot of conversations about this specific subject matter and-- and this specific subject matter has gotten to

the point where there are specific lines for people and for groups. You know, even people that were in that room don't feel great about the conversations and what-- the product that came out of it, largely because it-- it-- it is hard to-- to-- when you are negotiating on something that has to do with people's perceptions and perspectives on the safety and well-being within a classroom. I understand the intent, at least what Senator Groene has been talking about for years, but that policy argument hasn't survived. And I say that because we've-- we've been part of it. It hasn't survived in different instances. This wasn't a friendly amendment. This was a unfriendly amendment on a committee priority bill and has then been negotiated. I think there's a fundamental difference between those two things. Now I-- I'm against it, not on the process piece, but simply because I think if we still need to work on this bill, then we'll get a chance to work on it next year. And it has failed in speci-- very specific times. But if you look at the language, I know some people think it's fine and OK. Every time I look at language like this and I think it's fine and OK, I look at the details and I'm concerned. Most of the reason I'm concerned is because when there's a lack of clarity on certain things, and I have brought amendments in the past on this bill, in previous sess-- in previous times when it's been brought. And I've had my conversations, both on and off the mike, with Senator Groene about trying to make the bill better. Now-- but what we're on right now is this amendment. And I do want to be able to share that there are specific things that I think can be improved, whether or not it happens this year, whether or not it happens next year. On page 1, line 5, I think the language in regards to de-escalation being required is vague because it does not state by whom and by when. For those that have been in this sector-- I myself have been a teacher. We know that Senator Walz has, as well, and others-- having timelines for de-escalation is important. Having timelines for how and who is doing what is critical when we're talking about potential restraint in any way, shape, or form. On page 1, line 15, we-- there's a suggestion on the purpose of restraint would be to protect persons, but not to secure property. I think that's something that could be addressed. The issue with a lack of definition on emergency safety situation, we cannot have that level of vagueness in this because I think it can potentially then be a detriment to kids and to situations where we would need it to be fairly defined. I also think that there is some issue in regards to "student's safety and the safety of others can be ensured." I think that's an admirable goal, but it could lead to a lack of a time-- time frame on this, is what is the concern I have. The other concern I have is that no one should be permitted to use an emergency safety intervention without training. I've said that on the mike in the past, that I-- I believe and

understand, you know, training is important. But when we let individuals--

**FOLEY:** One minute.

**VARGAS:** --do things without training, that's when we get into issues. I still think, you know, I-- I understand the intent that's been brought to this conversation, and I'm saying this from somebody that has had bills fail, as in earlier today, and succeed; things that have been added on, that have been unfriendly amendments to my own bills that have-- again, we have failed to add them on because they are truly unfriendly; and bills that I've added on that have been friendly amendments that I've worked on with the introducers. This has presented a very circuitous, difficult road because that's not what the original intent was. It had its time and I believe that it had its time, but also, factually, it's had significant amount of time on the floor here, and it likely will next year, as well, if it doesn't move forward in this-- in this avenue or in this vehicle. At the end of the day, we have a bill that does need to pass. LB529 has significant amount of stakeholders and it being a committee priority bill presents urgency and common sense.

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

**VARGAS:** So please support LB529. Thank you.

**FOLEY:** Thank you, Senator Vargas. Senator McKinney, you're recognized, your third opportunity.

**McKINNEY:** Thank you, Mr. Speaker. I rise again in support of LB529, AM1090, and against the recommit. But I'm standing up to speak about the amendment, AM422 [SIC--AM1422], again that I again will say is a horrible amendment. Teachers should not have immunity if they hurt a student inside of a school. What world are we living in that we'll say, oh, you know, as long as the teacher doesn't grossly, negligently harm a student, it's acceptable. What about negligence? What about it? What is a family to do that grows up in the area of high poverty? Don't got the greatest insurance, you know. Son or daughter breaks a collarbone because a stu-- because a teacher decided to act negligent and-- and harm the student. But because, in this amendment, the teacher didn't gross-- wasn't grossly negligent, the family has no recourse. What are they supposed to do, go to the emergency room, accrue a hard-- a large medical bill and, you know, continue the cycle of debt and generational poverty because the teacher didn't act grossly negligent, the teacher only acted negligent? That's the issue. I go back to who's going to drug test these teachers after they, you

know, grab a student, restrain a student, hold a student on the ground? Who's-- who's doing the drug test and alcohol test? I'm just curious. It-- it doesn't say. I don't even know if that's a policy. That's something else to think about. This-- this is just bad. I-- I don't know any other words to say besides this is just bad. I agree teachers do need training. A lot of people need training, especially those that work with kids. But training doesn't mean you get immunity because you were trained. We've already got issue with the police having qualified immunity. That's an issue. I-- I just don't get it. What world are we living in that teachers are provided immunity for assaulting students and it's supposed to be deemed as acceptable because you would like to attach this horrible amendment to a good bill? And because this bill is supposed to just pass this year, because it's a lot of stakeholders involved, we're supposed to just sit down and accept it, and if we don't accept it, we're called radical. Well, I'm radical. Sorry. No, actually, I'm not sorry. But I guess that's just what it is. If somebody can explain to me who's drug testing and alcohol testing teachers after they slam kids, I-- I will be happy to know. I would also like some real justification why teachers need immunity as well. You see where all these questions are coming from? There's a million questions, limited answers, and we're supposed to just sit down and not be radical and talk about this because LB529 needs to pass this year. I just don't get it. What are we doing? This bill was IPPed.

**FOLEY:** One minute.

**McKINNEY:** I think it was stopped in years prior. I came down here last session, before I was elected, to advocate against this bill. I was sitting up there. So how many times is this going to come until someone comes to realization that teachers should not have immunity? They should definitely have training, but not immunity. And I yield the rest of my time back to the Chair. Thank you.

**FOLEY:** Thank you, Senator McKinney. Senator John Cavanaugh.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Well, again, I rise in support of LB529 and AM1090. And I just-- earlier I talked about that-- that I think that the approach to the underlying issues should be a focus on mental health, and I stand by that, of course, but Senator Groene is correct that mental health is not the only issue that should be addressed. But it is probably the more fruitful avenue to take than restraint. Though restraint may address every issue in the moment, it is not going to decrease the number of incidences that happen. And that's why I think we need to focus on the root cause of these things and I-- I think when we-- to identify the other issues

that cause acting out and cause these problems in schools. We should also address those. But I wanted to get up and talk about-- I'm glad Senator Walz just circulated the breakdown of where the funding goes in this, and it's 58 percent would go to the Nebraska Opportunity Grant Fund, which is great, but 9.5 percent would go to Behavioral Intervention Training and Teacher Support Act, which is the thing that I think-- one of the reasons I'm very supportive of LB529, which is that we need to continue to invest in those sorts of things. And when we invest in behavioral health intervention training and teacher support-- and then there's also, a little further down, 1.5 percent for mental health training. I think when-- the more we invest in those sorts of programs, the fewer types of incidences that we're talking about here. One of the problems we have is there's a lot of folks that are talking about-- you know, the-- the-- this amendment that is admittedly not on the board right now, but it's the thing everyone's talking about, is not going to address every specific situation because every spec-- every situation is going to be different. And so we're trying to pass laws that are going to capture all of the-- the potential scenarios and contemplate how someone should behave in the moment, and that is very hard to do as a law. That's why we have a lot of reasonableness standards, and as Senator McKinney was just talking about, the difference between negligence and gross negligence standards, and it's because we can't put our finger on right now, we can't list out every potential scenario that might come up. So what I'm saying is, again, I think it is an admirable objective that Senator Groene and Senator Murman are pursuing here, and specifically Senator Groene has been very fervent in his pursuit of this in the last several years, as far as I'm aware. And I, like Senator Hunt said, I-- I don't know what game respecting game means, but I-- I understand the sentiment of respecting how hard somebody works for a goal that they-- that they truly believe in. And so I-- I do respect that aspect of this conversation and I do think that the-- there's probably some scenario in which you can craft a-- a catchall to describe how we should behave. But ultimately, LB529 is a step in the right direction of increasing our investment in getting to the root cause of these things. And so that's why I support LB529 without any-- well, with-- with AM1090, but no further amendments. But I was just sitting here and it-- kind of was thinking about what I talked about earlier, which is the article that Senator Murman circulated about the sixth grader who brought a gun to school and shot somebody and then was tackled. And so I looked up the stat here from Everytown, and they have a stat that says, 80 percent of incidences of gunfire on school grounds, up to 80 percent of shooters under the age of 18 obtain the guns they used from their homes, the homes of relatives or friends; and then 77 percent of school shootings, at least one person, most

often a peer, knew about the shooter's plan. So we're-- we're trying to make a catchall and say it's OK, and of course that article is saying it's OK to tackle somebody when they bring a gun to school and start shooting. I don't think anybody disagrees with that. But--

**FOLEY:** One minute.

**J. CAVANAUGH:** --this conversation is not going to get to that root cause of how do we ensure that the peers feel comfort-- feel comfortable reporting that. We had a long conversation about the anonymous hotline. I think that might have actually been another Senator Walz bill, but I might-- I might be misremembering. We had a bill this year about the-- the reporting. We've had conver-- we need to have more conversations about adequately locking up guns. We need to figure out how to properly address these underlying issues that get to the point before you have to tackle the kid, before anybody has to do that. And that's not to say whether it's right or wrong to tackle a kid, because I think most people think that that would be right, and I think that that would be covered, protected under the law. But we want to get to a point where kids are not bringing guns to school, and that is what we should fundamentally be addressing and that is part of what LB529 will help us address in the long run. So that's why I rise in support of AM1090 and LB529. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator John Cavanaugh. Senator Machaela Cavanaugh, you're recognized, your third opportunity.

**M. CAVANAUGH:** Thank you. And I also have a closing as well?

**FOLEY:** You also have a closing, yes.

**M. CAVANAUGH:** OK, thank you so much, Lieutenant Governor. So before I get back to finishing the letter that I was reading previously, I-- I oftentimes, when I'm listening to the floor debate and engaging in it, kind of take notes on the different points that are being made to talk about. I haven't been doing that today, and in full disclosure, it's because I'm very tired of talking about the bill that is AM1422. I feel like I've been talking about this pretty much since day one of becoming a state senator, because I basically have. And to the conversation around talking about an amendment that's not on the board, I mean, talk about whatever amendment you want to talk about. Nobody's stopping anyone from talking about AM1090 or LB529 or the motion to recommit. I'm talking about AM1422 because I want the people in this body and the people at home and the public record in perpetuity to understand why I am taking this to four hours, and it is not because of the things that are on the board. It's because of the

things that would come after the things that are on the board. And I don't believe that they are a compromise amendment. I believe that they are bullying people and holding a bill hostage so that they can get their way and what they want. And I realize the irony as I am holding this bill hostage, as I am holding this body hostage. I-- I-- the irony is not lost on me. But the thing is, is that I let the actual compromise amendment get up here before I held you hostage. So now the choice of the body is, are we going to respect the work of the committee and the committee Chairwoman or are we going to let bullies dictate how committee bills are handled? The amendments that come after this are poison pills, because if I were to let this go to the next amendments, to AM1422, and 25 of you all voted for AM1422 to be adopted onto this bill, then I would filibuster this bill to three-- to four hours and I would do everything in my power to get 17 people to join me. But right now, what I'm doing is taking this to four hours. We can get to a vote. Thirty-three people, myself included, can vote for cloture and we can vote for the bill, as we should have always done. This actually should have probably been a super priority or a major proposal or whatever the term is where the introducer gets to organize the order of the amendments. The Executive Board had the power and the authority to do that. That could have saved us a lot of trouble here today. But since the people that are supposedly in the leadership positions in this body continue to demonstrate a lack of leadership at every turn this session, here we are. So back to the letter from the Nebraska Council on Developmental Disabilities, appointed by the Governor under the auspices of HHS, so they do operate separately and are not reflective of the views of HHS, as I read already into the record: Best practice would ensure-- would be to ensure that anyone who uses an emergency, in quotes, emergency safety intervention receive specific behavior training first to reduce the risk of harm or injury. However, the amendment does not require it. AM1422 does not include safeguards such as setting a time limit for physical restraint or seclusion or prohibiting the use of prone restraint. Somebody brought up prone restraint and how it doesn't say anything about prone restraint in the amendment. That is actually the exact problem, is that it doesn't say that prone restraint is not allowed. So if we don't say that it's not allowed, that means it's allowed under the law. There's nothing stopping prone restraint, a deadly practice that must not be allowed. It fails to provide for-- a provision for debriefing--

**FOLEY:** One minute.

**M. CAVANAUGH:** --thank you-- after an event to reduce the likelihood of repeating a situation where restraint is used or determined, whether

there's an alternative restraint to the student. Colleagues, you all got this letter. I encourage you to read this letter and consider this and consider why I am doing what I am doing. I care deeply and passionately about the children of this state and their safety and security. I think my record proves that out, without exception. I do not want LB529 to fail. I will not let children be harmed at the cost of it passing. I am so disappointed that we continue to have this conversation. And for those watching at home, I'm sure that the misogyny bingo card is really filling up today with the comments that are being made about how I represent myself on the floor of the Legislature. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Matt Hansen, you're recognized, your third opportunity.

**M. HANSEN:** Thank you, Mr. President. I appreciate all those who've spoken on this and the other amendments going forward. For me, seeing and hearing some of the speeches for advocates for the student discipline component leads to my confusion, because, as has been noted, we're having handouts passed out talking about teachers tackling students with guns. We're having students talking about helping with students with disabilities. We're having kind of all sorts of things. The student discipline bill is going to solve everything, including it's going to lower our prison population, because if we use physical discipline on certain populations, they're less likely to redu-- commit crimes, apparently. And when you have all of these panopticon of magic solutions, that's been talked about, into what everybody can see and read as a very poorly written, clunky, ill-defined bill, we have to just know people are just kind of blowing hot air in the microphone. The notion that incorporating some sort of physical restraint, that restraining and-- and doing whatever to students, whatever you want to students, as long as it's less than gross negligence-- because people seem to be missing that raising the standard from negligence to gross negligence doesn't make it better from my perspective. It makes it worse and lets teachers do more things. A teacher could be repeatedly negligent, and as long as they're not grossly negligent, there's no problem. But I digress. But saying that bills like this are going to reduce our prison population because we need to use physical discipline to teach boundaries in elementary schools, to me, just screams we want to reintroduce corporal punishment. And then I'll say something like that and somebody will get up. They're like, no, no, no, we just want people to know what they can do and if they can put their hand on the student to guide them to a safe spot. Colleagues, they can already do that. They have Supreme Court cases that confirm that. They have common sense

that confirms that. And if administrators are misleading teachers or banning teachers from doing things that they are able to do under the law to-- in self-defense, that is a problem on its own and that's something we should take up to the administrator. What we shouldn't be doing is creating a convoluted, multipronged test, relying on a gross negligence standard to let teachers do physical discipline, physical restraint on students. I want to-- I want to really hang that in. Secondly, again, I appreciate that some people got to an agreement. I appreciate that some people agreed on some language. To frame it as a Kumbaya compromise amendment when we've all gotten a letter from one of the major disability rights groups, when a number of senators on this floor, including a number of senators on the Education Committee, have stood up and talked about how they weren't included and their frustration and their objection to this language, you can't just hang your hat on it's a compromise, we should all move forward. This is something we all have to deal with. This is something we all have to deal with. You know, earlier-- I won't go there. There is problematic language in the bill. I've heard some people say they've read the bill, they don't see what the problem is, and for me that's very concerning because I read it once-- I read it once and I could highlight different lines and different definitions immediately that I wanted more clarity on, and then when I went and got more clarity on, I could tell Senator Walz that this was not a compromise that I was going to be on board with. Raising the-- saying a teacher cannot have administrative or professional discipline unless they conduct criminal conduct or gross negligence? That's an incredibly high standard. That means they can do a lot of things up to intentionally causing--

**FOLEY:** One minute.

**M. HANSEN:** --like bodily harm. They could like intentionally push a kid, and that's just probably regular negligence, because it's not gross negligence because of the amount of harm they're intending to cause. Like-- like, we're at the point where if a teacher doesn't draw blood, they're probably OK in this bill under the gross negligence standard. And that's not a standard. It's not a standard I can even come close to supporting. And I'm not going to let other people just handwave and be, we've worked it out, it's limited language, you know, it's all fine and good. We've defined it as teachers aren't allowed to openly commit crimes in the classroom, is kind of the standard we're at. They can do everything else, and that's what's being presented as a compromise, watered down, Kumbaya moment. And, colleagues, quite frankly, it isn't. I would encourage you to all read the language. I would encourage you to all dive in, ask yourself, why is it a gross negligence standard? Why are these references to bodily harm? What is

like willful criminal behavior and some of the other terms used? This is a pretty high standard that lets--

**FOLEY:** That's time.

**M. HANSEN:** Thank you, Mr. President.

**FOLEY:** Thank you, Senator. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. Lieutenant Governor. I was listening intently to Senator Matt Hansen's comments, and I think he touched on a lot of points that echo the same way that I feel. And he just-- he just put it so much better than I could put it. The bottom line is this, colleagues. The law already allows everybody to act reasonably, without a penalty period. If a teacher has to use reasonable force, if they have to do something that's-- that's within common sense and reason to defend themselves in a classroom, that's already OK according to the law. Anything beyond that, which is what the upcoming amendment would allow that we're trying not to get to, is a license to act unreasonably and with impunity and with protection from the state for people who could potentially abuse children. And if people want to codify that, then no problem. But that's not what-- what the amendment says or does. We've got to be honest about that. Teachers already have the right to defend themselves reasonably. The amendment that Senator Murman has introduced that we're-- that we're trying not to get to, which is why we have to take time, is basically just a word-reshuffled version of the General File amendment, AM719, which was ruled by the Speaker to be substantially similar to a portion of a separate bill, LB673. LB673 was killed by the Education Committee. That bill was not designated as a priority bill, not by Senator Murman, not by Senator Groene, not by the committee, not by the Speaker. So why should this nonpriority bill even be considered? If it's not important enough for a priority, then why should this controversial bill continue to be brought back to life and resurrected over and over again in different forms as different amendments? Because people are so dogged and insistent on giving teachers the right to put their hands on children to restrain kids. And I share the concerns that Senator Chambers-- Chambers shared in previous years, that Senator Matt Hansen has articulated, that Senator Machaela Cavanaugh has articulated, Senator Terrell McKinney about how this really does get us rolling down the hill toward corporal punishment. There's no reason to think that that's not the same thing. This amendment is basically an identical version of a bill that was introduced and debated last session, LB147 by Senator Groene. And those of you who were here then, you remember the hours and hours and hours of contested debate on this subject, from the bill coming to the floor, going through rounds of debate, the

pull motion, the motions to reconsider, and now putting it on every Education bill that we can remotely find related to it, you know, I don't want to take the time on this. I've got other things to do. I'm freezing in here and I want to go outside because I hear it's really nice outside and we go so many days in here on-- often without even being able to go outside. But as long as this bill to hit the kids, to restrain the kids, keeps going onto other vehicles, like LB529, we've got to stay in here and make sure that doesn't happen because I couldn't live with myself if I had to go back to my district and look at those kids and say I didn't do everything I could to stop that bill. Year after year, now this is going on the third year, I have done everything I can to stop that and this year is no different. Colleagues, teachers do not want to be put in the position to have to physically restrain students. Even students with the most severe mental and behavioral challenges, they want to learn; they don't want to be a disruption; they want to feel safe and supported. And in today's world, there are so many elements of poverty, of trauma, and many things that prevent children from coming to school ready to learn, ready to participate productively.

**FOLEY:** One minute.

**HUNT:** That's why as a society, as lawmakers, as people here in the Legislature, the responsibility lies with us and it lies with the executive and judiciary branches in how we make policy for our state agencies and how we handle issues of justice. These issues of violence and disruption weigh on kids, they weigh on parents, and they weigh on teachers. But if we pass the amendment that's coming up from Senator Murman, we will be reinforcing a culture of resorting to violence, resorting to aggression, instead of a culture of education and training centered around the value of each child. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Hunt. Senator Vargas, you're recognized. Is Senator Vargas on the floor? We'll move on. Senator Williams, you're recognized.

**WILLIAMS:** Thank you, Mr. President, and good afternoon, colleagues. And I certainly stand in-- in full support of LB529 and all of the things that it has done for our state. In particular, this afternoon, I'd like to visit briefly about the Expanded Learning Opportunities [SIC] Grants that are available through the program. The school in Lexington has taken significant advantage of that. It has been a-- a big help to them and the after-school program that Patricia Stewart operates, called the Lexington Academy. Lexington, like many of our communities, has a large percentage of-- of both parents at home

working, and so we've got a lot of kids that when school is out, you know, 3:15, 3:30 in the afternoon, there's that period of time between then and when parents may get home from school. So they've started this program called Lights On Afterschool, and it provides special opportunities for nearly all of these kids. And I've been privileged to be invited to programs that they have had and award ceremonies over my years of being in the Legislature. The elementary schools-- Bryan, Morton, Pershing, and Sanchez [SIC]-- all provide this. It's done at the-- the middle school is where they physically go for that activity. And those kids, instead of being just basically sent out to run on the streets and-- and not be supervised, have an opportunity to be involved with getting help with homework. There's opportunities with teachers and community people that volunteer to help them with homework after school. There's tutoring programs that go on for the kids that need maybe some special help with math or English or history or those kind of things. They provide fine arts activities for a lot of these kids during that two-and-a-half-hour period after school. They, of course, have some snacks and some fun activities with-- with physical ed and-- and all of those kind of things. And maybe most importantly, they deal with some programs that they've instituted on character development. And I think sometimes we forget how important it is with kids, especially kids that-- that are not having parents at home during that period of time, for them to have this opportunity to develop character and have people show them what it's like to be not only kids, but grow up to be junior high kids and high school kids and then productive citizens. All in all, it keeps the kids safe and it provides working parents with the comfort and knowledge that their kids are being safe during that period of time. I'd like to give a big shout out to John Hakonson, superintendent of Lexington Schools, who oversees this program, and-- and Barry McFarland at the grade school level, who attempted to retire once from-- from that position and then was-- was brought back in a few years ago on a part-time basis and couldn't give it up and is back to full-time work as a principal in the elementary at the school there. Great programs. These are the kind of things that make it absolutely necessary that we find a way to pass LB529, I think the number is up there. I'm having trouble seeing it right now. I think we need to--

**FOLEY:** One minute.

**WILLIAMS:** --recognize that there's a lot at stake here. And sometimes you don't always get everything you want, but we've got a bunch of kids in Lexington that not only need but deserve to have this opportunity continue. Without the Expanded Learning Opportunity Grant Program, programs like the Lights On Afterschool program in Lexington

disappear. That would be a sad result to see happen and a result that we can see does not happen. Also, in closing, I'd just like to give a big shout out to the Lexington soccer team. The boys will be playing in the state finals tomorrow evening. Go Lexington Minutemen. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Williams. Senator John Cavanaugh, you're recognized, your third opportunity.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. I just would like to thank Senator Williams for everything you just said there. That was very interesting. I would yield the remainder of my time to Senator McKinney.

**FOLEY:** Thank you, Senator Cavanaugh. Senator McKinney, you have 4:45.

**McKINNEY:** Thank you, Mr. Lieutenant Governor. So I rise again now. I'm going to talk about the benefits of LB529 if passed, you know. There's the Access College Early Scholarships, Community Gap Assistance Program, Excellence in Teaching program, NOG, Career-Readiness and Dual-Credit Education. This is why we need to pass this bill. But again, I will be voting no if AM422 [SIC--AM1422] is ever attached to this bill just on principle. I-- I think these are great things and they're definitely needed, but I'm never voting for something that gives teachers immunity to physically harm kids and the kids and their parents aren't allowed to sue or seek-- seek any type of justice because the teachers were provided immunity. We are debating this for however long now, and it's not clear why. AM4-- what is it? AM1422 is even needed. No one stood up and explained to me. I mean, I know it's not on the board, but we've been talking about it. If you strongly support it, I advise you to stand up and explain to me why it's needed. Why should teachers be allowed to have immunity? Who's going to drug test those teachers for alcohol and other substances? Still haven't answered many of the questions that other senators stood up and asked. Why do we need AM1422? Because some believe teachers should have immunity to physically restrain and immobilize and whatever else to students and the students can be harmed because the teacher didn't act grossly negligent but negligent, that student and those parents have no cause for action. On Senator Walz's handout it says lottery proceeds for the month of January to March 2021 were a record high, $6,764,684. That's a lot of money. But because, you know, individuals want AM1422, LB529 might die this year and some of those resources will not go to education. Do we really care about the kids or do we really care to-- to sacrifice a bill to allow teachers to assault students and not be held accountable? If we really want to pass this bill, I would advise you all to support LB529, AM1090, don't vote for

the recommit, and never allow AM1422 to get to the board because it's a horrible amendment. And we could pass this bill. We could help out all Nebraska students, and they don't have to worry about going to school and possibly being physically assaulted by a teacher and not being able to seek any action if we really care about this bill and the students of Nebraska.

**FOLEY:** One minute.

**McKINNEY:** Yes, I care about the teachers and I definitely think they do need training, but training shouldn't come at the cost of immunity either. And with that, I yield the rest of the time back to the Chair. Thank you.

**FOLEY:** Thank you, Senator McKinney. Senator Machaela Cavanaugh, you're recognized to close on your motion to recommit.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Do I have five minutes to close?

**FOLEY:** You do.

**M. CAVANAUGH:** Thank you. OK, colleagues, there's just so much to unpack with this bill and the amendments. I really have-- have been disappointed on numerous occasions this session about some of the conversations and the policies that we've been moving forward. I've talked in the past before about my love of public policy and crafting and moving forward strong public policy. I know there's been various conversations about whether or not this body is nonpartisan, bipartisan, hyperpartisan. I-- even though I've worked in political areas in the past, the last at least decade of my life has not been involved in politics. It's been in nonprofit work where you don't show up to a meeting and ask somebody what their political affiliation is or approach a problem based on the other person's political affiliation, that you work to get to a-- a workable solution for whatever the problem is in front of you together, regardless of how you voted in the ballot box. And so this is-- the last two-and-a-half years has been an interesting experiment for me because I wasn't used to that. Even though I am used to politics to a degree, I wasn't used to working to solve problems in such a partisan way. And if this past six months has taught me anything, is that this body is getting more partisan, not less partisan, and the-- the interest and the courage to have hard conversations about strong public policy are diminishing every single day. Senator Walz's bill and the underlying amendment that is up there are strong public policy. I don't even think the underlying amendment needs to happen, but Senator Walz agreed to this.

She felt that it was an important compromise to have. And as the Chair of her committee, I respect that and want to make sure that she has the opportunity to move that forward, to bring everyone else forward. We've talked about poison pills on other bills, and AM1422 is absolutely a poison pill. If AM1422 gets 25 people to vote for it, does it have 33? Does AM1422 have 33 people? I doubt that very much. So it is a poison pill and I am doing the best that I can to save an important bill without compromising the children of Nebraska's safety. I don't hold a lot of hope on this motion to be adopted. I actually don't even encourage people to adopt this motion because I think the bill, again, is important. But we've had a lot of this conversation. It's kind of become circular in a lot of ways. So we've talked about Corrections. We've talked about Community Corrections. We've-- Senator Terrell McKinney and Senator John Cavanaugh last week met with the juvenile courts, and Senator McKinney yesterday saw the proposed-- or I'm not even sure if it's proposed or if it's already happening-- youth detention center in Douglas County. We've talked about the youth that are in the YRTC-- youth rehabilitation and treatment centers. We've talked about foster care and the trauma that's happening to these children. But we are not working together to solve these problems, these real, substantial problems that are based in trauma and adverse childhood experiences. We're just talking--

**FOLEY:** One minute.

**M. CAVANAUGH:** --at each other. I hope-- my hope-- my hope and my prayer for this body is that over the next year that changes, that we work with people with developmental disabilities and that we work with people that are representing communities of color and that we work with people that are representing our marginalized populations that are part of the justice system, so that we can address these systemic issues and make a difference in the lives of Nebraskans, make a difference in the lives of children in Nebraska. That's my hope and that is my prayer for you all. I know that Senator Walz will join me in that, because not only is she an outstanding Chair of Education, a spectacular colleague and a woman of faith, I know that she cares deeply to her core in making this state better--

**FOLEY:** That's time.

**M. CAVANAUGH:** --and I'm grateful to her. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Members, you've heard the debate on--

**M. CAVANAUGH:** Call of the house.

**FOLEY:** There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

**CLERK:** 11 ayes, 2 nays to place the house under call.

**FOLEY:** The house is under call. All senators please return to the Chamber and check in. The house is under call. All senators please return to the Chamber and check in. The house is under call. Senator Vargas, please return and check in. All unexcused members are now present. The question before the body is whether to recommend the bill to committee. Those in favor vote aye; those opposed vote nay. A roll call vote has been requested. Mr. Clerk.

**CLERK:** Senator Aguilar voting no. Senator Albrecht voting no. Senator Arch voting no. Senator Blood not voting. Senator Bostar. Senator Bostelman voting no. Senator Brandt voting no. Senator Brewer. Senator Briese. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh not voting. Senator Clements not voting. Senator Day. Senator DeBoer. I'm sorry, Senator Day, how? Voting no. Senator DeBoer voting no. Senator Dorn voting no. Senator Erdman voting no. Senator Flood voting no. Senator Friesen voting no. Senator Geist voting no. Senator Gragert voting no. Senator Groene voting no. Senator Halloran voting no. Senator Ben Hansen voting no. Senator Matt Hansen not voting. Senator Hilgers voting no. Senator Hilkemann voting no. Senator Hughes voting no. Senator Hunt voting no. Senator Kolterman voting no. Senator Lathrop voting no. Senator Lindstrom voting no. Senator Linehan voting no. Senator Lowe. Senator McCollister voting no. Senator McDonell voting no. Senator McKinney voting no. Senator Morfeld voting no. Senator Moser voting no. Senator Murman voting no. Senator Pahls voting no. Senator Pansing Brooks voting no. Senator Sanders voting no. Senator Slama voting no. Senator Stinner voting no. Senator Vargas voting no. Senator Walz voting no. Senator Wayne. Senator Williams voting no. Senator Wishart. 0 ayes, 40 nays.

**FOLEY:** The motion to recommit is not successful. I raise the call. Items for the record, please.

**CLERK:** Thank you, Mr. President. New resolutions: Senator Blood, LR158, a study resolution; LR159, Senator Blood, asking for the creation of a special committee; pursuant to its introduction, a communication from the Speaker referring that resolution to Reference; Senator McKinney, LR160 will be laid over; and LR161 by Senator McKinney will be referred to the Executive Board as a study resolution. Mr. Pres-- President, Senator Matt Hansen would move to

reconsider that vote taken with respect to the recommit the bill to committee.

**FOLEY:** Senator Matt Hansen, you're recognized to open on your motion to reconsider.

**M. HANSEN:** Thank you, Mr. President. And good afternoon again, colleagues. I'm going to-- I have some things I want to read into the record here in a moment, but I kind of want to lay out where the stakes are. I know there's supporters of the LB529 and opponents of Senator Murman's amendment have largely been what's been speaking today on the microphone. But I want to clarify, that's not the only thing that's going on and that's not the only dynamic at play. As I understand it, Senator Walz has a group of folks who are refusing to vote for cloture if the Murman amendment is not adopted and she's having a group of folks refusing to vote for cloture if the Murman amendment is adopted. I think it's literally the definition of a rock and a hard place. And I really empathize and feel for Senator Walz. And I'm trying to be as open and transparent with her in order to do the due diligence and due deference to pass a committee priority bill, because I take committee priority bills seriously and, granted, don't support all of them all, of course. But what the committee Chair wants and what the committee Chair wants to do moving forward does weigh heavily on me. I've tried to be transparent with Senator Walz and I've tried to be transparent with what's going on. But I do think there are multiple votes and cards out there where different groups are threatening to block this bill from different sides. So just because myself and a few other senators who feel particularly about the student discipline portion are speaking and taking most of the time, doesn't mean that's the only factor at play and doesn't mean that's the only factor going on at the-- on this floor. I do want to also just kind of put out there-- this is for the body, this is for the public-- I'm not obs-- intentionally obstructionist. I'm not intentionally delaying things. Senator Walz has talked with me about an amendment that I would accept. I have told her that. I've told the Speaker Hilgers that. I don't know if that amendment is going to have more than two votes at the moment, but there are at least some discussions on a path forward. Failing a path forward, we are running into the four-hour window that we have here today. And I have, based on my count, that four-hour window does end a little bit before 4:00 if I counted our lunch break correctly. So that's just kind of putting all the cards on the table where we stand. I do want to reconsider. I'm intending to reconsider. Ultimately, like other bills, a recommit to committee isn't the worst thing in the world in the sense that it keeps it alive in committee and it would let them draft a committee

amendment. So maybe that is worth reconsidering. Nonetheless, that's what my reconsideration motion is going to consider. All right. I did want to read into the record, because a couple of times this meeting has been described as having all stakeholder groups. And again, there are different groups, depending on who you define as a stakeholder group. That might be true; that might be not true. There are some key stakeholders, some key groups who feel strongly in this issue and have had made their points abundantly clear. So what I'm going to do right now is read a letter into the record that I believe all of us senators received from Disability Rights Nebraska and it is dated today. And I'll read the letter: Dear Senators, Disability Rights Nebraska is the designated protection and advocacy organization for Nebraskans with disabilities. We write to voice our opposition to the proposed amendment to LB529, AM1422. First, we are dismayed that yet again this amendment suffers from a lack of input from disability advocates, disability advocacy organizations, and the family of students with disabilities. As the 2017-2018 civil rights data collection shows, students with disabilities comprise approximately 13 percent of the national student population, but represent 80 percent of the use of restraints. While AM1422 is intended to provide clarity, it fails at that task and ignores a whole swath of critical components that we, other disability advocates, and families have repeatedly called for. AM1422 is missing important pieces. AM1422 contains language regarding can-- excuse me. AM1422 contains thin language regarding de-escalation, but is silent about the debriefing, discussing techniques or supports to prevent offending behavior. AM1422 just tells parents and guardians that staff laid hands on their student but ignores any consideration of prevention. If a student is en-- if a student engages in offending behavior repeatedly, all AM1422 proscribes is more physical contact, no attempt to figure out the underlying causes and addresses them, but more and more physical force. AM1422 requires that school policies adhere to the Individuals with Disabilities Education Act, IDEA. We are unclear as to what this means, considering the IDEA does not address restraint or seclusion use. Yet again, we raise issues with the definitions. While we appreciate the attempt to accommodate our earlier issues with the lax definitions of AM990, we still have questions that should be addressed before codifying statutory language. For example, why did the drafters of AM1422 choose to use a definition of "emergency safety intervention" from Rhode Island? We noted this language is also used in at least one Nebraska school's restraint policy, but not by other Nebraska school districts. How has this definition affected the use of restraint/seclusion or emergency safety intervention? Is this a sufficient definition? What is "bodily contact" as the "only source of physical restraint"? Secondly, the additional language after "only

source of physical contact" is entirely redundant or irrelevant. The description of emergency safety intervention-- see page 3, lines 4 through 10-- would not meet the criteria of an emergency; same for the language in, quote, emergency safety situation. See page 3, lines 13 through 19. AM1422 is unclear about the use of prone restraint. Is sitting on a student body contact allowable? Before adopting AM1422 or enacting any legislation authorizing the use of restraint on students, this body should review in depth the 2010 Nebraska Department of Education's guidance document on school restraint policies. This document provides clear and direct guidance on the appropriate content and purpose of school restraint policies, important guardrails missing from AM1422. AM1422 is redundant and unnecessary. AM1422 calls for schools to adopt policies regarding the use of emergency safety intervention. But as we've noted, schools are already required to have these policies under Rule 10. The problem-- the problem is, as we raised in our 2014 report, that these policies are not uniform across districts and do not have any content requirements. The language in AM1422 says schools may use a state guidance document, but that is the root cause of the nonuniformity. AM1422 just codifies the problem. Finally, as we have consistently argued, this body should not-- should not work to undo or dilute the existing school policies on restraint use. Often, these policies are more rigorous and thorough than the proposed amendment. Rather, the Legislature should work to ensure that school district policies addressing the use of these techniques and interventions are uniformly with-- are uniform, with more robust and prescriptive content requirements. Since the regulatory framework has already been established, why are we reinventing the wheel here? Legislative action should be require-- Legislative action should be to require the Department of Education to work with families and individuals who have lived experience with restraint, seclusion, schools, advocates, and other stakeholders develop uniform district and school policies on restraint with improved substantive content. The U.S. Department of Education principles, as well as Nebraska Department of Education's 2010 guidance document, should be used to guide this work. Given their background and specific expertise, asking the Department of Education to lead a transparent, inclusive collaboration on this is only proper. Disability Rights Nebraska recommends AM1422 not be adopted. This is signed Brad Meurrens, the public policy director of Disability Rights Nebraska. And again, this was a letter delivered to all of us, dated today, May 18. And I felt that was important to read into the record because several proponents of AM1422 earlier got up and made the blanket statement-- the blanket statement that all stakeholders had agreed to this and it was just a few of us who are raising objections. I am very specifically raising objections based on what I am hearing from constituents. I am hearing

more critiques of this amendment than I am in support. I'm hearing very specific, concise policy arguments as to why AM1422 is poorly written and-- or-- or maybe has contrary or things worthy of-- of opposition and I want to lay that out. This is not me picking a fight. This is not me being radical. This is not me-- whatever. This is me representing the wills and wishes of my constituents as I hear them.

**FOLEY:** One minute.

**M. HANSEN:** Thank you, Mr. President. And we have all had a very clear letter-- letter from a disability rights advocate that I respect, and I thought more of us would respect, who's laid out a multitude of problems with this amendment. And again, this amendment does not go to the core of the bill. This is an ornament we are hanging on a Christmas tree. LB529 works without this amendment. LB529 does not get into student discipline policy, student restraint policies. This is something extra we're hanging on a bill. I'm optimistic we can get a compromise in the next hour and a half, but I, unlike other senators, do not necessarily feel the need to see LB529 move forward this year, especially with the student discipline provisions. Thank you, Mr. President.

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

**GROENE:** Thank you, Mr. President. Seeing that a radical group of anarchists can continue to not protect teachers and children in our classrooms for a few examples that are happening now, I, in preparation of this bill dying, had put an amendment on a-- on the following bill, LB528, which is another committee priority bill, that will extend the present lottery funding mechanisms and formula for two years, from 2021 to 2023. And Senator Kolterman and Senator Pansing Brooks spoke about NOG, Nebraska Opportunities [SIC] Grant Fund. The old formula is more lucrative for colleges because they were getting 62 percent in the bill. Now they-- we dropped-- it was dropped to 58 percent, so it's better for colleges, just continue the present system. Senator Flood, Moser, myself, with Northeast-- with Mid-Plains Community College, the present funding break up is better for community colleges because the Community College Gap Assistance Fund was at 9 percent. This bill slashes it to 4.5 percent. The after-school programs are already-- are taken care of. Senator Williams, it continues. They get 1 percent. The new bill says 3 percent. But what the State Department of Ed was doing with the 17 percent that they had of discretionary funding money was-- was using quite a bit of it for after-school programs. So as far as those who are concerned about losing the lottery funding, I-- it will pass. That amendment will pass on LB528-- that's the other committee-- Education

Committee priority bill-- because you all want it to continue. So put it on two years and then we can work again on it because we're making sausage here. And why does AM1422 belong on this bill? It was the entire genesis of the training program with the lottery funds. That's why. The present committee ripped the heart out of the training by not giving the teachers protection and the ability to control their classroom. That's what the training was for. So there-- if-- if AM1422 is not adopted, then the training funds and the program isn't needed, because if you're not going to allow the teachers any control of the classroom, they don't need any training. And that's what the present situation is. So, as I said, if you look on LB528 on your Chamber Viewer, you will see I put an amendment. So don't be intimidated that if we don't pass LB529, lottery funding has no other path to continue forward. As I said, if you're-- if you're a proponent of NOG, the old formula was better for the colleges. If you're a proponent of junior colleges, you got twice as much money in the old formula. The only reason to re-- to redo the-- I had done when I was Chairman-- to redo was the training, which is not necessary now if AM1422 is not in effect, because let's continue what we do, teachers retiring earlier, teachers getting harmed, teachers not allowed to control their classroom. We don't allow kids to train in boundaries. If that's the existing chaos you want, fine. Sadly, Senator Linehan's--

**FOLEY:** One minute.

**GROENE:** --bill, Opportunity Grants, so the parents who are concerned about the safety of their schools and our public school classrooms don't have an opportunity now because the same group of people killed it too, rabid about public education as is, no attempt to improve it at all, no attempt to get a better learning-- learning atmosphere in the classroom, which Senator Murman and I and many-- and 30 other senators, by the way-- this is not redundancy. We had an election. As far as I could see, if-- if Murman's bill would have came out this year, we'd have had more than 33 for cloture because of the change in the makeup of the body. We bring bills back. As I said, AM1422 was the genesis of the training, which I-- was my idea. One night I woke up--

**FOLEY:** That's time.

**GROENE:** --thought, how are we going to pay for the training?

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

**GROENE:** Thank you.

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

**McKINNEY:** Thank you, Mr. Lieutenant Governor. Again, I rise in support of LB529, AM9-- AM1090. I don't support the motion to reconsider. But I strongly oppose AM1422, since we're continuing this conversation. It's a horrible amendment. Again, no one stood up and explained to me who's going to drug test these teachers after they slam a student or grab a student? No-- no one has explained that, but they want everyone to support this. Who-- who is going to explain it? Senator Groene, will you yield to a question?

**FOLEY:** Senator Groene, would you yield, please?

**GROENE:** Yes.

**McKINNEY:** Thank you. Senator Groene, if a teacher physically restrains a student, is there an automatic drug test or alcohol test after the restraint takes place?

**GROENE:** If it rose to the point where-- where the administration or a parent pressed charges, the police would come in, arrest, and do what-- what was necessary.

**McKINNEY:** But under your-- your amendment, or Senator Murman's amendment, you raise the standard of negligence-- negligence. So when would a parent be able to call the police or be able to sue, considering there's immunity in this bill?

**GROENE:** We didn't raise anything. That's redundancy. All that language you protest about gross negligence, if you read on, it's quoted right out of federal law. We just were redundant by repeating what's already in statute. That's nothing new about that. And if you want to know when they could sue, on any instance they could call the police. They could call the police. Police would come in and investigate. If the police believed an assault happened, charges would be pressed. If it went to court and the judge said there was no assault here because they followed policy and they restrained the child to protect them or another child from harm with the evidence, no-- the charges would be dropped. The system still works.

**McKINNEY:** Even if a teacher is negligent?

**GROENE:** That would be up to the judge. It's called reasonable. And that's when Senator Lathrop and I talked about this bill last year, which he supported and helped me write. He said the reasonable standard has to be in place. I think Senator John Cavanaugh said that, that there's different vari-- variables. What we are doing here is

giving training, describing to the teacher how-- training them how to restrain a child or-- or physically intervene and with policy.

**McKINNEY:** Senator Groene, where in this amendment does it reference to reasonableness standard? Maybe I looked over it, but I-- I-- I don't see anywhere where reference is to reasonableness standard, but I-- but I probably looked over it.

**GROENE:** I'll have to look it up and see if it's remained in-- remained in there or if it's just an accepted-- accepted-- known, accepted by all that reasonable plays into effect on any criminal case--

**McKINNEY:** But don't you think--

**GROENE:** --or self-defense case or--

**McKINNEY:** --but don't you think that's a significant thing that should, if anything, be inside of your-- be inside of your amendment? There's--

**GROENE:** It's Senator Murman's amendment.

**McKINNEY:** Well, with Senator Murman's amendment that you helped work with, there-- there is no reference to the reasonableness standard unless I looked over it. But thank you for yielding to questions.

**GROENE:** Thank you.

**FOLEY:** One minute.

**McKINNEY:** And that's my thing. So if-- if this is based on the reasonable-- reasonableness standard-- I keep messing that up-- but it's not in here. I don't see it. Maybe I looked over it. Maybe somebody could show me it when I get off the mike. But there is no reference to the reasonableness standard. I-- I remember talking about it on General File, but I don't see-- even see it in here, but that's what we're supposed to rely on. Thank you.

**FOLEY:** Thank you, Senator McKinney. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. I agree that this amendment is extraordinarily vague in some spots and extraordinarily prescribed in others. But the lottery funds, I'm looking now, looking ahead to see what's after this, and I see that Senator Groene has filed an amendment on the next bill for the lottery funds, which is an interesting thing since we're currently debating the lottery funds, so he must assume that this bill is going to go down. Suppose that means

that Senator Groene is not going to support the lottery funds bill. Of course, I'm just extrapolating on the information available to me, Senator Groene hasn't told me that he's not going to support this LB529. I'm just extrapolating that he has put an amendment onto the LB528 that is the lottery funds, so perhaps that is his-- his intention here. My intention is to preserve the integrity of LB529 and not allow a poison pill amendment onto LB529. It's-- Senator Groene just said a few minutes ago that this bill, this amendment, could have-- could have gotten 33 votes on the floor. It couldn't get 30 votes on the floor when it was IPPed and introduced as an amendment on this bill, on General File. It has-- it is extraordinarily problematic bill that has not taken into consideration the voices that everyone who is in opposition to it keeps saying needs to be taken into consideration. It's just been bludgeoned through. Over and over and over again, it's been bludgeoned through. It's been prioritized. It's been reprioritized. It's been filibustered and brought back and filibustered and brought back. It's never had 33 because if it had 33, we wouldn't be having this conversation. But we keep having this conversation. If there was a genuine desire to protect students and everyone who works in schools, then there should be an honest effort in working on this with all of the disability communities and the communities of color. All of the people that are in opposition to the bill as it is written should be brought to the table and have a robust conversation. But that is not what is happening. Instead, it's being ramrodded through in the final days of session, holding this Legislature hostage. LB529 does very important things, and it is not my desire for LB529 to-- to not progress today, I very much would like to see LB529 progress today. But sometimes you have to make a hard choice, and the hard choice for me was seeing--

**FOLEY:** One minute.

**M. CAVANAUGH:** --potentially LB529 not progress or allowing the school restraint bill as written progress. I cannot allow the school restraint bill as written to progress. I'm disappointed in those that have brought this year after year that they have not sat down and worked with the people that would be directly impacted by this to ensure that their voices were part of the conversation and that their voices were heard. It is detrimental to those individuals and they should have a voice in the conversation. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Hunt.

**HUNT:** Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. I heard Senator Groene talk about the amendment he just filed on the

next bill on the agenda, LB528, as being something that will assure that lottery funding will be applied for student aid over the next two years. That assumes that his amendment to LB528 is even germane. That might not be the safe route that you think it is, and that's something that people should think about before they think about how they're going to vote on this bill that we have. We're at a little bit of an impasse here. I am part of a group that will not support LB529 if it has the hit-the-kids bill on it, and then there's another group that won't support it if it doesn't. So, colleagues, one of us is going to have to get 33, or one of us is-- have to get 25. And you have to decide what's more important to you, hitting the kids or student aid and-- and using those lottery funds the way they're intended to be used. I wasn't here at the time, but the 2018 Legislature was considering a bill introduced by Senator Walz, and that was LB998. And what that bill would have done is put a social worker in each of the 17 educational service units in Nebraska. Those social workers would have been available as a resource for strategy, for solutions, for, you know, different ways to deal with the kinds of disruptive students that Senator Murman's amendment tries to deal with, the kinds of students that the student restraint amendment tries to target. That bill to put social workers in schools eventually did pass in the Legislature, but it was returned by the Governor without approval in a year where the introducer was running for Lieutenant Governor against the current Governor, so there were a lot of external things in motion and choices made that ultimately sabotaged a policy that was passed by the Legislature and would have resulted in more resources being available to students today at no cost to the state. So maybe some of the problems that the student restraint amendment seeks to address would today be much less severe if that bill to provide social workers in schools had been successful. A lot of my colleagues are tripping over themselves trying to get police in schools. But when we want to get social workers in schools to address these behavioral issues, those are the policies that don't seem to work. In the course of debate for that bill in 2018, Senator Groene said, quote, There's no such thing as behavior or discipline in our schools no more. It's all mental health. I just want to make clear that I don't believe mental health is part of the mission of education. We have Health and Human Services Department. We constantly hear we don't have enough money for education, yet we seem to have money to hire psychiatrists and social workers. But that is not education. When we fund the government, we should keep those two separate. And he talked about how school is about reading, writing, arithmetic, not talking about your feelings. Well, colleagues, a lot of these problems that a social worker, that a counselor would be there to address in a school are the problems that are-- are-- you're seeking to address with the amendment to hit the

kids. And what that does instead is it answers these problems with more violence, with more disruption. It models to the students from adults, who should be on their side, protecting them, the exact kind of behavior that we don't want them to be engaged in. And if we pass that amendment in Nebraska, we will just be reinforcing a culture of resorting to violence and aggression instead of a culture of education and training and listening centered around the value of the child. If we pass this amendment, it will be fanning the fire of another crisis for students that we have in Nebraska, which is the school-to-prison pipeline. All of these things are in a web that's--

**FOLEY:** One minute.

**HUNT:** --vast and entangled and, you know, very interrelated, but very real. And when we're talking about one policy, we're talking about many, many policies and how they impact each other and relate to each other. We need to pass LB529. I'm certainly going to be there on cloture for LB529. I encourage all of you to be there as well. If we want our kids to feel safe in school, there are other things that we should do besides allowing their teachers to put hands on them, the teachers who are there to protect them and educate them. If they don't feel safe in our schools, if kids don't feel like they're safe, they won't be concentrating on the things they want to concentrate on, which is getting an education. I encourage your vote against the recommit to committee motion and your vote for AM1090 and for LB529. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Hunt. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. Good afternoon again. So we have been, as I said earlier on the mike, we've been talking about AM1422, and it's not even on the floor for discussion. So I was going to support AM1090, and I would have voted for LB529, but not any longer. I will not vote for either one of those. And I think Senator Hunt is exactly right. Somebody has to get 33 to make this bill move. So those who think LB529 is an important bill and AM1090 is a great amendment to add to it, I would agree. But you're never going to get a chance to get to that if I can help it. So we're going to be at an impasse here. We'll find out who has 33 and who doesn't. What should have happened is we should have talked about LB529 with the amendment, AM1090, and voted on that and moved it. And then we should have talked about the next amendment and then when we got to AM1422, that's when we should have had all the discussion that we've been having for the last 2 hours and 45 minutes or whatever it is. So let's just be clear on this. I will not be voting for any of this as long as we continue to drag this out and we-- we're whining about the safety of children

and children are going to be harmed. So let me share a story with you. On the very first day of school, the very first day when I was in kindergarten, I went to a rural school and there were three in the kindergarten class. And we thought kindergarten was a great time and we had a great time at recess. So at the first recess, we decided to crawl under the culvert in the highway to hide from the teacher so that when recess was over and the teacher went back in, we'd come out and play. Well, she seen us and when we came out of the culvert, she found a stick on the tree and she gave us, all three, a spanking. Did I feel unsafe going back to school the next day? No, no. But I want to tell you this. I attended school for 13 years in the public school and I got one spanking, first day, first recess. I never, never got another one. It worked. And so the reason that we have the issues we have in education today is because we're not allowed to discipline children. Children need parameters. They need to be disciplined. Now am I saying that we should spank kids nowadays? That's not going to happen and that's not what Senator Mo-- Moser-- or Murman's bill does. But we've talked about this and we've talked about this, and I've talked to teachers that have had to take their whole class out in the hallway while some other child destroys their classroom. Those children are put in school to learn something, not to stand in the hallway while somebody destroys a classroom. So you do what you want with this one, Senator Cavanaugh. You take it to cloture. And if you have 33, your LB529 will advance and if you don't, the whole thing is going to be dead. That's quite a gamble. So if you're willing to roll the dice, so am I, but I will be a no on cloture and I encourage at least 17 of you to do the same. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator Vargas.

**VARGAS:** Thank you very much. Colleagues, I rise in support of LB529. I was listening to Senator Erdman and I-- I-- here's the thing. I-- I hope that we recognize that the underlying bill, LB529, is critical and important, and regardless of any of the other amendments and policy matters that we're discussing or the subject matter, we recognize and elevate that LB529 is important enough to pass and we would just move forward. There are times where we've done that, where we recognize that a committee's work is important, that it has significant consequences if we should not pass it on not only groups of people in the lobby, which is not the end-all, be-all for everyone, but really the end-all, be-all is for students across the state of Nebraska who are going to benefit or have been or will be at a loss if we don't pass LB529. I don't think I have to totally belabor the point on all the different programs, but it goes without saying that that's probably the most important thing that we're discussing here, which is

not whether or not we agree or disagree with the underlying policies. I came on the mike last time and I shared my concerns with the-- the so-called, not agreement, but conversation and the most-- the most up-to-date amendment that there are still policy problems with-- with that language that has to do with timelines definition. And without addressing those, they can present significant problems for-- for kids. Now, not with the intent of assuming that anything is-- bad is going to happen in the classroom, but when we don't have clarity with what sort of restraint timelines, who and whom is-- is actually held accountable to which pieces, it-- that is the concern and-- and that's why I'm speaking against it. I have been on the mike in the past on this debate a few times, largely from a policy perspective, and I'm still coming from this from the policy perspective. But nearing this point of the year, I'm also coming from a support of Chairwoman Walz and the Education Committee and the work they've done for LB529. I think that's what we should be focusing most of our efforts on and-- and trying to steward that through, because at the end of the day, there are a lot of other reasons why we can say that this is maybe not the best thing for us to do, and Senator McKinney has shared a lot of them in particular. You know, I-- I've served as a teacher and I've served a school board member. We never want to assume the worst in anything, but we have guardrails in place to make sure that there are protections on behalf of everybody, parents, teachers, students. And I still believe that there's not enough clarity or too much broad language in specific areas that will make it a little harder for us to apply the right level of commonsense statutory regulation to protecting children, and specifically those with developmental disabilities or those that are often either mischaracterized or put into having an IEP, and we don't want that to happen. So, colleagues, I rise in support of LB529. I am still opposed to the-- whatever this amendment is that was agreed upon, not because I was not in the room or wasn't-- wasn't part of it, but largely because there are still things that we can do to improve the bill and we need to pass LB529 as it currently is. There are kids that are depending on it. I've been working on many of these programs, specifically the Opportunity Grants program, to continue to improve and expand on that. And I don't want to see that--

**FOLEY:** One minute.

**VARGAS:** --not move forward and not get to the neediest kids across the state of Nebraska. That would be-- honestly be a tra-- tragedy, considering what we are debating here in these last final weeks, because at the end of the day, we have a responsibility to the

collective work of a committee and not only to one amendment on behalf of a few. Please support LB529. Thank you very much.

**FOLEY:** Thank you, Senator Vargas. Senator Matt Hansen.

**M. HANSEN:** Thank you, Mr. President, and good afternoon, colleagues. Colleagues, I want to appreciate and recognize several things that Senator Erdman just said on the microphone because he confirmed some things that I've been saying all day. One is that there's a group of people willing to kill LB529 if the student discipline amendment doesn't get adopted, I think that's kind of being lost in this debate. People are acting like I'm throwing a fit or I'm the one trying to kill the bill. I'm trying to get the bill to pass as I like it and so are the others. So if I'm whining, you're whining. If I'm an anarchist, you're an anarchist. I'm trying to get my version of LB529 to pass, and I'm willing to play brinksmanship with you as you try and get your version of LB529 to pass. And for me, LB529 going down will be a loss, but it won't be a loss so big that I'm not willing to play this game of chicken. If you-- I've committed to voting yes. I plan on voting yes as long as the Murman amendment doesn't get adopted. But if it needed me to vote no to kill it, just be dead for the year, I would be willing to. And I've told Senator Walz that. I've told Speaker Hilgers that last week. I don't say that lightly because I have constituents who benefit from the programs we are establishing and reestablishing in LB529. But this student discipline bill is so severe and so key in my opposition that I'm willing to throw out pretty much any bill it's attached to. And I've already got amendments filed to LB528 just in case it reappears in LB528. We could take that five hours-- four hours and kill that too. And the other thing that Senator Erdman talked about and I appreciate is he talked about the need for discipline. He wanted this bill to allow for discipline of unruly students because sometimes this gets framed as, oh, we just want teachers to use appropriate, you know, measures for physical safety, we just want teachers to, you know, whatever, have some training and some things. And I agree they should. That's not what this bill is. This bill is a back-end end-around for corporal punishment to come into our schools, and that's what people supporting the bill want. They want kids to get whapped across the knuckles again because they think physical discipline teaches good moral character. OK, I respect that philosophy, strongly disagree with it. I think a lot of parents and science disagree with that, but OK. But I certainly wouldn't want any children in my public schools getting physical discipline. That's not my-- going to be my parenting style, and that's not the parenting style of a lot of people, nor do I think we should give carte blanche of anything less than gross negligence; anything less than gross

negligence can go. So this bill isn't about just clarifying safety standards; it's not about just, you know, what can teachers do or not do. It is about getting corporal punishment back into the schools in the state of Nebraska, and supporters of that amendment acknowledge that and talk about it on the microphone, like if we just hit kids a little bit more, less of them will go to prison. And frankly, I don't know how that logic prevails and can be said without laughter on the floor of this body, it's almost so absurd. I am willing to support LB529. I think we're kind of acknowledging LB529 is going to die at this point. I think Senator Groene, Senator Murman, Senator Erdman have gotten their 17 to kill it. That's kind of unfortunate, but I understand we're playing brinksmanship. We're playing a game of chicken. And-- and it-- you know, sometimes when we play the game of chicken, you end up colliding. That being said, again, like I said, not a-- not-- not the biggest loss for me. I will be sincerely disappointed, but I'll take the win of defeating the corporal punishment bill another year over any sort of loss of scholarships that we have, especially now that we've acknowledged that we have the lifeboat in LB528. And just 100 percent clear, even if you attach the scholarship--

**FOLEY:** One minute.

**M. HANSEN:** --extension to LB528, I'll filibuster that and kill that bill, too, if I need to, so don't think you're going to, you know, play a game of chicken and we're going to back down on the next bill. I'll just filibuster other independent bills, too, if I just need to run time on session. That's how strongly I feel about this. That's how strongly my constituents have told me to feel about this. So cards on the table, that's where we're at. I think we've got 57 minutes left or so, so I'll try and get back in the queue and talk a little bit more. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hansen. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Is this my second time?

**FOLEY:** Yes, it is.

**M. CAVANAUGH:** Thank you. Sometimes I feel like I want to have a conversation with the person who's up in the presiding Chair, but I know that's not how it works. You can't ask them to yield to questions, but-- so I always like to acknowledge whoever is in the Chair, and today it's Lieutenant Governor Foley. So, OK, so LB529, AM1090, like I just want to say ditto to everything Matt Hansen,

Senator Matt Hansen, just said. If that's acceptable floor remarks, I would just say, yeah, me too. I don't want LB529 to die, but I am not going to let the corporal punishment bill move forward or amendment move forward. If-- if I can do anything to stop it, I'm going to. And so while I think that this is an important and valuable bill, nothing is more important or sacred than the care of our children in this state. So you can say that I'm whining about kids' safety. You can say that I've got sour grapes or that I'm throwing a tantrum or that I'm belligerent. That's all fine. You can say that I'm not following the process as you think it should be followed in this body. I'm following the process that everyone else follows, which is following the rules. I follow the rules, and the rules are what we have in front of us on the board. And I am following the rules and using the rules strategically to accomplish what I want to accomplish. So while Senator Erdman might think that this is a game of chicken, it's not. I-- I win either way. LB529 moves forward? Terrific. LB529 dies? So does AM1422-- terrific. I come out as a winner either way. I would love LB529 to win because I think that the whole state wins when LB529 moves forward. But I think that the children of Nebraska lose when AM1422 moves forward. So if that's the game of chicken that you're playing, you've already lost and I've already won. So you can vote for it. You can have 33 for cloture or you can have 32 for cloture. Either way, AM1422 does not move today and that is my goal in standing up here. I have lots of talking points from various groups from across the state representing children. And a part of me really wants to share those with you, because I think that they're important, but the other part of me is tired of this conversation because these are point-- talking points that I have read and shared over the last three years, two-and-a-half years, so many times, so, so many times. I-- I think it was Senator Erdman-- I apologize if it was a different senator-- that talked about a child causing so much disruption in the classroom that the class had to leave the room and that very dramatic story. My first question in my head when I was listening to that story was, what is happening with that child? What is happening with that child to have them act that way? Were they sexually molested at home? Were they sexually molested by the teacher in the classroom? Were they sexually molested by somebody else in the--

**FOLEY:** One minute.

**M. CAVANAUGH:** --in the school or a trusted adult in their life? Were they beaten? Do they have an intellectual or developmental disability that is making it difficult for them to process what's happening around them? What sort of trauma has entered into this child's life that has had them acting in the way that they are, that is clearly

needing help, not discipline? When my five-year-old throws a huge, massive fit, which she does tend to do regularly, it is very hard for me to not just go to discipline. But that's not where I go, I offer her a hug every single time; every single time, I offer her a hug. Sometimes that is just not going to cut it and sometimes she just breaks down crying, sitting in my lap, and takes the hug because she's going through something and she just needs somebody to care. These kids just need somebody to care. So I've already won today--

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

**M. CAVANAUGH:** --Senator Erdman. Thank you.

**FOLEY:** Thank you, Senator Machaela Cavanaugh. Senator Hunt.

**HUNT:** Thank you, Mr. Lieutenant Governor. Is this my second or third opportunity?

**FOLEY:** Second.

**HUNT:** Thank you. Colleagues, Senator Erdman said the quiet part out loud, didn't he? He said they're putting amendments on upcoming bills to try this again, whether that's to make sure that the lottery funds are secured for the scholarships and the financial aid that it needs to be there for or that the student restraint bill is going to be put on-- student restraint amendment is going to be put on another bill. Senator Erdman also confirmed the concerns that I share with so many advocates and so many other members in this body who oppose the student restraint amendment when he talked about how he got spanked and it straightened him out. And he stopped himself short of saying he thinks all students should be spanked, but he didn't say not. He just said that's not what this amendment does. Amendments like this and mindsets like this don't reflect the way Nebraska is going. It doesn't reflect the way teachers and education is going. I'm sure that we could probably find 25 folks in this body who would like just blatantly, barefaced-- barefaced bring back corporal punishment, who would say if you get the paddle, if you get spanked, if you get shut in a closet, I don't know what, that it would make kids behave better because we've got a behavioral problem. And, you know, if you were listening to what he said, he basically said as much. That is the problem with the amendment that we're trying to block, and that's what's motivating us to take the time so that we can just vote on LB529, vote it out clean, and stop hanging all this crap onto it that's going to bog it down and make it problematic. This is the fifth year that the Legislature has been dealing with a student restraint bill, but it's not the fifth time. I-- you know, between this time and

my next time on the mike, I'd like to do some math and figure out how many times exactly we've talked about this, because we've heard the bill in committees and then it was-- we had pull motions and then we had floor debate, and then it's been introduced as amendments like many, many times. And, you know, I respect and I-- I-- I shout out my colleagues like-- like Senator Morfeld, Senator Walz, Senator Pansing Brooks, who work on the Education Committee. And they have been there with advocates, with school administrators, and with Senators Groene and Murman, who are so dead set on passing some version of this amendment, of some version of the student restraint bill, I think that they have worked with him in good faith, but I think that that's, you know, collegiality to them and that's what they have to do to, you know, get along with your colleagues. But there is no scenario, there's no compromise that I would accept that would expand the ability of a teacher or a staff member or any educator to put their hands on children, especially in a violent way. I would say that today we have-- as parents, as guardians, as grandparents, as community members, we have the expectation that our Nebraska public schools be excellent. And in order to be excellent, they have to take into account the mental health issues that students face every day as a barrier to their education, the issues that follow them from home, that their parents bring home from work, the trauma that they face in their lives, no matter what the cause is. Mental health and behavioral health cannot be separated from the mission of educating the whole child. This is a modern approach to education that's informed by experience and research and experts. And nowhere in that strategy does it say if you whop a child on a butt-- on their butt it's going to make them behave better. Nobody thinks that. The Legislature, instead of passing this amendment and instead of holding up LB529, holding it hostage until an amendment like that is adopted, we could help by connecting our schools to training and support around mental and behavioral health, and that makes all the difference in these situations that we're trying to prevent with AM1422 or AM990 or AMXYZ or ABC or whatever form this comes in next time, this zombie amendment that keeps rising from the grave and rearing its head again. So we have to take four more hours or eight more hours. And that's you playing yourself. You know, you think that you're getting away with something, but you're just playing yourself because I have all the stamina that it's going to take to kill those types of amendments.

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

**HUNT:** I didn't get my one minute. Thank you.

**FOLEY:** I apologize for not giving the one-minute warning. Thank you, Senator Hunt. Senator John Cavanaugh.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. I guess I'm rising again in support of LB529 and AM1090. And I kind of wanted-- what Senator Matt Hansen said kind of spoke to me in that I've been thinking about this in terms of the-- what's an appropriate policy for responding to an emergent situation in schools. And Senator Matt Hansen and I probably missed whenever I think it was somebody else said that this is about corporal punishment. And I was thinking back to-- so I read this amendment over the weekend that everyone's talking about, which is AM1422. And I'm looking at here where I've got a bunch of stuff circled and underlined and things that I would change if I was trying to improve this. But one thing that jumped out at me was "An emergency safe intervention shall be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior." And I circled "proportionate" because that word, to me, is a problem in this context because the response to a child is not proportionate to their actions. So proportionate means in a specific ratio to the other thing, so saying that they-- that-- that the response matches the severity of the action, and I guess I was trying to wrap my mind around why we are thinking of it that way, because there are certainly instances where more force is going to be required to stop an emergent situation. But that's not what we're talking about. Talking about the-- the proportionate to the severity of the behavior sounds like if a kid talks back, one thing is appropriate to get them to be quiet, but if they use physical resistance, then another is. And it's problematic when we're talking about kids because the actions we take should not be in proportion to their conduct. It should be in reference to what is going to get the desired outcome. And we have a problem sort of, I guess, writ large about how we address these sorts of things in the criminal justice system and-- and in the juvenile justice system and in discipline. And that is that we often think about what is an appropriate punishment, but not about what is going to be corrective. And so that's why that word stuck out at me, was "proportionate" didn't seem about correction or mitigation or improvement; it seemed to be in reference to be-- ability to be punitive in reference to the seriousness of the offense. And so I think that there's a lot of other problems. I got circles and underlines and cross-outs on-- on every page, but that's the first one. And when we're talking about children, kids, juveniles, young people, we should be trying to figure out how to help them get through that transitional period of youth into adulthood and protect them, shepherd them, educate them, foster them, build them up. We should be doing these things and finding the ways that are constructive to do

that, not destructive and not punitive. And that's the problem with this approach, is that we're taking a punitive, restrictive approach to children. And every kid is different, every kid has different problems, every kid has different home life and different situations. And this does have a portion that also, I would say, I circled, "if known," "if known." So we have a-- a process--

**FOLEY:** One minute.

**J. CAVANAUGH:** --that contemplates we should take these things into consideration if we know about them. But it doesn't, I don't think, make any charge put into anybody's-- that they have to discover these things and-- and make them take them into consideration. So you certainly could ignore all of these important characteristics that we've talked about. So this is the-- all in the first paragraph, or I guess this is the second paragraph, so those are a few of the problems I have on the first part. I-- and I wasn't really going to delve into all the problems I have. But that's, I think, a bigger conversation and that's the conversation we should be having and-- and that's where I've talked about my issues and why I like LB529 is I think it helps us address some of those underlying problems, issues, things that we should be addressing in a constructive fashion. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator John Cavanaugh. Senator Matt Hansen, your third opportunity, and you still have your close remaining.

**M. HANSEN:** Thank you, Mr. President. Colleagues, I rise much as the same as I have all morning and afternoon. I really do appreciate Senator John Cavanaugh's preceding remarks. We've-- because of the whole situation, we've kind of had a variety of different things to talk about today. But I do think there are some very just kind of glaring flaws in AM1422, including that this notion of proportional response, including proportional response to students. Proportional response is something you see in self-defense law, and the notion that this is just in some sort of student restraint to keep control of the classroom, what-- what have you, and not having that defined and not having that down, you know, because we think about it, you know-- is there any-- what-- what is in a proportional response to an elementary school student who's-- who's doing whatever? Some of the things that have been described as we need this restraint straight for as simple as, you know, throwing books around, I-- I agree. I don't like that. That's something that shouldn't happen. But, you know, what's the proportional response for a student throwing a book? Do you throw a book back at them? I mean, I-- I would think not, but is it proportional? Because proportional responses are allowed. I want to

say and just kind of really reaffirm-- those of you here have heard me say this before, but-- but my position on this bill, my position on [INAUDIBLE] education policies doesn't come from an area of absence or lack of expertise or whatnot. Not going to hold myself up as a-- as a know-all, be-all. But I've worked in an elementary school before. I've worked with elementary school students. I've seen elementary school students misbehave and have to be, you know, disciplined. You have to go sit in the safety seat. You know, I have a sense of what's going on, and none of these stories that I hear line up with my experience or experience that I have. And I understand that I don't get to see every classroom, every day in elementary school, which is fine, and I understand why there are some teachers who want better guidance, some teachers who have probably been left out to dry by their administrators and their school boards. I get that. But I've also seen, you know, when a-- when there's an unruly elementary school student, like, yes, it's disruptive in the library, but like, you know, rather than hitting the kid, you-- I mean, temper tantrums have a finite length. You-- I mean, the-- some of the-- some of the experiences today from-- from people who are I think parents are kind of surprising to me and-- and I'll just say-- I'll leave it up-- they're surprising to me, this response to, oh, no, a student is throwing something, we must immediately escalate to proportional physical response, it's like, OK, that's jarring. You know, maybe a high school student, I get that maybe if there's some concern that when somebody is, you know, physically an adult, even if they aren't considered legally or mentally or emotionally adult, I get that maybe you need some specific considerations, but there's none of that in this bill. There's no nuance to this. This is-- this is you get to do anything up to, like, I believe, criminally negligent behavior and/or gross negligent. You do everything up to that, so you could just do regular negligent behavior. You can do other behavior as a-- as a-- as-- as I think an administrator, a school employee. It's a wide category. And we already have parents who've reached out who feel that their students are already over-disciplined in the schools we have now. And I want to be clear. I'm not talking about, I don't want to use a dismissive term, but parents, you know, who are quick to complain about any--

**FOLEY:** One minute.

**M. HANSEN:** --sort of thing-- thank you, Mr. President-- or let their children, you know, kind of go without discipline. But, I mean, we've heard stories-- I've worked in the schools, my wife worked in the schools-- where there's students that, you know, just for some reason get singled out occasionally for unclear behavior, students who, you

know, go from spending their entire kindergarten sitting in the office because they're, you know, can't-- unruly and have no place in the school to all of a sudden have a great first grade and all of a sudden-- and like the student's behavior didn't change, just the way adults reacted to the behavior did, and students who need parents to be strong advocates of this. And I couldn't imagine undercutting some of those parents by giving statutory backing to physical discipline when we already have frustrations and-- and problems arising from that. So with that, I know I'm out of time for a while. I'll maybe be back later, but I continue in my efforts. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hansen. Senator Machaela Cavanaugh, your third opportunity.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. So the conversation that we've started-- kind of starting to happen about proportional response, appropriate response, how we-- how we handle children that are having an emotional, verbal, physical outburst, it reminds me of a-- it's called a game; it's more of an exercise. It's called the brain-- the Brain Architecture Game, something that I did when I was at the Buffett Early Childhood Institute when we would do some different convenings around adverse childhood experiences. So this game is random and there's a card-- each-- each table would have cards, and you have cards for every stage of life and-- or age, every age of life up to, I think it was, age seven or eight. And there's the same number of red cards, green cards, and yellow cards. And so the green cards are good experiences, the red cards are negative experiences, and the yellow cards are experiences that, depending on how many reds or greens you have in your life, is whether or not they're negative or not. And so you get these pipe cleaners and if you get a green card, the pipe cleaner gets a straw to reinforce it; and if you get a red card, you get a weight. Now imagine a little weight hanging on a pipe cleaner. You're trying to build a structure up. So these supports, if you don't have these supports, if you don't have enough of the green cards-- and it literally is the luck of the draw on these green cards. It's your-- if your parents are getting divorced, you have a red card, or maybe you have a yellow card if your parents are getting divorced. But then if your parents are getting divorced and it's a yellow card, are you also homeless? Then that's obviously going to make it worse. It's about talking about all the things, the systemic things that play into a child's environment and learning and capacity in the classroom. And these adverse childhood experiences are real things, and this amendment is just a series of red cards. It takes everything else away. There are no supports in this amendment. There are no green cards in this amendment. It takes

every yellow card in a child's life and turns it into a red card because there aren't any supports for the children in this amendment. We need to make sure that we are taking care of the children, first and foremost, and that we are training the people that are interacting with the children in schools appropriately, that everything is trauma informed. When a child shows up to school with a gun, that is a problem. That is a severe and significant problem that we have failed that child, not that that child should be viewed as an adversary. We have failed that child. When a child destroys property in a school, we have failed that child. This is not a complex, lovey-dovey, I just want to coddle everyone.

**FOLEY:** One minute.

**M. CAVANAUGH:** You can ask my children, I-- I like structure. I like rules. I like them to follow my structure and my rules and my husband's structure and his rules. I like them to be respectful to their grandparents. I like them to share their toys with each other. I'm not a pushover with my kids. But I also realize, especially this past year, when my small children are acting out, that there's something that they want to communicate and they don't know how. They want my attention and they don't know how to get it without acting out, and that is on me to help give them the tools to figure out how to communicate with me without throwing a fit, without throwing something or hitting me or their brother or their sister. That's my job. That's not the child's job. That's just one more reason why I do not support AM1422.

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

**M. CAVANAUGH:** Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator John Cavanaugh.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Wow. I didn't know I'd be back this quick. So I guess I could just keep talking about what I was talking about, the-- my just specific problems. So paragraph three-- no, I'm sorry, section (3): An emergency safety intervention does not include any physical action that is intended to cause bod-- bodily injury, bod-- cause bodily pain or to punish a student. Senator McKinney, I think, already talked about that. I guess the question there is, what's the standard? What happens if it inadvertently causes or someone claims an inadvertent cause of bodily pain or some sort of action that would be viewed as punishment by the student, certainly, but is not intended as such? So I didn't really care for that language there. And then there's section (3), paragraph

(a) "To protect persons from harm or secure property if such action may protect a student." Which I guess my first inclination was when you say secure property, I guess you mean a weapon, but I don't know why we wouldn't come out and say that unless we are trying to get at some other property. So I think we could probably be more clear about what we're talking about there. If we're actually intending to use the emergency safety intervention physical action to secure a weapon, then why don't we come out and say that? And let's see, then we go down to (c) that you can use physical restraint, "Until an emergency safety situation has ceased and the student's safety and the safety of others can be ensured." I don't know at what point that would be if we're talking-- under the assumptions that we're operating here, I'm not sure when you can ensure that there's no longer ever going to be a problem. Let's see, and then there's with-- section (d) "With the least amount of force necessary to protect the student or others from imminent serious physical injury." Which I think Senator Pansing Brooks talked about the imminent serious physical injury part. But I was highlighting here "the least amount of force necessary." I just wonder who is making that determination. There's a training requirement that I think is important, so I highlighted that, so these are not all negatives. And then there's section (6)(a), which Senator McKinney, I think, has talked about a little bit, which there's no administrative sanctions and no one shall be subjected to sanction unless the harm was caused by gross negligence, which seems like a-- a problem. But then section (ii) of that paragraph says, "a conscious, flagrant indifference to the rights and safety of the individual who was harmed." I guess my question is, what kind of flagrant indifference are we saying is going to be OK? What is unconscious, flagrant indifference? So I actually underlined "conscious" three times there. So I-- I-- that seems like a poor choice of words there. And then there's "willful, criminal, or reckless misconduct." Well, I guess that kind of speaks for itself that that, of course, shouldn't be excluded, so that's a good one. Reckless misconduct, including misconduct-- "willful, criminal, or reckless misconduct, including misconduct." I'm not sure what that means. So is that all misconduct, including, but not limited to, willful, criminal and reckless? And then we cite to the-- the-- oh, I'm sorry-- including misconduct that constitutes a crime of violence defined under 18 U.S.C. 16. That was why I highlighted this section. Why are we referencing the federal code? Maybe somebody could explain that. Maybe there's a reason for that that I don't know about. Let's see. Where else were we going here? This is on-- still on page 2: (C) for which the administrative--

**FOLEY:** One minute.

**J. CAVANAUGH:** --teaching, or other school personnel have been found to have violated federal or state civil rights law. So, yeah, the-- so we're basically saying you're liable for all conduct except for conduct that you should-- clearly shouldn't take. But even flagrant indifference to the rights and safety of individuals is OK, as long as it wasn't conscious, flagrant-- consciously, flagrantly indifferent, which I-- is problematic. I'm sorry, I have less than a minute. I-- so there's-- I guess my point is we're two pages in. There's a lot of problems. And I have-- I really didn't even dig into this because I started reading it and I thought, well, maybe we could fix this, but I don't know, maybe we should start over, is my point. So I guess I would still urge your vote, yes vote on AM1090 and LB529 and ultimately move forward with this. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Vargas.

**VARGAS:** Thank you very much. Colleagues, I rise in support of LB529 and AM1090. Continuing with some of the policy conversations here, I've said this in past debates, but I'm reiterating this because I still think it matters, that we should make sure that emergency safety intervention, which is an improvement here, shouldn't be without training. The amendment doesn't necessarily say that there should be-- must be training before an inter-- intervention to ensure otherwise. There's no risk-- risking great harm. The other part of this that I think is important is for individual-- individualized education plans, or IEPs, we must make sure that the emergency safety intervention must comply with the child's IEP. Not explicitly stating that leaves it up to interpretation, and I think that is really troublesome or could be troublesome here in the future. Another piece, on page 2, line 10, we cannot permit no liability for harm when a person hasn't been trained, and this is what I'm worried about with the unintended consequences of not being trained. If we don't make sure that there is liability along with training, I think there are concerns in the long run, and-- and that's something we need to address. The other aspect here is-- and-- and Senator John Cavanaugh and others have mentioned this around the simple negligence. It's my opinion that gross negligence far-- is far too high of a bar when we're talking about the nature of this work, and I would suggest changing gross negligence to negligence and eliminating everything thereafter through lines 24. I also think the emergency intervention with timelines on page 2, line 30, should be limited to the shortest time possible. It should prohibit prone restraint, which we have talked about as a potential amendment; and if we're looking at hands on kids, should not be subject to interpretation in any way, shape or form. If a teacher believes that they need to put hands on a kid, which sometimes may happen to, quote

unquote, help a student respond or complete a task, they should be willing to document it and advise parents of what they did. A better way to express this would be to include some level of physical contact only unless expressly committed-- or permitted by a child's individualized education plan. If we can also work on the emergency safety solution to make sure that this is in line with the current IEP, as well as any situation that does not exhibit an imminent threat of serious physical injury, I think that's something that we can potentially change. The-- the timeline here on page 2, commencing on line 26, removal must not last more than a day, any removal, quote unquote, that is more than one day long must comply with the Student Discipline Act or will amount to a complete circumvention of student equity and due process and discipline. Without having these timelines in place, we open ourselves up to unintended consequences in regards to how a child actually is or is not being reached or treated. And ultimately, if there is going to be some hands on a parent-- hands on from a teacher or any other staffer, making sure the notification to the parents of what has and has not been done can and should be done within 24 hours. These timelines are meant to ensure that there's equity and communication with parents, because when there's not, we run into a situation where we leave it up to and we hope that it's the best of intention of a school district or a school to do that. And while I believe school districts have the best of intentions, it's also important for us to update these things. I've had legislation in the past year also that has tried to update some of the timelines to make the Student Discipline Act much more equitable on behalf of parents and families. And I think that that is what would help this total act and what is trying to be done here. And I think that's what we ultimately--

**FOLEY:** One minute.

**VARGAS:** --at least that's what I ultimately care about and want. I think too often when we're talking about these issues that have to do with restraint or what's best for safety in a classroom or with teachers or parents, we solely focus on the harm that could happen with the classroom environment and-- and don't always focus on due process, timelines, training, and clear language that ensures that there is not some unintended issue that comes about, because if it is, then what tends to happen, at least in my experience, is that the deference can then happen on--on-- to not equitable on behalf of the student or the parent or family, which are the ones that may not always have a voice in the process. So, colleagues, I support LB529 and LB1090 [SIC--AM1090] and not the underlying amendments, because

these things that I brought up are policy issues and questions that we could still work on. I-- I know that's not--

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

**VARGAS:** --necessary-- thank you very much.

**FOLEY:** Thank you, Senator Vargas. Senator Hunt, you're recognized, your third opportunity.

**HUNT:** Thank you, Mr. Lieutenant Governor. AM1422, which I think is intended to replace AM990, which was introduced by Murman, I've just been reading through it here on my computer. And between LB147, which was the original hit-the-kids bill, to AM990, which we had filed, to AM1422, which is filed now in LB529, which is the amendment we're talking about, the terms and the phrases have been kind of "word saladed" and taped together, and they're superficially different but the substance is the same. For example, in AM1422, the amendment uses terms like "school personnel" when originally the bill said "teachers," so they changed "teachers" to "school personnel." And the authors also changed reasonable physical intervention to emergency safety interventions, so we've changed a lot of the language, but the meaning of it hasn't changed. For example, on page 1, one thing that caught my eye in the amendment is it says, beginning with school year 2022-23, administrative teaching and other school personnel, which used to be teachers, may utilize an emergency safety intervention, which is the new thing that we're saying for physical restraint, as provided in subsection (3) of this section. It says that following the use of an emergency safety intervention, school personnel shall, as soon as practicable, contact the parent or guardian of the student and notify such parent or guardian of the use of an emergency safety intervention, so the use of restraint or the use of physical punishment or, you know, laying hands on the kid or whatever it is they do. The bill also says, on page 3, for school year 2022-23 and each school year thereafter, each school district shall create and adopt a classroom removal policy, including training requirements. The State Department of Education shall provide a guidance document that school districts may consider when adopting such policy. Each classroom removal policy shall-- it goes on to say in section-- subsection (c) require the return to the classroom as soon as possible when it is deemed safe and in the best interest of the student. So I wanted to point out some of the exceptions in the language relating to the removal of a student and point out that those exceptions are problematic because they run counter and are inconsistent with the policies and rules and statutes that we already have relating to expulsion and suspension. I know a little bit about these statutes

because I've introduced a bill several times to prevent the expulsion of students who are in preschool and kindergarten. And these are bills that, you know, the then-Chairman of the Education Committee, Senator Groene, was not in support of. When we're talking about interventions and helping kids who are facing trauma and problems at home and bringing those problems to school, one way that I've worked on this is just saying, hey, when kids are five, six years old, when they're in preschool and kindergarten, we can't kick them out of school unless they have a gun, which is a federal law, but in Nebraska we can't just kick them out of school and say, you've got to find somewhere else to go to school. We're talking about a five-year-old. So this is an area of statute that I do know a little bit about. And maybe the inconsistencies in AM1422 can be rectified if the bill is passed, but there's no reason to leave it so vague and uncertain. For instance, the amendment provides that a student shall be returned to the classroom as soon as possible or some similar qualification if the student is--

**HILGERS:** One minute.

**HUNT:** --removed for being disruptive. But most policies provide that a day's absence triggers an equivalent to an absence. And so would these be counted as absences? I don't know the right answer, but I wanted to mention that point and say that I'm reviewing the amendment because this is what the debate is really all about. And this is what caught my eye and I'm not really sure what it's supposed to mean. If you look at the amendment, it is a mess. It's a bunch of words taped together because it was a group project that a bunch of people slapped together by differing interests that were basically forced to come together and try to work something out, and that's never a good policy and that's never a good basis to build legislation on. That's what this amendment is built on. We are not going to get to it. Colleagues, we need to vote for LB529. The AM1090 from Senator Walz is already on the board. When we get to time for cloture, let's move along and continue the argument on Select File or on Final Reading, I guess. Thank you, Mr. Speaker.

**HILGERS:** That's time, Senator. Thank you, Senator Hunt. Senator McKinney, you're recognized.

**McKINNEY:** Thank you, Mr. Speaker. I rise again in support of LB529 and AM1090. I keep hearing that, you know, we care about the kids and we're trying to protect the kids. But a lot of kids are disproportionately sent out of class and suspended from school. So if we care about those kids, shouldn't we be up here advocating for legislation to figure out why the kids are being pushed out of class,

suspended, acting out? You know, we could address poverty, you know, provide resources to families and things like that if we strongly care about the kids. Also, I have a question. Senator Murman, could you yield to a question?

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

**MURMAN:** Yes, I will. Yes.

**McKINNEY:** Senator Murman, in-- on page 2, line 10, it says: No administrative, teaching, or other school personnel shall-- shall be subject to professional or administrative discipline for harm caused by an act or omission by such administrative, teaching, and other school personnel relating to the use of emergency safety intervention. I ask this-- I bring this up because I'm just curious. Are school resource officers considered other school personnel?

**MURMAN:** No. School resource officers aren't included in this amendment.

**McKINNEY:** Where's that defined though?

**MURMAN:** They are not listed anywhere in the amendment, so that means they are not included.

**McKINNEY:** But if they work in the schools, is-- aren't-- it-- is school personnel just personnel that is directly hired by the schools and the school districts? Or could school resource officers, because they are contracted by the school districts and technically employed to work inside the schools, considered school personnel? It's-- it's vague. I don't understand if they're included or not included.

**MURMAN:** A question?

**McKINNEY:** Yeah.

**MURMAN:** Yeah, we deliberately left out school resource officers because they go by a completely different set of rules as other school personnel that's included in this amendment.

**McKINNEY:** All right. Thank you. I just brought that up because I'm just-- if this was to pass, I would be highly concerned if school resource officers had qualified immunity and then they got this immunity as well. I would definitely like that to be cleared up. Hopefully this doesn't get passed, though, so we don't have to have that conversation. But if it does, I would definitely like that to be cleared up because school resource officers in some communities may be

looked at as a positive force in a school and, you know, they're very welcome. But in my community, in the relationship that the police have with my community, that is not true in a lot of cases. They're mainly seen as a threat or occupying force in a school when we already have school security officers, so I really don't understand the need for school resource officers when the districts hire security as well. But that's neither here or there. But this amendment brings so many questions that are unanswered and we're literally sitting here being told that if we don't put this amendment on here, LB529 is going to die. Well, it might have to die because--

**HILGERS:** One minute.

**McKINNEY:** --you're going to be hard pressed to convince me with these immunities to ever support the bill if amended with AM1422. I would ask you all to vote for LB529, AM1090. And if-- hopefully we don't get to AM1422, but if we ever do, vote no on that as well. Thank you.

**HILGERS:** Thank you, Senator McKinney and Senator Murman. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr.-- thank you, Mr. President. Just a couple of points. Senator John Cavanaugh, when it says secure property, what do you want us to do, list chair, pencil, computer, gun, knife? Property. And to Senator McKinney, that is the definition of reasonable. Let the court decide what is reasonable. You cannot write reasonable into statute because every instance is different. If your daughter was-- had somebody shoot-- had a gun pointed at her and the teachers tackled them and put them in a prone position, the court would say that was reasonable. If your daughter, which you brought up, had somebody just going to slap her, that is-- and they tackled them and put in prone position, the court would say that is not reasonable. You can't define it in statute. That's up to the court on every individual case. Until the emergency safety situation is ceased, that's reasonable. We tried to define it a little bit because we were told in the past we didn't define it. With the least amount of force necessary, that's putting a reasonable term for the judge to help him decide what is reasonable. But anyway, I know where this is going. This is a very well-written amendment. It takes language from the federals. It takes language from other states. It puts them-- why was this ever brought to my attention? Because teachers and parents came to me and said, we got chaos in our schools, we got kids destroying classrooms while my kid stands out in the hallway until they're done. We have violence in the classroom. Teachers are getting beat up on-- on-- on-- they're put on workman's comp, doesn't seem to bother anybody. We're just going to claim it's mental illness and we're going to come up with some magic

HHS programs, which we've been doing since the '60s, trying to help poor families. But that kid only has one chance. He's not learning at home. He needs to learn boundaries in our schools, but we don't care. We're going to-- we're going to wring our hands and have a wine and cheese party and talk about how we need to have this program and this program. We have those programs. Anyway, like I said, if this bill dies, it's fine because we're just going to put an extension on-- on the sunsets on LB528. Kids will still get beat up in school. Teachers will get beat up in school. Kids will-- hopefully parents get their kids out of public school and gets them to safety, which some of the folks here against this bill had the privilege of going to a private Catholic school, but they don't understand what public school is and what happens there. So anyway, let it die because we don't need the training. That's the biggest change in LB529, if we're not going to define what to train them for: physical intervention, classroom removal, and what-- how to intervene so you don't have to remove them from the classroom. We don't need it. Let's go back to the old and get more money. Senator Pansing Brooks, really worried about NOG, it gives them 4 more percent. The-- it gives community colleges more money. So let this die. We've tried-- tried to be reasonable. There's another path. Senator Walz, I've talked to her. Maybe she'll consider it, but I won't discuss it on the-- on the mike. But if you want to kill it, because you guys in the 40s know all the answers, fine. Haven't even raised your children yet. Wait till you get to be teenagers. Then you'll find out about boundaries and what you should have done. You've got all the answers? I understand that. I was there once too. Go ahead and kill this bill and kill the next one, if you want, and dream about some policy how you're going to fix the home. It'll never happen this generation.

**FOLEY:** One minute.

**GROENE:** As I said, this bill should die now and let's just extend the sunset dates in the next bill, LB528, and we can make sure that the kids that have survived and had good parents and who made it to the community college and to college because they had boundaries, have some financial aid when they go to college. The rest can go to the State Pen or wherever you want them to go, drop out from school, because you didn't want to teach them boundaries. That's fine. Let's keep the status quo. My kids, my grandkids will go to college because we teach them boundaries and we help them learn. So do what you want. Let it die. And I would please-- please, those of you who believe the-- that we should be collegial here and agree to agreements and vote no on cloture. That is my plan.

**FOLEY:** That's time.

**GROENE:** Thank you.

**FOLEY:** Thank you, Senator Groene. Senator John Cavanaugh, third opportunity.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. I'd ask for a call of the house.

**FOLEY:** There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. Record, please.

**CLERK:** 13 ayes, 3 nays to place the house under call, Mr. President.

**FOLEY:** House is under call. All senators please return to the Chamber and check in. The house is under call. Senator Cavanaugh, your time is running.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. I would yield the remainder of my time to Senator Walz.

**FOLEY:** Senator Walz, 4:45.

**WALZ:** Can we wait till everybody gets here?

**FOLEY:** The clock is running.

**WALZ:** Can we wait?

**FOLEY:** Well, we're not going to take a vote until everyone's present.

**WALZ:** All right.

**FOLEY:** Senators, we're under call. All senators please return to the Chamber and check in. You've got 4:20, Senator.

**WALZ:** What's he saying? All right, I'm going to go ahead and get started as people are coming in. I-- I just can't tell you how disappointed I am. And I understand that there are a lot of you here that are very conflicted right now. But I'm asking you as Education Chair to pass one of the most important pieces of legislation that we have this year, an Education Committee priority. Colleagues, lottery dollars are a gift. They're not General Funds. They're a gift given to thousands of students. It's the opportunity for kids to go to college. Regardless of what district you're in, it's a bill that supports every

one of the students in our districts. I was willing to compromise and I did. I was asked by several of you to compromise with Senator Murman, and I did, knowing how very, very important this bill is. We have so many people depending on this. They're depending on you to make a decision to pass that bill. It is important. At the beginning of the year, I decided to set goals, and I did that because I wanted to make sure that I stayed focused on kids and education and teachers. And when I get sidetracked, I go back and I focus on those goals, I focus on the priority. Colleagues, I ask you today to focus on the priority. Do not get sidetracked. It's really about getting that gift, a gift of lottery dollars, to kids who depend on scholarships and depend on programs that enhance our schools. We can do so many good things. Again, as Education Chair, I ask that you let go of any roadblocks, that you focus on the goal of the bill, and that is to provide opportunity to your kids. This has been such a disappointment on every side of the aisle. The goal of the bill is to get kids scholarships. I ask that you please vote yes on the bill, vote yes for cloture as it comes up, and let's get our students what they are asking for, what they deserve from you. Please vote yes. Thank you.

**FOLEY:** Thank you, Senator Walz. You're actually next in the queue. You-- you had been yielded time from Senator John Cavanaugh. You were using his time. Now you're on your own time.

**WALZ:** All right. I-- I have said what I needed to say. I just hope that everybody is going to, again, focus on what's important here. It's time to stop playing the games. We absolutely have to continue to focus on what's important. I have worked on this issue, I have sat in many, many meetings with teachers. And I will tell you that, respectfully, when Senator Groene says let this bill die-- let this bill die. Let the training just go away. Let the opportunities for kids just go away. That's disappointing. The number-one thing that teachers told me for the last four years was not that they wanted some mandate. They want training. This cannot be the issue that stops millions, millions of dollars from getting to kids, millions of dollars. I can't even imagine what the lottery organization is thinking right now, how disappointed they must be in this body. This is not something they had to offer to our students. This is something that they gave as a gift, not ever thinking that it would come to this and we would take the chance of blowing it. Again, I ask you to please allow this bill to pass. Please vote yes on cloture. Listen to the people in your districts who are depending on these dollars. Listen to the people in your districts who are depending on these dollars. This is not a game of chicken. And I'm not playing a game of chicken. Focus on the priority and vote yes. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Walz. Mr. Clerk, you have a motion at the desk?

**CLERK:** I do, Mr. President. Senator Walz would move to invoke cloture pursuant to Rule 7, Section 10.

**FOLEY:** It's the ruling of the Chair that there has been a full and fair debate afforded to LB529. Senator Walz, for what purpose do you rise?

**WALZ:** I rise to invoke cloture? I don't know. Sorry. Help me.

**FOLEY:** That's fine. We-- we have the--

**WALZ:** Oh, I'm sorry. I-- I-- I apologize.

**FOLEY:** All-- all unexcused-- actually, all-- all unexcused are now present so there's-- there's no need to call the house. You're-- you're good. You're fine.

**WALZ:** OK. Roll call, reverse order, please.

**FOLEY:** Roll call vote in reverse order. The immediate question, members, is whether or not to invoke cloture.

**CLERK:** Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne. Senator Walz voting yes. Senator Vargas voting yes. Senator Stinner voting yes. Senator Slama voting no. Senator Sanders voting no. Senator Pansing Brooks voting yes. Senator Pahls voting yes. Senator Murman voting no. Senator Moser voting no. Senator Morfeld voting yes. Senator McKinney voting yes. Senator McDonnell not voting. Senator McCollister voting yes. Senator Lowe voting no. Senator Linehan-- I'm sorry, Senator? Not voting. Senator Lindstrom voting yes. Senator Lathrop voting yes. Senator Kolterman voting yes. Senator Hunt voting yes. Senator Hughes not voting. Senator Hilkemann voting yes. Senator Hilgers voting yes. Senator Matt Hansen voting yes. Senator Ben Hansen voting yes. Senator Halloran not voting. Senator Groene voting no. Senator Gragert not voting. Senator Geist not voting. Senator Friesen not voting. Senator Flood voting yes. Senator Erdman voting no. Senator Dorn voting yes. Senator DeBoer voting yes. Senator Day voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese not voting. Senator Brewer voting no. Senator Brandt voting yes. Senator Bostelman voting no. Senator Bostar voting yes. Senator Blood voting yes. Senator Arch not voting. Senator

Albrecht voting no. Senator Aguilar voting yes. 28 ayes, 11 nays, Mr. President, on the motion to invoke cloture.

**FOLEY:** The motion is not successful. I raise the call. Proceeding now to LB528. Mr. Clerk.

**CLERK:** Mr. President, with respect to LB528, I do have E&R amendments. I do have a priority motion. Do you-- do you want your priority motion before-- I'm sorry? Thank you. Senator McKinney, I do have Enrollment and Review amendments.

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Thank you, Mr. President. I move that the E&R amendments to LB528 be adopted.

**FOLEY:** Senator Kolterman, you're in the queue, but I'm going to pass over and move-- move the E&R amendments first, then we can come back. Thank you. Those in favor of the E&R amendments say aye. Those opposed say nay. The E&R amendments have been adopted. Mr. Clerk.

**CLERK:** Mr. President, I do have amendments to the bill; however, a priority motion, Senator Matt Hansen would move to recommit.

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

**M. HANSEN:** Thank you, Mr. President. And good afternoon, colleagues. Let me be very clear on what I'm doing with this motion right here. We have been kind of chasing this amendment, chasing what to do for a while. And for the moment, I don't know who's all noticed, but there are at least four different amendments on this upcoming bill, there's-- including some of my own. There's amendments to amendments and there's a whole host of things going forward. And I'm 100 percent clear. I do not want the student discipline bill to be attached to this bill as well. And this is giving me the opportunity to at least have some discussions with some stakeholders as to what we are moving forward with this bill. If I could get some colleagues who stand with me to relay and talk maybe about how they feel about that last vote, that would be great. I do want to say very clearly that we have had-- this past bill, we showed that there were a number of senators who were willing to kill scholarships for the entire state because they weren't getting their way on a bill that was separate and different from what the original committee package put forward. When I got up earlier and talked about LB529 being held hostage, people being blackmailed into supporting or accepting a compromise amendment, that's exactly what I was talking about. I think we knew that bill was

in trouble and that bill was going to fail upon cloture and that others, led by Senator Groene and Senator Murman, were going to kill that bill if they didn't get their way. I know I talked a considerable amount on LB529. I know I put up some motions on LB529. I also voted for cloture. I wanted to represent what we had agreed upon on General File, to represent to the body of the committee work. I'm willing to move forward with LB528. The two-year sunset extension has been talked about and I think that's probably fine; it's probably the way we need to go. But I need assurances before we let amendments get adopted onto LB528, what exactly we are going to do and what amendments we are going to consider and what the plan forward is going to go. And now I jumped the queue and I understand I didn't really give anybody a heads-up because I also didn't expect cloture to fail 100 percent until it happened. So with that, out of courtesy to the Chair, I would yield the balance of my time to Senator Walz if she would like it.

**FOLEY:** Thank you, Senator Hansen. Senator Walz, you've been yielded 7:20-- she waives it off. Next in the queue, Senator Machaela Cavanaugh.

**M. CAVANAUGH:** I'm sorry, what, Lieutenant Governor?

**FOLEY:** You're in the queue.

**M. CAVANAUGH:** Oh, OK. Well, I got in the queue because I think some things are trying to be sorted out. I didn't know if Senator Walz maybe wanted to explain what LB528 is. I think that was Senator Hansen's intention with yielding time. Senator Walz, would you like to explain LB528? Would you yield to a question?

**WALZ:** Yes.

**FOLEY:** Senator Walz, would you yield, please?

**WALZ:** Yes.

**M. CAVANAUGH:** Please explain LB528.

**WALZ:** All right. Thank you. As a quick refresher, LB528 is the technical bill introduced to update statutes primarily due to outdated language, but it does include some changes deemed to be minor and noncontroversial. It incorporates changes brought to the committee's attention by-- from the department, the Nebraska Department of Education, the Coordinating Commission for Postsecondary Education, the Board of Educational Lands and Funds, and the State Treasurer's Office, as well as updates identified by the committee. One specific

provision I want to remind you of is the expression of the list of eligible programs for the Community College Gap Assistance Program to further help students entering trade careers across the state. LB528 also incor-- incorporates LB3, which is Senator Briese's bill requiring school district-- school district publication of the Nebraska Education Profile website, along with its required budget hearing notification; and LB558 Senator Varg-- Vargas' bill relating to teacher reciprocity and alternative paths to teacher certification. Thank you for your time and I ask that you please vote green and advance LB528. Thank you.

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

**GROENE:** Thank you, Mr. President. Sad day that some radical young senators killed a bill that was negotiated and a com-- compromise was agreed upon. But as I said, I wrote most of that bill. It carried over from last year. And the whole purpose was to get training for when teachers had to step in and physical intervene or when they had to try to de-escalate before they removed the student from the classroom. That was not necessary. But anyway, I'm not planning to bring any amendment. My word is good. It's always been good. Sadly, I can't rely on that in this body anymore. Senator Walz, I don't want to stir you up, but you led the filibuster last year of a committee-- Education Committee priority that you sat on. You led it. So if you want to talk about killing a-- your own friends killed it. They turned on you like a pack of jackals. So anyway, I didn't kill it. Senator Murman didn't kill it. Senator Erdman didn't. We worked with you and I thank you for that. And I thank Mr.-- Senator Morfeld and Senator Lathrop for working with us. But your friends killed it. We didn't. Anyway, I'll yield my time to Senator Murman to clear-- if he-- if he wanted to bring AM1422 or any effort to any other bill, that's up to him. I'm out of it. I will spend the rest of my time encouraging people to get their kids out of public schools where they can learn and because of the environment in there and quit supporting it because your [RECORDER MALFUNCTION] aren't safe. Thank you, Mr. President. Senator Murman, would you like the rest of my time?

**MURMAN:** Yes, I would.

**FOLEY:** Senator Murman, you've been yielded 3:00.

**MURMAN:** Thank you, Mr. President. Thank you, Senator Groene. The last bill, I would just like to speak on that. We didn't get to AM1422, and it wasn't because of the majority of this body that supported AM1422. It was all because of five senators that were willing to filibuster LB529 so that we wouldn't get to AM1422. So we're-- we're not

responsible for it. We didn't want LB529 to die. We supported LB529, most of us, in general. But we do think it is very important to school personnel, and especially to students, that everyone in the classroom is-- and-- and on school grounds, buses, are completely protected from abusive behavior, bad situations that-- that school personnel can-- can intervene when it's absolutely necessary. And by the way, the amendment was written so that only in emergency situations were school personnel allowed to intervene. During the discussion, a lot of it was about, well, teachers are going to put their hands on students, you know, for doing this, or for doing that, and-- and, you know, certain individuals, you know, because of their disability or so forth would be un-- unjustly and-- and unnecessarily controlled or-- and-- and that-- that didn't have anything to do with this bill. That was-- or this--

**FOLEY:** One minute.

**MURMAN:** --excuse me, this amendment. It was actually the opposite of what this amendment was trying to do. The amendment was to provide training funded through the lottery so that school personnel in emergency safety situations-- that was very clear in the bill. Only in emergency safety situations could they intervene when absolutely necessary. And the purpose was to provide a safe environment. And that's what everyone that attends public schools, students, parents, school personnel, teachers, everyone expects, is that we can have a safe environment so that students can learn in-- in our public schools. So it was completely derailed, but that was the intention of the amendment. And if we could have gotten to that amendment, the majority supported it and--

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

**MURMAN:** --LB529 would have got through. Thank you.

**FOLEY:** Thank you, Senator Murman. Speaker Hilgers, you're next in the queue.

**HILGERS:** Thank you, Mr. President. Would Senator Murman yield to a question?

**FOLEY:** Senator Murman, would you yield, please?

**MURMAN:** Yes.

**HILGERS:** Thank you, Senator Murman. What was the amendment number? Can you remind me of amendment number that you brought on LB529?

**MURMAN:** AM1422.

**HILGERS:** Just so we're clear, I heard Senator Groene say he's not going to bring AM1422 or anything like AM1422 on LB528. Did you hear him say that?

**MURMAN:** Yes.

**HILGERS:** And I just want to make sure because I think some people didn't hear you say it. You may have said it on your remarks, but I want to make sure the record is clear. You-- you also commit to not bringing that amendment or anything like that amendment on LB528. Is that right?

**MURMAN:** Yes, that's right. There was never any intention or any discussion from myself or Senator Groene or anyone supporting AM1422 that we would-- intended to bring that amendment to LB528, so that did not come from us, at all, or from me.

**HILGERS:** OK, thank you, Senator Murman. I appreciate that. Colleagues, I-- I would strongly urge you to vote for LB528. I hope-- and I'm going to talk to-- I've been speaking with Senator Matt Hansen on the-- off the mike. I'm going to go back to him after my remarks here. Colleagues, this is the last train out of town for this-- for these scholarship dollars. And just so you know, there are a lot of amendments on the board that are coming. And I'm just going to tell you what's coming and what's-- what's important. There are-- are E&R amendments and then there-- after that, there's a technical committee amendment that has to be-- that-- that they couldn't do through the E&R process. Those are going to come up and I-- I would encourage you all to vote green. After that, Senator Walz has an amendment that she is substituting, and that substitute-- the amendment that is going to be substituted for the current amendment is an extension of the sunset. The extension of the sunset, colleagues, is critical. With the extension of the sunset, those dollars, those scholarship dollars are going to go to the kids that are expecting them. And I expect, and I've spoken to a number of you, I fully expect that that amendment will have broad, if not unanimous, if-- if not nearly unanimous, support from this body. That's what I expect. If that happens, I expect that LB528 should just go. I think Senator Linehan might have a fix-it amendment coming, but that's it. So I'm going to talk to Senator Matt Hansen off the mike as soon as I'm done. I've heard both Senator Groene and Senator Murman, which is what I expected, to assure the body, which they told me separately that if LB529 failed they weren't going to bring their amendment back on this bill. They're good to their word. That's what I expect. I'm going to talk to Senator

Hansen, ask him to pull his motion to recommit so we can get those underlying amendments that can extend the sunset and get LB528 moving. That is what I expect. Senator Hansen is giving me a thumbs-up, so I'll yield my time to Senator Matt Hansen.

**FOLEY:** Senator Matt Hansen, 2:25.

**M. HANSEN:** Thank you, Mr. President, and good afternoon, colleagues. I appreciate Speaker Hilgers working the negotiations and discussions on what amendments we're going to consider today. I will be pulling my motion here in a moment. I do want to just reiterate my opposition to anything resembling AM1422 being revived, and I reserve the right, should others other than Senator Murman or Senator Groene bring it. But in the spirit of moving forward today, I'm happy to adopt the series of amendments that Speaker Hilgers just laid out. So with that, I will withdraw my motion 73.

**FOLEY:** Motion 73 to recommit has been pulled, takes us back to LB528.

**CLERK:** Mr. President, with respect to LB528, Senator Wayne had an amendment. I've been told that he wishes to withdraw.

**FOLEY:** Withdrawn.

**CLERK:** The next amendment, Senator Walz, I have AM1171 in front of me.

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

**WALZ:** Thank you, Mr. President. As a quick reminder, LB528 is the Education Committee's technical and Christmas tree bill. The AM1171 is pretty straightforward and was actually brought to us by Bill Drafting. It addresses a few issues they discovered that were not able to be included in the E&R amendment. One of the provisions in LB528 expanded the list of eligible programs eligible for Community Gap Assistance, that program, to further help students entering trade careers across the state. In LB529, we also included a few changes to the Gap Assistance, along with the reallocation of lottery funds to this important program. LB1171 [SIC--AM1171] correlates the changes between the two bills. Similarly, the-- it correlates the changes of the dish-- to the definition of categorical funds in TEEOSA that are made in LB528 and LB529. Finally, LB528 incorporates Senator Vargas' bill related to teacher reciprocity and alternative paths to teacher certification. And AM1171 removes an inadvertent reference to rules and regulations in this section that are not authorized to be adopted and promulgated. I urge-- I urge you to vote green to adopt AM1171.

**FOLEY:** Thank you, Senator Walz. Mr. Clerk.

**CLERK:** Excuse me, Mr. President. Senator Hansen, I have AM-- or FA52, but I understand you wish to withdraw that.

**FOLEY:** Withdrawn.

**CLERK:** That's all that I have with respect to AM1171, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Continuing discussion on the bill and the pending amendment, Senator Kolterman.

**KOLTERMAN:** Good afternoon, colleagues. Thank you, Mr. President. I was wondering if Senator Walz would yield to a question.

**FOLEY:** Senator Walz, would you yield, please?

**WALZ:** Yes.

**KOLTERMAN:** Senator Walz, under AM1171, does that extend the sunset at all?

**FOLEY:** Yes-- no, no, no. The next one does.

**KOLTERMAN:** That's-- that's on the next amendment to come?

**WALZ:** Yeah, AM1458.

**KOLTERMAN:** OK, I just wanted to clarify that. This-- this is important legislation, LB528, and there's going to be another amendment coming. I believe it's filed. But, colleagues, we need to-- we need to advance this legislation. This isn't just about our public education in the state of Nebraska. This also deals with our state-- it deals with all of our state colleges, our community colleges, our university systems, the private colleges in this state. They all rely heavily on Pell Grants and NOG grants. We need-- we need to move this legislation because this bill sunsets at the end of this year. And as Senator Hilgers-- or Speaker Hilgers indicated, there are-- there are 13,000 young adults that are relying on this money. And so with the next amendment, I would encourage you to support it, as well AM1171 and LB528. This is-- this is important legislation that has to be advanced and I would hope we can get a green vote and get this advanced today. Thank you.

**FOLEY:** Thank you, Senator Kolterman. Senator Matt Hansen. He waives the opportunity. Senator Groene.

**GROENE:** Thank you, Mr. President. I already had an amendment on the floor, you know, to extend it for two years. Maybe we can play this don't-trust-people game that Senator Matt Hansen inferred to. But I will pull that amendment when-- if Senator Walz's amendment is passed on the extension. But I had that safeguard in place already. I guess, if Senator Walz wants her name on it, that's fine. But if it was because she didn't trust me be-- that I might have substituted, I guess she takes advice from that group. But anyway, I got one of the nicest compliments I've ever gotten from one of my-- from one of the Omaha constituents. Here's what he said: No matter the outcome of the legislation and any amendments, I want you to know that I continue to consider you to be one of the handful of senators who are the conscience of the people of Nebraska. You speak for the mostly silent majority of the citizens, not those who have no really deep experience in life and who have-- neither have any understanding of history. Hang in there and don't be discouraged. Sir, I'm not discouraged. I fight the good fight. As the good Lord said, I run the race. And if chaos is what this country wants, chaos is what we're headed for. But if Senator Walz wants her name on the amendment to extend it, that's fine with me, because I'm sure it wasn't because she didn't trust me. So I'll wait to see what happens on this vote, and then I will pull it if I need to. Thank you.

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

**LINEHAN:** Thank you, Mr. President. I had talked to Senator Walz and the Speaker about filing an amendment. I'm not going to do that because I think we've had enough drama for the day. But I do want-- the language, I didn't like it there, is when they strike some of the learning community language. And I do think the Education Committee, and now maybe the new committee that's looking at school funding and what we do, we need to look at that language and what the learning community is doing with the money that they get, not only from us but from the levy, and if it's aligned at all with what the original intent was. I-- I fear it's veered very far off course. And I also know that Senator Wayne pulled his option enrollment amendment that was on this and I-- I think that's another thing that we just really have to look into this, folks, because we've got some things going on that just don't make any sense. And I have confidence, between the Education Chair and a new group of senators that'll be pulled together to look at this, that they will do that. So I'm not going to file this amendment. Thank you.

**FOLEY:** Thank you, Senator Linehan. There are no other members in the queue. Senator Walz, you're recognized to close on AM1171. She waives

the opportunity. Members, the question before the body is whether or not we should adopt AM1171. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 39 ayes, 0 nays on adoption of Senator Walz's amendment.

**FOLEY:** AM1171 has been adopted. Mr. Clerk.

**CLERK:** Senator Walz, I now have FA50. I have a note you would like to withdraw FA50 and offer as a substitute AM1458.

**WALZ:** Yes, please.

**FOLEY:** Without objection, so ordered.

**CLERK:** Senator Walz, AM1458.

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

**WALZ:** Thank you, Mr. President, members of the Legislature. As you know, this body was unfortunately not able to overcome the consensus of LB529 today; therefore, I've introduced this amendment to extend the sunset dates on all lottery provisions for three years. All funding amounts remain the same as in the current statute. The only other provisions in this amendment are to add the auditing provisions from LB529 to ensure good governance and better reporting on how the lottery dollars are being utilized by agencies and recipients; to provide requested clarity to the Nebraska Department of Education on how the 10 percent retainer and the distance education incentives shall be calculated, which is consistent with the legislative intent when implemented-- implemented by LB1067 in 2016; and to also remove the outdated language, including the provision that lottery funds can pay for standard college admission testing, because we have now moved that to a General Fund expenditure. This is our very last opportunity to uphold our constitutional responsibility to allocate lottery funds to education and ensure Nebraska students have scholarships and programs in place this fall. I urge you to vote green to adopt AM1458. Thank you.

**FOLEY:** Thank you, Senator Walz. Any discussion on AM1458? I see none. Senator Walz, you're recognized to close on your amendment. She waives closing. The question before the body is the adoption of AM1458. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 42 [SIC--43] ayes, 0 nays, Mr. President, on the adoption of AM1458.

**FOLEY:** AM1458 has been adopted. Mr. Clerk.

**CLERK:** Mr. President. Senator Groene, I now have AM1460. If I understood you correctly, Senator, you wish to withdraw that?

**GROENE:** Wait a second, I haven't had a chance-- got to ask Senator Walz a question, if I could. I'll open on the amendment and then would probably withdraw.

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

**GROENE:** I have a question for Senator Walz.

**GROENE:** Senator Walz, will you yield, please?

**WALZ:** Yes.

**GROENE:** In that last amendment, was that only extension of the sunset dates or was there other things in it?

**WALZ:** OK, yeah, it did add the audit provisions into that.

**GROENE:** The audit provisions.

**WALZ:** Right.

**GROENE:** So we weren't told that, but there was something else in it?

**LINEHAN:** I did say that.

**GROENE:** Oh, you did?

**WALZ:** Yeah.

**GROENE:** But none of the other LB529 is in it?

**WALZ:** No.

**GROENE:** All right, thank you. I want to tell you a story about this bill also. The public needs to hear it. You heard stuff about unfriendly amendments. Last year, most of this was a committee priority. I made an agreement with Senator Howard at that time that she was going to put something of Congressman Bacon's about Holocaust into the bill with the provision that she would not accept any amendments and neither would I. It was-- at that time, was a friendly

amendment. Senator Chambers rose and decided to add slavery, which I was fine with, but he also put in there massacres in America, not Amer-- massacres in the world, massacres in America. I'm tired of dealing with the left and pointing fingers at us who keep our word and people who lie. I had no choice last year but to pull that committee bill off the agenda because I could not be-- have my name on a bill that said children were going to be taught about massacres in America. So don't ever tell me about friendly amendments, about keeping your word. I keep mine. Senator Murman keeps his. This bill is very similar to that bill last year, but 25 or 26, including some conservatives, voted for Senator Chambers' amendment about massacres in America when it was explained to them that we had an agreement in-- ahead of that time with Senator Howard. But that's how this place works. I'm tired of it. I keep my integrity, I keep my principles, and I keep my word. You ought to try it, for a few of you who I'm talking to. But that's the history of this bill also. So anyway, I will pull-- if the sunset dates have been moved two years, I will withdraw my amendment. Thank you-- AM1460. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Groene. AM1460 has been withdrawn. Mr. Clerk.

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

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB528 to E&R for engrossing.

**FOLEY:** Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB528 advances. Per the agenda, proceeding to Select File 2021 priority bills. LB649, Mr. Clerk.

**CLERK:** Mr. President, LB649. Senator McKinney, I have Enrollment and Review amendments, Senator.

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move that the E&R amendments to LB649 be adopted.

**FOLEY:** Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments have been adopted. Mr. Clerk.

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

**FOLEY:** Senator McKinney.

**McKINNEY:** Mr. President, I move that LB649 be advanced to E&R for engrossing.

**FOLEY:** Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB649 advances. LB649A, Mr. Clerk.

**CLERK:** LB649A, Senator. I have no amendments to the bill.

**FOLEY:** Senator McKinney.

**McKINNEY:** Mr. President, I move that LB649A be advanced to E&R for engrossing.

**FOLEY:** Motion is to advance the bill to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB649A is advanced. Proceeding to LB376. Mr. Clerk.

**CLERK:** LB376, Senator. I have E&R amendments, first of all.

**FOLEY:** Senator McKinney.

**McKINNEY:** Mr. President, I move that the E&R amendments to LB376 be adopted.

**FOLEY:** The motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments have been adopted. Mr. Clerk.

**CLERK:** Senator Machaela Cavanaugh would move to amend, AM1453.

**FOLEY:** Senator Machaela Cavanaugh, you're recognized to open on your amendment. Is-- is Senator Machaela Cavanaugh on the floor?

**M. CAVANAUGH:** Sorry, we've progressed faster than I expected. This is a technical amendment to the family support waiver that Drafters asked that I put in to clarify some language. Please vote green.

**FOLEY:** Discussion on AM1453? Senator Slama.

**SLAMA:** Thank you, Mr. President. I rise in opposition to both AM1453 and LB376. And I-- I think we might have a little bit of a longer discussion on this bill, because I do have some concerns and I know some other senators have some concerns as well. So LB376, I-- I-- I will admit, on General File, I did not look into it as closely as I

should have. There were several other things going on, on the floor that day. But the more I read LB376, the more concerned I got with the mechanics and how it would be implemented in this state and some of the consequences we could find as a result of LB376. And I-- I'll just outline some of these points now. I think in future turns on the mike, I'll get a little bit more in depth on the specifics of each of these concerns. So first off, on-- in LB376, we're diminishing the waitlist for DD-- developmental disabilities needs to be inclusive of everybody on the waitlist, so essentially we're creating, in addition, a second waitlist that allows others to jump in-- jump in line on the current waitlist because of more significant needs simply due to their age. The bill allows millionaires to receive Medicaid services by disregarding parental income. So you could have these services, even if you're Warren Buffett's child, say, for example, or any other-- pick your millionaire or billionaire. So this also puts taxpayers on the hook for subsidizing the care of individuals whose families can already afford it. It-- it defeats the purpose of those funds. Any funds made available should really go towards reducing the waitlist for everyone. And we've seen in this year's budget and-- some extra money put towards diminishing that waitlist for everyone, which I've been excited to see. We might go a little bit more in depth on those budget allocations later in the day, but I don't support LB376 in picking and choosing the winners and losers. It should be funding across the board, not establishing a new waitlist, essentially a fast-pass lane for those wishing to get those benefits based on their age. So this waiver suggests that once a child reaches 19 years old, they would no longer be eligible for the family support waivers. So once they reach adulthood, the individual would likely need to go back onto the larger development-- developmental disabilities waitlist, so we'll see a doubling back of folks that are on the shorter waitlist and then they essentially age out of the shorter waitlist, back to the longer waitlist, even though their needs have arguably not changed. This would create a bit of a services cliff that would be created both by the age limitations and the three-year deadline. In either situation, a person would experience an abrupt end of services, so they'd either age out of the system or the waiver three-year period would end. Again, this waiver creates two waitlists and after three years, how are we going to merge these waitlists back together? How are we going to decide who goes in what order once we've separated the lines and moved one line up according to age? Once we get to the end of three years and these two lines merge back together, who receives priority? Who-- who gets picked as priority over others? We currently have about 1,100 kids on the waitlist currently. So how do we decide which one of the 850 kids this is limited to gets care first and who doesn't? We've got about 300 kids that won't be covered by this.

**FOLEY:** One minute.

**SLAMA:** Thank you, Mr. President. So LB376 is only asking for a three-year waiver, which, I mean, that may help in the short term, but it doesn't address the problem over the long term and arguably creates more issues overall for the system and the larger developmental disabilities waitlist as a whole. I-- I-- I think we're going to have a little bit of a longer discussion here today. There may be a couple more amendments that may be dropped, but I do think this is a great time to have a larger discussion about the waitlist and its impact on Nebraskans. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. Speaker Hilgers.

**HILGERS:** Thank you, Mr. President. Good evening, colleagues. Just a quick scheduling update, my intent is to get through the rest of the Select File agenda, through LB285 this evening, whatever time that-- that happens to take. As I mentioned to you last week, this is the last day for Select File to ensure that those bills can get to Final Reading and get to the Governor's desk in time for us to be able to have a veto override on the back end. So my intent is to get through all-- all of LB285-- through LB285 this evening. Right now, I'll probably make the call around 6:00, 6:30, depending on progress. Either we'll be done by then, but if not, I'll probably stand at ease for 30 minutes and have our dinner break and then continue until whatever time we get done. So please ask-- let me know if you have any questions, but otherwise we're going to go till we get done with the agenda. Thank you, Mr. President.

**FOLEY:** Thank you, Mr. Speaker. Senator Linehan.

**LINEHAN:** Thank you, Mr. President. I raise in-- I rise-- or raise-- rise in opposition to LB376. And my main concern here is the fiscal note. I don't-- I thought we were at a situation last week when we pared back tax cuts because we didn't have money and I was told that, you know, we need to be fiscally responsible, so I'm surprised that the last minute that we have a bill that the first year is $3.8 million, the second year is $7.7 million, so we're very close to $11 million in this biennium. And I-- I'm not arguing with the merits. I have great respect for Chairman Arch and for Senator-- Senator Cavanaugh, and I agree this needs to be looked at. But we have already-- in the appropriate-- appropriations bill, there was millions already put forth and I will-- I've asked my office to bring me up a list, the page 37 appropriations of how much we've already put forth on these programs. So I'm-- I don't even understand why we have a bill, after all the discussions in the last two weeks, that would

increase our expenditures by $11 million. And I do-- some of the-- it-- it like opens the door to what? And some of what Senator Slama said, it's the three-year deal, but then what? There is no cap on what a family's income could be. It seems like you're opening a very wide door here, and I'm skeptical that $11 million is all we're talking about. So if we didn't have money last week, I don't understand why we have money this week. So maybe somebody could explain that to me. Thank you, Mr. President.

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

**LOWE:** Thank you, Lieutenant Governor. I stand up here opposed to LB376 for the reasons that have been stated by the last two speakers. The first four years I was here we had no money, and this year we have money. But we're out of that money. We've already allotted all that money. So now we have this bill. We have $3 million-plus going out this year and $7-plus million going out next year. We're just coming up with money. That money has got to come from somewhere. It's going to come from one of our other bills that we've put through because we only have so much money. Which one of us is going to allow the money to come out of our bills that we've had pass through? And this is just the beginning. Once we create something like this, you can't take it away. We'll be forever giving in to it. Now I feel sorry for these families. I feel very sorry for these families. But we're creating a new entity and it's going to hurt. It's going to hurt in the future. It'll-- it may hurt your kids and my kids, may hurt your grandkids, but it'll hurt because we've started something and once we start something, we never get rid of it. It builds momentum and we just have to keep plugging along, pulling money out from somewhere else, pulling money from education, pulling money from-- from other children. So I'm not against it for the principle of giving to these people. It's just-- it's a new program. We can't afford it. Even when we have money, it-- I struggle with it unless we want to give it from our other bills that we put through, and then you go explain to your constituents why you had it coming to your community but now it's not coming. Thank you, Lieutenant Governor.

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

**SLAMA:** Thank you, Mr. President, and good afternoon again, colleagues. I-- I do think we will have a pretty extensive debate on this bill. Whether it goes four hours or not remains to be seen, but I do think it's worthwhile. Senator Linehan pointed out something that's incredibly important: $11 million. That's what's coming out of the General Fund with LB376, and I think it's important that we value that amount of money. I think it's going to a good cause. I don't agree

with the method in which it's being taken there, the-- with-- the means in which it's going to be distributed without need-based testing. And I-- I think as we get into this discussion, it would be helpful to frame it with the Omaha World-Herald editorial entitled "Nebraska state senators are eager to cut taxes and spend money; don't overdo it," from April 21, 2021. And whether or not they agree with LB376 is up to them, but I do think it is a helpful guidance and a means of grounding today's debate in responsible spending. And this begins the editorial: Nebraska state senators are giddy. For the first time in many years, revenue projections are providing the Legislature with considerable room, about $210 million for tax cuts and spending projects. Debate on the proposals begins this week. Lawmakers are holding the budgetary reins and seem eager to loosen them. Coming days may bring repeated scenes of tax cut and spending horses galloping wildly free, set loose by a series of exuberant yes votes at the State Capitol. A note of caution is needed. Senators, hold your horses, please. Remember that number we cited, $210 million? That's the maximum fiscal room lawmakers have for tax reduction and spending items this session. Actually, the Legislature has no obligation to spend all of it, but don't expect lawmakers to show such restraint. At least senators are pledging to be careful not to exceed that important $210 million threshold, right? Well, the signs so far aren't encouraging. If you look at the projected tax cut proposals that have come out of the Revenue Committee, they add up to far more than $210 million and the proposed spending from individual bills adds to the total still further. Consider these rough projections for the revenue impact for the upcoming two-year budget from just some of the tax cut proposals: $95 million, $47 million, $46 million, $39 million, $12 million, $10 million. Our point isn't that the Legislature should reject all tax cuts and spending proposals, but the need, as always, is for a responsible sense of balance. Senators have a duty to proceed soberly in deciding which measures to approve and which to reject. After years of tight budgets, though, lawmakers are eager to spend and they've placed far more revenue-affecting proposals for consideration than the upcoming two-year budget can sustain. Here are two examples showing the need for lawmakers to take a deep breath and consider the ramifications of what they're being presented. Legislative Bill 64, also known on this floor as LB64, as amended in committee, would phase in a complete tax exemption of Social Security income.

**FOLEY:** One minute.

**SLAMA:** Thank you, Mr. President. And I think I'll revisit this on my next turn on the mike. And I will note, as well, the fiscal note for this bill, because that deserves some further explanation. But as

we're-- as we're debating this bill, I saw it come up quickly on the agenda. There was almost no one in the queue. And you look at the fiscal note of $11 million, and I think that warrants a far closer look by the Legislature than what it's currently being given now. So I would encourage everyone, crack open LB376, read through it, look at the means in which we are spending $11 million out of the General Fund with this bill, and decide for yourselves if that's a reasonable way to spend our money. I want to make sure we're giving this bill the time it needs and deserves to be considered. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. Senator Linehan.

**LINEHAN:** Thank you, Mr. President. And with some help from another senator, on the fiscal note is-- if you note, if you scroll down and actually look at the fiscal note Health and Human Services provided, it is more like $13 million. So I've handed out the significant General Fund increases and reductions that were in the appropriations bill. And when it comes to reducing taxes or spending, I think we've been already quite generous when it comes to increasing spending. We increased provider rates over the biennium by $83 million; salaries and health insurance of the ag-- agencies by $51 million; universities' and colleges' salaries and health increase, $42 million; Medicaid, other than FMAP, provider rates expansion, $35.7 million; shift from Health Care Cash to General Fund, $20.2 million; Business Innovation Act, which I still can't quite get my head around-- we're taxing people so we can give money away, I-- I don't get this-- but $17 million; career scholarships-- I supported that-- $15 million; development disability aid, other than F-- FMAP, $12 million-- $12.2 million; homestead exemption, because we can't control our cost, goes up $11.7 million over the next biennium; operation inflation, DAS rates, $9.8 million; Veterans' Affairs, $9.3 million; TEEOSA, aid to schools, actually, because of the way the formula works, we save money in the first year and for some reason we think-- I don't know why we think that valuations are going down and will cost us more next year. I question that number since everything I've read and everything I'm seeing, both in ag and residential is value-- valuations are skyrocketing, so that number will probably drop, but then the homestead exemption will probably have to be increased-- aid to the arts program, $7.7 million; retirement for K-12 schools, judges, and Parole, $6.2 million increase; special ed, $6.9 million; public health, community health aid, $5.7 million; early endowment, $5 million increase over the biennium; behavioral health, $3.7 almost increase over the biennium; AC [SIC] testing-- that belongs in General revenue and not-- we were taking out of the lottery funds-- medical student assistance. And I'm-- I'm not saying that all these aren't

worthy, but if you look at the total down there, $397 million in additional spending, just imply somehow that we have not spent any money this year and we need to really, really, really be careful about tax cuts, yes, I'm a little frustrated. I was frustrated this morning at 5:00 a.m. when I read the Omaha World-Herald editorial. We were told last week that we did not have money to do the whole Social Security tax bill, a tax bill that is supported by the teachers union, all kinds of labor unions, that is supported by the vast majority of retirees in the state of Nebraska, and we didn't have the money for it. But now all of a sudden, today, we got $14 million--

**FOLEY:** One minute.

**LINEHAN:** --to spend on something else. Is that one minute? I'm sorry.

**FOLEY:** Yes, one minute.

**LINEHAN:** So I just-- I'm waiting for somebody to explain to me why all of a sudden we have $14 million dollars when last week we were done. And again, as Senator Lowe has said, it's opening a door to a whole new program. We have no-- and I think, if I remember right from last week's debate, it is-- I can't think of the word-- it's an experimental program.

**CLEMENTS:** Pilot, pilot.

**LINEHAN:** Pilot, pilot. So we have no idea where it's going. Is it going to be $14 million or $20 million or $30 million? We don't know. And I-- I can't imagine we got this $397-- almost $400 million we spent, that if it's that important, it's not already in here or somebody didn't think about it before last week. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Linehan. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. Good afternoon. Senator Linehan, thank you for pointing that out, that-- that we did spend more money, $397 million. I appreciate your thorough explanation of what we were talking about. So the updated fiscal note, if I see that correctly, it's like $4.4 million this year and then $8.6 million the next year, so it's about $14 million, $15-- $13 million altogether. And one of the issues that we need to be under-- under-- that we need to understand is, if we create another program and if we throw this much money at this issue, there's no guarantee that we'll have the people to service those needs that we find-- fund the money for, and that's an issue. And so we have to think about it. If you-- if you

delegate the money, you-- you earmark the money to go to that and then you don't have anybody to provide the service, they're still in the same position they are today. And so-- and it's a concern and-- and we have talked about that. We've talked about it several times in Appropriations. Just putting more money at an issue doesn't necessarily solve the issue if you don't have people to take care of the needs that you're trying to solve. And so we need to be aware of that. LB3-- LB376 is starting a new program and it's expanding the waitlist or making a new waitlist and it's-- it's an issue that we have to deal with. And I'm not saying that these people don't need the services, but we don't have the people available to provide the service that they actually need. And so we can't stand up on the floor and say we haven't spent money, because when you think about it, provider rates went up $83 million in the-- in the budget. That's a pretty significant increase. And then all those other things that we've done is a significant increase as well. And so when we're shifting this to the General Fund, it's something we need to be aware of. I've said it several times on the floor. When you increase the base, and this is what we're doing, when you increase the base going forward and we have a downturn in the economy or if the federal dollars stop coming in, then all of a sudden we have a higher base that we have to deal with. And the next legislative body, when they do the next biennial budget, may have to make cuts because we don't have the revenue. So it's a dangerous thing when you increase the base and it forces you to make a decision down the road that you don't want to have to make. And so one-time spending is not such a big issue if you have the funds. But when you get past that and you're increasing the base, it can be difficult. That's exactly what happened to us in '17, and we came back and made adjustments in '18. And so we need to be cognizant of what we're doing here, and I will not be supporting LB376. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator Slama, you're recognized, your third opportunity.

**SLAMA:** Thank you, Mr. President, and good evening again, colleagues. I'm glad to see more senators getting in the queue and getting involved in this discussion, because I do think it is a very valuable one to have, a $13 million valuable discussion to have. But LB376 and the cost associated with it isn't just in dollars and cents, and neither are the consequences of this bill. As we've already reviewed, besides the spending of an additional $13-or-so million, that's just an estimate; that could escalate far beyond that $13 million, $15 million, $20 million. It remains to be seen. But we're also creating a second waitlist that will eventually have to be merged back in three

years with the main waitlist. And-- and I think those concerns are valid, whether or not you support this bill or not. But I would like to return back to the Omaha World-Herald editorial. I'll wrap that up and then dig into the fiscal note a little bit more. Senator Linehan referenced it briefly, but I do think it deserves a little bit more time on the mike. But returning to the World-Herald editorial from April 21: LB64, as amended in committee, would phase in a complete tax exemption of Social Security income over nine years. By 2030, all Social Security income would be exempt. Reducing the financial burdens on senior-age Nebraskans is a worthy goal. At the same time, as everyone knows, the percentage of Nebraskans of retirement age is set to increase over the next decades, with the increase especially steep in rural communities. The state's population, age 65 and older, has increased from 246,000 in 2010 to more than 324,000 now and is heading towards 418,000 by 2030. Senators must seriously ponder: How far should the state responsibly go in shifting the tax burden towards younger Nebraskans? When LB64 is fully implemented, it would mean a projected annual revenue loss of $131 million, a significant sum. One analysis indicated that two-thirds of the tax benefit would go to retirees with an annual income exceeding $114,000. Most Nebraska young people who would still be fully subject to the state income tax earn far less than $114,000 per year. So this is just an aside, and then I'll hop back into the editorial because it is a valuable point to make that in LB374 we do have a millionaire's clause where those families who have disabled children, who happen to be millionaires or even billionaires, depending on who you are in the state, would be just as eligible for this funding, for money from this program, from a program that's already under a very high financial burden, so that is concerning to me. Returning to the editorial: Our second example involves one of the strangest developments this session at the State Capitol, LR11CA. Senator Erdman could probably tell us a lot about that one. It's hard to exaggerate how sweeping that legislation is. It would place a resolution on the statewide 2022 ballot and proposes that Nebraska eliminate all forms of taxation except a consumption tax. A 10.64 percent consumption tax, a de facto sales tax, would apply to all new goods and services sold in Nebraska. Notice the word "new." Sales of new cars--

**FOLEY:** One minute.

**SLAMA:** --thank you, Mr. President-- sales of new cars would be subject to the tax. Sales of used cars would not. Is that sound tax policy? No. And that's the World-Herald's argument, not mine. All sorts of economic activity not currently subject to taxation would be taxed. Examples include home healthcare and mortgages. Such a tax policy

transformation would create an extraordinary array of economic uncertainties and distortions, not least since Nebraska would be alone among the states in taking such a radical step. And I'll-- I'll return to this at some other point on the mike and I'll wrap up my third turn speaking on this particular amendment. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. Senator Geist.

**GEIST:** Thank you, Mr.-- thank you, Mr. President. As I was reading through this bill, I had flagged some-- some things and some concerns, and my staff and I were bantering this back and forth, and especially about the-- the waitlist and how there are priorities set on the waitlist and how this actually moves some kids ahead of others who may have been on the waitlist for a long time, or even adults who have been on the waitlist for a long time. And in my opinion, it just needs to be inclusive of all, and meaning that, instead of due to age, maybe prioritizing those who have been on the waitlist the longest period of time. Again, some of the-- the points that Senator Slama echoed were some things that we discussed. When it looks at the income of the child, I believe I even talked to a couple of people on the committee about that issue and it was explained to me, but it does allow people who could possibly afford the care to be exempt from having to pay for care. And again, back to how this waitlist works, in-- in my way of thinking, any funds that-- that do go to reducing the waitlist should go across the board for all-- for all members of the waitlist. And it's such a sad thing that we have so many people on this waitlist and something I think that we truly need to address and make a higher priority, probably in an earlier part of a session. But again, so we have kids moving ahead of people who have been on the list for a long time, the monies pouring-- that we would pour into this waitlist aren't applied equally across the board, and then we also have this three-year cutoff. And so you receive services for a portion of three years or maybe the entirety of those three years, and then what? We leave families hanging with no services. So a number of issues, I think, that are wrapped up in this one bill and-- and I'm just not supportive of it. So I thank you, Mr. President.

**FOLEY:** Thank you, Senator Geist. Senator Clements.

**CLEMENTS:** Thank you, Mr. President. I stand in opposition to LB376 for many of the reasons that's been discussed. When the Appropriations Committee received the Governor's budget, it did have an increase in funding for this program and then in Appropriations Committee added some more to that. There is a handout coming around called General Fund State Aid by Aid Program. It's page 61 of the budget bill and the-- under Agency 25, which is Health and Human Services,

developmental disabilities aid in the coming next fiscal year is $157.6 million; then in the second year, $167.7 million. The increase from fiscal '22 to '23 is $10 million, or 6.4 percent. Overall, we kept the budget increases to around 3 percent. The 6 per-- 6 percent increase in the second year for this program is already a healthy increase, so that's why I'm not going to support this bill. And I would like to yield the rest of my time to Senator Slama.

**FOLEY:** Thank you, Senator Clements. Senator Slama, 3:25.

**SLAMA:** Thank you, Mr. President. And thank you, Senator Clements. I would like to take a moment to thank Senator Clements and all of the other hardworking members of the Appropriations Committee. Senator Clements raised a great point. And on page 61 of the budget, we already have a very, very large expenditure for the developmental disabilities waitlist. So I think that, along with the increased funds that we're seeing in this biennium for this program, are a solid step in the right direction. I don't agree with the means by which additional funding is being put in place by LB376, and that is why I rise wanting to have a solid discussion about this bill. And Senator Erdman did come up to me, and I don't know if I'll be able to finish this editorial on the mike, but the-- the opinions noted about the consumption tax are the World-Herald's and not mine, so I just wanted to clarify that, just in case anyone was-- at home was concerned, because we do get into that section of the editorial here. So, again, this is the World-Herald's opinion, not necessarily my own. All sorts of economic activity not currently subject to taxation would be taxed. Examples include healthcare and mortgages. Such a tax policy transformation would create an extraordinary array of economic uncertainties and distortions, not least since Nebraska would be alone among the states in taking such a radical step. This tax proposal never should have gotten out of committee. As an aside, this is the World-Herald's thoughts, not mine. It needs far more scrutiny and vetting, to put it mildly. If supportive senators wanted to discuss its effects further, they could have held a lengthy Zoom session. Instead, they're going to waste precious time for the entire Legislature on a proposal that's nowhere near ready for final consideration. This situation shows how the legislative process is harmed when lawmakers casually indulge in so much vote trading that faulty legislation is irresponsibly voted out of committee. Serving in the Legislature is a privilege and it must be taken seriously. Just an aside, again, that's a statement that I-- I disagree with. I do believe that the consumption tax was voted out on its merits and not because of any kind of vote trading within the Revenue Committee.

**FOLEY:** One minute.

**SLAMA:** Thank you, Mr. President. Wrapping up this editorial: Decades from now, historians will look back at this Legislature and make a judgment on how lawmakers approached taxing and spending decisions before them. Did Senators proceed cautiously and prudently, protecting long-term budgetary stability, or did they make choices that ultimately added to the state's budget woes long after the senators had left office? I would argue that LB376, in the way that it's currently structured, is-- is the latter. It contributes to a potential state budget woes long after all of us are gone and creates larger problems for folks that are already on this waitlist. So thank you, Senator Clements, and thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. Senator Arch.

**ARCH:** Thank you, Mr. President. I want to walk you through the rationale and what-- what the reasoning was in our committee when we heard this bill and why-- why this is out on the floor today and why this is being debated. We have heard over the years about this developmental disability waitlist and we know that there's about 3,000 individuals approximately on this waitlist and they are waiting for the comprehensive developmental disability waiver, the wai-- that is what the-- that is what the benefits are they are waiting for and we do not have that funded adequately to supply all of those services to all the individuals on the waitlist. The last estimate that I received is it was approximately $4.5-6 million a year that we would need to increase our funding here from General Funds to-- to keep the waitlist at approximately 3,000 individuals. That isn't making up any-- anything on that waitlist; that isn't decreasing that waitlist at all, $4.5-6 million a year. So when LB376 came to us and-- and brought to us by the-- by the developmental disability community, Arc of Nebraska, and we had the-- we had the discussions with them, this was an attempt to strategically address this waitlist, not simply to put more dollars to it. And it was an attempt to identify early intervention-- approximately 850 children would be affected by this-- develop a new waiver, and-- and fund that waiver for a three-year period of time in an attempt to understand whether or not, by early intervention, by providing home services, not-- not allowing this to continue to the point of-- of requiring institutional services but providing home support services, family support services, whether we would be able to impact that developmental disability waiver. So we took a very hard look at it and we had very long discussions, and this has sat in committee for some time. And-- and-- and we were looking for ARPA funds. We were looking for the-- we were looking for the

federal funds from the new-- the new-- the new amount of cash that the state will be receiving, but the rules have not come out yet on that. We felt as though that by applying this type of strategic initiative to the waitlist, we would be able to address that-- and-- and pull about approximately 850 children that are already on that-- already on that waitlist. Out of that 3,000, approximately 850 children would receive benefits in their home as family-- as family support benefits. And I want to-- I want to address the priorities because I know this has been an issue. And you'll see that in Section 4 of-- of-- of what became the white copy of the bill. But these are priorities that have-- that were established in 2017 for our developmental disability waiver, the comprehensive waiver. These are the-- this is how we prioritize, knowing that we are not going to be able to fund everyone on that waitlist. How do we decide who would be on that-- who will be on that waitlist? So we took those priorities and we-- and we used them here in this bill as well so that, again, the first is to disabled children and family units in crisis situations; second, to disabled children who are at risk for placement in juvenile detention centers; third, to disabled children whose primary caretakers are grandparents, because there are no other family caregivers; fourth, to families who have more than one disabled child residing in the family home; and fifth, based on the date of application under the Family Support Program. So these-- this criteria is not new. This was-- this is what is currently being used in our comprehensive developmental disability waiver. I will tell you that the-- that that comprehensive disability waiver is a very, very expensive program. There are-- there-- it is rich in services provided to these families and to the individuals.

**FOLEY:** One minute.

**ARCH:** And so-- and so, as I say, in an attempt to do that, we thought, well, we can come back to the Legislature year after year after year and we will hear bills in our committee year after year regarding this waitlist. We can come back to Legislature and say, well, it's another-- it's another $5 million a year, it's another this, it's another that, and just to hold the waitlist in place, or we can try something different. And this was an attempt to do that. This is an attempt to do that. LB376 is-- is-- was-- was voted out of the committee 7-0 because we felt as though that as policy, that this attempt to address these issues are strategic in that. So thank you very much for allowing me to explain that.

**FOLEY:** Thank you, Senator Arch. Senate Groene.

**GROENE:** Thank you, Mr. President. Senator Clements, would you answer a question?

**FOLEY:** Senator Clements, would you yield, please?

**CLEMENTS:** Yes.

**GROENE:** You handed out this sheet about General Fund state aid by programs. It says developmental-- develop-- excuse me. It's been a long day. Developmental disabilities aid, we're going to increase it by $10 million in the budget already, which is 6.4 percent. Is that right?

**CLEMENTS:** Yes. The second year of the budget, it goes up $10 million.

**GROENE:** All right. So this doesn't include another $11 or $12 million in this bill?

**CLEMENTS:** No, this bill is not included in the handout.

**GROENE:** All right. Thank you. So now we're up to 12 or 13 percent increase, pretty hefty increase, and none of it's CARES money. I asked Senator Arch, but I won't ask him on the mike, but asked him if he's seen any studies or comparisons about what we offer, what services we offer and pay for in Nebraska compared to the other 49 states. I'd always heard that we're pretty generous. I'd always heard that there's a list of things that you must offer from the feds, but then there's a whole bunch of options that you can on your own to choose to pay for. I haven't seen that list yet. I would like to see it, if it exists. And what I've heard from individuals, just personal contacts, is we're pretty generous in Nebraska. So is our problem we keep passing little bills like this because we're a Unicameral and keep-- I've seen a lot of little HHS bills on these types of things where we-- we add this service we're paying for. We do this and that. Then our problem is our generosity of what we pay for is outpacing our ability to pay for it. Instead of trying to give basic services to more individuals, we keep adding benefits to the existing ones. I think we ought to look at that. I think the HHS Committee should do a LR and find out how we compare. I have personal testimony from individuals who have moved to this state because of our generosity. Don't know if it's true, but they moved here, at least three families that I know of. So do we underfund it? Is that why we have a waiting list? Or do we overfund it and that's why we have a long waiting list? Those are decisions we need to look at and here's another special niche where we're going to add that we pay for that other states don't. I guess if you're going to buy a new car, maybe get less of a model, then maybe you and your

spouse can have a car to drive to work instead of buying the highest-cost SUV and then you-- you're driving an old jalopy, a second car. I think we might have a problem here where we get big hearts with other people's money and keep expanding the benefits. And it keeps the list long because we're not prorating the money over more people. We're buying hot tubs and things like that for therapy, which was something I had heard from an individual, why he moved here. If there's any time left, I would yield it to Senator Slama if she-- if she wants it.

**FOLEY:** Thank you, Senator Groene. Senator Slama, 1:00.

**SLAMA:** Thank you, Mr. President, and thank you, Senator Groene. I-- I appreciate Senator Groene's points. And moreover, I really do appreciate Senator Arch's work both as Chairman of the Health and Human Services Committee and working to get LB376 in a better place. You will not find anybody more passionate, well-informed, and committed to addressing the issues that Nebraska faces in Health and Human Services than Senator Arch and I-- I'm proud to work with him. I just don't believe that LB376 gets us to where we need to be, and I-- I think we've outlined those reasons. And if given additional opportunities on the mike, which I anticipate, I will go into those more and more in depth. But thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. We'll pause the debate for a moment here. Items for the record, please.

**CLERK:** Thank you, Mr. President. Government Committee reports LR128 back to the floor for further consideration. A series of gubernatorial confirmation reports from the Transportation Committee. And, Mr. President, study resolutions, LR162 (LR163, LR164, LR165, LR166, LR167, LR168, LR169, LR170, LR171, LR172, LR173, LR174, LR175, LR176, LR177, LR178, LR179, LR180, LR181, LR182, LR183, LR184, LR185, LR186, LR187, LR188, LR189, LR190) LR191; all will be referred to the Board. That's all that I have. Thank you.

**FOLEY:** Thank you, Mr. Clerk. Continuing discussion on the bill, Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. I appreciate that. Senator Groene, you are correct about people moving to Nebraska because we have better services than some other states. I met a gentleman that moved from Kansas, bought a farm across the line in Nebraska and moved to Nebraska because we offered far greater services than he could get in Kansas, so it does happen. Senator Slama, let me comment, if I can, on the Omaha World-Herald article about the consumption tax. No one

from the Omaha World-Herald ever contacted me and asked one question. They wrote that article based on their own personal assumptions, and we all know what you do when you assume. They never stopped by the office. They never called. They never made an attempt to understand exactly what we're trying to do. Almost 100 percent of what they wrote was wrong. The percentage that they wrote is wrong. We had the Beacon Hill Institute do another study in December, and the-- the-- the-- percentage then was 9.84, not 10.64. But they chose not to contact anyone to find out the truth. So all of those issues that they said would happen are false. And when Art Laffer arrived in town a couple weeks ago, I've had an opportunity to visit with him about the economic advantages of doing what we're trying to do. He said it would be monumental that we would make that change. And if we did that, other states would have to follow our lead because no one can compete with a state that has no need for tax incentives. His opinion of tax incentives was the government picks winners and losers. And so the Omaha World-Herald said the sky is falling, we're going to go to hell in a handbasket. All those same arguments that they used in 1966, when the voters had an initia-- initiative on the ballot to eliminate property tax for the state, are the same arguments they're using today. So instead of trying to figure out what the truth is, instead of trying to figure out what it actually is we're going to try to do, they write a story based on someone's assumptions. And so we will have to tell our story in a better way so that people can understand exactly what it is we're trying to do, and we will do that. But I can tell you, from what I've discovered, when I have an opportunity to explain to people what it is we're going to do and what it means to them, I get enthusiastic support from every person who understands or takes the time to understand it. One of the groups that came in early that asked me what this is going to do and how it will affect them was ICON, Independent Cattlemen of Nebraska. They came in. They asked questions. They got their hands around what we're trying to do and they enthusiastically support what we're trying to do. So those groups who have the ability to think for themselves and come and visit with me and find out what it is we're trying to do and why we're trying to do it-- and it's because we have such a broken tax system that it can only be fixed one way and that's revamp the whole thing. And I've said this before in public, and I'll say it again. When I came here in '17, I never-- I never intended to do anything with income tax because I didn't know or understand that income tax was so regressive. But after reading the articles that I've read and listening to what Blueprint is trying to do and their-- their initiatives on changing the tax system, I began to understand that all taxes are regressive and there are some worse than others. And the inheritance tax is the worst of all. And so I have made a 180 and understand that we need to change the whole tax

system, not just the property tax, but it would be tremendous if people like the Omaha World-Herald--

**FOLEY:** One minute.

**ERDMAN:** --had the intestinal fortitude to call me up and say, hey, what it is you're trying to do, help us understand that so we can write a decent article, a factual article, not something we make up. So, Senator Slama, thank you for bringing that up. I seen that article. There's a saying goes, don't worry about those who accuse you falsely, and so that is the category I'm putting the Omaha World-Herald in. Thank you.

**ERDMAN:** Thank you, Senator Erdman. Senator Hughes.

**HUGHES:** Thank you, Mr. President. Good afternoon, colleagues. I was wondering if-- I was hoping Senator Cavanaugh was on the floor, but I do not see her, so would Senator Arch yield to some questions, please?

**FOLEY:** Senator Arch, would you yield, please?

**ARCH:** Yes, I will.

**HUGHES:** Senator Arch, I apologize. I was present not voting on--

**FOLEY:** Senator Hughes, we're having a problem with the microphone. Just hold for a moment, please.

**HUGHES:** Great.

**FOLEY:** Let's-- let's try that again.

**HUGHES:** How about now?

**FOLEY:** Very good.

**HUGHES:** OK, my apologies. Senator Arch, I-- I was not present. I don't-- I was present not voting on the-- the first round of this bill, I do not recall being on the floor for the discussion. So could you give me a synopsis of what this bill does again, please?

**ARCH:** Sure. Yes. Thanks for the question. It requires the Department of Health and Human Services to seek a waiver for family support services for developmentally disabil-- disabled children. And when those-- in those family support services then, not yet defined in the bill, but in the family support services, then they-- they-- they would be able to provide services, or I should say receive services,

up to a maximum of $10,000 per child for the year. So there are certain services, and I'll-- I'll talk about that later when I get a chance to talk, but there are certain services that can be included and provided to provide family support with the intention being that that child then would receive those services, be able to stay in the home, not require institutional care. And that's-- that is the intention of the bill.

**HUGHES:** So listening to the discussion earlier in the day--

**FOLEY:** Senator Hughes, could you raise that microphone a few inches there?

**HUGHES:** How about now?

**FOLEY:** OK, very good. Thank you.

**HUGHES:** My apologies. So, Senator Arch, listening to the discussion earlier, just now, there's discussion about trying to get to young people with development-- developmental disabilities. Is that-- are-- are these the-- the-- the people you're talking about of giving the $10,000, up to $10,000 a year?

**ARCH:** Right. And it's services. You're-- you're not handing them $10,000, but it's services up to a maximum of $10,000 of those services. And, yes, it is for-- it is for children. It is-- it-- this-- this is early intervention that we're attempting to do here.

**HUGHES:** So are these children preschool age or how-- how are they identified?

**ARCH:** They can be-- they can be any age as-- as a minor.

**HUGHES:** Any--

**ARCH:** But they would be-- but they would be prioritized according to the priority list that is-- that is identified in the bill. So they're not-- they're not just prioritized by age, but they're-- but they're prioritized by those five items that I read earlier.

**HUGHES:** OK, so they're-- they're not receiving aid services now or this-- these are additional services that would be supplied in the home?

**ARCH:** They are on-- they are on the waitlist to-- to be included to pro-- to receive services from the comprehensive developmental disability waiver, which is already in place. And so currently, they

would not be receiving-- they would not be receiving services under that comprehensive. They may be receiving some other services in-- in some other ways, but not from that comprehensive. And so this would-- this would identify them for additional services to keep them in the home and support the family.

**HUGHES:** So the comprehensive waitlist, is that correct terminology? There is a waitlist for comprehensive services?

**ARCH:** It is a waitlist for the comprehensive developmental disability waiver, yes.

**HUGHES:** Waiver, OK.

**ARCH:** It's a waiver.

**HUGHES:** Approximately how many people are on that list currently?

**ARCH:** Right now, the waitlist has about 3,000, and of--

**FOLEY:** One minute.

**ARCH:** --of those, of the 3,000 right now-- I was just looking at some notes here-- I believe about approximately 900 of-- of those are children, of the 3,000. So this would-- we believe that with the-- with the funding that's included right now in the A bill, we believe that that would address approximately 850 of those children that are on the waitlist.

**HUGHES:** So there was discussion of maintaining that list at about 3,000 with what we're currently doing in the budget and this would be an additional amount of money added on to reduce that number?

**ARCH:** I have been told that we will not be able to maintain the current waitlist at 3,000 in the future without additional funding. And so-- so we'll-- we'll continue to see that. And this is something, as I said, keeps coming back to the committee. We'll continue to see that waitlist grow if we do not have additional funding or if we do not-- if we don't do something for-- as-- as this bill would do for early intervention.

**FOLEY:** That's time, Senators. Thank you. Thank you, Senator Hughes and Senator Arch. Senator Geist.

**GEIST:** Thank you, Mr. President. One of the things I talked about earlier was the two waitlists or how this would virtually have two waitlists with the children of higher priority reaching the top and

displacing those who are currently on the waitlist. And so I do have a-- a concern about after the three-year clock is up, if there is a plan to merge or remerge those waitlists together. And some discussion has been going on and I noticed also on the fiscal note that there are federal funds available for this list. And I wonder if Senator Arch would yield for a couple questions.

**FOLEY:** Senator Arch, would you yield, please?

**ARCH:** Yes, I will.

**GEIST:** And I must apologize first, Senator Arch. I didn't ask you this question off the mike, so I hope I'm not putting you on the spot. So if you don't know the answer, it's just fine. But there was mention of federal funds being directed to this waitlist. Is-- is that correct?

**ARCH:** Yes, that is correct. If-- if the waiver is approved, there are federal funds available.

**GEIST:** Is it a matching thing, like we-- a 50/50 match or something like that?

**ARCH:** You know, I don't-- I don't have that exact number, but I can certainly get that for you.

**GEIST:** OK. I also wanted to follow up with a couple other questions about federal funds. And I know as a state we're receiving a large amount of funding coming in from the CARES Act. Could any of that money be directed to this waitlist, do you know?

**ARCH:** Well, I hope so. I-- I will tell you that-- and as I said earlier, the-- one of the reasons that this bill was delayed in coming out of committee is we really wanted to see and answer that question. But the federal government has-- at the time this bill came out, I don't know if that's the case now, had not produced the rules for how you could spend those dollars. But we know, for instance, that within the developmental disability department, the division of-- of HHS, there is what's called an FMAP. It's the federal match of you-- of your-- of your-- the dollars that you receive. And the FMAP, in this case Medicaid, has provided a 10 percent bump for one year. And I believe the year began April 1 of this year. And it is anticipated that that is going to be approximately $36 million that will be-- that will be available for developmental disabilities, not-- I mean, for-- for that whole division. And so how exactly those dollars will be spent, I-- I don't know at this point, but that's going to be a discussion, I know, next year as-- as the administration brings us

their ideas for how those dollars could be spent. But there's going to be-- and that's just-- again, that's a one-time-- that is a one-time amount of dollars but anticipated to be approximately $36 million.

**GEIST:** Thank you. Thank you for that. And I do hope to-- to remain informed on this. It's a subject I think that is important and one I would be very supportive of those funds going into this specific area and hopefully coming up with a strategy that we can get this waitlist down. So thank you for your responses. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Geist and Senator Arch. Senator Arch, you're next in the queue.

**ARCH:** Thank you. And-- and, yes, Senator Geist, I-- that-- that would be my desire, to see some of those dollars used. And again, I-- you know, the-- the biggest concern that I have as Chair of HHS is that this isn't a matter of just more dollars, more dollars, more dollars, more dollars. That-- that is a-- that's never ending. And so, again, we're trying to figure out strategically the best way to do that and trying to figure out strategically the best way to-- to address some of these issues in-- with this population in our state, with the additional dollars coming from FMAP. And that-- that will be an ongoing discussion. I want to go back and I want to talk about some of the services that would be available under this-- under this waiver, should this bill pass, broad range of services. And it could be assistance, and this is to the family to keep-- to keep the child in the home, for anything related to activities of daily living, like assistance in eating, bathing, dressing, preparing meals, managing medication, helping with the housekeeping, or providing for day programs, nursing care, respite, transportation, support for employment. The way this bill is written is that those services are not specifically identified in this bill but, rather, there is an advisory council that is available to the Department of Health and Human Services, to the Division of Developmental Disabilities, that would be-- that would be used to advise on what-- what-- what are the most important services that families need so that they can keep that child in the home. And that would be the list that would be then developed and then applied for within this waiver, which I would say is not a within-30-day-type process. So I would anticipate that should this bill pass, there is going to be certainly a period of time where there's going to be the development of the waiver itself and the application for the waiver, the submission of the waiver, which has to be reviewed and approved, and-- and so we may be talking an extended period of time before this is actually implemented. But exactly what are those services most needed? There are other states that have done

something similar. However, it-- it really varies across the states because some states wrap this into Medicaid. They do, they do things with their Medicaid dollars, not just developmental disability, not just a separate waiver such as this. And so there are family support programs, specific waivers, Tennessee, Virginia, Louisiana, Maryland, Pennsylvania, Washington, D.C. But as I say, some other states then wrap them into their-- their Medicaid program itself. It talks about-- it talks about what level of care is going to be necessary for an individual, for a child to qualify for this type of a waiver, and-- and the term used is an intermediate care facility level of-- of care. These individuals-- this care is in between assisted living level of care and skilled nursing. The individuals do not need 24-hour, continuous nursing care. They don't qualify for that level of care and may be semi-independent or dependent, but still require some medical care or rehabilitation services and need assistance in performing daily living activities. So this is not-- again, these are not children that are at-- at-- at a-- at a-- at a high-functioning level, but are in need of care, what is determined to be an intermediate level of care. One of the things that gives me pause is that we've asked the question of what would it take to fully fund our developmental disability waitlist, and the answer to that is $125 million. And so what we're asking for here is approximately $4 million and $8 million. And-- and, yes, it could be ongoing. Right now, it is a three-year waiver--

**FOLEY:** One minute.

**ARCH:** --that is being asked for. But that is-- we-- again, this is something that-- that the Health and Human Services Committee deals with on a-- on a regular basis. One of the other questions that I've been asked is, do we have service providers available? And I would say we should. We've added 23 new providers over the past year and a half. Many of these providers would be providing new services, as opposed to traditional services, on the comprehensive DD waiver. So with that, I will pause and-- and be-- be available for questions as well. Thank you.

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

**ALBRECHT:** Oh, thank you, President Foley. I do rise with a few questions. I've noticed there's several fiscal notes, and I've tried to read all of them to try to follow along here. Would Senator Arch yield to a few quick questions?

**FOLEY:** Senator Arch, would you yield, please?

**ARCH:** Yes, I will.

**ALBRECHT:** I understand it's Machaela Cavanaugh's bill, but I'm going to ask you--

**ARCH:** Sure.

**ALBRECHT:** --since everybody else is asking you.

**ARCH:** Sure.

**ALBRECHT:** OK, so, again, the number of children that are on this currently, what number is that?

**ARCH:** We anticipate 850 would quali--

**ALBRECHT:** That are--

**ARCH:** --would qualify and benefit if-- if there is a waiver.

**ALBRECHT:** OK, but would qualify, but how many are on it today?

**ARCH:** On the-- on the comprehensive developmental disability waiver?

**ALBRECHT:** Yes. Yes.

**ARCH:** You know, again, I don't have that number, but I would say around 900 to 1,000, somewhere in that range.

**ALBRECHT:** So there's that many right now and you're hoping to bring on another 850?

**ARCH:** No, these-- these-- this is 850 of that number.

**ALBRECHT:** Eight-hundred and fifty of that number?

**ARCH:** Of that 900 to 1,000, right.

**ALBRECHT:** And that's where we were supposed to take the $17,000 per child to get to the number that we're looking at, correct? Does that sound right off [INAUDIBLE]?

**ARCH:** OK, so-- so when-- when the bill was originally drafted, it was drafted as $12,000. As we-- as we amended and as we tried to bring that fiscal note down, we brought it down to $10,000--

**ALBRECHT:** Correct. OK.

**ARCH:** --so-- so $10,000 for the 850.

**ALBRECHT:** OK, perfect. And is there a parental income level in this at all or do you take in Medicaid as well?

**ARCH:** There is-- there is a-- currently if-- if you do not meet the income requirements for Medicaid, you cannot receive Medicaid for your developmentally disabled child. In other words--

**ALBRECHT:** Correct.

**ARCH:** --if you make too much money, you cannot-- you cannot. And that is a significant burden, particularly to those who are right above that line, right?

**ALBRECHT:** Um-hum, right.

**ARCH:** And so-- and so this waiver, what it does, rather than counting the family income, it counts the child's income. And so it allows people who may not be able to qualify for Medicaid because of their earnings, it allows people to-- to-- for their child to receive those medical services on Medicaid. They would qualify.

**ALBRECHT:** OK. OK, and the bigger question, too, then I have, that if you're going to bring that many more folks on, and I'm hoping we would be able to do something like that, but would we really have enough community providers to take care of this influx? And the reason, before I let you answer that, is I remember in my first two years when we had to say no to everything because we had no money. And it's unfortunate that they immediately go after your department and UNL, K-12, and-- and they start making cuts. And I do remember in my district where people were asked to please take their children out of the program because they were not going to get enough money to take care of them. So do you feel that we have enough providers out there and enough-- enough people in DHHS that would be able to accommodate these numbers?

**ARCH:** I-- I will say this, that at no time during the testimony did we receive testimony that there would not be providers available to care for-- for these.

**ALBRECHT:** And-- and do you know how many are in the state right now, actual providers?

**ARCH:** I-- I don't have that number. I do not.

**ALBRECHT:** OK, yeah, so that-- that's my concern is that even though we do this for a year or two, you know, you're going to want to continue to figure out how you're going to fund it, because it's kind of like here's a little bit for a year or two, but then-- and they get used to that and we want to take care of them. But if we don't have the funds and the ability to, sometimes we bite off more than we can chew and we can't-- we can't take care of everyone. So those--

**FOLEY:** One minute.

**ALBRECHT:** --those are some of my concerns in this bill and the growing number that we see. I'm glad to see federal funds at-- at the 15 and General Funds at $11 million for a total of 26, if I'm looking at the most current fiscal note of March 16. There may very well be another one revised. And-- and we are talking about children. And-- and again, I have plenty of examples, family members and friends, that need this help, people in my area that-- that need these funds to be there and available to them. But it's-- it's just not right when they can't count on something for a long period of time. I have some folks that-- that work full time and they have children at home with disabilities, but they could only qualify for a certain amount because they only-- they make a certain amount of money that just comes to the threshold that, oops, I guess we can't help you, but maybe-- and they're working and they're working to provide.

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

**ALBRECHT:** That's time?

**FOLEY:** That's time.

**ALBRECHT:** Thank you, sir.

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

**BRIESE:** Thank you. Thank you, Mr. President. Good evening, colleagues. And I really do appreciate Senator Machaela Cavanaugh's work on this issue and passion for this issue. And-- and I'm not entirely opposed to the program generally. Helping out Nebraskans in need certainly is an admirable and worthwhile goal; keeping kids in the home is as well. But we are stewards of taxpayer dollars here. As such, we have an obligation to be judicious in how we utilize those dollars. And I note, according to the language here, that folks qualify for this regardless of parental income. And I'm a little-- I am troubled by that. And I think a needs-based approach would be a much better approach in this situation. It would be more consistent with our

obligation to be good stewards of taxpayer dollars. And with that said, I'm going to listen to the debate here, but at this point I'm opposed to LB376, but I'd like to yield the balance of my time to Senator Slama.

**FOLEY:** Thank you, Senator Briese. Senator Slama, 3:50.

**SLAMA:** Thank you, Mr. President. And thank you, Senator Briese. Senator Briese, I appreciated your thoughtful comments on this bill. I-- I don't think anybody on this floor opposes funding and providing assistance to those with developmental disabilities. I think that program as a whole provides much-needed care and programs for those who the government, I believe, needs to serve most. I would agree with him that structurally I do not agree with LB376. And I've outlined the reasons why I'm opposed. Now we're going to get a little bit more in depth into LB376's fiscal notes. To Senator Albrecht's point, there have been several fiscal notes written on LB376. This is the most recent one. It was put out yesterday. I believe it's listed as the fifth revision and it was revised to clarify the fiscal impact. I'm just reading straight from the fiscal note because it-- that gives us the most accurate portrayal of what this is going to cost in the Fiscal Office's best estimate in this biennium and beyond. LB376 proposes that the Department of Health and Human Services, DHHS, apply for a waiver to administer a home and community-based services family support program for children with developmental disabilities who are currently on the DHHS developmental disability waiting list. If the bill were enacted, the program would be developed by the Advisory Committee on Developmental Disabilities and be administered by the Division of Developmental Disabilities of DHHS. The program would offer an annual capped budget of $10,000 for long-term services and supports. The bill also provides a pathway for Medicaid eligibility for disabled children, regardless of parental income. DHHS would be tasked with submitting an annual report regarding the status of the program annually to the Legislature. The proposed waiver program would provide waiver services to 850 children, including 400 children who are not currently eligible for Medicaid. Costs other than the $10,000 per child cap for waiver services include staffing costs, a rate of $84 for each waiver participant, for the contracted case management software, and expenditures for the children not eligible for Medicaid. It is assumed that the application for the waiver will take approximately six months for approval by CMS, thus reducing the first-year expenditures. And then it goes into the--

**FOLEY:** One minute.

**SLAMA:** Thank you, Mr. President. Then it goes into the cost component breakdowns, and in my next turn on the mike, I'll go into the further explanation of the estimate from the Fiscal Office. But what I really would be interested in hearing, we've heard from Senator Arch, who's done a great job of explaining the bill. I would like to hear from Senator Cavanaugh on her answer to, since it is her bill and her priority bill, her-- her answer to some of the concerns that have been raised on the mike this evening, because I think that would be valuable for the bill moving forward. Thank you, Mr. President.

**SLAMA:** Thank you, Senator Slama. Senator Hughes.

**HUGHES:** Thank you, Mr. President. I was wondering if Senator Arch would yield to some questions to continue our conversation?

**FOLEY:** Senator Arch, would you yield, please?

**ARCH:** Yes, I will.

**HUGHES:** Thank you, Senator Arch. So do we have any kind of dollar estimate of what it would cost to get all of these disabled kids some sort of services?

**ARCH:** I don't have the estimate on the-- on the children alone, I mean, it could be a-- it could be a-- a matter of just doing the math. But I-- I know that the-- that the 3,000 on the current waitlist, it would be approximately $125 million to provide the services in the comprehensive DD waiver, which is not what we're talking about here, but that's-- but that's-- that's the estimate that I have.

**HUGHES:** Thank you. So as I recall, our portion of our overall budget, Health and Human Services' budget is the second largest expenditure on our budget, is that correct?

**ARCH:** Believe that's correct.

**HUGHES:** Do you know what percentage of that budget goes to disabled Nebraskans?

**ARCH:** I do not. I do not have that. I do not have that number, but I certainly can get that.

**HUGHES:** Would-- can you give me just a rough estimate of percentage? Is it 30 percent, 50 percent, 70 percent?

**ARCH:** I-- I'm sorry, I cannot. I do not have that number.

**HUGHES:** OK, very good. Very good. The challenge we have is, how much money can we spend on these individuals and, you know, what is the benefit? There are some individuals that absolutely we want to and need to and, you know, ethically should provide benefits for therapy and opportunity to become more independent, which, you know, some of them never will. But there are also those individuals who, regardless of whatever amount of money we spend on them for therapy and improvement in life conditions, is not going to make any difference. So that's where I struggle with adding additional money. Now these are children, so I'm still confused about who makes that call, what's the cut, those type of things, Senator Arch. Senator Arch?

**FOLEY:** Senator Arch.

**ARCH:** I'm sorry, yes.

**HUGHES:** I-- my question is, who-- who makes the call on whether or not-- who gets to move to the front of the line for these additional services?

**ARCH:** Yes. I-- and-- and-- and again, I-- I would reference page 5 of the amendment, which became the bill, AM1307. And the Department of Health and Human Services, they make the call based upon the priorities in statute, which is identified one, two, three, four, five, the same priorities in statute that we have for our-- our current developmental disability comprehensive waiver. One of the questions that we were asked, if-- if I might, one of the questions that we were asked is whether or not this would actually create another-- another waitlist. What if there's more than 850 children that would qualify and the funding is-- is limited to the amount that we appropriate? Would this create another waitlist? And the answer is, possibly, yes. Yes, that could happen where if you had 1,000 children and your dollars have been expended, according to the estimate here, at 850 children, could it create another waitlist? It's possible. And if that would be the case, then these priorities--

**FOLEY:** One minute.

**ARCH:** --would be-- would be very important. The-- the waitlist would be prioritized according to these categories, just like the waitlist is currently being categorized for that comprehensive developmental disability waiver.

**HUGHES:** OK, thank you very much, Senator Arch. Was wondering if Senator DeBoer would yield to a question.

**FOLEY:** Senator DeBoer, would you yield, please?

**DeBOER:** I'm afraid not.

**HUGHES:** There you have it. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. Senator Arch, you're next in the queue.

**ARCH:** Thank you. I want to go to the fiscal note of May 17 that has been provided by the legislative fiscal analyst and talk a little bit about-- Senator Slama articulated the dollars in-- on-- on top and-- and some of the language there. I want to go to the-- the-- the cost component breakdown and just help everybody understand the costs that we're talking about in-- in this bill. One is that I talked about $10,000 per person cost and that for 850 individuals, you can see the dollars there. And that would be the-- that would be the maximum amount of-- of-- of services that could be provided in a year for this family support services to an individual. So that is-- that's the first line. Second line, there is service coordination, always within-- within the department. It requires coordination of services. Those are-- that is that amount. Case management software, it is important to manage the cases. We know what services are being-- are being provided and so forth and that is in-- included as well. And then Heritage Health costs, and this is Medicaid. It is anticipated that approximately 400 of the 850 would qualify for Medicaid under the new criteria. And so you will see that approximately $17,836 per individual would be General Fund dollars for receiving Medicaid services. So you see the split there where General Funds would be approximately $3.89 million in the first year, 7.7 in the second. Federal funds would be about 5.3, different matches, different match percentages for whatever line item you're talking about there between General Fund and-- and the federal fund match. And so that is-- that's a little bit more of an explanation of the-- of the fiscal note. So with that, I will yield the balance of my time to the Chair.

**FOLEY:** Thank you, Senator Arch, and that was your third opportunity. Senator Lowe.

**LOWE:** Thank you, Lieutenant Governor. Well, here we are, five days left of the session. Seems like we just started-- not really. We have five days left of the session and we're debating a bill that expend-- expends more money. We need to think twice about this and what it could cause in the future. We have the money today, but we may not have the money next year or the following year or the year after that. We need to think twice about what we're doing. Money has just flown

out of the state of Nebraska-- well, flown to different projects, flown to different entities, thrown to different special interest groups in the state of Nebraska this year. It's the people of Nebraska's money. We need to think about the way we're spending their money. Do I think that these children don't deserve this money? Well, they may. They may deserve the money. The parents, they're struggling. Well, maybe we should have thought about that as we were disbursing our money earlier. We knew these bills were going to come, but we wanted more money for our special interests. We knew the children were going to be here. But we wanted more money for our special interests. We knew that maybe, just maybe, we would come down to the-- the final week and there may be an important bill on the floor. And now we don't have the money. But money was flying out in the beginning, in April, in March, $10 million here, $20 million there, $7.5 million, $20 million, $30 million. Money was going out. Well, when it goes out, there's nothing left. So maybe we ought to think about the way we're spending money. We have to do that at home for our families. Because we see a good deal today, doesn't mean that there might be something coming up in the future where we need that money later on. It's called budgeting. We knew these bills were here, Senator Cavanaugh knew her bill was coming up, but yet we are still giving money out. We need to watch what we spend our money on. And we have to be effective. We have to be effective with who gets the money, with the people. We-- it needs to go, because it is the taxpayers' money. It's not my money. It's not Senator Slama's money. It's not Senator Hilgers' money. It's the taxpayers' money.

**FOLEY:** One minute.

**LOWE:** Thank you, Lieutenant Governor. With that, I yield the rest of my time to Senator Slama, if she would like it.

**FOLEY:** Senator Slama, you've been yielded 45 seconds.

**SLAMA:** Well, thank you very much, Mr. President. And thank you, Senator Lowe. That was-- that was a solid speech in conservative spending, if ever I've heard one on the floor of this Legislature. So thank you so much for that insight. And I-- I don't have much else to add to that, so I'll-- I'll yield the remainder 5 seconds I have back to the Chair.

**FOLEY:** Thank you, Senator Slama. Senator Hughes, you're recognized, your third opportunity.

**HUGHES:** Thank you, Mr. President. I yield my time to Senator Slama.

**FOLEY:** Senator Slama, 5:00.

**SLAMA:** Thank you, Mr. President, and thank you, Chairman Hughes. I-- I appreciate you yielding my-- yielding me time. Unlike Senator DeBoer, I-- I-- I will accept it with a smile. I would like to return back to the fiscal note for LB376. Senator Arch provided a solid explanation of the cost breakdown that you find right at the end of page 1 of the fiscal note. I'd like to go a little bit more in depth into the explanation of the estimate. When we're talking about fiscal notes, for those at home, the-- that is the amount of money that the Fiscal Office of the Legislature estimates that a bill will cost or save taxpayers over the biennium, if it does have an impact on the state's budget. We have a lot of discussions on the floor about the accuracy of some fiscal notes, so that's why I think it is very valuable when we're talking about this debate, when we're talking about $13 million of the taxpayers' money, to go in depth on this fiscal note and really analyze if this is what we want our priority for $13 million to be when we already have hundreds of millions of dollars invested in this program. So here's an explanation of the estimate provided by the Fiscal Office. LB376, as amended by AM1307, would require the development and implementation of a family support waiver which would be offered to minors with disabilities to prevent institutionalization and allow children to remain in their family homes. This offers services needed by families and a pathway to Medicaid eligibility. The bill requires the department to apply for a new 1915(c) waiver that would need to be approved first in order to implement this and other changes proposed in the bill. The waiver would be limited to three years. This fiscal note assumes January 1, 2022, as the implementation date due to the time needed to apply for and receive approval for the waiver. The number of participants is capped at 850. Using the current service coordination workload ratios, 34 FTE services coordinators, 5 FTE SC supervisors, and 1 FTE service district administrator will be needed. There will also be a need for one FTE for the policy team, program specialist; two FTE for the quality team, two program accuracy specialists; and two FTE for the financial and data management team, two fiscal project analysts. There would be additional costs for the Therap case management system to add the new waiver and all components of the case management for this new waiver population. The contract for case management is structured on a per-member rate of $83.79 per year. The additional cost of adding 850 participants is estimated at $35,000-- oh, no, $35,700 for the first year and $71,400 for the second year. The waiver would have a limited budget of up to $10,000 per participant. This would require 4,200-- oh, no, $4,250,000 in the first year and $8.5 million in the second year. Additional Medicaid expenditures would be incurred due to the pathway to Medicaid

eligibility required in this bill. Based on 500 additional cases added to the Heritage Health per month--

**FOLEY:** One minute.

**SLAMA:** --thank you, Mr. President-- per-member capitation payments, the overall impact to Medicaid would be $4,400,000-- 459,200 in the first year and $8,918,400 in the second year, 500 times $17,836 per member, per year. I will wrap up this fiscal note on the next time on the mike. But thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. Items for the record, please.

**CLERK:** Mr. President, some study resolutions: LR192, LR193, LR194. LR195; Senator DeBoer, that particular resolution will be laid over; and LR196 is a study resolution, Senator Blood. That's all that I have, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Members, the Legislature will stand at ease for 30 minutes; we'll stand at ease for 30 minutes. When we return, Senator Bostelman, Senator Albrecht, and Senator Geist are next in the queue. Thank you. Thirty minutes.

[EASE]

**FOLEY:** Members, we'll now pick up where we left off. Senator Bostelman, you're next in the queue.

**BOSTELMAN:** Thank you, Mr. President. I yield my time to Senator Slama.

**FOLEY:** Senator Slama, 5:00.

**SLAMA:** All right. Thank you, Mr. President. Thank you, Senator Bostelman. And good evening, colleagues. I think it's important, as we come back from our dinner break, or supper, whichever you prefer, that we reset and I review where my opposition from LB376 is coming from, because as we get into the details and more minute points of the issues I see with LB376, we can lose focus of the overall opposition. So here's just a summary. This is similar to what I said at the beginning of debate, and I still have yet to have my concerns be addressed by anyone, especially the bill's introducer, who's been silent on this. But I really would like to hear from Senator Cavanaugh and her-- her responses to some of these issues. I think it would be helpful in giving this bill a potential to move forward. So LB376, my opposition comes from we're diminishing the waitlist for developmental disabilities needs to be inclusive of everyone in the waitlist. We're

not doing that with this bill. We're not going with across-the-board releases of the waitlist. We're making two separate lines, essentially, for the waitlist, one based on age and then the main waitlist, which means that LB376 could result in some people bypassing others on the waitlist with more significant needs simply due to being under the age of 19, which is the age of majority in the state of Nebraska. LB376, as written with the current clauses, and I'll go more in depth on the specific clause in the bill, it allows millionaires to receive Medicaid services by disregarding parental income. This also puts taxpayers on the hook for subsidizing the care of individuals whose families can afford it. This defeats the purpose of this funding in the first place and going to families with high need who would otherwise go unserved. Any funds made available should go towards reducing the waitlist for everyone. Once again, we're not seeing an across-the-board cut here in the waitlist. We're seeing two separate lines be formed, one specifically benefiting minors in our state, so a preferred method of cutting and investing in the waitlist is helping both adults and children who have been waiting for waivers based on the length of time that they have been on the list. That's not what we're doing with LB376. So this waiver suggests that once a child reaches 19 years old, they would no longer be eligible for the family support waivers. After they reach adulthood, this-- this former child, now adult, would have to go back onto the larger developmental disabilities waitlist. And it's unclear if they would still maintain their preferential spot, if they would hop others in line, or if they would be stuck going to the back of the line or to the place where they would be on the regular criteria for the developmental disabilities waitlist. A major concern, and this last point plays into that, is the services cliff that would be created by LB376, both by the age limitation, on the second line, and the three-year deadline. LB376 has a three-year deadline and in either of these two situations, a person would experience an abrupt end to services, so they'd age out or the waiver three-year period ends. And then we'd have that cliff of going back into the main waitlist.

**FOLEY:** One minute.

**SLAMA:** Thank you, Mr. President. And we currently have 1,124 children on the waitlist, so how do we decide which of the 850 children this is limited to gets care and who doesn't? And LB376 does outline the priorities for which children would be served and which would not and we'll-- I'll go into that more on a turn on the mike, because I do think the priorities are off in certain areas. This bill only lasts for three years. It asks for a three-year waiver so it doesn't address anything long term. It merely kicks the can down the road. And I

appreciate especially Chairman Arch's work on this bill, but it simply does not address the developmental disabilities waitlist in the manner that I would see fit, and it comes at a cost of $13 million to taxpayers. So I'm sure we'll have an extended discussion tonight, but this just helps to reframe where I'm at on this bill and why. So thank you, Mr. President.

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

**ALBRECHT:** Thank you, President Foley. And I did have some more questions, but I thought I would read from the bill. I know there's other amendments coming because as part of the original bill, LB376, it did still say $12,000 a family, but I understand it's been brought down to $10,000. But some of the questions I've had since we've been discussing this, come in on emails, is how the Department of Health and Human Services shall allocate the waiver slots based on appropriations for the waiver and give priority status in the following to-- to order [SIC]: First, a disabled children-- actually, disabled children and family units in a crisis situation in which the disabled child tends to self-injure or injure siblings and other family members; second, disabled children who are at risk for placement in juvenile detention centers or other institutional settings or out-of-home placements; third, disabled children whose primary caretakers are grandparents because no other family member caregivers are available to provide care; fourth, families who have more than one disabled child residing in their family home; and fifth, the date of application under the pilot program. So that was one of the questions I thought that needed to be talked about. Another one, on page 3, was the Department of Health and Human Services shall apply for a waiver to administer a pilot family support program which is a home and community-based service program. The Advisory Committee on the Developmental Disabilities created under Section 83-1212.01 shall develop and guide the implementation of the pilot family support program. And the pilot program-- family support program shall be administered by the Division of Developmental Disabilities of the Department of Health and Human Services. And number (2) That pilot family support program shall: (a) offer an annual capped budget for long-term services and supports of $12,000, so I imagine there's something coming to say that'll be $10,000, and you can correct me if I'm wrong here, Senator Arch; and (b) offer a pathway for Medicaid eligibility for disabled children by disregarding parental income and establishing eligibility based on a child's income and assets; (c) allow a family to self-direct services, including contracting for services and supports approved by the division. And (3) The department, in consultation with the advisory committee, shall adopt

and promulgate rules and regs for the implementation of the pilot family support program, including, but not limited to: criteria-- the criteria and types of long-term services and supports provided by the family support program; the methodology for allocating resources to family units for the family support program; and (c) eligibility determinations and enrollment; (d) would limit on benefits; (e) process to establish quality assurance, including family satisfact-- satisfaction. Number (4) The division shall administer the pilot family support program within the limit of the appropriation for the program. The division shall establish annual benefit levels for family units. And (5) The division shall submit an annual report electronically to the Legislature on the pilot family support program. The report shall include: (a) the distribution of the available funds, the total number of children and--

**FOLEY:** One minute.

**ALBRECHT:** --families served, and the status of the waiting list; and (b) a summary of any grievance-- grievances filed by the family units pertaining to actions of the pilot family support program, including appeals and resolutions; (c) quality assurance activities and results of an annual family satisfaction; and (d) recommendations to innovate the program, improve current programming, and maximize limited funding. Those are just some questions that I had in emails while I was on break. And thank you for your time.

**FOLEY:** Thank you, Senator Albrecht. Senator Geist, you're recognized, your third opportunity.

**GEIST:** Yes, thank you, Mr. President. Again, I'm going to go back to this, the dual waitlist. I know that's not the intention of the bill, but it in effect sets that up. And the concern with that that I have is that it-- this secondary group, it actually allows children to jump ahead of adults on the waitlist who may have been waiting longer than the children have. And it has a priority by age and rather than who's been on the list the longest. It also creates this cliff effect problem that I spoke about earlier as well, and that is after three years of services, then the-- the funding is cut off. And so we're actually providing services to individuals and, either after three years or the individual turns 19 years old, then those services are cut off. And so I would be so much more in favor of pulling this bill off or just letting it sit here or actually voting against it and then studying this issue over the interim and looking at all of the-- the federal funding that's going to be coming in through CARES Act, what we already have available, and then answering some of the questions about the services cliff. Does there need to be a three-year services

cliff? Does this need to end after three years? What kind of funding would it take to look out into the future for this? And if that end date is still in effect, then how are we going to remerge these lists back together once funding is-- has ceased? But I do think that this needs more-- there's a lot of questions to be answered and I think it needs more study, and I would very much be in favor of looking at that and having some solutions to those issues that are in this bill and then coming back with a solution, hopefully that is funded federally or we take from some other funding that we've done and prioritizing this differently. It coming so late in the session, and where money has already been doled out, I believe, is very problematic and-- and disappointing for me, because I think this is an important issue. I'm glad that we're talking about it. I'm glad that now it's on the front burner for people so they can think about it, and hopefully we'll get it resolved in the coming session. And with that, I thank you, Mr. President.

**FOLEY:** Thank you, Senator Geist. Senator Linehan, you're recognized, your third opportunity.

**LINEHAN:** Thank you, Mr. President. I think I saw Senator Cavanaugh, Machaela, on the floor. Would she yield for a question?

**FOLEY:** Senator Cavanaugh, would you yield, please?

**M. CAVANAUGH:** Yes.

**LINEHAN:** So, Senator Cavanaugh, I understand that this is very, very important to you. Earlier this year, did you talk to the appropriators about trying to clean up this waiting list?

**M. CAVANAUGH:** Yes.

**LINEHAN:** So did they offer any suggestions, the Appropriations Committee?

**M. CAVANAUGH:** Well, I had a bill in Appropriations and we appropriate-- the Governor's budget had an increased appropriation request for the waitlist and I also had an additional increased request for the waitlist, and they put a million dollars towards my increased request.

**LINEHAN:** So is that increase on this list, this page 37 that I passed out?

**M. CAVANAUGH:** Well, it would be part of the mainline budget, so--

**LINEHAN:** So would it be-- it was a million dollar increase a year?

**M. CAVANAUGH:** Yes, my portion was a million dollar increase. The Governor also had an increase.

**LINEHAN:** So--

**M. CAVANAUGH:** But that's a different waitlist than what we're talk-- what's being discussed here.

**LINEHAN:** I know. But why wouldn't you have asked for more money then?

**M. CAVANAUGH:** Well, I asked for $17 million, but at that point there were all of the tax bills that still were in committee.

**LINEHAN:** Oh, oh, oh, oh. Remember here, the appropriators have already spent $397 million.

**M. CAVANAUGH:** I un-- I understand that. I was-- I was told that there was money-- going to be money on the floor for the things that we would all be debating on the floor. And so they put a million dollars towards the DD waitlist, which was in addition to what the Governor had originally requested. So they put a million dollars based on my request, and then they said that we could-- I already had this bill in HHS.

**LINEHAN:** OK. Thank you, Senator Cavanaugh. But I'm confused. Did you ask for a million dollars or $17 million?

**M. CAVANAUGH:** I asked for 17 and they decided to take $1 million of that request.

**LINEHAN:** OK. So you did ask the appropriators for $17 million and--

**M. CAVANAUGH:** Yes.

**LINEHAN:** --they gave you $1 million.

**M. CAVANAUGH:** Yes.

**LINEHAN:** OK, thank you, Senator Cavanaugh.

**M. CAVANAUGH:** You're welcome.

**LINEHAN:** I-- I agree with Senator Cavanaugh that this is an important issue and I think it's been on the floor every year since I've been here. I think the first year I was here, we had to-- we were moving

kids, 18-year-olds or 21-year-olds, ahead of other people on the waiting list. And the federal government came in and said, you can't do that, you have to make sure that the most needy get services first. So we had that whole cabal for two years and we argued the same argument, and then we come back, so this, like, isn't a new subject. It isn't something the appropriators aren't aware of, so I'm confused why we didn't-- why the appropriators, when they were spending almost $400 million, didn't address this in Appropriations Committee. It's not a new subject. We've all known this, and yet we found money for all kinds of other things but not for these kids. So now I'm getting calls from constituents that I don't care about kids, I don't care about them. It's not true. I do care. But we should have priorities, and since I've been here for five years and this has been spoken to as a priority, why isn't it a priority in Appropriations Committee? Senator Cavanaugh asked for $17 million and they gave her a million, is what-- I've never asked the appropriators for money, but from what I pick up, it's like what you get: a pat on the head and here's a million dollars, go away. Again, we-- we increased provider rates by $83 million. I will tell all my constituents I would rather help parents and children than providers. And I need the-- I know the providers need rate increases, but really, they get all they're asking for and we leave these children and their parents holding the bag? Business Innovation Act, that's $17 million. That's an interesting number, $17 million. So what that does is-- I'm not sure what it does. I think what it does, and something can-- nobody from the Appropriations Committee-- I don't know if there's anybody on the floor. Well, two of them right here, so maybe they can answer this question. Senator Clements, would you yield to a question?

**FOLEY:** Senator Clements, would you yield, please?

**CLEMENTS:** Yes.

**LINEHAN:** Could you explain what that Business Innovation Act that now is going to get $9 million, or $17 million over the biennium, which is an interesting number there were-- come up tonight, can you explain to me what that does?

**CLEMENTS:** The Business Innovation Act is-- I think it's primarily out at the Innovation Campus, but it can be other parts of the state, where new people-- people with a new idea--

**FOLEY:** That's time.

**CLEMENTS:** --for a new business, especially--

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

**LINEHAN:** Is that time?

**FOLEY:** Thank you, Senator Linehan and Senator Clements.

**LINEHAN:** Thank you very much.

**FOLEY:** Senator Groene.

**GROENE:** Thank you, Mr. President. I'm trying to get my head around all this. So what I've learned so far, and somebody can correct me, is everybody who qualifies for Medicaid gets certain services. They're not out there waiting for services completely on a list. There's mandatory inpatient hospital services, outpatient hospital services, rural health clinic services, other laboratory and x-ray services, skilled nursing facility services, early periodic screening, diagnosis and treatment, and home health services for persons requiring skilled nursing care. And then I remember, I think, senator-- senator here added podiatrist services with a bill. You can get optometrist services, chiropractic. And then you got all these waivers. That's where the list is, I believe, all-- all these waivers that the state can pick and choose, I guess, unless it's part of the comprehensive waiver. I'm trying to figure this thing out. But here, all this time, I thought they were just sitting out there getting no services at all, but they're getting the mandatory services. Now it's-- it's some of these Nebraska specific-- specific-- what services does the Medicaid waiver program offer? Services available includes service coordination, res-- respite, independent skills building, adult day services, home-delivered and congregate meals, vocational planning, residential services attendant, personal care, home healthcare, housekeeping, transportation, special equipment and home modifications. Other community group home, Nebraska offers residential habit-- habitation services. An example of residential habitation is group homes; another option, extended family home resident services. Does Nebraska offer supportive living? When people live alone or with roommates, the service provided is called independent support options, also known as supported residential services. These services are provided in a home that is not owned or operated by a certified DD operator. Don't tell me Nebraska isn't very generous in what we do for the disabled and people on Medicaid. I can see why people move here for the-- for the-- then it goes on: podiatrist, optometrist, chiropractic, other practitioner services, private duty nurses, clinic services, dental services, physical therapy, speech, hearing and language therapy. Now a lot of these things, handicapped or not, a child, a parent has to pay for. I did. So I'd like to know-- you got

no income limits now on this thing. So how much does a parent have to pay what would be normal and what above and a board because their child is handicapped? Which, I guess, is-- I don't want to call it sad, because the kid is living and in good-- and is part of life and-- but it's a-- but it's a financial burden to the family. I want to know, do they get 100 percent of that while the neighbor is paying for their food and certain things for their children, but another group of them gets everything paid for? I don't know. I might be completely wrong, but is there a deduction or how much you have to pay yourself? And then when does the disability services kick in for these families who are-- are not meeting the income level and are going to now be able to apply for it? I-- not hardhearted, I just want some--

**FOLEY:** One minute.

**GROENE:** --I want to help those who need the help, and I want to make sure it's the basic services, that we don't start buying things that are added just because we can, because it's available, when the basic services of a-- of an average kid doesn't get all these services paid for. But they're also poor and they also could use some help, so I don't know. I'm starting to wonder about this list of waivers that is so long and why it is. It might be because we're so lucrative of what we offer over other states. I don't know, because I-- there's no evi-- information out there to tell me how do we compare with Texas, Wyoming, Iowa, on what we offer and what-- and what they pay. I'd like to see that. Thank you.

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

**CLEMENTS:** Thank you, Mr. President. Been asked or it was commented as to the $17 million request for the DD waitlist in Appropriations, and it was-- a million dollars was provided. In Appropriations, we have 75 state agencies that all would like more money. Also, there was a revenue forecast that increased the fund-- funds available from what we started with in the appropriations process. But the-- there was also a question, which has also been mentioned, if the $17 million was appropriated, were there providers to be able to take care of that many individuals? And so it was-- besides the fact that the Governor had already given an increase, this was prioritized to add a million dollars to it. I wanted to review what the General Fund in the mainline budget was, what the Governor had added in. He had transition to the home and community-based service waiver of $1,083,000 each year; funding for new graduates, $1.2 million in the first year, $1-- $2.4 million in the second year; the waiting list, an additional $1.5 million in the first year, $3.1 million the second year-- these are increases over current funding that was in the Governor's budget--

court-ordered custody, $2.4 million the first year, $2.4 million the second year. Then in Appropriations, we did a provider rate increase of 2 percent each year. The first year for providers was $3.1 million and then in-- another 2 percent the second year brings it to $6.3 million. That's a total of $9.4 million for providers. And then the final item was the DD waiting list from Senator Cavanaugh of a million dollars each. So that adds up to new spending for this program of $10.5 million first year, $16.5 million second year. And like I said before, we're already at $157 million first year, $167 million second year. And there are a lot of other needs for these dollars, taxpayer dollars, and I believe that it's being considered as a priority. And then I'm comfortable with where we are right now without this bill. I would yield the rest of my time to Senator Slama.

**FOLEY:** Senator Slama, 1:40.

**SLAMA:** Thank you very much, Mr. President, and thank you, Senator Clements. I'll-- I'll use my remaining minute and a half on the mike to address-- do a quick aside on a bill. And I think we're having a very good substantive debate right now about spending and our priorities. However, behind the scenes, things haven't been as cordial. I've gotten some emails in portraying this as mean girl games. One senator in the body, who's actually a female senator, said, "well said," in response to that. And I think the words that we use in this body are just so important. And when we frame disagreements among female senators as mean girl games or cat fights-- I've heard that one before too--

**FOLEY:** One minute.

**SLAMA:** --thank you-- that's just so contradictory to the purpose of having women be treated as equals in this body. And it's especially problematic for me when another female senator perpetuates that by agreeing with the person who sent the email. This is nothing personal. I-- I think it's just important to have this discussion about what our spending priorities are going to be. And if this goes four hours, so be it. This is a bill that would cost Nebraskans $13 million and that deserves extended debate. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. Senator Halloran.

**HALLORAN:** Thank you, Mr. Lieutenant Governor. I yield my time to Senator Slama.

**FOLEY:** Senator Slama, 5:00.

**SLAMA:** Thank you, Senator Halloran. Thank you, Mr. President. So I-- I rise taking some time to talk about my concerns with LB376. It is important that we discuss, when we have a bill as big as this, $13 million off of the floor out of our General Funds, that we-- we take into account what our priorities are for this session. And I think every person on this floor, we can all agree that these services are critically important to the people of Nebraska. But so is school funding, so are thousands of other things, and we dedicate hundreds of millions of dollars to these services already. And I-- I believe the structure of LB376 is problematic in a number of ways in that we do not give priority to kids really based on financial need. We open the door for people who have millions or billions of dollars to get these government services when they already have the means necessary to provide for their-- their own kids. It defeats the purpose of the waitlist as a whole and creates two separate lines, essentially a fast-pass line when we're saying that minors under the age of 19 can get on the fast track on this waitlist versus adults who may have been on this waitlist for years. In my previous turns on the mike, I have discussed the fiscal note a few times and we haven't really gotten fully into it. And I-- I would like to return to the explanation of the estimate. This is the fiscal note that was provided to us on May 17, so yesterday. It is the most recent one. If my notes are correct, it's the fifth revision. The Fiscal Office has gone back and forth a bit on just how much this bill is going to cost taxpayers. Their-- their most recent estimate is around $13 million, and they explain it as the following. How much time do I have left, Mr. President?

**FOLEY:** 2:50.

**SLAMA:** Two minutes, wonderful, thank you. The explanation from the Fiscal Office in the most recent fiscal note for LB376 is as follows. LB376 as amended by AM1307 would require the development and implementation of a family support waiver which would be offered to minors with disabilities to prevent institutionalization and allow children to remain in their family homes. This offers services needed by families and a pathway to Medicaid eligibility. This bill requires the department to apply for a new 1915(c) waiver that would need to be approved first in order to implement this and other changes proposed in the bill. The waiver would be limited to three years. This fiscal note assumes January 1, 2022, as the implement-- implementation date due to the time needed to apply for and receive approval for the waiver. The number of participants is capped at 850. Using the current service coordination workload ratios, 34 FTE services coordinators, 5 FTE SC supervisors, and 1 FTE service district administrator will be needed. There will also be a need for one FTE for the policy team

program specialist, two FTE for the quality team, so two program accuracy specialists, and two FTE for the financial and data management team, two fiscal project analysts. There would be additional costs for the Therap case management system to add the new waiver and all components of case management for this new waiver population. The contract for case management is structured on a per-member rate of $83.79 per year. The additional cost of adding 850 participants--

**FOLEY:** One minute.

**SLAMA:** --thank you, Mr. President-- is estimated at $35,700 in the first year and $71,400 for the second year. The waiver would have a limited budget of up to $10,000 per participant. This would require $4-- $4.25 million in the first year and $8.5 million in the second year. Additional Medicaid expenditures would be incurred due to the pathway to Medicaid eligibility required in this bill. Based on 500 additional cases added to the Heritage Health per month per member capitation payments, the overall impact to Medicaid would be about $4.45 million dollars in the first year and $8.9 million in the second year. I'll return to this last paragraph on my next turn on the mike. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. Mr. Clerk.

**CLERK:** Mr. President, Senator Slama would move to amend Senator Cavanaugh's amendment with FA55.

**FOLEY:** Senator Slama, you're recognized to open an FA55.

**SLAMA:** Thank you, Mr. President. I think a few people may have gotten tired of yielding me time, so I figured I'd give everyone a break. Just full transparency here, I-- I do intend to take LB376 to cloture. I think when we're talking about a bill as big as $13 million coming out of our General Fund, that is a very large amount. And like other large bills that have come up in this year, they've had extended debate, and I think this certainly warrants a debate and approval of a higher vote of the body. If this gets 33 votes for cloture, that's fine, but at least we've had the four-hour discussion to get us to a pla-- place as a body to where we're well informed about where $13 million is going. And just as a quick aside, based on what Senator Lowe has-- has said, it's important to clarify that this isn't our money. This is the money of the taxpayers of the state of Nebraska. This is their tax money that we're deciding where it goes. And-- and we have to have priorities in handing out that money, whether it be tax cuts or spending. I'll return to the fiscal note here and just get

that wrapped up because we have been to it a few times. Senator Arch has chatted about it a bit and Senator Albrecht has made reference to it, along with Senator Linehan, who has been a champion for conservative, responsible spending on the floor of this Legislature. So returning to the fiscal note, we are on the last paragraph, and then I will transition to my next piece, which goes in depth as to how much Nebraska spends. And I think it is important to get that in-- into the record. So the final note of the fiscal note is as follows. Some of the General Fund expenditures in this fiscal note may be offset by additional federal funding received by DHHS in accordance with the American Recovery Plan Act, ARPA. The Centers for Medicare and Medicaid Services, CMS, has not advised states on whether all the costs included in this legislation are eligible. Therefore, the amount of this offset is unknown. And that reference to ARPA leads me into my next point in that we are designating American Recovery Fund-- Plan Act funding, which is something we haven't done on the floor of this Legislature. We find that ARPA reference on pages 2 and 3 of LB376, starting at lines 29 through 31, where the bill states: It is the intent of the Legislature that any funds distributed to Nebraska pursuant to Section 9817 of the American Rescue Plan Act of 2021, Public Law 117-2, be used to eliminate unmet needs relating to home. And then on page 3, lines 1 through 7: and community-based services for persons with developmental disabilities as much as possible. If funds are distributed to Nebraska to Section 9817 of the American Rescue Plan Act of 2021, it is the intent of the Legislature that such funds distributed to Nebraska should be at least partially-- fund the family support program if doing so is in accordance with federal law, rules, regulations, or guidance. So these sections of the bill are very important because that's where we're dedicating federal funds to help fund this program, and that's something we haven't done on the floor of the Legislature this year. And-- and Speaker Hilgers has made it clear on other bills that we are not predesignating-- predesignating these funds, in large part because federal rules have not yet been established for the states regarding these funds. So it doesn't make sense in a lot of ways to pre-designate these funds and then have to come back in 2022, revise our statutes to reflect the federal guidelines that we know are coming, hopefully in shorter order, so we aren't at risk at losing that funding. The Governor and the Legislature are supposed to work cooperatively over the interim and come back next year with a comprehensive plan for the new federal American Rescue Plan Act dollars. So over the interim, once we get those federal guidelines, members of the Legislature and the executive branch will get together and decide how this money, which ranges up into the hundreds of millions, will be spent to best serve Nebraska. And I don't think it's appropriate right now to be designated--

designating those funds and putting the cart in front of the horse in a lot of ways. So the-- there may be more compelling needs next year, and that's not to say that this waitlist is not a compelling need. I feel for these families and everybody who's on the waitlist. I-- I feel for you. It is certainly a priority of this Legislature to fund this waitlist. We're seeing an increase of millions of dollars in funding for this program already in this biennium. We spend hundreds of millions of dollars on this program because we see it as such a priority. However, I think the structure in LB376 is inherently flawed to where we're picking out a brand new set of winners and losers based on age. So based on the needs that we don't know whether or not we'll have next year, we should wait and let those needs come in and be examined over the interim and into the 2022 Session. I think designating these federal funds ahead of time is unfair to all of the other programs and bills that had to remove sections dealing with these federal funds. Like Senator McDonnell's just last Thursday, we amended his shovel-ready projects bill, LB57-- LB566, by deleting American Rescue Plan Act funds that he and many of us thought would be valuable for important economic recovery projects. So even on bills that we've de-- debated recently, we've removed that ARPA language for the same reasons I outlined a couple of minutes ago. There's just no justification for prededicating these funds here in the bill when other senators and stakeholders have been denied that opportunity in this session. So now, moving on, I-- I'd like to read an important article into the record because as we're discussing LB376 and the $13 million we'd be spending here, it-- it's important to keep in mind that Nebraska has high spending per capita. When you look at state spending, and especially when you combine it with state and local spending, we're in a very unique situation where we balance our budgets every single year. I think that's very helpful. It's one of those really unique things that sets Nebraska apart from other states in the country, and I think we all cherish that. But we do spend a lot of money. So I-- I appreciated Jim Vokal's article on May 11, 2021, entitled "Taxpayers Beware: 3 Issues You Should Be Concerned About in Nebraska." And the article reads as follows: Do you think Nebraska taxpayers would like to pay $1 billion more in taxes each year? Unfortunately, some groups and policymakers in our state have pushed for this without many people even knowing about it. That's why experts at the Platte Institute go down to the Capitol to testify against expensive policies threatening economic opportunity in Nebraska. Today, I'm going to share with you three issues taxpayers should be concerned about in Nebraska. Stay tuned until the end, where I'll share with you how policymakers even tried to raise taxes on businesses during the COVID-19 pandemic. And this video is available online, as well, if you'd like to consume the article in that way.

Back to the article: In so many ways, the status quo holds Nebraskans back from achieving their full potential in our state. At the Platte Institute, we remove barriers to growth and opportunity to promote economic growth in Nebraska. One approach we use is advancing solutions to create a simple and sustainable tax structure. We want Nebraskans to keep more of what they earn and for the state to attract and retain a talented workforce. This way, Nebraska will create innovative businesses and good paying jobs that improve our quality of life. Certainly, taxes also help pay for many things and improve our quality of life. That's why it's even more important to design a tax system that's easy to comply with and encourages more people to want to be taxpayers in Nebraska. To get there, policymakers need a better understanding of how taxes really work and the public needs to have a voice in how--

**FOLEY:** One minute.

**SLAMA:** --tax policies are decided. Thank you, Mr. President. Not all tax policies have the same economic effects. Governments must keep an eye on how their tax rates and tax structures impact their competitiveness and economic opportunities. Right now, we don't have a simple and sustainable tax structure in Nebraska that promotes economic growth. We're not competitive with states that are growing faster than us. It's not simply that taxes are too high. Nebraska's tax system was designed for a completely different economy. It's weighted against providing opportunities and amenities that Nebraskans want to see. A lot of people know we have the eighth highest property taxes on homeowners and one of the highest property tax burdens on agriculture. That's just the start of it. If you throw a dart on a U.S. map, 70 percent of the time, you're going to land on a state that has lower income taxes than us. And I'll return to this article on my next time on the mike. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Slama. Senator Groene, you're recognized.

**GROENE:** Senator Arch, would you answer a couple questions?

**HILGERS:** Senator Arch, will you yield?

**ARCH:** Yes, I will.

**GROENE:** This fiscal note, how-- is there a cap on-- is it the cap on the number, 850 children, including 400-- or is the cap on the amount of money?

**ARCH:** The 850 was used as an estimate for how much we would fund, and-- and so it was a cap on the amount of money, I believe, is-- if that-- I believe that's the answer to your question.

**GROENE:** So do we have any idea what each child's cost will be a year? Because they're all going to need different services, is that correct?

**ARCH:** Yeah, this is an estimate; like any budget, it is an estimate, and so we don't know exactly. We estimated that there would be-- trying to find that fiscal note right now-- that we-- we estimated exactly-- or we estimated how many would qualify for Medicaid and-- and so forth, so it-- it is an estimate. We do not know exactly, but this is--

**GROENE:** So is the estimate off the waiver list now?

**ARCH:** The estimate was off of the-- off of the cost of-- of providing those services, yes. And we-- and we know-- we know what those costs are.

**GROENE:** And you-- and you-- from looking at the waiver list, you estimated there's 850 children that are on the waiver list looking for services?

**ARCH:** Well, actually, the number is closer to 1,200, but-- but that was the number of children that we believed we could-- we could serve in this program. So it was-- it was-- it was dollars, yes.

**GROENE:** So I seen a whole list of if they got-- they're under the care of grandparents, if they-- there's a whole list of things that HHS is expected to have a checklist who-- who gets services first, is that correct?

**ARCH:** That is correct. They would use these criteria that are in the statute.

**GROENE:** So is-- and it's services that we came up with or was these-- this criteria authored by this Legislature or your committee or was it a list that was found in federal regulations?

**ARCH:** This was-- this was the debate that Senator Linehan re-- she commented on earlier, which-- which had been going on for a couple of years, and-- and it was to establish what are those criteria. So I believe it was in 2017 when that-- when those criteria were established and it was established by LB333 that year. And so this--

so these criteria are the criteria that we use in the comprehensive waitlist.

**GROENE:** It's-- it's Nebraska criteria, or is it modeled on federal criteria?

**ARCH:** I-- you know, to tell you the truth, Senator Groene, I don't-- I don't know the answer to that. I don't know how that criteria was developed in 2017. I was not here.

**GROENE:** And you're-- all right. So you just followed that criteria.

**ARCH:** That is correct.

**GROENE:** So it's first to disabled children and family units in crisis situations in which the disabled child tends to self-injure or injure siblings or another family units-- members-- I understand that-- second, to disabled children who are at risk for placement in juvenile detention centers-- I don't know how you decide who's at risk. It's something like Senator McKinney said about reasonable. I don't know how you-- you assume they're going to end up in a juvenile detention center-- other institutional settings, or out-of-home placements; third, to disabled children whose primary caretakers are grandparents because no other family caregivers are available to provide care-- I know some pretty wealthy grandparents-- fourth, to families who have more than one disabled child residing in the family home;--

**HILGERS:** One minute.

**GROENE:** --fifth, based on the date of application under the family support program. I'm just-- it sounds like we're picking winners and losers when all these children need help. I-- I'd like to fund it all. But some folks who will vote for this also voted for corporate income tax cuts. Some voted for sales tax exten-- I mean exemptions. I'm a practical person, as I said when I didn't support the tax cuts, except for the Social Security one, which I supported. Somebody's got to pay for it. And so I guess it-- to me, it's more of a budgetary question and I'd like a reexamination of the whole program to see if we could prorate it differently and make sure we're covering that everybody gets something. But some got on the lifeboat and the others are sitting on the sideline, that makes no sense to me either.

**HILGERS:** It's time, Senator.

**GROENE:** Thank you.

**HILGERS:** Thank you, Senator Groene and Senator Arch. Senator Geist, you're recognized.

**GEIST:** Thank you, Mr.-- Mr. Speaker. Again, I'm going to go back to the thing that bugs me the most, and it's this cliff-- services cliff. But in light of the three years prior to that cliff occurring, we're expanding services for the people on this waitlist. And I wonder if Senator Arch in-- would yield to a question about that.

**HILGERS:** Senator Arch, will you yield?

**ARCH:** Yes, I will.

**GEIST:** Thank you, Senator Arch. Are there providers available to give these services that we're-- we're including in this-- in this bill?

**ARCH:** So there would be approximately 850 children that would qualify under this waiver if this bill passes. And-- and again, when we had this testimony in our committee, we did not hear testimony to the effect that this was-- that there were not providers available to-- for these services. I think that-- I think that practically what could happen is that existing providers would-- would expand their services and offer more. I don't know that for sure, but I-- as I say, we did not have testimony that we would have a shortage of providers for these 850 children.

**GEIST:** Are these 850 children, are they grouped in a specific part of the state or are they-- are they scattered across the state?

**ARCH:** My understanding is that that-- that would be spread across the state. But of course, oftentimes you will find individuals with special needs that would-- that would move to areas where those services are available, so perhaps disproportionately they would be represented in certain areas of the state where special needs services are provided and there's multiple choices for providers in those areas.

**GEIST:** OK, thank you. Thank you, Senator Arch. Well, again, I will just reiterate the-- the concern that I have of offering those services for three years and then either the child aging out or the service being discontinued and then the families having to scramble with how to manage that drop of services and how disruptive that is to the family. And with that, I-- that's all I have, Mr. President. Thank you.

**HILGERS:** Thank you, Senator Geist and Senator Arch. Senator Linehan, you're recognized.

**LINEHAN:** I do feel sorry for people, especially those with children that this bill aims to help that are watching us tonight, because when you tune in on just one part of the conversation in a 90-day session, you miss a lot of the nuances. So, again, it's not that we didn't have enough money to address this. We've had millions in-- hundreds of millions in spending. It's just come in at the last. And others in the body have adjusted their bills to fit into a budget. Senator McDonnell, who sits behind me, had a bill that got first-round approval by a pretty wide margin, and last week he was asked to drop it from 25 to 15, and he did so. The Revenue Committee brought two bills to the floor after the appropriations bill had passed, and they were asked last week to cut both of them in half. So I-- I'm just dumbfounded that we come to the, what, fifth day from the end and all of a sudden that we didn't have money for Senator McDonnell's bill, we didn't have money for tax cuts, we have this money. It doesn't-- it doesn't add up over the whole time we've been here. And Senator Groene, he did support Social Security tax cuts. I appreciate that very much. He didn't the corporate, but is it-- we are a high-tax state, folks, and we can all pretend we don't know that. But we've got WalletHub, which was in the Lincoln Journal on April 21. These are the states with the highest and lowest tax rates. Where does Nebraska rank? Sixth from the top, sixth from the top for the worst states when looking at taxes. Nebraska households pay about 23 percent more in taxes than the median American household-- again, 23 percent more in taxes than the median American household. It's a problem. The only states to live in that tax you more than Nebraska are Kansas, Pennsylvania, New York, Connecticut, and Illinois. We can't just keep ignoring this, folks. Young people-- and I know people say that people don't move for tax. That's just not true. People move. There's all kinds of studies. Tennessee is growing. Florida is growing. Texas is growing. Why are they growing? Because of taxes. We have outrageous property taxes, which we have spent a humongous amount of time talking about this session and which we've actually done something on, but it's not our only tax problem. And again, this isn't about whether these children should and their parents should have this help or not. I'm all for that. But why wasn't it a priority when we got here? If it's so important, why wasn't it like first up? Why isn't it in the Appropriations bill? There's lots of things in the Appropriations bill that I think we could live without that are less important than this.

**HILGERS:** One minute.

**LINEHAN:** As I asked Senator Clements, we have a program to give money away to startup companies for like $17 million over the biennium. What-- what is that about? How do we tax people to give it away? I think we ought to let people keep their own money. If they want to invest in a startup, they should invest in a startup. Why is it-- why are we taxing people to help a new company go into competition with a company that's paying taxes? We need to get back to kind of understanding there we're a high-tax state, this isn't our money, and we need to be more serious about how we're treating our taxpayers' money. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Linehan. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President, and good evening again, colleagues. Senator Linehan raised some outstanding points in her last turn on the mike. And if you are tuning in at home and this is your first time tuning in in the session, you may have some pretty big questions like, why is this bill being held up now? And Senator Linehan gave a great explanation of the nuances, which might be being lost here, of why $13 million is such a big deal on the floor, especially in this point in session. We are getting to the twilight hours of this session, and it's time to make the hard decisions. Large sums of money that were designated for the floor, we had over $200 million designated for the floor this year, so that's money that's above and beyond what our biennial budget appropriated in this year. That's-- that's unprecedented if you look at the last decade or so in the Legislature, so it is very concerning to see a bill when so many others who have had bills with spending, like Senator McDonnell, like several other senators in the body have been forced to trim back their bills and LB376 has had to gone through-- has gone through no such trimming back, and this is even though disability services are a priority in the state of Nebraska. We spend hundreds of millions of dollars on them. And if we had the resources today to sustainably fund every single person who needed services, I would be on board with that in a heartbeat if we could do it responsibly. And I don't see LB376 as approaching this problem in a sustainable manner. And I was wondering, if Senator Cavanaugh is on the floor, if she would mind answering a couple of questions I have about the bill. Would Senator Cavanaugh yield?

**HILGERS:** Senator Cavanaugh, will you yield?

**M. CAVANAUGH:** Yes.

**SLAMA:** So, Senator Cavanaugh, I've raised a few concerns that I have about LB376. I was wondering, could you respond to the concern that

this-- this bill, as amended, would allow millionaires and billionaires to receive these services by disregarding parental income?

**M. CAVANAUGH:** You want me to respond to that argument?

**SLAMA:** Yes. Do you-- if-- do you have a response to that?

**M. CAVANAUGH:** That is a straw man's argument and it's disingenuous to the families that are on this waiver.

**SLAMA:** Well, I would-- I would say that's false when you look at the text of the bill.

**M. CAVANAUGH:** Well, you-- you asked what my response is.

**SLAMA:** Thank-- thank you, Senator Cavanaugh.

**M. CAVANAUGH:** My respon-- that's my response. You're welcome.

**SLAMA:** I appreciate it. Thank you. But that gets back to the millionaire's provision that's in the bill. This is not a straw man's argument. This is pulled straight from the text of the bill. I-- I was hoping Senator Cavanaugh was interested in having an honest discussion. I've been transparent. I do intend to take this bill four hours and I think it would be valuable. I haven't had-- heard a person yet get up and defend why we need to spend an additional $13 million through LB376. I haven't heard a single person get up and answer some of these concerns with genuine answers. They're genuine concerns. Just going back to the millionaire's provision, this is on page 3, lines 11 through 13: offer a pathway for Medicaid eligibility for disabled children by disregarding parental income and establishing eligibility based on a child's income and assets. Last time I checked, kids aren't making much money in the state of Nebraska, especially if you're under working age. And on lines 27 through 28, the bill expressly states the new eligibility determination would include, but not limited to, a child's maximum income and assets. This provision says parents with unlimited financial income--

**HILGERS:** One minute.

**SLAMA:** --could qualify their child for this new program. This language is intentional, as we just heard in this last exchange on the mike. Kids just aren't going to have the assets or the income in any case, save for some very limited circumstances, to count against their eligibility. We could really just call this the millionaire's

amendment, the millionaire's clause, what-- however you want to phrase it, and it's a dangerous precedent for this expansion because this waitlist is already so strained that we're opening it up to people who might not even need these benefits, who might make seven figures, who might make eight figures, and who could provide for their child's care on their own. So, I mean, if you are sitting at home fired up about why this bill is taking four hours, you should also be fired up that there may be people who have massive incomes that could be hopping in front of you in line on this waitlist because of LB376. I-- I am still concerned about--

**HILGERS:** It's time, Senator.

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

**HILGERS:** Thank you, Senator Slama and Senator Cavanaugh. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. Speaker. You know, some people say that I speak pretty slow on the microphone, and that's OK, but at least I'm speaking on the microphone tonight. We have not heard anybody stand up from the other side and speak in favor of this bill. We've had Senator Erdman, Senator Groene, especially Senator Slama, Senator Albrecht, speak on this bill, but the side that will vote for this bill has been silent. Why? Do they not want the bill? Do they not want to speak in favor of this bill? Patty? We-- we need to hear from your voices, too, on why this is so important. You're not giving the people of Nebraska their due. I mean, would the recipient family need to be accountable to DHHS for how this additional money is spent? We need to know that. Will the family income be part of an in-kind configuration of the disabled parents' income if the individual is living with their family? Is it the state's responsibility to serve all those who-- who are eligible for the services and the waitlist? Is it not even an option? I mean, really, we need to hear from the other side on this. It's important for the state of Nebraska. Senator Slama said she was going to take it four hours. The queue has not been long. The side that is going to vote for this could jump in at any time and be speaking within 15 minutes, tops. But it has been Senator Slama and a few others that have jumped on the queue. This bill is going to go four hours. You might as well speak. Otherwise, we're going to run this four hours with our voice and our opinions. What kind of comprehensive developmental disability services would this bill cover that are not already provided, including Med-- Medicaid and medical services, etcetera? What specifically does comprehensive fill in that is not covered by other services? We need more understanding. This is the people's money. Here we are, the last week of the Legislature,

really. We've already doled out hundreds of millions of dollars. And now we're coming up to this bill in the very end and we have no money left, and it is asking for over $10 million. Now we knew this bill was coming, they knew this bill was coming, and yet they apportioned out for their own needs before this bill. I support-- I support the FA55 and I'm against LB376. It's the people's money. It's not our money. We're taking the money--

**HILGERS:** One minute.

**LOWE:** --thank you, Mr. Speaker-- we're taking the money from people, from their children, to give to other children. Does that sound fair? Now we all have sympathy for the disabled children. My brother was disabled. We have sympathy and we like to give them an equal life like the rest of us. All of us would. But we need to do it responsibly. We need to do it so those in need can get the money, not just anybody and everybody, a way ahead of somebody who may need it. This is just not right. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Lowe. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. So I'm going to talk a little bit about our budget and the process we go through. And I remember the debate. Just last week, I think, we were talking about limiting some of the tax cuts to be more fiscally responsible. And Senator Stinner said very clearly, just because we have some money left on the floor, does not mean we need to spend it. So again, I think, when you look at some of these programs and what I've noticed over the years, it's hard to take away any program. Once you start funding something, it continues, and it continues because it-- it is more disruptive to start something and-- and if you don't have it sustainable so that you can keep doing it, you cause more trouble than what you're trying to solve. And when we look at our revenues right now, I have been concerned about going forward and how we are sustainable in the out years. I will be term-limited in another year. And when I look at our current revenue projections and things like that, it concerns me that in years three, four, and five, whatever, when the federal stimulus goes away, we will have to start making cuts. And this program, even though it-- it does sunset, it starts or it-- it depends on some of that money, it's temporary, but once you start these programs, they are hard to cut back on. And I think until we design something that is sustainable-- and I think we've done that legitimately over the past years. Unfortunately, the first year I was here was the only year that we really had revenue to spend. And again, looking back on that year as a freshman senator, I wish I would have had the ability to stop some of that spending because only a year later we were cutting

programs. We shouldn't have spent it all and we did. And-- and as a freshman senator, you're-- you're here. You're kind of watching. Yeah, you're still learning the ropes and-- and suddenly-- I think that year-- I-- I don't know if we spent three hours on the budget all three rounds, total. It just went through and that was the last time a budget sailed through this body. After that, we did ask more questions, and we sometimes spent late into the night here talking about fiscal responsibility and-- and how we're going to make some-- not-- I won't call them cuts because they're decreases in our increases, but we have never had to make cuts in this body. We have trimmed some programs from their increases that they asked for. But we cannot just start programs and start funding things that give people hope that they're going to get something done without doing something that's more sustainable in the long term. And I think HHS has done that with these programs and we have constantly added more money to that. We have tried to cut that waitlist, but I think we've done it in a responsible, fiscally responsible way. And so, again, we-- we talked a lot about where we might go in the future. And, yes, just because there's money on the floor, does not mean we're going to spend it. Would I have loved to bring LB454 back and try to get something on property tax relief? Yes, I would have. But the comments back then were, just because there's money on the floor, doesn't mean we need to spend it. And I did take that to heart, and I think we need to look at things now going forward. We kind of knew this was going to-- this kind of train wreck--

**HILGERS:** One minute.

**FRIESEN:** --would maybe happen at the end. But again, I think we just have to look at things and make sure that what we're doing is sustainable longer term. So with that, I'd-- I-- this is the first time I've really engaged in this. But I-- I do feel that we need to look at that bigger picture, look longer term. What are we doing? What is more sustainable? Is it-- is it helping some of those businesses that are struggling right now, that we really haven't done anything for, in order to get our economy going so that we can do something longer term, more sustainable? So those are-- those are the issues I think we need to deal with and I look forward to more debate. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Friesen. Senator DeBoer, you're recognized.

**DeBOER:** Thank you, Mr. President. I stand in support of LB376. And I just wanted to say that the thing that convinced me was when I was talking to Senator Arch in the lounge and I asked him if these in-home

services would actually save us money in the long run. And he said, yes, because if we don't do something in a lot of these cases to provide sort of early services or services in the home, it can become a much more expensive issue later. So that's persuasive to me. Senator Friesen, would you yield to a question?

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

**FRIESEN:** I'm afraid not.

**DeBOER:** Colleagues, I'm sorry. Earlier today, Senator Hughes and I had an interaction that was very similar to that one, and I just wanted to explain to everyone that this is an inside joke between a number of us, that we wanted to add a little levity to the end of a long night in the end of a long session. And I wasn't refusing to speak to Senator Hughes, nor is Senator Friesen refusing to speak to me because of any malice. In fact, it's quite the opposite. We remember that even when we are on opposite sides of issues like that, like we are today, we remember that we as people really respect and understand each other. We remember good times together where we had dinner and told jokes. That's the punch line from my favorite joke. And I think it's important to remember that at the end of the day, we're all trying to do the best thing for Nebraska. We just have different understandings of how to do that. Nevertheless, I would ask for everyone to think again about supporting this bill and supporting the idea that if we sometimes spend a little money in the short run, it can actually save us money in the long run. Thank you, Mr. President.

**HILGERS:** Thank you, Senator DeBoer. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. Speaker. To answer Senator Lowe's question, I don't usually help people filibuster my bills, especially when the arguments are so completely disingenuous and disrespectful to the families that this bill is seeking to serve. Almost every single senator that has spoken in opposition to this and talked about their concerns over the fiscal note and why did we do this now and not through the appropriations process, I put an amendment on the bill on the floor and you voted against it. So stop this feigning, why didn't we do this with the budget? You had an opportunity outside of the budgeting process to do this with the budget and you refused to do that. You refused to fully fund the waitlist. And now you say I'm picking winners and losers? I'm not picking winners and losers. I always had this amendment-- or this bill to help families with children who are developmentally disabled and need services. And the longer they go without services, the longer they sit on that waitlist,

the further behind the goalposts they are when they actually age into it. I'm not picking winners and losers. There is a priority list. There is a process and how this is-- happens and the department decides. Our state agency goes through that process and vets the applications and decides who meets the priority list. These arguments are fake and disingenuous and disrespectful to the families of Nebraska, to the families on this waitlist. So I was going to let you play your little theatrical game without me getting involved. But you want me involved, so here I am. This is a tragedy for the families of Nebraska that you would even consider doing this. And I can't even figure out why you're doing it. I thought maybe it was Senator Stinner's amendment, but he's pulled that amendment because we didn't know, because nobody told us if that was the problem, so he pulled his amendment. So now it's just my bill with a technical amendment that I'd happily pull. I don't care if that amendment passes or not. Drafters asked for it. This robust conversation-- I'm using air quotes for the transcribers-- this "robust conversation" could have happened when this was on eight hours, but you waited until it's four hours because that's easier for you to filibuster. And you waited till it was at 7:45 at night because it's easier to have less people here. I don't know what this is about, but we have money in the budget. You voted for the shovel-ready bill. You voted for tax cuts here and there and everywhere. We have money in the budget for this. And, yes, I am yelling. We have money in the budget for this. And every argument out of Senator Slama's mouth has been completely disingenuous, and she knows it and I know it and everyone on this floor knows it. And the families that are watching this, they know that that is a disingenuous argument. I am fed up with this, all of this. Vote for it or don't vote for it. You decide that you want to penalize the families with children with developmental disabilities in the state of Nebraska because you're petty towards me. That's what this looks like. So get back on the mike. Spend the next 40-some minutes with your fake arguments. Try and bait me some more. This is disgusting. I am appalled. Keep at it, friends.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Linehan, you're recognized.

**LINEHAN:** Thank you, Mr. Speaker. I am not being disingenuous. Senator Wishart, would you yield to a question?

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

**WISHART:** Yes, I will.

**LINEHAN:** So Sen-- Senator Wishart, in the Appropriations Committee bill, there was $17 million over the biennium for the Business Innovation Act. Can you tell-- explain to me what that is?

**WISHART:** Yeah, so the Business Innovation Act is a fund that we created with the Department of Economic Development to seed dollars to start up in economic-- and entrepreneurship companies, to be able to grow and also to be able to bring in venture capital funds into our state.

**LINEHAN:** So we take tax money from taxpayers in Nebraska and seed startups?

**WISHART:** Absolutely.

**LINEHAN:** And we decided that that was worth $17 million?

**WISHART:** Yes, that's what the Department of Economic Development said their need was.

**LINEHAN:** OK, so how did that balance against Senator Machaela Cavanaugh's request for $17 million to help with the disability waiver list?

**WISHART:** So when we made a decision to put about a million dollars into the waiver-- waiver list, what we determined is, do we have the providers capable of handling increased people coming off of the waiting list into services?

**LINEHAN:** So-- so we've decided now we do have the providers?

**WISHART:** Well, my understanding with this legislation is we're looking at the different priority levels that we have with the waiting list.

**LINEHAN:** So-- oh, wait, wait. So we-- we didn't do it in Appropriations because we were short on providers, is that right?

**WISHART:** Yes.

**LINEHAN:** But now we have enough providers to do it?

**WISHART:** Well, my understanding with this legislation, it is also addressing the priority-- prioritization of how we manage that waiting list.

**LINEHAN:** So are we helping kids or managing priorities? Seventeen million dollars, seems like that'd be enough to help some families.

**WISHART:** Well, with the waiting list, you have different levels of priority.

**LINEHAN:** Right, I-- I realize that, but I-- I'm very confused-- thank you, Senator Wishart-- why, when Senator Cavanaugh came to the Appropriations Committee wanting $17 million, which is actually more than this fiscal note, that the appropriators said no, but-- because we didn't have providers. But now we can pass a $14 million bill and nobody seems to say we have more providers now. I-- I don't-- I think this is what I'm trying to say to the people at home. Well, if you just tune in tonight, you're missing-- kind of like you're in one chapter of a novel. There have been many, many decisions made about how to spend money here, and this was not at the top of people's list. It's been-- much to her credit, it's been at Senator Machaela's, top of her list. She's talked about it almost every time we had a bill. It's always been at the top of her list. But it comes to the floor late in session. Others, as Senator Friesen has mentioned, others have negotiated their bills down to fit within a budget, being told, as Senator Friesen, oh, well, if you-- if you negotiate it down, don't worry, we won't spend it, this isn't-- this isn't for more spending or spending less on yours and more over here, that's not what we're going to do. And yet less than a week, like it's-- it feels like-- and I'm sure we all have this in common. It feels like yesterday, not four days ago or five days ago, because we're in that tunnel here and now we're back and we're spending it. I-- I don't--

**HILGERS:** One minute.

**LINEHAN:** --agreements mean something here. When you tell me that if you negotiate down your cost, we won't spend the money, I actually believe you, at least I have until today. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Linehan and Senator Wishart. Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President. Colleagues, good evening. We're getting late in the session. That's pretty evident from the conversation, what we're talking about and the tone. I've heard a lot of people stand up today on this bill and say things like, I really want to help these people, I really feel for these people, I'd really like to-- I'd re-- it's not the merits of this bill, it's something else. I'd like to tell you about somebody I met when I was knocking doors. It was a lady who was on her second marriage, and she brought into the marriage a child who was developmentally disabled. I think he was 17. He was not in the room when I met this lady. Actually, when I walked up to the house, I noticed there was a-- a lift in front of the

house, and so I could tell that-- that somebody there needed a lift to get up to the porch. Anyway, I go knock on the door and this lady-- I'm just knocking doors. I'm running. And this lady answers the door. She's got-- you can tell she's distressed. She's distressed and-- and I would say near tears. And she has an-- a son that was 17 years old, has mental illness and profound developmental disabilities. And I introduced myself and I told her I was running and she said, you know what happened to me today? I wrote to HHS trying to get respite care because this-- this situation is about to ruin my marriage and I need a break; somebody's got to be with my son 24 hours a day and I need a break, and so I asked for additional services from HHS. And today, like 15 minutes before I got there, she received a letter that said, not only are we not giving you the additional services, we're taking some away from you. It reminded me that when I chaired the-- what we referred to as the BSDC Committee, it was more broadly developmental disabilities. One day we had an open mike night. I'd do that from time to time where people could just come and tell us anything that's on their mind relative to developmental disabilities. And I'd listen to their stories, as I'm sure some of you do in HHS and some of you do over in Appropriations Committee. And what-- what impresses me is we call ourselves a pro-life state. These families welcome into their family adult developmentally disabled child and I swear, colleagues, they can't do it alone. You're worried about somebody getting a service, maybe respite care? They can't do it alone. You want them to stay at home? These people can't do it alone. They need some help. It's an investment and a good investment before some of these young people end up institutionalized or they end up in a group home that's even more expensive than what we're talking about. And I understand we are at the end of the session. There are people that didn't get what they want. Their bills didn't pass.

**HILGERS:** One minute.

**LATHROP:** We're at that point in time where we're trying to make sure that the money fits and we balance a budget in the last week. I get that. But if you mean it when you say you want to help these people, we have an opportunity. We have an opportunity. I appreciate the work Senator Cavanaugh has put into this. I appreciate the work Senator Arch has put into this, and the Health Committee. I think we need to take a deep breath because it's getting loud and it's getting personal and what it needs to be is focused on these families, the needs that they have. And believe me, if you want to talk about being pro-life, this is where the rubber meets the road. Are you going to help take care of these people or are you going to turn your back once the child

passes the birth canal? I would encourage your support of LB376. Thank you.

**HILGERS:** Thank you, Senator Lathrop. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. Speaker. Fellow senators, friends all, I have purposely not spoken on the mike today but feel obligated to do so now. I stand in opposition to the floor amendment and in full support of the underlying bill. With that, I'm not finding a lot of members from this committee on the floor, but I would ask at this time if Senator Walz would yield to a quick question.

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

**WALZ:** Yes.

**BLOOD:** Senator Walz, I'm going to ask this question of several people from this committee. Can you tell me why you voted this bill out?

**WALZ:** I voted this bill out because I, like Senator Lathrop, when I was walking doors, met many, many families who did not have the supports and services that they needed to provide their kids with respite and medication. The other reason that-- and it's something that I think that we've forgotten on this floor, is that parents of these children are also taxpayers.

**BLOOD:** Um-hum.

**WALZ:** People who support these kids and services are also taxpayers, and I think that's something that we need to remember.

**BLOOD:** Senator Walz, since you're one of the few that are still on the floor here, I'm going to ask you another question. When I went door to door, what I saw were a lot of grandparents that were raising children with disability because the parents were either in prison, had abandoned the child, felt it was too much to watch the child and be able to work. Did you also see that a lot with grandparents and--

**WALZ:** I found that--

**BLOOD:** --and children with disabilities?

**WALZ:** --to be the case quite often.

**BLOOD:** And wasn't that part of this waiver list that they put in the committee statement, if I remember correctly?

**WALZ:** Yes.

**BLOOD:** All right. Thank you, Senator Walz.

**WALZ:** Yep.

**BLOOD:** Chair, I would ask that Senator Murman please yield to a question.

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

**BLOOD:** Senator Murman, I'm going to ask you the question as you're walking over since we're running out of time. Senator Murman, can you tell me why you voted this out of committee?

**MURMAN:** I'm here.

**BLOOD:** Good.

**MURMAN:** Yes, I voted it out of committee because I thought it was worth having a discussion on the floor.

**BLOOD:** Just for the discussion, not for the cause?

**MURMAN:** Excuse me?

**BLOOD:** Just for discussion, not in support of the cause?

**MURMAN:** Well, we-- we have to have our priorities, and I do think this is a priority. But, you know, we have to re-- re-- we have to rate our priorities, high, medium. This doesn't quite fall into the high category for me.

**BLOOD:** All right. Thank you, Senator Murman. I would ask that Senator Williams please yield.

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

**WILLIAMS:** Be happy to.

**BLOOD:** Senator Williams, why did you vote this bill out of committee?

**WILLIAMS:** Because it's the right thing to do. We worked very hard on this bill. Senator Cavanaugh worked hard on it. There was only one person that testified in opposition. That was Tony Green from the department. Senator Arch and Senator Cavanaugh worked very closely with-- with Director Green to find compromise that would work. And I would remind people this was voted out of committee unanimously.

**BLOOD:** Right.

**WILLIAMS:** I think it's the right thing to do.

**BLOOD:** Thank you, Senator Williams. I was actually going to ask you that question. I appreciate you saying that it was voted out unanimously. Friends, I-- I don't know what's going on today. Everybody seems to be kind of cranky in general and sometimes putting out misinformation, so I'm a little puzzled by all of this. But I-- I think it's bizarre when an entire committee votes something out and all of a sudden it becomes very controversial on the floor when we're really talking about taxpayers with children that have disabilities, be it their parents, be it their guardians, be it their grandparents. Sometimes when we talk about bills like this, I think we forget about the--

**HILGERS:** One minute.

**BLOOD:** --the people involved and what our role is as a-- as a Legislature when it comes to taking care of our most vulnerable citizens here in Nebraska. And so I just ask that people, which I don't think it's really happening, are really paying attention to what's being said in this last hour before we get to a vote, because I think it's really important that we vote pertaining to the content in the bill and what the committee suggested when they put that bill out onto the floor. It's the right thing to support this bill and I think everything else is secondary that's been talked about. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Blood and Senator Williams, Senator Walz and Senator Murman. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President, and good evening, colleagues. I do appreciate the other side of this bill getting up and sharing their thoughts. And I agree with Senator Lathrop. We need to keep this about the issue at hand. We don't need to have the personal attacks. And-- and as my mother once told me, just because you're saying something more loudly than the other person, doesn't make you more right. We've had a good talk over the last three-and-a-half hours and-- and we are winding down here. I believe cloture is at 8:30. But we are at the point of the session where we have to make the hard decisions when it comes to spending, and spending for disability services is a priority of the state of Nebraska. We solidified that in our state's budget. I'd encourage anybody watching tonight to go to page 61 of the budget where disability services are listed. We spend in the hundreds of millions of dollars every single year as a commitment to these

services, to having solid services. Yes, we do have a waitlist. However, I would push back against the claim that this is some kind of panacea to solve all of our problems with the waitlist. It would not eliminate the waitlist. In fact, it would add another waitlist. It would add like a fast-pass lane for those who are under the age of 19. And maybe you agree with that. Maybe you don't. Maybe you think that spending $13 million on top of everything else should be a priority. But I'm just not seeing that. But I am appreciative of the extended debate that we've had. And-- and furthermore, just as a procedural note, we've had several tax relief bills, Senator Erdman's consumption tax that came out with strong support from the committee because those members of the committee wanted to have a discussion on the floor. I'm sure if you polled the six members of the Revenue Committee who voted in favor of LR11CA coming out of committee, the-- they weren't sure where they would end up on the final vote for consumption tax and several of them voted against LR11CA's advancement. This is not the Legislature saying that you are not a priority. That-- that's false. If you look at our budget, we spend so much more on these services than what is being debated today with LB376. My concerns with this bill are entirely genuine. I've outlined them several times. We're making two separate lines. We're allowing millionaires to hop in front of the line for families that have been waiting for years. We're not reducing the waitlist equally for everyone. This would disproportionately negatively impact those adults that are on the waitlist. So to claim-- to get up and claim that my arguments aren't genuine just isn't true and it gets away from the spirit of the debate today. And we are in the difficult part of session. Emotions will run high as we make these decisions as to where we cut taxes, where we spend our money, and I understand that. But I-- I-- I'm just not-- not a fan of some of the turns that debate is taken today. But I am appreciative of the supporters of LB376 getting up and-- and making their case, because for three hours we didn't hear from them, so I appreciate them making themselves heard. And with that, Mr. President, I think there are more people in the queue waiting to speak, so I'll defer to them and give them a chance to talk. Thank you.

**HILGERS:** Thank you, Senator Slama. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. Speaker. Colleagues, good evening. Nebraskans, this is not deep. This is not that deep. Let me put it simply. We as a state have a duty to help children who have intellectual and developmental disabilities. We have been failing to provide the supports to the degree that disabled children actually need them. There's more kids who need these supports than we're able to provide, and that leaves many families falling through the cracks. The state

has also failed to provide a way to address all of these families in a timely way. We currently have a waitlist of almost 3,000 people. The waitlist is an average of six to eight years. Over half of the people on the waitlist are children. A lot of these children are waiting for services and care that will extend their lifespan, that will make it easier for them to support themselves in adulthood, which will ultimately save the state money, since that's what this argument is boiling down to for all of the opposition. This bill will help. This bill keeps family caregivers in the workforce where they can generate tax revenue to pay for your precious "taxey-tax." It keeps children with disabilities in their family home so they don't have to leave home and live somewhere where they don't know. It supplements their family health insurance coverage if they have that. It provides supportive therapies and long-term services and medical needs that health insurance doesn't cover. It helps pay for specialized childcare that these kids with disabilities need, respite, home and vehicle modifications that they may need. Colleagues, this is one of those things that we actually have to do. That's why it's a committee priority. The life of a disabled child, colleagues, is not like tax relief. To boil this down to a conversation about spending priorities? And I came upstairs from my office after three hours because I hear people on the mike going, well, it's important, but it's not our priority, oh, we have to have priorities, we have to make choices. The life of a disabled child is not like tax relief. When you have supported tax cuts but not the developmental disability waiver, especially if you are a person who has built their political career on their pro-life bona fides, no, you're not being genuine. That is disingenuous. Check your values. Check yourself. This is one of those things that we actually have to do. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Hunt. Senator Stinner, you're recognized.

**STINNER:** Thank you, Mr. President. Members of the Legislature, I've been listening to this debate. I've been trying to contain myself. And I think right now I need to comment on a few things. The first thing I want to comment on is that, if you look at your green sheets, you got $14,800,000-some available for spending. Now I have said let's leave some money in the checkbook. This bill is figured into that net. OK? If you don't pass the bill, it'll be about $25 million, which is just fine. You've got to make a decision whether you want to start a pilot program that has some merit, that I heard was a priority coming out of that committee, or not. That's the decision. But I'm going to say this. Turn to the next page, OK? Apparently, Appropriations spends money willy-nilly. I will tell you that since I've been here, we haven't brought a budget that has more than 3 percent spending in it.

Look back 40 years. See how many times that has been the consistent record. It's 1.7 percent we brought to the floor and apparently we spent too much money because all of a sudden we spent $398 million, according to this significant increases. And, yes, the Appropriations gave-- gave-- or allocated to providers 2 percent, $83 million of that. But what you forgot to understand is we found savings, savings. The net is 159. That's what we brought to the floor. The second thing I want to bring up is look at your green sheets: $65 million in appropriations is the top part of that. The second part is revenue: 159 in revenue bills. Apparently, we're shortchanging them somehow. Apparently, we're doing the unjust things to the state in Nebraska because we're sixth or seventh highest in the country. Are we trying to do something? You bet. We passed Social Security, we passed military, and we passed property tax relief. Now let's go to property tax relief. Let's keep the score going here. So we got $353 million projected in property tax. That, my friends, is an increase of $228 million more than what we've put the bill in place for. So if you're keeping score, write down $228 million; write down the $159 million that is going to revenue; write down the 63 that we allocated by appropriations, which happens to be the second largest significant number, to taxes and tax relief. Write that down. It's $450 million this biennium for tax relief. Apparently that's not enough. Apparently we're sneaking money out, Appropriations, hiding money. Well, Appropriations took $231 million. That's the 156 net that we brought to the floor and the 65 actually is $221 million. So who has the biggest bite at the apple and where are we going? I'm all for tax relief. I'm for strategic tax relief. I'm for incrementally doing tax relief. And, sure, I put a five-year-- year stop on-- on the Social Security. That was my bill, that was my amendment, and I'll stand by it because I don't want to bind the hands for ten years of a Legislature. I want to take a good, hard look. I can look at the next four years and the projections and say, looks pretty good to me, but there ought to be a hard stop. And then I was asked to take a look at the corporate income tax. Apparently, we didn't have 33 votes, so I got involved in that and we reached a-- we reached a compromise. We're stepping it down. We haven't ignored it. We're stepping it down. We're moving from sixth to eight to tenth, whatever it is, in these rankings. We are taking a bite of the apple. We are doing it incrementally. We are doing it responsibly, and we're not--

**HILGERS:** One minute.

**STINNER:** --spending willy-nilly any program to come. This is a program that Senator Arch said had merit, came through the Health and Human Services Committee as a priority, came out late, has a big fiscal

note. It's a-- it's a pilot project, I'll give you that, and that's the only decision I think you have to make because it has merit. But this idea that Appropriations somehow spends all the money, well, it's probably true over the last four years because we haven't had any to spend. First two years, we had to cut $1.2 billion. The next time we got COVID in the way; this time, we got $245 million and, by God, we're going to spend every cent of it, aren't we? No, we're not. We're not going to spend everything in the checkbook. I'm tired of listening to this. We have strategically put together a tax relief package. We've strategically gone forward with this budget in a prudent fashion.

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

**STINNER:** Thank you.

**HILGERS:** Thank you, Senator Stinner. Senator Vargas, you're recognized.

**VARGAS:** Thank you very much. I hope everybody was just listening to John. Senator Stinner, even the people out in the back or in their rooms or wherever they may be, one, because he was using his-- it's frustrating. I'm-- I-- I was in the back and I-- and it was-- it's-- it's beyond frustrating to hear the argument that somehow our Appropriations Committee hasn't done our job. Specifically, under his leadership, our committee has not been overspending, has been doing things within reason, and has been actually cutting spending significantly than what we've done in the last 15 years. Just look. You can look it up. Last 15 years, on average, we are spending significantly less in terms of growth than past Appropriations Committees. Please bear in mind also that we get-- we get the Governor that sends us recommendations for every single agency. In terms of what we're actually spending that is new spending to existing programs, it is not that much, especially into comparison to what we're working on every day, either within tax cuts, which some of those things I've supported. We worked through the process in Appropriations, so hearing that we are somehow not doing our job is, I do think, disingenuous to the process. And also putting this on us to say that this is something that should have went through Appropriations. This is a new pilot program. New pilot programs don't come to Appropriations. These are existing programs that come to Appropriations. You want to fund the Opportunity Grants program? You come to Appropriations. You want to increase funding to the developmentally disabled waitlist? You come to Appropriations. The HHS Committee saw it fit-- saw it fit to do something that was both innovative and other states have done and then make it a committee

priority bill, pass it, ask the committee, are-- ask the Legislature, and it passed the third round, by the way, to fund it, and then we included it in our budget. We included it in our projections, just like every single other bill was included that's been going through the process. I'd venture to say that even if we were some people saying that the dis-- the-- the waiting list, as it exists right now, we should have funded that first, that people are jumping the line, then I'm not seeing an amendment saying right now that we're trying to fund the waiting list. Trust me, Senator Wishart and I tried in committee to try to better fund the waiting list. We-- we made-- we-- we made arguments and cases. That didn't happen. That's a separate issue. This is a separate pilot program. Now, if you don't like the program, fine. I'm encouraged by the fact that the committee, specifically under Chairman Arch's leadership, found it worthwhile to go down this route. And the question is, do we have 33 votes or not to support it so that we can finish out this year and look at all the things that we've been able to do? And I'll tell you, there's a lot of things, if we're looking at the ledger, that are helping families and children. And I'm not saying through either business or through tax cuts that goes directly to a disadvantaged, high-need group of individuals, and this is one of them. We don't often have a committee priority and a committee that's worked on it and we put it in our budget and we have the funds to be able to do it. The question is whether or not you're going to support that, but please don't put it back on Appropriations like we didn't do our job. This was not an Appropriations bill.

**HILGERS:** One minute.

**VARGAS:** This was a bill that had its time in HHS. I've been proud of the work we've done in Appropriations. We have slowed the growth of spending. We put a lot into the Property Tax Credit Fund. We've put a lot into different development projects, economic development, growing our state. It is incredibly disheartening to hear that this is on us somehow. Focus on the merits of the bill. I've heard some of those merit conversations. I appreciate that. But at the end of the day, this can fit within the budget. I think it's good for us to try new things. And let's try to help children and families. That's it. Thank you very much.

**HILGERS:** Thank you, Senator Vargas. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. Speaker. Well, I rise in support of LB376 and AM1453. I, too, have been listening to the conversation and have been a little bit confused, I guess, about the arguments that have

been raised, other than actually Senator Hunt made a very cogent argument in favor of this bill about a few minutes ago. And I think that Senator Vargas and Senator Stinner just made some very good arguments in favor of the appropriations process. I recall, after Appropriations reported it out and failed to take the action that Senator Vargas just advocated for, that there were at least two conversations on this floor to increase the funding to the waitlist, and I don't think that a number of people here voted for that. But a number of people spoke in favor of the idea of the-- the funding of services for the folks that this program covers. And this is a priority, specifically the highest priority for some, lesser priority for others, but an agreed-upon, virtuous objective of this Legislature. And we are not seeking to spend money here willy-nilly. We've had a lot of conversations, and I think that they've all been healthy and constructive, about what it is we would choose to spend money on. And when we talked about these tax cuts that some people have brought back up today, I specifically talked about, rather than giving tax cuts to companies, corporations, specifically offshore corporations or people that have hidden their-- their profits offshore, I thought that was a priority that did not deserve to be above any other option available. That included this. However, I was against those tax cuts on the merits of the tax cuts themselves, that I thought they were bad policy, and I advocated against those and ultimately worked a compromise to minimize the impact of those based on the merits of that and not about where that money could go. And I would tell you that a portion of that conversation specifically included expected expenditures that were still in the pipeline and that it is-- this specific bill was already in the pipeline and was contemplated as a funding expenditure without the cuts to the two proposed tax cut bills. And so that is simply not true to say that those cuts in those bills were in contemplation of spending money on this or something else. I advocated for the cuts in those bills, those-- those tax cuts. I advocated for making those smaller or not en--enacting them at all because they are bad public policy. I actually was in favor of the Social Security tax cut, but this corporate tax cut and the offshore tax cut I was against because they are bad public policy, not because they would have affected this bill or any other bill that was on the floor. And so this is a good program. This is a priority that most people here have articulated they think they agree with. These are people who we should be servicing. These are people we have previously decided deserve these services. And so this, I would ask for your green vote on this, on AM1453 and LB376. And if we get to cloture in a few minutes here, I would ask for your green vote on that as well and I-- I would yield whatever time I have remaining to Senator Machaela Cavanaugh.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Blood, you're recognized. Senator Machaela Cavanaugh, I'm sorry, 1:10.

**M. CAVANAUGH:** Thank you. Thank you, Senator John Cavanaugh. I think I'll have another turn, one last turn on the mike, so I'll just quickly share. I was at a-- a dinner on Friday evening for the Children's Respite Center in Omaha, and as I was trying to walk out, this woman stopped me and asked me if she could give me a hug. And she started crying, talking about this bill and what it is going to mean to her family. So, yeah, I-- I'm fiery. I know I'm fiery. Everyone here knows I'm fiery. Everyone in Nebraska probably knows I'm fiery. I-- I care so passionately and deeply about this, and I think that's been clear from day one of this session that this is my priority, that children are my priority. And I don't want to let that mom down or any moms down or any dads down or any kids down, and I hope 33 of you will join me in that. This has been such a heartbreaking day. Thank you.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. Speaker. Fellow Senators, friends all, I stand in opposition to the floor amendment but in full support of the underlying bill. One thing I don't think we're talking enough about is the family caregivers that this is also directed to. We talk a lot about the children with disabilities, but we're really not talking about the families who have to care for these-- these individuals with disabilities. And I don't know if you realize this, but if the family caregivers weren't in the picture, a lot of these people with disabilities would be in institutions. And if you think that there's a little bit of a price tag on this bill, imagine if we had to put people in institutions. We'd go back to what was going on in the '70s. I-- I'm in the age bracket that I remember when we had all those people that were institutionalized that could have very well have lived out on their own. And then they just kind of opened the doors and randomly let everybody out to the streets without any support systems, which I don't know was the right thing to do either, but I-- I clearly remember that. And I have an adult son with a disability, and when he-- he first became disabled, and he wasn't born disabled, by the way, it happened when he was a middle schooler with a-- a TBI. And it can be really challenging to be on your own and have no support system and have no way to ever get a break, and it doesn't mean that you love your child less. It means that you're only human, and I think we're forgetting that these taxpayers that are taking care of these individuals can only do so much. Why do we have the expectation that they have to be the end-all to that individual? And I think that

that's wrong, and I think that that's one of the many things that Senator Machaela Cavanaugh is bravely trying to do, and it's well past due. With that, I want to continue my questioning of the Health and Human Services Committee, and I'd ask that Senator Day please yield to a question.

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

**DAY:** Yes.

**BLOOD:** Senator Day, why did you vote this bill out of committee?

**DAY:** A couple of reasons. I think this issue in particular is close to my heart. I spent a lot of time talking about it when I was campaigning. I think it's important to Nebraskans and I think it's important to the people in my district in particular. Additionally, I think that we have a duty as senators to protect the most vulnerable Nebraskans, and I believe that children with disabilities are just that.

**BLOOD:** Thank you very much. I would hope that Senator Ben Hansen would yield to a question. I keep seeing him go in and out though. Maybe he knew I was going to ask him next.

**HILGERS:** Senator Ben Hansen, would you yield?

**BLOOD:** He was literally just here 30 seconds ago. Senator Arch, would you please yield to a question?

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

**ARCH:** Yes, I will.

**BLOOD:** Senator Arch, you are the Chair of the HHS Committee, is that correct?

**ARCH:** Yes.

**BLOOD:** And why did you vote this bill out?

**ARCH:** We have a-- a large issue with this waitlist, and I felt that the innovation in this idea was worthy of discussion and I voted the bill out.

**BLOOD:** Worthy of discussion or you also supported the bill?

**ARCH:** I will be supporting the bill.

**BLOOD:** Thank you, Senator. I-- I go back to, why do we have committees and why do we have committee votes? We had the entire committee and everybody so far, except for one exception, has told me that they supported this bill. I don't agree when people say we need to put a bill out because it's worth debate. Either you support a bill or you don't. It makes it problematic when it gets out onto the floor and it can be considered very "disingenuine." So I'm a little concerned that we've had one response that way. But I just-- the more I hear this debate-- and I love when Senator Stinner comes up and he schools us when we're wrong, I learn so much from him. I love when Senator Williams--

**HILGERS:** One minute.

**BLOOD:** --stands up and he says what's right. That's why I always admire him. But I always question, you know, why-- why do we want to always incentivize the wealthy by giving them money, but when we talk about incentivizing people that are struggling we want to take money away from them? That's the hardest part for me as a senator, and I'm never going to understand it. I hope people really think about what we're trying to do, which is help people in need. We're not giving handouts. We're helping people who are struggling and it is the right thing to do, friends.

**HILGERS:** Thank you, Senator Blood, Senator Arch, and Senator Day. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. Speaker. And I believe we'll be getting to the cloture hour shortly, so I will treat this as a close, so-- as much as it is. So part of the reason that I spent most of this debate not responding to the things that were said is because they ran a bizarre gambit of reading editorials about a totally different tax bill to talking about taxes a lot. There was a lot of conversation about taxes, tax cuts, taxes, taxes, taxes. Senator John Cavanaugh and Senator Hunt both talked about how this is clearly a priority for the body. I even offered to take my name off of this bill. If the issue is me, I would take my name off of this and-- and let any-- anyone else who's a co-sponsor carry this forward, if that's the issue. This is too important for it to be held up because my name is on there, but I was told that that's not what it is, that somebody doesn't like the bill. There-- the-- the questions that are actually germane to the bill itself that have been discussed on the floor were too far afield to explain away in two-minute snippets on the microphone and-- and too complex to unpack the incorrectness of them. They reflected-- the comments were clearly coming from individuals who are not on the HHS Committee, which is fine, but if you have that detailed of questions

about something as intricate as a family support waiver in Medicaid, it would be better to do it in an eight-hour debate and not a four-hour debate or to do it off the floor entirely if you really want to learn more about how this process works. The-- I can't remember what coin was termed, but the-- the qualifying for Medicaid by waiving the income eligibility piece, that will impact 403 individuals that are currently on the waitlist who are not income eligible for the Medicaid coverage because those children's parents make too much money, and by too much money, they could make $10 too much, not $10 billion. They could make $10 too much to qualify for Medicaid, so this waiver waives the income eligibility of-- it-- it no longer takes the parents' income into consideration when putting the child on Medicaid, 403 families. Now to say that 403 families can afford these services is outrageous. These services are very expensive and they-- they might have private insurance and their private insurance is going to cap what they are able to get, the services that they're able to get. And so that's why this income-- waiving this income eligibility is so critical to these 403 kiddos that they're going to get the full array of medical services that they need so that they thrive when they're adults. And, yeah, that is pricey. That is going to be pricey. But it is far, far less expensive than institutional care, which is over $200,000 per person per year. This is far less money and it keeps kids at home and hopefully in school--

**HILGERS:** One minute.

**M. CAVANAUGH:** --interacting with their friends. I only have one minute left and there's just way too much to unpack in all of this because, if this was a genuine concern about this bill, people would have talked to me about it. I've been talking about DD every single day on the microphone, every single day. If this is about me, I'll take my name off the bill, for crying out loud. Don't hurt these kids because you don't like me. This is too important. This is so much more important than any petty politics. Please, 33 people vote for this. Thank you.

**HILGERS:** Thank you, Senator Cavanaugh. Mr. Clerk, you have a motion on the desk?

**CLERK:** I do, Mr. President. Senator Cavanaugh would move to invoke cloture pursuant to Rule 7, Section 10.

**HILGERS:** It is the ruling of the Chair that there has been full and fair debate afforded to LB376. Senator Machaela Cavanaugh, for what purpose do you rise?

**M. CAVANAUGH:** A call of the house, roll call vote, regular order. Thank you.

**HILGERS:** There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk.

**CLERK:** 26 ayes, 3 nays to place the house-- 31 ayes, 3 nays to place the house under call.

**HILGERS:** The house is under call. All unexcused senators, please return to the floor and check in. All unauthorized personnel, please leave the floor. The house is under call. A roll call vote in regular order has been requested. Senator McDonnell, Sen-- Senator Bostar, Senator Morfeld, please return to the Chamber. House is under call. All unexcused senators are now present. The question before the body, the first vote, is the motion to invoke cloture. A roll call vote in regular order has been requested. Mr. Clerk, please call the roll.

**CLERK:** Senator Aguilar voting yes. Senator Albrecht voting no. Senator Arch, I-- just a moment, Senator, please. Senator Arch voting yes. Thank you. Senator Blood voting yes. Senator Bostar voting yes. Senator Bostelman voting no. Senator Brandt voting yes. Senator Brewer voting no. Senator Briese not voting. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Day voting yes. Senator DeBoer voting yes. Senator Dorn voting yes. Senator Erdman voting no. Senator Flood voting yes. Senator Friesen voting no. Senator Geist voting no. Senator Gragert voting yes. Senator Groene. Senator Halloran not voting. Senator Ben Hansen voting yes. Senator Matt Hansen voting yes. Senator Hilgers voting yes. Senator Hilkemann voting yes. Senator Hughes voting no. Senator Hunt voting yes. Senator Kolterman voting yes. Senator Lathrop voting yes. Senator Linehan voting no. Senator Lowe-- just a sec. I'm sorry. Senator, I messed up here. Senator Lindstrom, how do you want to vote? Voting yes. Excuse me. Senator Lathrop, you were a yes, right?

**LATHROP:** Yes.

**CLERK:** Thank you. Senator Kolterman, you were a yes?

**KOLTERMAN:** Yes.

**CLERK:** Thank you. Senator Linehan voting no. Senator Lowe voting no. Senator McCollister voting yes. Senator McDonnell voting yes. Senator McKinney voting yes. Senator Morfeld voting yes. Senator Moser not

voting. Senator Murman not voting. Senator Pahls. Senator Pansing Brooks voting yes. Senator Sanders not voting. Senator Slama voting no. Senator Stinner voting yes. Senator Vargas voting yes. Senator Walz voting yes. Senator Wayne. Senator Williams voting yes. Senator Wishart voting yes. 30 ayes, 11 nays, Mr. President, to invoke cloture.

**HILGERS:** The motion to invoke cloture is not adopted. I raise the call.

**CLERK:** I do.

**HILGERS:** Mr. Clerk, for items.

**CLERK:** Mr. President, Senator Stinner would like to print an amendment to LB296. Resolutions: LR197, Senator Slama, that'll be laid over. LR198 and LR199, those are study resolutions. Both will be referred. Mr. President, Senator McKinney, LB139. Senator, I have E&R amendments to that bill.

**WILLIAMS:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move that the E&R amendments to LB139 be adopted.

**WILLIAMS:** Members, you've heard the motion. All those in favor say aye. Those opposed say nay. E&R amendments are adopted.

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

**WILLIAMS:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move that LB139 be advanced to E&R for engrossing.

**WILLIAMS:** Members, you've heard the motion. All those in favor say. Opposed say nay. Bill is advanced.

**CLERK:** LB579, Senator McKinney. I have Enrollment and Review amendments pending.

**WILLIAMS:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move that the E&R amendments to LB579 be adopted.

**WILLIAMS:** Members, you've heard the motion. All those in favor say aye. We will go forward on the E&R motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** I actually had my light on before we voted on the previous bill. I was wishing to speak on that bill. That would be the point of order. I don't know what the process is now. We just ignore the queue? Is that the process? If somebody else could get in the queue here so that I could have a conversation off the side, I'd appreciate it. Thank you.

**WILLIAMS:** Senator Hunt, you're recognized.

**HUNT:** Thank you, Senator Williams, Mr. Chair, Mr. President. Today introduced a legislative resolution that doesn't have an LR yet, and I introduced this resolution because I heard a conversation on NPR that many of you also heard and spoke to me about and many Nebraskans heard, as well, and reached out to my office. I was listening to it and my staff was listening to it live at the same time and we were texting each other. And it was one of those things that reminded me of, you know, back before we had recording stuff on TV and we were listening to streaming music and in order to hear news, everybody had to watch it at the same time, so everybody got the news at the same time and reacted to it, and I feel like I haven't had a moment like that in a long time. The issue was around foster care in Nebraska and whether or not Social Security benefits that have been paid out to foster care youth in Nebraska is actually going to those kids or if the state is taking those checks to pay for their care. NPR did an investigation that found out that at least ten state foster care agencies hired for-profit companies to seek and obtain those Social Security benefit checks in order to get reimbursement for the state for the cost of providing foster care services to those children. So I introduced a legislative resolution to investigate whether or not Nebraska has been involved in that process. In the story that was on the news, they said that Nebraska was indeed one of the states that had been taking Social Security checks meant for foster care youth and using those checks to pay for reimbursement for their care, which is not what those checks are intended for. So I introduced a resolution to look at that. It says the study shall include, but not be limited to: (1) An investigation into whether the foster care system in Nebraska hired Maximus, Incorporated, or a similar contractor for the purpose of identifying children in Nebraska who are eligible for Social Security benefits and helping the Nebraska foster care system acquire such funds; (2) An examination of whether the foster care

system in Nebraska has retained Social Security benefits intended for children in its care by way of serving as the financial representative for those children, which is something other states have done; (3) An analysis of notification practices used by the foster care system in Nebraska to alert a child that a child's guardian or lawyer of the child's-- of the child's eligibility for Social Security benefits; (4) An examination of the amount of Social Security benefits retained by the foster care system in Nebraska over the last five fiscal years, and, if applicable, the categorical breakdown of such benefits; and (5) A determination of regulatory or statutory changes necessary to ensure that all children in the foster care system in Nebraska are made aware of Social Security benefits for which those children are eligible and how to receive such benefits. Now, therefore, be it resolved by the members of the One Hundred Seventh Legislature of Nebraska, First Session: 1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution. 2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature. There was an independent nationwide investigation which was done by the Marshall Project and by NPR, National Public Radio, that found that in 36 states, foster care agencies were looking for children in their care who were entitled to receive Social Security benefits and the state then applied--

**WILLIAMS:** One minute.

**HUNT:** --to become the fiscal and financial representative of those children in order to keep the money that's owed to those children. In states where this has happened, the children were not notified of such practices. In every case, the foster parents were also not notified of such practices. And so I think that we need to have an investigation in Nebraska because, according to the investigation, it's happening here. And this calls for legislative action. It calls for oversight. So I don't really like doing legislative resolutions. I-- I like doing them to make a little point, like I did with a whole bunch this session. But normally I think that the stuff we do in LRs can be done through a bill, but not this, and so I'm looking forward and digging into this over the interim and finding some answers for the foster youth in Nebraska. And if any of you are interested in helping me out with that, that's something I would appreciate. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Hunt. Mr. Clerk.

**CLERK:** Mr. President, Senator Cavanaugh, Machaela Cavanaugh, would move to bracket the bill until May 20 of 2021.

**WILLIAMS:** Senator Machaela Cavanaugh, you're recognized to open on your motion.

**M. CAVANAUGH:** Thank you, Mr. President. So this is like deja vu all over again. Do you all remember what my priority was? Because LB376 was not my priority. My priority was a special investigative oversight committee to look into the child welfare situation and contract with Saint Francis Ministries, and we did. We did it. Yay. We created a special investigative oversight committee that has yet to meet, and I was not put on my own committee. And I was like, hey, everybody, I have nothing left to lose, you took everything away from me. And now you've gone even further from taking everything away from me and you have, like, literally bucketed over families in Nebraska. That one's for you, Mr. Clerk. I did not curse on the microphone. As much as I wanted to, I did not, so that's out of respect for our Clerk, who tries to maintain some semblance of order in this place, as much as I might try to disrupt that order. So we have until 11:59, and I'm going to take until 11:59 to talk about whatever, unless somebody wants to make a dilatory motion, which I learned about this year. And, you know, it's kind of like maybe you all should take a dilatory motion because I'm pretty sure you've thrown every bucket of sewage on me that you possibly could throw this year, so why not a dilatory motion to boot? Let's just have fun. Let's get all the motions, all the procedural things going this year, because we certainly don't have empathy for families. That is just bananas, bananas and beans, peanuts and almonds and cashews; it's just bananas. It's an ice cream sundae, banana split. So for those just tuning in at home, gosh, I hope there aren't very many of you. It is almost 9:00. The Legislature did not move the family support waiver for children with developmental disabilities because the Legislature is apparently petty. That's-- that was my take away from the-- the floor, the robust-- air quotes, I'm using air quotes for "robust," for the transcribers, the "robust" debate. I'm not sure it's a debate when, like, two people are talking and saying the same thing over and over again for four hours. But the robust debate, as it were, indicated to me that the Legislature is petty and likes to teach people like myself lessons when I don't do things the way that you want them done. And the children suffer. The children suffer. So bravo, Senators, bravo. The-- I-- I learned no lesson whatsoever from any of you, but the children are suffering, so I hope that was the outcome that everyone in here was hoping for. Yay, team. Now we get to spend the next four to ten days, depending on what this body wants to do-- or somebody could throw up a sine die motion.

I'd be all for that right now. Yeah, we could all just go home and I could stop talking. But instead I will talk on this until 11:59, and then we'll adjourn and then we'll come back maybe to this tomorrow morning. I don't know what's on the schedule tomorrow, to be perfectly honest, and I don't really care. Yeah, I-- I do not care what is on the schedule tomorrow, not one lick, not one, yeah, so good times, good times in the Nebraska Unicameral. I'd like to make some like very poetic, polished speech, maybe sound all lawyerly. Maybe I should pretend like it's April 1 again and wear a suit so I garner the respect of this body. But that's not me. Polished speeches and dressing in a suit to make men comfortable around me, that's not me. I am who I am and that's all that I am, and I am happy to be me, not super happy to be me right now because I'm super, super upset that that mom that gave me a hug on Saturday night is not going to get the services for her kiddo that she needs, that that mom that emailed earlier today is not going to get the services that she needs for her kid, that the moms and the dads that keep showing up to our committee and testifying about how important this is to them and their families are not going to get the services for their kids. But hey, guys, gals, I got great news for you all. We got property tax relief. So who cares, right? Right? Who cares? Who cares about the children? Who cares about the children? Certainly not your Nebraska Legislature, or at least not the 19 people who didn't vote for children today, plus the people who didn't vote for cloture earlier in the day. Kids, let's have some real talk here, just between you and Senator Machaela Cavanaugh. This is just for the kids. Adults, turn your ears off. This is just for the kids. Here's what happened. People in the Legislature, they treat their bills like they're toys, and they don't like to share their toys and they don't like if you look at their toys or if you ask them questions about their toys; or if you ask to play with their toys, they will just take their toys and smash them to smithereens before they will let you have any joy in your life. That is the Nebraska Legislature. I highly recommend that you get civically involved and change that for the better, because they are using you as a prop to make it OK for them to destroy your toys and it's not OK. How much time do I have left, Mr. President?

**WILLIAMS:** 2:30.

**M. CAVANAUGH:** Oh, goody. OK, so 2:30, what are the highlights I want to get to on here? Oh, Senator Groene, people are not flocking to Nebraska because our benefits are so amazing. We rank 25th out of 50 states. We are literally dead in the middle on disability supports. But that was an excellent argument that you've made numerous times and I've refuted to you numerous times. On the last bill, there was some

ridiculous conversation about consumption tax, can't even begin to imagine why that was there. It was-- Senator Slama was reading an editorial and then there was a back-and-forth between Senator Slama and Senator Erdman on the editorial and that it was based on false assumptions. And then Senator Hughes asked Senator Arch what my bill did. It helped families. I don't think that there were this robust of conversation, questions around other bills. I mean, I love that we couldn't afford developmental disabilities, but shovel-ready for-- I don't even know what those projects are going to be. I imagine Joslyn Art Museum in Omaha is definitely on that list, so $15 million for shovel-ready is green-lighted--

**WILLIAMS:** One minute.

**M. CAVANAUGH:** --$12 million for families with developmental disabilities with a sunset is-- I'm going to yield the remainder of my time on this and just get back in the queue. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Machaela Cavanaugh. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. President. I actually punched in before the bracket motion, so I'm going to rise in support of LB579 and against the bracket motion. And generally, I guess, I punched in when there was some kind of confusion about what was going on and we're going to take some time to talk about what we're doing. But first off, I wanted to touch on what Senator Hunt said. I actually heard that story as well and that kind of stuck with me, and I'm glad you're doing that study and that I would be happy to be part of that. One of the things that jumped out at me when I heard that story was that some states contract with people, with organizations, to get them to get kids to apply for Social Security benefits, and then those independent contractors or subsidiaries get a cut of whatever increase in benefits the states derive. So we're monetizing kids in the foster care system, which is I guess gross, is probably the right word, sick-- "sick" is a word; "wrong" is probably the easiest word. But so, yeah, I would-- I would like to help you out with that, Senator Hunt. I'd be appalled if we're doing that in Nebraska. But so I rise in support of LB579 because, and I've said this many times and I talked about it actually in my opposition to the corporate tax cuts and the GILTI tax cuts, that a priority to me is building the type of state in the built environment, infrastructure environment, that actually fosters business, that it'll help all companies succeed, not just the ones that we were talking about in those particular tax cuts. And so Senator Moser's bill, which is just basically, I think, is a pretty simple bill, but Senator Moser could probably explain it better, and I

know he explained it previously, but just adds a reporting requirement to figure out why we're not building this infrastructure that we're supposed to be building and connecting these highways, and I think everybody agrees with that. And the reason I think it's relevant to this conversation right now is we can all have different priorities, things that we think are important but we recognize the value in and not say we shouldn't do those things, and we ultimately do come to a conversation where we have to balance one priority against another. But sometimes we don't have to do that because we have a whole plethora of things that we do as a state, and so we can accom-- we can do a lot of things and we just can't do everything, right? And so when we all recognize that something is important and is a priority, we do those things and we ultimately just decide which priorities we should pursue. And when it came to the developmental disability waitlist, I recall everyone was in favor of expanding opportunities for people to get services on that and everyone recognizes the value in providing those services in the human value, but also, as Senator Hunt earlier referenced, in terms of the economic value of deferred costs and savings that the state derives from providing these services. And so it's good policy and it's smart policy, which is the best policy. And that's the same sort of idea about building infrastructure. It's good policy because it helps people's lives, it helps businesses succeed, it helps everyone get around, it fosters an environment that we want in our state, allows more people to move here, to live here, to work here, to get places. So it is both good policy and it is smart policy, and those are the things we should be pursuing overall. And so when we have a conversation, we got past first round of debate on the-- the pilot pro-- project that we just voted on and didn't have 33 votes for. No one, I think, raised the conversation about the cost. It was a--

**WILLIAMS:** One minute.

**J. CAVANAUGH:** --a substantial decrease in the cost that we-- from the conversation we'd had on Appropriations, but everyone thought there was merit in and agreed that that price tag was too high when I think we were talking about $54 million, if I recall. And so that price got curtailed to a pilot program of the amount of $14 million, and everyone seemed to think, oh, this is a great idea, this is a good program, these are services that we want to pursue, and so it was good policy and it was smart policy and it was a priority that most everyone here shared. And so it helps people and it helps the government, which are the things we should be pursuing. So I think that's why that's-- this is a relevant conversation to LB579, think it's a relevant conversation perhaps to everything we're going to talk

about in the remaining several days, and I think that it's possible that we do have that conversation. But I would encourage your no vote on the bracket motion and your green vote on LB579. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Cavanaugh. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. President. I was going to call you Mr. Speaker. I'm not sure which is a promotion. OK, so, well, I'm very disappointed that Senator John Cavanaugh does not approve of my bracket motion. We will have to have a conversation about that later. So the underlying bill, LB579, I don't want that dilatory motion. Well, I kind of do, but LB579, let's see what LB579 is about. I don't believe I voted for this last time, but let's-- I was present not voting. Oh, good, I'd hate to go back on my votes, because I'm definitely not voting for it this time. So what is the committee statement here? Hmm. Senator Clements voted against this. That's interesting. I think he voted for it on-- no? Oh, that's a different bill. Sorry, I have too many tabs open. So the opponents were the Nebraska Department of Transportation. LB579 states legislative intent to appropriate $70 million from the General Fund to the Department of Transportation to repair damages to the infrastructure, highway, highways, roads and bridges-- bridges damaged in the 2019 floods and for NDOT to-- NDOT, sorry, is Nebraska Department of Transportation-- to apply for federal emergency funds to reimburse the General Fund for such expenditure. Oh, now I remember this bill. This bill, I went down a rabbit hole, like a serious, serious rabbit hole, because Senator Flood, in his comments of support of this bill, made a comment about the contract being awarded to a company to start this work, and the contract was awarded to a company in Kansas. And we were coming up on a bill after this that was the-- an amendment to the ImagiNE Act, the LB1107 bill from-- from 2020. And so I was concerned that this Kansas company that was awarded the contract for this repairment of the flood damage was going to receive incentive act dollars, but I was reassured by Senator Kolterman and Senator Stinner that that was not the case. I am still how con-- however, concerned about our procurement process and why we're giving contracts like this to out-of-state entities. Do we not have businesses in Nebraska that can handle this kind of work? Why are we taking our tax dollars and moving them out of the state to other businesses? Now, I understand the complexities of a construction company coming in and doing the work and that they're going to hire people from inside the state to do the work itself. But the owners, the corporate taxes, the home base for the company is not Nebraska. So before people jump on the mike, because I'm sure everybody's just

jumping to jump on the mike, to say that they want corporate-- or that they think that I'm misunderstanding this, I understand how corporate companies will come in and hire employees, etcetera, etcetera, and we'll get the income tax revenue from those employees and the property tax revenue from those employees who own homes and the sales tax revenue from those employees who buy goods and services in our state, and that's all fine and dandy. But I still wonder why-- why don't we prioritize giving our contracts to businesses inside the state.

**WILLIAMS:** One minute.

**M. CAVANAUGH:** Thank you. And if we prioritize giving our contracts to businesses inside the state, then we would be generating a more robust business infrastructure inside of the state, instead of going outside of the state. So those are just some of my musings for this time around on the mike. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Machaela Cavanaugh. Senator Matt Hansen, you're recognized.

**M. HANSEN:** [RECORDER MALFUNCTION] you, Mr. President, and good evening, colleagues. I'll talk now, and I might talk one more time. We'll see how the evening goes. I do want to address several things. I didn't get the chance to wade into the earlier debate at all. I initially chose not to in the-- the sense of don't help a filibuster, and by the time I decided I'd like to, there wasn't a chance to get into the queue. A couple things I wanted to address is, when we talk about priorities as a body, I understand that and I get that, but when you see a bill that is clearly a priority and a priority from a group, that seems like something to build collaboration and build consensus and to not necessarily derail with a surprise filibuster. And I understand that I've participated in filibusters. I don't begrudge anybody from taking something to cloture. But when you're talking about priorities and really making an emphasis on priorities, that's what hits on my mind. I know throughout debate, many times, people have pointed to the Property Tax Credit Fund. I think Senator Linehan is prone to doing this and pointing at, you know, what could we do with, you know, a billion dollars, what could we do with a billion dollars? Well, we could do a lot of things for people with developmental disabilities for a billion dollars. There's a lot of things that a lot of us would like to work on. And because of the financial constraints we've been on, we've known a lot of these are just simply nonstarters. And to have a year like this where, at the very end of a session in which we've moved so much money to do so many things, we are going to act like this was the straw that was going to break the camel's back, when I believe we have fights to even do

bigger tax bills left on the agenda, is kind of a shocker to me, so I wanted to just raise that. The other thing that I-- I-- it's happened to me and it's just a pet peeve and I'm just going to air it while we're just kind of airing some pet peeves. But a pet peeve of mine is when people complain something gets out of committee late and use that as a reason to vote against a bill. Colleagues, that is simply our process. The committee Chair has a lot of a rationale to maybe hold a bill in committee. Maybe it's technically complex. Maybe they're waiting on a budget report, maybe they're waiting on a forecast. Maybe they're just waiting on whatever. But that's not necessarily on the introducer, nor, even if it was on the introducer, is it a reason to hold something against an introducer. We've just had a four-day weekend. If there was-- this bill felt rushed, we just had four days for everybody to do the research, read the bill, check on the fiscal note, so on and so forth. The idea that Day 79 is too late to do a Select File bill or-- or too late in the process or it got out too late, just really doesn't hold water. And I understand sometimes you just say things on the microphone to fill time, but that's-- that's grasping at straws to just kind of come up with a reason or rationale. Finally, one of the things that I think we have today is the idea that people are trying to teach each other lessons. I do not believe that 19 people had sincere policy disputes with the prior bill. I-- I-- I sincerely don't believe that, including that, as we've knowledge, much of the debate on the bill was off topic. As you well know, I was involved in a filibuster prior to that, so I ran down to my office to eat a sandwich. And while I was there, I was really confused because all of a sudden I had the TV on and it was just consumption tax, consumption tax, consumption tax. And I was-- double checked the agenda. I was like, are-- did we-- did I miss something? Did we go through developmental disabilities? I thought it might take some time, thought we were on a different bill entirely. And I was like, oh, nope, and we are, and I couldn't figure out the topic or the rationale--

**WILLIAMS:** One minute.

**M. HANSEN:** --thank you, Mr. President-- which makes me doubt the sincerity of the opposition. So if people are just in the mood to teach people lessons, the lesson that I learned from this is take every bill you don't like to cloture because you might win. You might win. You might get it at 9:00 at night just by a fluke. You might have a couple of people gone. Unfortunately-- I think it's unfortunate--we've got several members of our body who just don't make a commitment to stay late. I understand people have lives and needs and obligations, but we are at the mercy of the schedule and sometimes

we're a week removed from my priority bill dying at 8:30 at night with several people gone. So with that, I might punch in one more time, but thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Matt Hansen. Senator Machaela Cavanaugh, you're recognized. This is your third opportunity. You will still have your close.

**M. CAVANAUGH:** Well, thank you, Mr. President. I look forward to my close. I'm sorry, Senator Hansen. I missed the comments that you were making, just having a little conversation off to the side about what's going on here. So which direction to explain in? OK. Going to reflect on a different time, 2020, 2019. Senator Ernie Chambers, he stood on this floor where Senator Day's desk is now, and he would give these speeches, gave great speeches. Sometimes his speeches were a little bit more meandering, like mine are, but sometimes he gave these really great speeches. But he always said that his-- his tool in his tool kit, beyond just the rules, was time, time, time, time. And I've said that this year a lot and I-- honestly, I didn't think that my family support waiver was going to get to the floor this year. I thought it was going to be held in committee and maybe it would come out next year. But it did get to the floor and I was thrilled and the families were thrilled. And I continued to work in support of bills that I support and in opposition to bills that I oppose based on the merits of the bills, purely based on their merits. So then we got to my bill on Select. It sailed through on General File. There was literally no debate on General File. General File, if there's-- if you're going to filibuster it, you have to take it eight hours. On Select, you only have to take it four. It's a lot easier, a lot less time. So there was no debate on my bill on General File, and it moved to Select. And then people didn't vote for it on cloture, including one of my fellow committee members who agreed that it should be a committee priority bill, who voted with the committee to get it out of committee and who voted for it on Select. They didn't vote for it for cloture. And was just talking to one of our colleagues off the floor about, well, people can change their votes. They absolutely can change their votes, absolutely. It rarely happens because I constantly have people telling me that they committed to give cloture to a bill that's like-- that they diametrically oppose because they didn't know what the bill was. They just like the introducer, and so they refuse to switch, even though they really hate the bill. But they're like, oh, but I told Senator X that I would vote for cloture, so I got to stick with my word. This particular senator, I did switch my vote on him once and I felt terrible. I felt awful, and I went up to him and I told him how terrible I felt. And other members of the committee, they changed

their vote, as well, and we all felt really bad. And we told him and we spoke on it on the floor and said, we're changing our votes, we--

**WILLIAMS:** One minute.

**M. CAVANAUGH:** --we-- we don't feel good about it, but we just-- you know, things came to our attention, and so we're changing our votes. But we talked to him. We talked to him. But that courtesy was not extended to me today, which should come as absolutely no surprise whatsoever, because there is almost never any courtesy extended to my person in this body. And then people want me to behave differently. I don't know why I would do that, out of the goodness of my heart because people out of the goodness of their heart gave me a cloture vote on literally the only bill, the only bill I had on the floor this year? No. If your heart is made of stone--

**WILLIAMS:** Time, Senator.

**M. CAVANAUGH:** Thank you.

**WILLIAMS:** Thank you, Senator Machaela Cavanaugh. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Oh, I'm back up again. Thank you, Mr. President. Well, again, I rise in support of LB579. And Senator Matt Hansen was just talking about similar, I guess, vein of what I was talking about, of priorities, and we've had a lot of those conversations and I've heard the shovel-ready project come up before. And I voted for that, even though we didn't adopt Senator Hunt's amendment, which I thought was a good amendment and that I would have liked to have seen us adopt, which would have basically said that we won't give money to people who discriminate, which, of course, is a philosophy I agree with, though there is, my understanding, some protection in the federal grant of the money that will satisfy some of those. But I don't think there's any problem in us taking a stand and saying we don't want to give our money to people who discriminate. I think that's-- that's a sound policy too. But I brought up shovel-ready because we've talked about it and we've talked about things that we prioritize and what's important. And again, I just think it is-- Nebraska is a-- well, it's a large organization, relatively small state, comparatively, to in the vein of California and Texas, but we have a-- a large budget and we fund a lot of things. And so we have room for a lot of priorities and a lot of things that people-- different interests find important. And so the nature of the shovel-ready project is another one that I would join in-- in saying I think is a valuable endeavor, because what it seeks to do is help nonprofits that were trying to expand their

offerings that then was, I believe, undercut by virtue of the pandemic. So they were-- say they had a project. They were trying to expand some sort of, you know, expanded gallery for an art gallery or, you know, maybe a sports field, I guess. And though that funding got cut off, or that opportunity to raise funds got undercut, because of the pandemic. And so what shovel-ready is doing is saying, if you were already working on something before the pandemic and that was truncated, your fundraising was cut off or shortened by the virtue of the-- the shutdown and the pandemic, we're going to try and help you get back up to speed where you were so that we don't lose momentum in these projects that we think add value to our community, make our-- our cities and our communities more vibrant, and make them places people want to live. And so I think that's a valuable project and I think that, you know, us putting up some state funds and then matching it with some federal funds, I think, is-- is a worthwhile endeavor. And the fact that I think that has value doesn't mean that I don't think other things have value. It-- it doesn't mean that I would do that at the expense of other projects. And so we can choose to do multiple things. We can choose to invest in our roads, our infrastructure for the-- the four-lane highways to connect our communities. We should invest in our mass transit systems so that people can get around. I would like to see us invest more in protected bike lanes in the city of Omaha. Lincoln has some nice protected bike lanes, but we just have a pilot project in Omaha and I'd like to see that. But those-- the fact that we are not currently investing in some of those projects but investing in others doesn't mean we shouldn't invest in some of these other things too. And we'll continue to work on bringing around a consensus of people who want to invest in other projects, like-minded ideas of things that we can move forward together as a state that we all think make this a better state to live in for people. But conversely, when we are opposed to certain projects, sometimes it means that we don't weigh those highly enough. And that's the question. I guess, we had--

**WILLIAMS:** One minute.

**J. CAVANAUGH:** --earlier tonight is that some people weigh funding for families with developmental disabilities lower than I guess-- I'm not sure what the alternative proposition was, but less than something unarticulated at this point. But when I was opposed to tax cuts, it was because I didn't think that we should be giving corporations tax cuts for hiding money. That is simple fact, and that's a pol-- public policy matter. It is not a priority because it gave-- it gave us no value. Priority must carry value, and it's a value proposition, whether you value this more than something else. Tax cuts for

corporations don't carry a value. And so that is not a priority question. That's a policy question. And so that is why I've had some of the fights that I've had and I have--

**WILLIAMS:** Time, Senator.

**J. CAVANAUGH:** Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator John Cavanaugh. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. President. I'm not trying to get involved in taking us till midnight or anything, but my last time on the mike, when I was just taking a little bit of time to help Senator Machaela Cavanaugh figure out how we were going to resolve the fact that she wasn't called on when she was in the queue on a different bill, and I spoke about my legislative resolution-- what's the number? It's LR198, it was assigned, to help foster youth who have had their Social Security benefits taken away by the state, which is something that I didn't know it was going on until I heard this investigation on the radio. And a lot of other Nebraskans heard it, too, and they reached out to me. And when I just spoke about it on the mike just now, just to take up some time so that some business could get resolved, because sometimes we have to do that, one person in my neighborhood sent me a text and she said, my mom just called, she said that you're on the right track with the kids and their Social Security benefits. This person said they brought in third parties to read every file and any kid with a Social Security benefit, whether it's disability or survivor, the third party would apply on their behalf and the money would go into the General Fund. So that's one person who's already reached out to me since I had that-- made that point earlier on the mike. And I also got an email from somebody, someone industrious, who found the contract between Nebraska and Maximus, Incorporated, and I guess we hire them to do all kinds of things, and I'll-- I'll talk to the people in HHS to learn more about that. But apparently, yeah, like we're onto something here, definitely. Nebraska has been hiring a third-party company to take Social Security benefits away from kids. And to explain to you more what I'm talking about, this was the NPR story. Roughly 10 percent of foster youth in the U.S. are entitled to Social Security benefits, either because their parents have died or because they have physical or mental disability that would leave them in poverty without financial help. This money, typically more than $700 per month, although survivorship benefits can vary, is considered their property under federal law. The Marshall Project and NPR found that in at least 36 states and Washington, D.C., including Nebraska, state foster care agencies combed through their case files to find

kids entitled to these benefits, and then the state applies to Social Security to become those children's financial representatives. Once approved, the agencies then take the money, almost always without notifying the children, their loved ones, or their attorneys. At least ten state foster care agencies hire for-profit companies to obtain millions of dollars in Social Security benefits intended for the most vulnerable children in state care every year, according to a review of hundreds of pages of contract documents. A private firm that Alaska used referred to acquiring benefits from people with disabilities as, quote, a major line of business. So, colleagues, this is the kind of thing that I'm trying to find out if Nebraska is doing. And just in the 10 or 15 minutes since I originally spoke on the mike about it, and I probably dropped the LR 20 minutes before that, I mean, it-- this literally just happened after I heard the news story and my office and I drafted this up and I just dropped it. I've already had three different people reach out to me and confirm that, yes, this is something that's going on. And I look forward to working with my friends in the local press, our local journalists here in Nebraska who are stretched so thin, you know, because of budget cuts and mergers and decreases in benefits that our local journalists have seen. They're stretched pretty thin, and so I--

**WILLIAMS:** One minute.

**HUNT:** --am eager to do some of this investigation and share what I find, whether I have to FOIA things or, you know, whether we just have to talk to people who work in these departments, because it's one of those things that it turns out a lot of people don't know that we do. I didn't know this. So I want to make sure that in Nebraska, kids who are entitled to Social Security benefits, which is their property under federal law, are actually getting those benefits, because for so many of those kids, don't you think that could really mean the difference for them between, you know, getting their education or supporting the kids that they have or getting healthcare that they need? So I think we're going to have to do a full audit. We're going have to get these kids their money. And, you know, if we could sum up my goal as a legislator, I think that'd be about it. Let's get these kids their money. So thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Hunt. Speaker Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good evening, colleagues. Just a quick update as to what's going on in the background. So we've got, as you may-- you may remember this from years past, but it's usually something we don't have to articulate on the floor because it doesn't really matter, but it matters now because we're almost out of time. So

the bills, I mentioned that this is the last train out of the station for Select File in order to get to Final Reading after layover day, in order to be heard and then get to the Governor's desk so we have the opportunity to do veto override after his five days. In order to do that, though, we not just have to only pass the bill on Select, but it has to go to the Revisor's for engrossment and then come back down and get read across. That process, the going to Revisor's and coming back down does take a little bit of time. So we do have some bills that we're waiting on still. I expect maybe 45 minutes, maybe an hour at the latest, for Revisor's to do its work. And so we will be here until that happens, say, call it around 10:00, 10:15. I'll give you an update as we get closer. But just so you know, we're waiting on that-- that to come down so that those bills can get engrossed and get read-- read so that they can get laid over in time for Final Reading. Thank you, Mr. President.

**WILLIAMS:** Thank you, Speaker Hilgers. Returning to debate, seeing no one wanting to speak, Senator Machaela Cavanaugh, you're recognized to close on your bracket motion.

**M. CAVANAUGH:** Thank you, Mr. President. It's 9:26. So I've gotten some interesting emails from folks walking-- watching at home that are-- we'll just keep it with interesting. I have heard this body talk about collegiality so much and I have seen collegiality in this body so little. But people are tired and, despite my louder demons, my better angels prevail and I'm going to pull my bracket motion and we're just going to keep this train a-chugging along. Yeah. I'm sorry to the families of Nebraska. I'm really, really sorry. I know that the families that were watching today are heartbroken and my heart is broken for you. I ran for this office because I saw what was happening to our DD services and the budgets being cut, and then I had the great fortune of coming into this body when we had money to spare. And I saw my colleagues get their piece of the pie here and there and here and there and here and there. And I kept talking about it and I kept talking about it and I kept talking about it every single day for 77-- 79 days. I've talked about developmental disabilities, funding developmental disabilities, helping families with developmental disabilities. I am heartbroken for these families. This is why I'm here. This is why I will continue to work diligently every day to help those families. And I am upset, as my yelling earlier would have indicated, and I am disappointed. I show up for this body. I show up for the things that are needed. I show up when it's necessary. I show up when it's not necessary. I even help vote count for people when I oppose their bills because I'm a very solid vote counter. You can ask Senator Gragert. I'm very tenacious and I think I drive him a little

bit crazy, but he's always very gracious to me about it. And this body just never shows up for me. But I keep showing up for you all and I will keep showing up for you all, but not because any of you deserve it, because the people of Nebraska deserve it. They deserve to have somebody in this body that they can rely on, somebody who doesn't view developmental disabilities as a joke or a game or something to be gained from, it's an opportunity to make petty digs at extraordinarily strong policy that was crafted with the support of the state agency. Multiple players played a factor in that bill.

**WILLIAMS:** One minute.

**M. CAVANAUGH:** It wasn't a joke. It was so serious and it is so disgusting how this body behaved. Thank you. I withdraw my motion.

**WILLIAMS:** Motion is withdrawn. Thank you, Senator Machaela Cavanaugh. Returning to the bill.

**CLERK:** Mr. President, I have nothing further on the bill at this time.

**WILLIAMS:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB579 to E&R for engrossing.

**WILLIAMS:** Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The bill is advanced. Mr. Clerk.

**CLERK:** Mr. President, the next bill, LB236. I have E&Rs, first of all, Senator.

**WILLIAMS:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move that the E&R amendments to LB236 to be adopted.

**WILLIAMS:** Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

**CLERK:** Senator Ben Hansen would move to amend with AM1434.

**WILLIAMS:** Senator Ben Hansen, you're recognized to open on your amendment.

**B. HANSEN:** Thank you, Mr. President. All right. AM1434 to LB236 is an amendment offered in an effort to get a noncontroversial, good bill across the finish line in the last few days of session. Both Senator

Clements, who prioritized LB236, and Senator Brewer, who introduced the underlying bill, have approved of the amendment and consider it friendly. AM1434 would add my LB301 to the bill. LB301 was introduced by me in January, referred to the Judiciary Committee for hearing, and advanced from that committee to the floor with the unanimous vote of 8-0. I consider LB301 a clean-up bill. In Nebraska, we codify our list of controlled substances in statute. What this means is that, as new pharmaceutical drugs obtain approval from the FDA, we need to update our schedules to allow doctors and pharmacists to prescribe and fill prescriptions. It also means that, as manufacturers of illegal street drugs cook up new formulas of dangerous drugs, we need to statutorily update our schedules to ensure that law enforcement can get those new and dangerous drugs off the street. To address these issues, the Legislature, in cooperation with the Nebraska Pharmacists Association and the State Patrol Crime Lab, must pass a bill to update the schedules to conform with the schedules provided by the federal Drug Enforcement Agency, or DEA. LB301 is that bill. One of those prescription medications that will be up for re-- removal is a drug called Epidiolex, or cannabidiol-- cannabidiol contained in an FDA-approved product, from the-- from the schedules in conformance with the DEA's action and this body's action and this passage of the hemp bill in 2019. Before I ask for your vote on this amendment, let me also say that I do not take lightly the effort to amend this bill onto a Select File bill in the final days session. But, colleagues, passage of-- passage of this bill is important for this session. Because this bill includes a number of pharmaceutical drugs, updating our schedules is pivotal to ensuring that drug-- that doctors can provide patients with the proper prescription drugs and that pharmacists can dispense them without delay. This is particularly true of the provis-- provisions of this amendment related to Epidiolex, as Nebraska is the last of the 50 states to address the DEA change and as our failure to pass this bill is causing patients unnecessary delays in accessing their prescription drugs. It's also worth-- worth noting that adding the illegal street drugs to the schedules, including fentanyl and a street drug called "sassafras," it is important to ensure public safety. Finally, LB301 is a good, noncontroversial bill. The language of the bill has been crafted by the Pharmacists Association in conjunction with the State Patrol Crime Lab. The language regarding Epidiolex was worked out with the Attorney General's Office in a version of the bill that was introduced by, actually, Senator Wayne last year. So, colleagues, I ask for your green vote on AM1434 and on LB236. Thank you, Mr. Speaker.

**WILLIAMS:** Thank you, Senator Ben Hansen. Senator Pansing Brooks, you're recognized.

**PANSING BROOKS:** Thank you, Mr. President. I rise today in support of LB236 and also in support of AM1424-- or AM1434. What is it, AM1434? It's dark here in this Chamber. Anyway, I-- but I did want to point out a couple of things. In my seven years in the Legislature, this is singularly the worst day I have ever experienced in seven years. It's the worst day for children. It's the worst day for families. It is a day where we should walk out, not proudly, but with our heads hung in shame. I feel very strongly that the meatpacking bill of Senator Vargas' was a bill to help take care of our families and children. If-- if a worker comes home sick, what happens to the kids? And then you get to Senator Walz's mental health bill, and that was helping take care of some of the greatest needs in our community and in our schools. Mental health issues are the number-one issue in our schools, as far as trying to help the kids try to deal with the teachers, but we had to add an amendment on there that was a poison pill. And you all talked about poison pills on another bill and oh, my gosh, why are you doing this poison pill, why are you doing something that's going to cause the bill to go down? Five days left in the session, could very easily wait five days and bring it next year. But, no, this committee amendment had to go forward-- or this amendment had to go for and kill the committee amendment, detrimentally affecting the mental health of the children across our state. And now Senator Cavanaugh's bill that came out unanimously, the Chairman has supported it, but, again, we don't-- we don't trust the committee situation anymore. We don't trust the committee process. And once we give our word, we don't follow up on it. That bill that Senator Cavanaugh brought, that was brought out unanimously, was about developmental disabilities and, again, children. Again, this is the saddest and most heartrending day I have had in our Nebraska Legislature. I've had people say, well, this is-- this is why we don't want to be here. And the retaliation that we are feeling right now is awful, and maybe it's not true. I'm standing to support a bill that two people whom I work with and admire and do not always get along with or agree, but I trust, and if they tell me they're going to do something, I believe it and I expect that from the rest of us. We cannot mire down into the politics of Washington, D.C., though parties would have us do so. Lots of people would have us mire down into not trusting one another, not working together. And, yeah, it's good when people come together on an agree-- an agreement. We're making sausage. But that doesn't mean I'm always going to agree with that agreement and I might have to stand up and say what I don't love about it, even if it's a-- if it's an amendment my dear, brilliant friend Lynne Walz, Senator Walz, is bringing as Chairman of the Education Committee. But that's how this works. There are times when we work across the aisle and-- and there are times we work against our own side of the aisle.

**WILLIAMS:** One minute.

**PANSING BROOKS:** So I hope we go home tonight and rethink what our priorities are. Yes, we've done property taxes; year after year, we're doing property taxes. What about the people? We hear about the poor farmers, but are we really talking about poor or are we talking about pathetic situations? If we're talking about a poor farmer who can't live and can't eat, I'm there right with you every time. But if we're talking about poor rich farmers, I'm going to rethink all of this. And I expect us to care for the kids and the families of Nebraska and do a better job at taking care of our people in our state. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Pansing Brooks. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. LB236 is my priority bill, and it had-- it contains bills that I support. One of them is my own bill. And Senator Ben Hansen came to me and asked me about AM1434 and described it, and I consider AM1434 a friendly amendment and I support that amendment and LB236. I urge your support and a green vote on both. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Clements. Seeing no one in the queue wanting to speak, Senator Ben Hansen, you're recognized to close. Senator Hansen waives closing. Members, the question is the adoption of AM1434. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

**CLEMENTS:** 33 ayes, 0 nays on the adoption of Senator Hansen's amendment.

**WILLIAMS:** The amendment is adopted.

**CLERK:** I have nothing--

**WILLIAMS:** Returning to the bill.

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

**WILLIAMS:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB236 to E&R for engrossing.

**WILLIAMS:** Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB236 is advanced. Mr. Clerk.

**CLERK:** Mr. President, Select File, LB285, no E&Rs. Senator Brewer, I have AM1133, AM1134, AM1264, and AM1299 that are to be withdrawn. Is that right, Senator?

**BREWER:** [RECORDER MALFUNCTION] sir.

**CLERK:** Yes, sir. Thank you.

**WILLIAMS:** Those are withdrawn.

**CLERK:** Mr. President, Senator Brewer would move to amend with AM1300.

**WILLIAMS:** Senator Brewer, you're recognized to open on AM1300.

**BREWER:** Thank you, Mr. President. This is the election bill that we must get through. We went through a number of, I guess, corrections and making sure this bill is correct. So what I'm going to start is we'll talk a little about LB285 first so everybody is on the same sheet of music. This is the Government bill for elections. We have two amendments and only two. You heard that there was four other amendments that we have went ahead and put aside because in these two amendments we have consolidated everything. I will start with LB1300 [SIC--AM1300]. It does two things. It clarifies the language about voter lists and it adds in the content of my LB514. First, some of you will recall we talked a little about in General File protecting the voter lists. Senator John Cavanaugh brought up a good point and wanted to make sure that we clarified that we are not trying to stop campaigns and political parties from using the voted-- voter data. We make this very clear on page 3 of this amendment. Second, the amendment adds in my LB514. This was originally going to be part of the elections update, the law update. But we got it late, and so we had to bring it back here. The bill would require that petitions for new political parties be submitted together. It gives an extra ten days to the Secretary of State to validate these signatures. Finally, it makes it clear that this petition process would happen within a two-year timeframe. This is important because signature validation becomes much more difficult as signatures get older. Verifying signatures decades after they have been created would be practically impossible. If we give the Secretary of State a mission, we have to be make-- we have to make it so that it is possible to succeed at that. LB514 was supported in the hearing by the Secretary of State, NACO, and the Election Commission. There was no opposition. LB514 advanced from our committee unanimous-- unanimously. It is the elections law update and it belongs in the election update package. I would ask you to vote green on AM1300. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Brewer. Speaker Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good evening, colleagues. I rise in support of LB285 and AM1300. I appreciate the work that Senator Brewer and his team put into this. This is-- Senator Brewer kind of described a lot of this, so I'm not going to dive too far deeply into it. I do want to make one comment about the language here in a second. But this was, as Senator Brewer referenced in consultation with the Secretary of State's Office. As we know and we've talked about on the floor, this-- the redistricting process normally would be happening now and maybe would be complete now. Unfortunately, because we won't get the data till August, that scrambles a lot of the deadlines and a lot of the work that has to be done. And a lot of that work actually has to-- it has to be done after our work is complete. So when you think about redistricting and you think-- you might think that the work that the Legislature does-- does is really the-- the most important piece or maybe the end of the road in terms of that process and, in fact, in many ways the process just begins and there's a lot of cascading responsibilities for political subdivisions that occur after we are done. And because we're getting the data late, the-- the normal process is being disrupted. And so this bill is an important part of this body ensuring that that process, while being disrupted, isn't dis-- it still fits within the-- the timing that they need to be able to do their work and that the statutes are changed to enable to account for that. So I appreciate Senator Brewer, the Redistricting Committee, the Government Affairs Committee, Senator Lathrop, Senator Morfeld, others who looked at this language, vetted this language, and really worked together to make sure that this is correct. The one thing I want to reference here is there was a little change, and I believe it might be in AM1300. I'm not sure if there's another amendment coming after this. I apologize. There's another one that changes the date. There's-- there was-- in the original language of the amendment, it gave the Secretary of State opportunity to-- to change some of the cascading deadlines for the-- the political subdivisions to do their work. And that initially was timebound, so it said they could give up the seven days, and the concern that we had was really-- so we changed that to-- I think the language now is, extraordinary circumstances, they can give longer than seven days. And I just want to be really clear as we're making a record legislative history. The only reason that that language is in there, from my perspective, is really to just to account for the-- for the possibility, hopefully remote, hopefully possibility that that never actually comes to fruition, is that if we don't get the data in time, so in other words, we think that the data is going to come in in

August and the timelines in-- in LB285 as amended should account for that if it comes in in August. But what happens if we get the data in November or December or on some timeframe that the-- the language of the bill as amended doesn't account for? And so the extra-- the lang-- the reference to "extraordinary" is really meant to account for that circumstance. And so I want to just be clear. That language is narrow. It's intended to be narrow. It's intended to really be an extraordinary circumstance, i.e., we don't have the data and literally cannot do our work without the data. And-- but I wanted to be clear on the record here that that's what that is for. Otherwise, this bill, I think, is a very-- reflects a series of very smart changes and provides the flexibility for the Secretary of State's Office and the other political subdivisions to account for this delay that we are-- that we will be experiencing in the redistricting process. So I appreciate the leadership of the-- of the senators I mentioned to get this bill to where it is. And with that, I'd urge your green vote on AM1300. Thank you, Mr. President.

**WILLIAMS:** Thank you, Speaker Hilgers. Senator Morfeld, you're recognized.

**MORFELD:** Thank you, Mr. President. Colleagues, I want to echo what Senator Hilgers just mentioned. I am in support of AM1300 and in support of LB285, and I appreciate Senator Brewer's work on this. I do want to emphasize what Senator-- or, excuse me, Speaker Hilgers noted on the extraordinary language, that being limited to the circumstances in which perhaps we don't get the data from the federal government or the census and are able to do our job, so the very narrow understanding of what extraordinary means. I also want to note that some of the things that I've been a little bit concerned about is, quite frankly, us rushing the process of redistricting to meet political subdivisions' timelines, convenience, other different concerns and issues that I think that are outweighed by the fact of-- or by the precedence of getting redistricting right. I will be honest. I'm a little bit concerned about the timeline. We're going to get the data sometime mid-August, it sounds like, hopefully. There's been several delays by the federal government and several changes. We'll get that data in its raw format mid-August. It'll be ready for us, hopefully, within two weeks after that. And the expectation, it sounds like, from the Secretary of State's Office and some other folks, is that we have the maps drawn and ready to go by the end of September. I'll be honest with you, that's a pretty tight timeline, particularly when we are talking about something as important as redrawing the maps for the entire state of Nebraska for ten years, to be able to get the data by the first week of September, to be able to talk to our

constituencies, to be able to hold public hearings, to be able to go into a special session, to be able to find consensus on those maps and be done by September 30. I'm a pragmatic idealist, I'm an optimist, but I'll be honest with you, colleagues. I think that we need to go into the redistricting process with the attitude and the focus on making sure that we're transparent, making sure that we have the ability to talk to our constituencies and to be able to get it done right, not on somebody else's timeline. So I just want to point that out. I just want to point out that the timeline that is being laid out to us, not necessarily by anybody in this body but by folks outside of this body, is a pretty tight timeline. And our focus should not be adhering to somebody else's timeline or the convenience of certain political subdivisions but, rather, getting the process done right and getting the right feedback from our constituencies. And I know those constituencies are diverse, and I know that there will be a lot of pressure from those constituencies and I want to acknowledge that. And I'm not saying that's good or bad. A lot of that's healthy. But it'll be tough to get this done right in 30 days. But that being said, I think LB285 is a thoughtful piece of legislation overall. I think AM1300 is a good amendment to address some of the issues and concerns that we know we are going to face, and I want to thank Senator Brewer for being thoughtful about it and I want to support the amendment and the underlying bill. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Morfeld. Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Good evening, colleagues. I support this bill, LB285. I was a member of the committee that heard the bill. It's a thoughtful bill and I endorse it completely. I should say that throughout the country, folks are looking at election integrity. And I think in Nebraska, we've got quite a record of conducting elections in a fair and completely honest manner. We have Secretary of State John Gale and Secretary of State Bob Evnen. I think they have done a good job of representing Nebraska well, and I think every citizen in the state can be proud of the way we conduct our elections. But I will say that as we conduct our redistricting this year, the proof is in the pudding and we all need to feel that it's been a fair process and nobody is get-- gets shorted at all. So I hope we can conduct a fair process, it's transparent, and that we all get an opportunity to review it completely. So once again, I endorse LB285 and I would encourage your green vote.

**WILLIAMS:** Thank you, Senator McCollister. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. President. Colleagues, I want to get a few concerns on the record about LB285, and I shared these concerns in our committee hearing, I believe, and I think in our Executive Session for sure. And I need to have a conversation with Senator Brewer about this, and our committee counsel, but I have some concerns about exempting the Secretary of State from public records in terms of this voter registration system called ERIC, that the underlying bill allows us to join. So I'm not speaking to the amendments. I think those amendments are good. But I-- I have increasing concerns with exempting this voter file, you know, group that we're going to work with from public records. There have been voter problems in Nebraska that we didn't uncover until we were able to access public records. For example, in 2020, an organization, I think it was the ACLU, did a-- or Civic Nebraska-- I think it was the ACLU did an investigation and they found that all of these people with felony convictions, all of these formerly incarcerated people, were incorrectly told that they can't vote because of a data problem in the system. And it's only because of the open records and the nonexemption that they were able to find that and correct that problem and enfranchise all of these people and let them vote. So I have concerns in LB285 about exempting our voter records from those records requests, because I think that that's kind of getting away from the transparency in our voting and election systems for our democracy that's really important to me. I know we're literally in like the 11th hour here today, but those are some concerns I did want to get on the record that I will speak to Senator Brewer about and our committee counsel, Dick Clark, about before we move on to the next round of debate. Public records was the only way that we have uncovered massive data problems in our system in the past. And so if this has gotten away, if LB285 has gotten away from us and we're exempting them from public records, if that's something that I went along with earlier, I was convinced to support, I no longer think I am there on that, because we've also seen how other states have done screwy things with their voter files and taken people off the rolls who were still eligible to vote. And if we didn't have open records, then that never would have been discovered. So anything we do to obscure our voter files and, you know, take away access from the press, all of these things, from investigation, the worse I think it is for democracy. So I'm not sure that's what LB285 is doing, but I wanted to get those concerns in the record and I will speak to the committee counsel about that between this one and the next. Thank you for listening. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Hunt. Seeing no one wishing to speak, Senator Brewer, you're recognized to close on AM1300. Senator Brewer waives closing. Members, the question is, shall the amendment to LB285

be adopted? All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

**CLERK:** 33 ayes, 0 nays, Mr. President, on the adoption of Senator Brewer's amendment.

**WILLIAMS:** The amendment is adopted. Mr. Clerk.

**CLERK:** Senator Brewer would move to amend, Senator, AM1354.

**WILLIAMS:** Senator Brewer, you're recognized to open on AM1354.

**BREWER:** Thank you, Mr. President. All right, just so everyone is on the same sheet of music, we voted on AM1300. That had to do with the voter list, timeline for signatures, and LB514. What AM1354 is, is the redistricting bill. So what you heard from the Speaker and others, that's really the-- the guts of what we're about to discuss right here. All right. So last year, the United States held its census. It is a redistricting year and what happened was normally the law re-- requires that by April 1 we have the data. Well, that didn't happen. So we have been promised that data, again, as Senator Morfeld said, rough data by mid-August. We think that a couple weeks of time to process that and a chance for the committee to meet a number of times to go through that will probably put us into the mid-to-late September timeframe, but again, it's all dependent on we get it for a special session. Remember, the special session will be limited. What we're trying to do with this bill is to make sure that we address all of the issues that are specific to the failure to meet that timeline. Because of those limitations, we're working through this regular session to set the table for the special session. This amendment is part of that effort. AM1354 contains a number of changes to deadlines that will be affected by the delay in our redistricting process. The Legislature takes the census data and draws new district maps. That is the start of the process, not the end. After we do our job, the county elections officials and the political subdivisions have more work to do. They have to draw new precinct maps and so on. The amendment adjusts when those are due so that they are allowed sufficient time. Possible candidates have to know what the district lines are before they can file. We're just-- we are adjusting this filing dates to make that possible. We had a public hearing on AM1133 on May 5. Based on the comments from that hearing, we made a few tweaks. As a result of that, the adjustments were made into AM1354. I believe the amendment sets us up for success in the special session. It keeps us on track to conduct the election next year as required. These changes are the result of a lot of work on the part of my staff, the Secretary of State's Office, the Government Committee, and dozens of stakeholder groups. We cannot

control the Census Bureau process, but this amendment will give us a chance to be flexible and to make sure this process can move forward. I would ask for your green vote on AM1354 and ultimately on LB285. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Brewer. Debate is now open. Seeing no one wishing to speak, Senator Brewer, you're recognized to close. Senator Brewer waives closing on AM1354. Members, the question is, shall the amendment to LB285 be adopted? All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

**CLERK:** 34 ayes, 0 nays, Mr. President, on the adoption of Senator Brewer's amendment.

**WILLIAMS:** The amendment is adopted.

**CLERK:** I have nothing--

**WILLIAMS:** Returning to the bill.

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

**WILLIAMS:** Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB285 to E&R for engrossing.

**WILLIAMS:** Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB285 is advanced. Speaker Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good evening again, colleagues. So we're in contact with the Revisor's Office and we are told 10:30 is when the last bill will come down to get engrossed, so we'll stand at ease until then and hopefully we'll wrap up our business then. Thank you, Mr. President.

**WILLIAMS:** Thank you, Speaker Hilgers. Members, we will stand at ease till 10:30.

[EASE]

**HILGERS:** All right, members. We will come back to order. Mr. Clerk for items.

**CLERK:** Thank you, Mr. President. Enrollment and Review reports LB139, LB528, LB649, and LB649A as correctly engrossed. I also have an

amendment, Senator Stinner, to be printed to LB100. Name adds: Senator Brandt, LB236; Geist, LR134; Brewer, LR144; Cavanaugh, John Cavanaugh, LR152. Mr. President, Senator Flood would move to adjourn the body until Wednesday, May 9 [SIC], at 9:00 a.m.

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