

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate April 7, 2022

**FOLEY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fifth day of the One Hundred Seventh Legislature, Second Session. Our chaplain for today is Father Christopher Stoley of Sacred Heart Catholic Church in Crete, Nebraska. Senator Brandt's district. Please rise.

**FATHER STOLEY:** Thank you all for having me. Please bow your heads for the prayer. Lord God, we come before you as your humble servants. We ask that you bless us today and we thank you for the day that you've already given us. Thank you for favorable-- for favorable weather and we thank you for the opportunity to come together today to celebrate fraternity and to celebrate our work that we have for our great state. We ask that you give us your wisdom. We ask that you give us your strength to make good decisions for our state that will, that will help us and lead us along the road to our common goal. We ask you to send your spirit upon us to give us that sense of fraternity, that sense of brotherhood, that sense of love and help us to work together to achieve all of the goals that we need here for the state of Nebraska. We ask all of these things in your name, oh Lord. Amen.

**FOLEY:** Thank you, Father Stoley. Senator Moser, if I could ask you to lead us in the Pledge of Allegiance, please.

**MOSER:** Please join me. 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:** I call to order the fifty-fifth day of the One Hundred Seventh Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

**CLERK:** I have no corrections.

**FOLEY:** Thank you, sir. Any messages, reports or announcements?

**CLERK:** Mr. President, I have neither messages, reports, nor announcements at this time.

**FOLEY:** Thank you, Mr. Clerk. Senator Moser would like us to recognize Dr. Dan Rosenquist of Columbus, Nebraska, who's serving us today as

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family physician of the day. Dr. Rosenquist is with us under the north balcony. Doctor, please rise so we can welcome you and thank you for being here today. Members, as you can see from the agenda, the first item is a Final Reading item. I'll need all of you, pursuant to the Rules, to be at your desks for Final Reading. Members, while you're going to your desks, it's come to my attention that over the last week or so, there seems to be a, a trend of members wanting to address members in the balcony and asking them to be recognized and so forth. I had lost track of this, but there's actually a specific rule that, that speaks to that. So I'll ask you not to address people in the balcony and ask them to be recognized. We're happy to recognize any of your desks-- any of your guests pursuant to the typical procedures so thank you for observing Rule 2 Section 7. If you could all be at your desks for Final Reading, please. We'll now proceed with Final Reading. Mr. Clerk.

**CLERK:** Mr. President, with respect to LB873, Senator Matt Hansen had an amendment filed. That's to be withdrawn. That's all that I have.

**FOLEY:** Thank you, Mr. Clerk. Members, the first vote is to dispense with the at-large reading. Those in favor of dispensing of the reading vote aye; those opposed vote nay. Record, please.

**CLERK:** 35 ayes, 5 nays to dispense with the at-large reading.

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

**CLERK:** [Read title of LB873.]

**FOLEY:** All provisions of law relative to procedure having been complied with, the question is, shall LB873 pass? Those in favor vote aye; those opposed vote nay. There's been a request for a roll call vote in reverse order. Mr. Clerk.

**CLERK:** Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne voting yes. Senator Walz voting yes. Senator Vargas voting yes. Senator Stinner voting yes. Senator Slama. Senator Sanders voting yes. Senator Pansing Brooks voting yes. Senator Pahls. Senator Murman voting yes. Senator Moser voting yes. Senator Morfeld-- Senator Morfeld voting yes, thank you. Senator McKinney voting yes. Senator McDonnell voting yes. Senator McCollister voting yes. Senator Lowe voting yes. Senator Linehan voting yes. Senator Lindstrom voting yes. Senator Lathrop voting yes. Senator Kolterman voting yes. Senator Jacobson voting yes. Senator Hunt. Senator Hughes voting yes. Senator

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Hilkemann voting yes. Senator Hilgers voting yes. Senator Matt Hansen voting yes. Senator Ben Hansen. Senator Halloran voting yes. Senator Gragert voting yes. Senator Geist voting yes. Senator Friesen-- was that a yes-- thank you-- voting yes. Senator Flood voting yes. Senator Erdman voting yes. Senator Dorn voting yes. Senator DeBoer voting yes. Senator Day. Senator Clements voting yes. Senator Machaela Cavanaugh. Senator John Cavanaugh. Senator Briese voting yes. Senator Brewer voting yes. Senator Brandt voting yes. Senator Bostelman voting yes. Senator Bostar voting yes. Senator Blood voting yes. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting yes. Senator Ben Hansen voting yes. 43 ayes, 0 nays, 6 excused and not voting, Mr. President.

**FOLEY:** LB873 passes. Moving to the agenda, item-- motions to override gubernatorial vetoes. Mr. Clerk.

**CLERK:** Mr. President, with respect to that item, I have a motion. Senator Stinner, as Chair of the Appropriations Committee, would move that LB1011 become law notwithstanding the objections of the Governor.

**FOLEY:** Thank you, Mr. Clerk. Senator Stinner, you're recognized to open on your motion.

**STINNER:** Thank you, Mr. President. We are passing out some exhibits, I think that will be helpful to follow the veto override. It kind of breaks down numerically all the verbiage into numbers. Obviously, we have three bills and the Appropriations Committee met and passed 9-0, 9-0, and 9-- 8-1 on the three different bills that we will be working on. As I started out, maybe we, we need to kind of reflect where we've been with this budget process since this is a biennium. And I want to go through again where we were at, at sine die and what the financial status was and what we did. And we checked a lot of boxes last, last session, checked a lot of boxes as it relates to tax relief. The tax credit, the income tax credit actually rose to \$548 million, which I think taxpayers now are starting to understand that we actually have done something on property tax. We increased the tax credit fund by 2 percent. We passed military retirement exemption, Social Security halfway to the wall-- we got that done-- corporate income tax. So we checked a lot of boxes there. We also provided \$100 million as it relates to the prison, \$15 million for prison reform. Rainy day fund was also increased with an additional allocation of \$100 million, plus all of the dollars that flowed in due to stimulus. Health Care Cash Fund was also stabilized, as it needed to be for sustainability. We did 2 percent provider rates. With that, appropriations over a two-year period was increased by 2 percent, 2 percent. That's what we

left and we left \$27 million on the floor. But if you look at the fact that the second year of the biennium actually was up 3.3 percent, we used some CARES Act money. We used some other stimulus money, obviously in the first part, which was available to us to hold down the budgetary increases. So in any event, I, I want to go back and talk about what you have in front of you. It looks like everybody has received this exhibit. What we're talking about here is line items on the General Fund. And if you look at the middle, bill number, LB1011 is the one we're talking about. And the first part is General Funds and the impact on General Funds. Most of it, if not all, is provider rates. We will talk about a future Capitol HVAC number that the appropriations has recommended to be upped. But the other part is, of course, cash funds, and they relate to transfers and appropriation of cash funds. And then, of course, the fed funds at the bottom, lines 13 through 15, really are associated with the fed also contributes to the provider rates. So if we do \$26 million, the fed contributes, under their, under their formula, a, a certain amount toward the provider rates. So in, in the case of, for an example, just nursing home facilities, we did \$26 million is what we recommended, 15 percent. With the associated \$34 million of fed money, that brought us to 15 percent reimbursement for provider rates or increase in provider rates. So that's how you can follow it, breaks down all of the pages that they're talking about into provider rates. But let me go through once again, you know, the Governor has indicated that we are excessive at the 5.7 percent increase. However, as I read to you before, the recommendation includes additional appropriations to agencies to reflect the historic union agreement negotiated to address critical staffing challenges and unanticipated labor market changes. Nebraska experienced historic low unemployment and the recommendation addresses the state need to adapt to increasing labor market competition to recruit and retain and to drive effective, efficient, and customer services. As you saw in this, 20 percent increases in some, 30 percent increases in some, some dollar increases that will be 20 to 30 percent. And I did greenlight that because I thought it was needed and for an example, that 30 percent increase for staffing at the vets home in Kearney, suddenly now we have enough staff to fully accommodate patient loads in Kearney. Imagine that. But where did those people come from? This is an existing pool of labor all of a sudden came there, came to the nursing home in Scottsbluff, came to the DD facility in Beatrice. Where do you think those folks came from? And so when we entered this session and we talked in Appropriations, I said, we're going to do one thing, one thing, and we're not going to load up the General Funds because we knew taxes were an important part of this. We knew it was a priority, priority for a lot of us. That vote

tells you it's a priority. But the first thing we take care of is provider rates. I didn't do 15 percent just willy-nilly. It's only halfway there, folks; 15 percent is not 30 percent. It's not 20 percent. It's 15 percent and it's a base increase of 15 percent, OK? The other part of that strategy rests in ARPA and that's that \$47.5 million and it looks like a big number. Break it down. It is over a three-year period of time, we're going to do \$20 million-- not in base increase. This is premium pay. Premium pay is for retaining bonuses and attracting a staff of folks. You've got to restaff. I'm sitting out there with, with nursing homes right now that are depleted relative to their census and they can't build the census back because they don't-- they've lost employees. They've lost the employees. They're either retired or left, left the industry, but they're, they're sucked down right now to where the revenue is not flowing and they're not in a break-even situation and they are closing. Look at Mullen. Look at Valentine. Look at Arapahoe. Look over in Senator Albrecht's district. That happens. DD: 35 percent vacancies. You got to fund the base-- the people who need it in the base element of this thing. So anyhow, the Governor acknowledges inflation. The Governor acknowledges the fact that we have a COVID situation. So did Appropriations and so did we recommend it and so did we pass that budget. And I will tell you this, that every computation I did-- and the Governor knows this-- every computation I did as it relates to provider rates and as it relates to taxes, included the 15 percent provider rates. Folks, if you look at the green sheets and you look at the 4 percent and the 3.7 percent of additional cost and you pull that all forward, provider rates are in there at 15 percent plus some increases in it. His \$62 million, which, oh, by the way, did I tell you that? One point three percent. We added 1.1 percent. Everything, every computation, every stress test, every pull-forward, every computation, all the safeguards that we looked at as it relates to taxes, provider rates were in there at the 15 percent. The Appropriations Committee finished their recommendations, our recommendations, \$450 million. We brought \$453 million. It makes everything pull forward. We use a zero computation for, for growth. We actually accommodated the Governor once again by changing our green sheets so people can look at what zero growth means in the out-years and as it relates to taxes so that we fiscally understand what's happening. Provider rates at 15 percent are in there. This is a no-brainer.

**FOLEY:** One minute.

**STINNER:** The second thing, obviously, is the future piece of this thing and I think the Executive Committee weighed in on this. The

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Executive Committee also agrees with the Appropriations Committee. We have inflation that's hit our, our HVAC program and obviously the Governor wants to pull that back, stay with the same number, make the changes as it relates to this construction project. Appropriations said no. We're going to build this according to the original specs. We're not going to take shortcuts. We're not going to do that and that's what the \$14 million is about. And of course, the cash, if you draw a line between some of these cash, the recreation trails obviously is an appropriation and the money actually comes from the Cash Reserve.

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

**STINNER:** Thank you.

**FOLEY:** Thank you, Senator Stinner. There are a number of senators in the speaking queue. Before we get to the speaking queue on Senator Stinner's motion, let me announce that while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB873. Now to debate on Senator Stinner's motion. Speaker Hilgers.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I rise in support of this motion to override and I'm not going to bury the lead. I rise in support of all three of the motions that we're going to have this morning and I would encourage you, as I have over the last couple of days, to join me in voting green on this particular motion of overriding the veto. I only want to have a-- I'm going to make a couple of points. First, I want to give a tremendous amount of credit to our Appropriations Committee. Senator Stinner, over the last six years, and his team have really done an incredible job: Senator Erdman, Senator Clements, Senator Wishart, Senator McDonnell, Senator Vargas, Senator Hilkemann. They've done an amazing job working together in difficult times-- my first year-- as well as times like this, which are unique in its own way. And the reason why we have the opportunity to do two things this year, which is, I think, the biggest tax cut in state history, which we just passed this morning, as well as significant investments on priorities for Nebraskans like the provider rates, like the other things that are in the budget, like some of the things that are in these, these vetoes is because of the fiscal discipline and, and the prioritization that that committee displayed over the last six years. Whenever I'm-- have an opportunity on the mike or even outside of the building, I always try to make a point that I think we have the best Appropriations Committee that the state has had in the last 30 or 40 years and we wouldn't be in a

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position today to have this kind of a conversation if it wasn't for the work that they did. Have-- so with that as the background, I can't do any better than Senator Stinner can. I'm going to yield him the rest of my time here in a second and, and really, making the case for why these are important, why the spending proposals are important for the state, they're important for providers. And we're going to go through them all and I'm going to give him whatever time he needs to articulate it, but I just want to say when I read the Governor's veto letter, one of the points that, that resonated with me was making sure that we have enough money for tax cuts, as well as accommodating the spending. And at the end of the day, colleagues, if we override these vetoes with the tax package, we will have done something pretty incredible. We will have funded our priorities in a very significant way thanks to the Appropriations Committee. We will have been able to pass the largest tax cut in state history thanks to a whole number of individuals. And on top of that, we will have, I think about a billion-- \$1.3 billion Cash Reserve. Now whether you think that's too high or too low, it is undeniable that that is a significant achievement. That is a significant trifecta that I can't say we've had in the last 10, 10 or 20 years, if ever, and that-- a large portion of that-- of the thanks and the credit goes to the Appropriations Committee, as well as the Revenue Committee and all the work of so many to be able to get those across. And so I'm going to yield my time to Senator Stinner, but please, I'm encouraging you, urging you to vote green on this motion as well as the motions on LB1012 and LB1213 [SIC--LB1013]. I'd yield the remainder of my time to Senator Stinner.

**FOLEY:** Thank you, Mr. Speaker. Senator Stinner, 2:15.

**STINNER:** Thank you, Speaker Hilgers. I want to reiterate what we're trying to do in provider rates, what the strategy is, and you need to understand 15 percent doesn't get you to 30 percent. Do the 30 percent times \$13 an hour. Thirty percent is \$3.90. It gets you to, what, \$16.90. We're actually looking at that \$18 to \$19 to stabilize the cash and retain-- the wage and, and retain people. So we're only halfway there with what we've done on the base. What we're trying to do with the ARPA is to stage it. Get \$20 million out in the first year to these, to these individual providers and with the, with the understanding that this is not base pay. So you stage it over a three-year period of time, 20, 15, 12.5, and you start to stair step up the base so that you don't have a cliff effect at the end. Provider rates, nursing homes, DD, all of those that have huge amounts of vacancies, they need to be able to have time to put together a staff. And once you put together a staff, then you can take on business. Once you take on more business, the cash flow starts to solidify--

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**FOLEY:** One minute.

**STINNER:** --and certainly then the nursing homes are more sustainable.

**WILLIAMS:** That was one minute.

**STINNER:** That was one minute?

**FOLEY:** That was one minute.

**STINNER:** Thank you. As, as I related, actually the first six points-- HVAC is in there, but on providers, the, the lines 13 to 15 goes right with it. That's the fed reimbursement for that. That brings that, that particular-- those combinations of General Funds and fed funds actually add to the 15 percent. The other ones, obviously, the skilled labor and community corrections, the Governor indicates that that should go back to build. No, it shouldn't. We pulled that out. We pulled that out, folks. Senator Wayne beat on the table and said, we're not going to do this. We need something for reforms. That's the \$15 million that we set aside for reforms. We found two different programs that are all about reforms. That's what we do here. We look for programs that will satisfy some of the goals that we have--

**FOLEY:** That's time.

**STINNER:** --and this is the appropriations that we put together for those two programs.

**FOLEY:** That's time.

**STINNER:** Thank you.

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

**BRIESE:** Thank you, Mr. President. Good morning, colleagues. I first want to thank Chairman Stinner and the Appropriations Committee for their diligent efforts regarding the budget bills and the ARPA bills directing dollars-- needed dollars to priority areas. And I really want to commend them on their work, what they've done, what they put together here. And I've said all along, I'm going to support a package of tax cuts, the budget bills, and the ARPA bills. It really-- that combination really is a trifecta win for all Nebraskans so I will support the override motion on this bill and the following bills. And again, I want to thank Chairman Stinner and the Appropriations Committee for what they've done. Like I said, I'm going to support the

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override motion, this and the following override motions. I would encourage you to do as well. Thank you, Mr. President.

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

**ERDMAN:** Thank you, Mr. President. Good morning. You know, I've sat here for six years and listened to the rhetoric about tax cuts and the question I have: what, what is, what is a tax cut? What does that actually mean? I don't have a clue. Are we saying we reduced taxes? Is that what we're saying or is it that we've decreased the amount of increase? I, for one, believe the last definition is correct. We didn't make any tax cuts. Taxes are continuing to go up. But what we did do is we put a Band-Aid on it so that it wouldn't go up as much as it would have if we hadn't done something. And that last bill that we just passed will mean little of anything to anybody, but it's a tax cut, right? So in government, when you ask for a 10 percent increase in spending and then you decide that in all honesty, that's too much and you cut it back to 5 and you call it a cut. It's an increase. So all of you out there listening this morning, don't run to the bank. Don't start spending your savings from the tax cuts that we pass because we haven't done any, but you may not pay any more or slightly more like LB1107 did for me. So what we have done with this budget is we have made it more difficult for private business to compete with government because we have increased the compensation in other things. And you heard it stated that the vote came out on-- LB1011 and LB1012 was 9-0 and LB1013 was 8-1. So I was part of the 9-0 on the first two, but I was the one on the last one. And so I thought about this yesterday when we got the veto override notice or the day before, we may not be in this position with overrides had we had the opportunity to make amendments and adjustments to the budget bills when they were up for discussion. But we were not afforded that opportunity because Senator Lathrop filibustered them every time and had amendments in place that avoided us from making adjustments. And I believe Senator Linehan would agree with me. There would have been adjustments made to these bills and I don't know if it would have prevented an override or not, but it would have went a long ways to helping. And so when you think about what happened when we're supposed to be discussing the budget, we never had the opportunity. And so we sat here and listened to a filibuster on these budget bills for 50 hours about LB920. LB920 is no longer and we have what we have on the budget bills because we allowed that to go on. And so there are ramifications for what we do here and wasting those 50-some hours brought us to this point.

**FOLEY:** One minute.

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**ERDMAN:** You know, sometimes when you stand up and say these things, it's like the elephant in the room, but I'm here to tell you that's the truth. That's what happened and that's why we're here. So deal with it as you may, but I want you out there listening, private business and industry that are trying to hire people, what we're doing here today is going to make your job more difficult. And so what we do in these budgets, we put things in there that each one of us believes is very necessary for our districts and it forces us to vote for things that probably aren't good decisions, but we have to do it anyway. And so do as you will, vote as you want, but remember what we have done in this budget this year is we have increased the spending going forward. Thank you.

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

**ARCH:** Thank you, Mr. President. I rise in support of the motion on the floor to override and I, and I want to talk specifically about the rates and where I am on the, on the rates for providers. I, I appreciate the work that was done by Senator Stinner, the Appropriations Committee. We are in a-- we're in a situation where these, these rates are critical to the providers. The state obviously recognized it. Senator Stinner mentioned that; 24/7 staff, 30 percent increase. We-- the state has recognized that. We need to recognize that with the, with the private providers. If we don't recognize that, my concern is, of course, that we're going to see the private providers gradually drop out, not able to sustain, not able to-- even with private funds, not able to continue to provide those services. And then we'll be faced with a situation where the state needs to provide all of those services and I think that the majority of this body would say that's not a good idea. So that is something that we need to support. I do support the 15 percent increase. We have heard multiple testimonies of in the case of, of the developmental disability providers, 30 percent vacancies. They need these dollars to stay in it. The other concern that I expressed previously at another stage of this debate was the intention of the Legislature that these are going to rate increases. These aren't going to salary increases, as-- when the state raises salaries, they can put it specifically to salaries, but in this case, we're putting it to rates and, and to make sure that the dollars that we put to rates are then given to staff, that it goes to the staff so that they can recruit, retain staff for the provision of those services. So I had an amendment actually drafted, ready to, ready to put on it with intent language of the Legislature regarding this. But I've had numerous conversations with, with various associations and providers assuring me that in all of this-- and I'm fully aware-- in all of this, all of these service

providers, you're running anywhere between 65 to as high as 80 percent of your costs being staff costs. So necessarily these will, these will go to providers. Now, we don't want to get in the business of saying, well, it should be so much per hour in Scottsbluff, so much per hour in Omaha, so much per hour in Norfolk, and so forth so we are putting it into the rates as an-- as a simple increase, but I, I believe that this will accomplish the intent of the Legislature. Now, the future is unknown. We know that there is serious wage inflation. We have built into our systems in HHS rate studies, in most cases, where, where we periodically conduct rate studies and, and, and costs and, and analyze that. We'll see that better. We'll see that clearer in future years, but for now, we believe that this 15 percent is appropriate. And so I stand in, in support of the motion and believe that we need to, we need to continue-- we need to, we need to, we need to forward this and make sure that those rates are appropriate for the wage inflation that we're seeing right now. Thank you, Mr. President.

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

**FRIESEN:** Thank you, Mr. President. I am going to support the override attempt here, but I am disappointed that we put things in here that are unrelated to the nursing home provider rates or the provider rates that we've been talking about and we lumped other things in there. And I, I hope that they don't jeopardize the intent of what we're after and that's increasing provider rates. But when you throw in the middle-income workforce housing and the recreational trails and you look at \$24 million there that should not have been included, in this override attempt, I am saying that I think that was inappropriate and it's wrong. We wanted to address the provider rates, but this is how politics work. We throw junk in there that doesn't belong there and we know we all have to vote for it. And I said I would vote for the provider rates so I will vote for this, but I'm disappointed we threw this other stuff in there. One of the things I think we have to address longer term and that this Legislature is going to have to address is we have provided so much overregulation of nursing homes that we are driving the cost up to where people cannot afford to go to nursing homes. The complaint we heard when we were investigating some of the nursing homes a few years ago is that people were waiting until they were almost near death to get into the nursing home and then we were expected to turn them around and keep them alive. And I think the average life expectancy at that time in a nursing home was around nine months. But we have driven up the cost. We have driven down the service by not providing enough dollars. We've driven down that service that people don't want to go to the nursing home until they absolutely have to and I think that's a disservice to the elderly. I

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think they should be able to go there and enjoy themselves for a few years if they choose, but I think we have driven down the service level in there by not providing enough revenue to fund them. That service has gone down in some areas and I know there are some great nursing homes out there. I've been to them, but there are others out here who have not been able to provide the service because the dollars just aren't there to make that happen. Part of it's because of some of the national ownership, the out-of-state ownership of these nursing homes. They are just looking at a profit. They're sucking the money out of there. They're using and milking the Medicaid system and then leaving the nursing home in shambles and they close them up and go into bankruptcy. So unless we address some of those problems in the future, this isn't going to help for long. But again, we have taken it to where people don't want to go to the nursing home. They want to stay in their home. And when they do get there, they are so far drawn down from being at home and not being able to take care of themselves that they don't last very long. And that makes the turnover in the nursing homes longer-- or shorter or quicker and it makes it harder for them to stay financially stable when those homes-- when those rooms are empty at times and they're waiting for Medicaid to clear them so those beds can be used again. So we have got a lot of work to do, I think, on some of the regulations that involve nursing homes. And we have overreacted, I think, at times in the regulation. There's more people pushing paper and keeping, keeping files and that kind of thing versus patient care. And you look at the staffing of a nursing home and most of them are in the, in the paperwork department versus taking care of patients. And I think that's where we have lost our direction on some of the nursing homes, but with that, I will support this override and still disappointed we threw this other junk in there. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Senator Geist would like us to recognize some guests today. We have with us 47 eighth graders from St. Peter's Catholic School in Lincoln, Nebraska. Those students are with us in north balcony. Students, please rise so we can welcome you to the Nebraska Legislature. Continuing debate. Senator Jacobson.

**JACOBSON:** Thank you, Mr. President. First, I want to just say that I really applaud the Governor for the work that he's done over the years that he's been here. He's made a remarkable difference in the state of Nebraska and he's been a fiscal conservative and I think we see the results of that now. However, I would have to also tell you that in looking at this particular bill and the situation here with the veto overrides, I, I cannot support-- I will support the override in this case because the provider rates are so critically important. I fully

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concur with what Senator Friesen just said. I would mirror his remarks in terms of the crisis that we have in our nursing homes, particularly in rural Nebraska. We've already lost one in the 42nd District up in Mullen. That will be sorely missed in that community and there will be more as time goes on. These provider rates are critically important. I concur with Senator Friesen. There are other things that I would have supported cutting out, but provider rates aren't one of them. We critically need that and so I will be a, a yes vote in the override simply because we need that. I would also tell you that I want to applaud Senator Stinner and the Appropriations Committee and everyone in this body who voted for LB873. This is a critical tax reduction that had to occur. I am so pleased that we are giving the accelerated reduction in property tax-- or in Social Security taxes from an income tax standpoint. Our seniors need that. That will be also supportive to helping our seniors across the state. But in the case of this bill, I will be voting yes on the veto override simply because provider rates are critically important and, again, I applaud the committee for making that increase. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Jacobson. Senator Sanders.

**SANDERS:** Thank you, Mr. President. I stand in support of the motion to override and I also want to thank Senator Stinner and the entire committee worked so hard on this. Kudos to the Appropriations Committee. I'm in great appreciation for all the work that you have done and I yield the rest of my time to Senator Stinner.

**FOLEY:** Senator Stinner, you've been yielded 4:30.

**STINNER:** Thank you, Senator Sanders. Actually, I saw that Senator Sanders is last in the queue. So concluding comments, I've tried to explain on the provider rates, the importance of that. I think everybody understands that. Middle-income housing for workforce was one that I hadn't really kind of elaborated on. We pulled some of that out of ARPA because ARPA was very restrictive as to uses. This gives more permanency to the middle-income workforce as it relates to Omaha and Lincoln so that's why you see that restored back. And with that, I would ask you for your green vote. Thank you.

**FOLEY:** Thank you, Senator Stinner. Members, you heard the discussion on the motion to override the Governor's veto. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** Voting aye: Senators Aguilar, Arch, Blood, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, DeBoer, Dorn, Erdman,

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Friesen, Geist, Gragert, Ben Hansen, Matt Hansen, Hilgers, Hilkemann, Hughes, Hunt, Jacobson, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, McKinney, Morfeld, Moser, Murman, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams, Wishart. Voting no: Senators Albrecht, Halloran, and Lowe. Not voting: Senators Bostar, Flood, Day, and Pahls. 42 ayes, 3 nays, 2 present and not voting, 2 excused and not voting, Mr. President.

**FOLEY:** The motion is successful. Next motion, Mr. Clerk.

**CLERK:** Mr. President, the next motion, with respect to LB1012, is offered by Senator Stinner. The Appropriations Committee would move to override the Governor's line-item veto of Section 28, transfer of funds from Prison Overcrowding Contingency Fund to the Vocational and Life Skills Programming Fund.

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

**STINNER:** Thank you, Mr. President. Members of the Legislature, this bill, if you follow down, is LB1012 listed in the bill number. There's only two items in that and one is Prison Overcrowding Contingency Fund. And as you see, there's a \$5 million appropriation for this year and it's a \$15 million fund. So there is language that says our intent. We can't, we can't appropriate into the future or past the biennium. Our intent is to use this \$10 million to support the two programs: skilled labor trades mentoring and community corrections program. Those are two programs, I think, that will help prison overcrowding. If you remember back the last session, we took \$15 million out of the prison allocation, not the appropriation, the allocation to set up some prison overcrowding reforms. So in any event, that's the only one we did not, as a committee-- I will say this-- did not recommend line 21, which is restoring the Governor's Emergency Cash Fund. We will leave that in-- available for the Governor in his emergency fund. Apparently, the hospitals and temporary hospitals, they-- there's a payable out there that needs to be-- this needs to be utilized for. And with that, I ask you to vote green. Thank you.

**FOLEY:** Thank you, Senator Stinner. Debate is now open on the motion. I see no one wishing to speak, Senator Stinner, you're recognized to-- he waives closing. The question before the body is the motion to override the Governor's veto, motion 218. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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**CLERK:** Voting aye: Senators Arch, Blood, Bostar, Bostelman, Brandt Brewer, Briese, Machaela Cavanaugh, Clements, DeBoer, Dorn, Erdman, Flood, Geist, Gragert, Ben Hansen, Hilgers, Hilkemann, Hughes, Hunt, Jacobson, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McKinney, Morfeld, Moser, Murman, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Wayne, Williams, Wishart. Voting nay: Senators Albrecht, Friesen, and Lowe. Senator McDonnell voting yes. Senator Cavanaugh voting yes. Senator Aguilar voting yes. Senator Walz voting yes. 42 ayes, 3 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

**FOLEY:** The motion is adopted. Final motion, please.

**CLERK:** Mr. President, with respect to LB1013, Senator Stinner and the Appropriations Committee would move that the bill become law notwithstanding the objections of the Governor.

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

**STINNER:** Thank you, Mr. President. Members of the Legislature, these are the last two lines, 22 and 23, Trail Development and Maintenance Fund be restored back to the original amount recommended and passed by this Legislature. The \$20 million, as I've talked about, middle-income workforce, this is where we are getting the money to appropriate for that particular category. As I said, it was in the ARPA. The ARPA is very restrictive. There's, like, six different uses. It's more, more in line with sewers, water, demolition, preparation of sites, clearing title, those types of things, where this actually has the effect of more permanency as it relates to a revolving fund and helping to actually build properties. So it's important that we pass this. And with that, I would recommend a green vote. Thank you.

**FOLEY:** Thank you, Senator Stinner. Debate on the motion. Senator Erdman.

**ERDMAN:** Thank you, Mr. President. Members, this is the one that I voted no on. This has the trail and the \$20 million for workforce housing and it's not a, it's not a secret to anyone here nor anyone watching at home I am opposed to the government building housing. That is foreign to me and I don't find it any place in our charge anywhere on the constitution or anyplace else that we should build a house. So therefore, I voted no. The second one, second issue is the trail. They're building eight miles of trail, eight miles for \$8.3 million, \$8.3 million for a trail. When they first announced that they were going to expand the highway by my house-- the Heartland Expressway was

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going to be converted into a four-lane road by my house and the estimate was it would cost \$1 million a mile, \$1 million, to build a road. Now, the road that goes by my house is eight miles long. It's a, it's a link between two highways, 26 and 385, and it's approximately eight miles long. That's \$8 million to build a highway eight miles, but we're going to give them \$8 million to build a trail for eight miles, a trail. The trail is not paved, doesn't have any need for having pavement of any kind, maybe a bridge or two. It's \$8.3 million. I don't know what it costs to move dirt, but I can tell you what, it doesn't cost \$8.3 million. The project on the Heartland Expressway in my district south of Alliance, Nebraska, for 20-some miles, the dirt work-- listen to this: the dirt work to move the dirt on that four-lane highway was \$5.3 million, 5.3 to move the dirt on 20 miles of highway and there was a lot of dirt to move because it went through hills. And you're going to tell me it's going to cost \$8.3 million to build a trail for eight miles. But you need to remember Game and Parks is involved, OK, so that may be part of the problem. But I encourage you to vote no on the override on LB1013. No is the correct vote here. Thank you.

**FOLEY:** Thank you, Senator Erdman. I see no other members wishing to speak. Senator Stinner waives closing. The question before the body is the adoption of his motion 219 to override the Governor. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** Voting aye: Senators Aguilar, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, DeBoer, Dorn, Flood, Geist, Gragert, Ben Hansen, Hilgers, Hilkemann, Hughes, Hunt, Jacobson, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, McKinney, Morfeld, Moser, Murman, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams, Wishart. Voting no: Senators Albrecht, Erdman, Friesen, Halloran, and Lowe. Not voting: Senators Day, Matt Hansen, and Pahls. 41 ayes, 5 nays, 3 excused and not voting, Mr. President.

**FOLEY:** The motion is successful. Members, we're moving into Final Reading again. Pursuant to the Rules, I'll ask you, please, to all be at your desks for Final Reading. Mr. Clerk, you're recognized.

**CLERK:** Mr. President, with respect to LB1014, I do have a series of pending amendments that were carried over. Senator Cavanaugh, Machaela Cavanaugh, a bracket motion, Senator, MO200. I understand you wish to withdraw that. Thank you. The next, Senator Linehan, I had an amendment from you, FA192, a note to withdraw. Senator, thank you.

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Senator Morfeld, AM2373. Wish to withdraw, Senator? Thank you. Senator Wayne, motion 153, which was to indefinitely postpone.

**WAYNE:** Withdraw.

**CLERK:** Thank you, Senator. Then Senator Linehan, I had a series of amendments: FA116, FA117, (FA118, FA119, FA120, FA121, FA122, FA123, FA124, FA125), withdraw all those? Thank you. Senator Wayne, AM2516. Again, a similar note. Senator Geist, AM2498. Senator, you want to withdraw that? Thank you. Senator John Cavanaugh, AM2488. Withdraw? Thank you. Senator Wayne, AM2517, (AM2518), I have a note to withdraw. Thank you. (Briese, AM2506) Senator Friesen, this is a first amendment, you filed, Senator. It's AM2550. I don't think-- if I understand it, I think you want your latter one, Senator.

**FRIESEN:** No, I do not want to withdraw that one.

**CLERK:** Oh, OK. Mr. President, Senator Friesen would move to return LB1014 to Select File for a specific amendment, AM2550.

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

**FRIESEN:** Thank you, Mr. President. So this, this amendment, we're going to talk about it a little bit, but this is-- I do believe this is the one where it talks about the funding that goes to the Lincoln Water System. First of all, I want to talk a little bit about just what we've been doing in the past couple of days and, and why we got to where we're at today with all the different filibusters and the time wasting and the different issues we've tried to address and some of the overrides that we've done. And one of them, I just want to spend some time on and this is an opportune moment to talk about the, the rental assistance override that we had-- I think it was just yesterday. And if you read the, the Lincoln Journal Star this morning, you talked-- they talked-- they had a story about already the, the woman who was charged with a felony, defrauding the government of more than \$26,000 in emergency rental assistance. And the way that those funds were distributed, this doesn't surprise me. And again, it goes back to when I talked about the override and why I didn't support it. In the Lincoln and Omaha areas, the distribution model was completely different than what we used in rural Nebraska and they distributed the money pretty well. Just come in, check a few boxes, we'll write your check, the way it looks at me. Now they're going to start going through those and finding out which ones are fraud and which ones are not. And in the end, the state of Nebraska picks up the tab. This is what we're doing here this year: we're shoveling money out the door as

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fast as we can, saying we're helping people while at the same time, I'm getting a text from an employer that says he's finally getting some applications for employment. People are running out of money. They're finally having to come back to work. He's had more applications in the last 30 days than he's had in the last two years. When we go through this-- and, and I know I talked about this when we were talking about the override. In Lincoln and Omaha, they had the ability to shovel probably around \$200 million out the door. And there's going to be more fraud like this, everyone knows it, and you're going to catch maybe 10 percent of it. It really jumped the economy here. It boosted the economy in Lincoln and Omaha because that money got spent and you're never going to get it back. And it's just money sent out the door. I hope it went to a good cause, but the way it sounds and the way it looks here, this here wasn't even a rental. It was totally fabricated. They owned the house. They weren't renting it. This is the system that was devised in Omaha and Lincoln and then we're supposed to trust the nonprofits to do it right; trust, but in the end, the state makes up that loss. And in rural Nebraska, we had to go through the portal where even if it was a legitimate claim, it was difficult to access. If you didn't have access to a computer, you had to go to a library, you had to start filing your claim, and then it would ask you for my documentation so you'd have to go home and get it. You'd come back. You'd start filling out the application again. They'd ask you for something else. You have to go home. This is how we applied for the rental assistance. That's why we have \$30 million left and you took \$80 million and distributed it in Lincoln and Omaha and now we're supposed to help you fund your water system. This is way-- why we have this urban-rural split, maybe. It's always a different system. It's a different set of standards we operate under. We don't have people who have made hundreds of millions or billions of dollars living in rural Nebraska to be the philanthropists who put their names on buildings. In rural Nebraska, we work and we donate and we build our communities. We find our own water sources and yet when it comes to the rental assistance, we run through this portal that if everybody would have run through that portal, maybe we would have only needed a total of \$100 million. Maybe we've wasted \$200 million. We were trying to help those who truly needed it. Instead, we created a program for fraud where they're going to have to go and dig through it now and spend the next three years trying to find out who got the money. But that's water under the bridge, so to speak. So it's an interesting read, the article, and how they fabricated documents, went through the whole process, and got \$26,040 back in June of '21 and now we're just starting to find all this. And there's going to be a lot more of it the way it sounds and again, the state of Nebraska will pick up that

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tab. So this amendment here, what it does is take the \$20 million, I believe, that's for finding Lincoln a new source of water and it takes it and puts it into the reverse osmosis systems for communities or rural water users that might need some assistance with cleaning up their drinking water, which we don't monitor as heavily. We can get it tested, but when you have a-- your own water system, you are responsible for testing your water. And people do send in samples and get them tested, but there are some issues in some areas and we talked about the area around the AltEn ethanol plant. Maybe those people need reverse osmosis drinking water system to protect their drinking water. And we're not helping them find a new source of water. They're going to find their own. With that, I'm open to some discussion on this and we'll see once if we want to carry it any further. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Debate on the motion. Senator Flood.

**FLOOD:** Thank you, Mr. President. Members, I reject the idea that this is some sole benefit for the city of Lincoln. When I was here before in the Legislature, we went through a pretty serious drought in 2011 and I know that because I was getting calls from residential users who were saying I can't get water and ag irrigators were trying to keep pumping irrigation and well drillers were out trying to go deeper to find the water. And we were this close to shutting off-- well, we did. We had all sorts of phase-outs of irrigation. Human water drinking consumption comes before anything else. And I remember the conversation that we had at that time. We were talking about appropriated and fully appropriated. We went through a whole series of issues as it relates to the Republican River Basin, the Platte River Basin, and everything that comes from it. Irrigators have gone through a lot of changes and a lot of regulation in the last 15 years. Where does the Elkhorn River meet the Platte? Well, it does. The Elkhorn River flows into the Platte, which flows into the Missouri. All of that's hydrologically connected. Lincoln is a very large city. It needs a second water source and if it has a second water source, it provides less risk for irrigators in the region. You can draw a line around Lancaster County, you can draw a line around Lincoln, but we're all connected, just like the surface water is connected to the groundwater and the groundwater is connected to the surface water. This is something that I think sets the table not just for the city of Lincoln, but the region, because the city of Lincoln is looking at building a regional water system in southeast Nebraska and it's likely that their second water source options are east of Lincoln, maybe even all the way to the Missouri River. That's good news long term for the

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citizens of Lincoln, that's good news for the irrigators in the Lincoln area, and that's good news for anybody along the Platte River and, ultimately, it's good news for people in northeast Nebraska. I've been at meetings with 300 or 400 irrigators when they're being told that they're going to have to put meters on their wells. Senator Briese's probably been at a few of those meetings. Corn growers packed the room at the NRD meeting and every single time, somebody stands up and says if we don't deliver enough water in these rivers to our state's two largest cities, we will see shutdowns up and down the basin. This is reasonable. It's responsible. It's forward thinking. It addresses a concern that's long term. And in a Legislature this year that has endorsed the idea of a lake between Omaha and Lincoln, it's endorsed the idea of improvements at Niobrara, Lake McConaughy, why wouldn't we do this? This is for drinking water for our state's second-largest city. It's for a region-- it's for the concept of a regional water system. And I think Senator Gragert would agree it's good for irrigators. It's good for agriculture. Let's be proactive. No one wants to get the call when they're an elected office holder that we are going to start shutting down irrigation, we're going to start restricting water use, and ultimately our drinking water is unsafe. There's another issue here too that I think needs to be addressed and that is the flooding that impacted Lincoln in 2019, when their wells and everything was happening. That put a lot of our citizens in this state in a precarious situation as it relates to their drinking water. So I am opposed to what Senator Friesen is doing. I think that this provision in the ARPA bill makes absolute sense and if we want to be forward thinking and we want to address the issues that we have here--

**FOLEY:** One minute.

**FLOOD:** --not only-- one minute, Mr. President-- the issues that we have in not just agriculture, but for the city of Lincoln, this needs to stay in there. And the more that we have this rift that sometimes flares up between urban and rural Nebraska, we need to look at how it's connected. Just like our water is hydrologically connected, so are we. This is the right thing to do. I oppose Senator Friesen's amendment strongly. Thank you, Mr. President.

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

**ERDMAN:** Thank you, Mr. President. It's amazing to see where opinions fall when you're running for election to another position. Let me explain to you how this \$20 million got here. We were at the end of discussion on the ARPA money that day, on a Saturday. We'd been there from noon till about 3:15 and we were, we were about to wrap up and

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Senator Wishart drops in this amendment for \$20 million for the water source for Lincoln. That was not even a bill that came to Appropriations, but it was another bill in another committee. And to my surprise, we, we passed it. We adopted it. Not all of us. Some of us. Enough, enough to get it here. So what Senator Friesen is trying to do makes sense, but if you're going to represent the city of Lincoln or you do represent the city of Lincoln now, you'll be totally opposed to this because that's how it works here is if you can sneak in and drop in something at the last minute, you may be able to move to the front of the line. That's what happened with this \$20 million. So there's probably only three or four people in here listening anyway, but I think the people back home are listening. This ARPA bill and the spending that is in this bill is going to increase our budget significantly. And you don't have to believe me, just watch. Next year, the year after when the federal money runs out, we will be in a position similar to '17 and then we'll have to make what we call cuts, which we didn't make in '17. We made a few adjustments, but we didn't-- really didn't cut anything. But I am in support of Senator Friesen's motion. I'm in support of the vote to bring it back for the amendment and I think he has others. And as I said before, we sometimes make decisions here what's best for us in the position that we're running for, but I'm not running for anything when I'm done here. But I did come here to represent the people of the state of Nebraska, even the people in Lincoln. But Senator Friesen is going to put \$20 million into this water treatment, which is not a lot of money when you consider what those treatment facilities cost and the maintenance of them, but it is a beginning. It's a start. And so I'm in favor of AM2550 and I would encourage you to be the same. Thank you.

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

**FRIESEN:** Thank you, Mr. President. Let me clear up a few facts here. Not all surface water is connected to our groundwater. We have had an extensive battle over conjunctive use of surface water and groundwater and we have done major studies of provoke-- proposals there that have tried to tie surface water and groundwater together. Most groundwater irrigators are not connected to any surface water whatsoever. In my area on the Upper Big Blue, we have very little connection to the Platte River. It runs about a mile and a half south of the Platte River, where if you would drill a well over the next 40 years, you may have an impact on the river's flow. So don't connect the two together and say that we're going to restrict groundwater pumping when we run short of water in the Platte River. That's not true. Now in some cases, that water is connected, but not in all cases. And I will tell

you that Lincoln has senior water rights on the Platte River that supersede almost all irrigation rights and allow the city of Lincoln to grow probably double the size it is right now if they exercise those rights, which they would in a heartbeat. We in agriculture know that the highest use for water will be domestic use. We're never going to change that. When a city wants water, they're going to take it. There's nothing we can do to stop it, which we already know is a minority. We already have very little control and if a municipality ever wants water, most irrigators would actively work to make sure that you will get it if you can show that it goes to a higher use. But to say that it's connected and you will be able to shut off irrigation water because we're not going to have a second source of water here is not true. Lincoln chose to put a well field where they did. They chose to maybe not look at the engineering and see that flooding might take out their source of water or they didn't protect it good enough. Now they want an alternate place so that it's more protected and want us to pay for it. When the city of Henderson needed water supply, when the city of Hastings needed to redo their water system, they paid for it. They applied for grants if they could. They applied for some federal grants. But if they wanted to clean up their water system, they did. They went through the system instead of through this. And I will say when we're doing the spending this year, this is one of those bills where everybody got a little piece of the action. We sent money out to everybody and I hope everybody's happy. I hope everybody's problems are solved for the next 20 years because we won't have an opportunity to spend money like this for a long time again. We did that this morning. I hope we took that opportunity at a way for this body to spend this kind of money and we don't ever have to go through this process here again. When you look at how much pork we've put in our budgets, you will look and we will sound just like the federal government at work. And someday our kids and our grandkids are going to pay all that back and as interest rates go up, the federal government's debt interest will rise and--

**FOLEY:** One minute.

**FRIESEN:** --we'll wonder why they don't have any money. So I'm not sure where I'm going to go with this yet. I would like some more discussion and let's see once if we want to help some other water systems out there, if we want to help other cities that are having issues with their water supply or is it just the big cities that ask for help and get it? Thank you, Mr. President.

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

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**HILGERS:** Thank you, Mr. President, I'll be brief. I, I'd oppose the amendment in part, at least because this is-- this is on Final Reading and if we are, if we have anything to go back to Select File, we have to have another layover day. And at this point, we've had a number of these issues. We've had I don't know how many-- well over a dozen, I believe, amendments heard both on General and Select File. And so at this stage in the game, I would encourage you to vote no, in part because we just-- we need to get this to the Governor so that we can stay on schedule. I would yield my time to Senator Flood if he would like it because I think he was articulating the opposition, if, if he would like the extra time.

**FOLEY:** Thank you, Mr. Speaker. Senator Flood, 4:18 if you care to use it.

**FLOOD:** Thank you, Mr. President. Thank you. Speaker Hilgers, and thank you for the, I think, acknowledgment that we're at the point where we have put together something. We have passed a budget. We've considered the veto overrides. And now we're on Final Reading, talking about taking out a piece of what's in the ARPA budget and having a conversation, which I can appreciate, about water policy. I will tell you when we went through this whole situation, the Republican River Basin, the upper, the middle, the lower, trying to meet our obligations to the Kansas tri-state water compact. There were a lot of really tense moments. It was uncomfortable. And the things the Legislature had to do and the things and the sacrifices that the people in the Republican River Basin had to make were not a good situation. I have supported the canal in the state of Colorado for the same reason I'm opposing this and that is to make sure we have a water supply that allows our number one industry to thrive while not compromising the health and safety of others. And Senator Friesen is right. The city of Lincoln does have senior water rights and if they exercise those senior water rights, what happens then? There's a finite amount of water. If the city of Lincoln wanted to exercise those senior surface water rights, junior rights holders can be curtailed and groundwater users can be affected. So in, in essence, Senator Friesen has made my argument that we are connected. And what is the harm in finding a second water source for the city's-- for the state's second-largest city? I was speaking with Senator Briese earlier before and he and I were talking about the fact that you can't drill wells like you used to in rural Nebraska. Twenty years ago, you didn't have to get a permit for drilling a well. You might have had to get some permit, but it wasn't anything like it is now. Today, those are like golden permits to be able to drill a well and irrigate dry ground suddenly. It's ironic that we'd have a debate about this

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because in my opinion, agriculture knows better than anyone how important it is for the city of Omaha and the city of Lincoln, our two largest cities in the state of Nebraska, and Sarpy County to have a reasonable water supply. You don't want the calls from your constituents when they say my crop is drying up, I can't irrigate. You also don't want the calls from people that say, we can't take a shower. We don't have any drinking water.

**FOLEY:** One minute.

**FLOOD:** The well driller can't be here for another three weeks. That's what happened in 2011 and it was very, very scary. This is forward thinking, it's visionary, it's in sync with what we're doing in the state of Colorado, it's in sync with the STAR WARS's effort, and it's certainly in the best interests of the state of Nebraska. So I am opposed to Senator Friesen's motion. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Flood. Senator Gragert.

**GRAGERT:** Thank you, Mr. President. Well, finally, maybe not the most appropriate time to talk about water, but definitely something that should have been talked about, I suppose, more on LB925. It's not only about the quantity of water, but the quality of water. And now we're looking at-- what I tried to bring out in LB925 is that we are beyond being proactive. We're in the reactive state of especially the quality of our water. It continues to get worse and worse. And yes, now we can spend millions and we'll be spending billions before we're all said and done on the treatment of our water because of different chemicals in our water. So I guess where I'm at with this is somebody trying to be proactive, I'm all for. I voted for all the water bills that came across because I know how important this natural resource is to us now and it is, is going to get even more important to us in the future. We need to, we need to not figure out ways to how we're going to treat our water after we mistreated it, but how-- more importantly, we're going to probably have to look at is how are we going to start conserving our water? In 2011, it's-- that's exactly right, what happened with some of the irrigation wells were drawing down the water to where domestic use wasn't even being capable-- some people weren't capable of taking showers and the-- who's-- has the authority over that one are our NRDs, our natural resource districts, our 23 natural resource districts that now give out permits to even drill irrigation wells. And not only just to go out there and drill well in particular NRDs, but you got to be certified along with that well to get those acres to be able to, to irrigate on. So again, this-- we need to be proactive. I brought up in Creighton, Nebraska, in 1991, we built a

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reverse osmosis for 1,147 people and it cost us \$1.3 million. That's around \$1,100 for each man, woman, and child in Creighton, Nebraska. And why did we have to do that? Because the nitrates in our water and-- but the city of Creighton, those are the people-- and all the other people that are going to have high nitrates-- are going to be paying for not only buying that reverse osmosis, which will probably cost-- 1991, was \$1.3 million so you can imagine in 2022, probably \$8 million. And then not only that, it costs \$550,000 annually to run that reverse osmosis in Creighton, Nebraska. So that's another \$497 I pay just to, just to clean the nitrates out of our water. That's on top of now what I have to pay for the water itself. Water again-- and I can't stress enough that when we're without it, we're going to be-- we don't know-- we don't realize the value of that water until we're carrying our own buckets. But we are going to-- if we are going to continue to not be proactive and conserve our water and, and--

**FOLEY:** One minute.

**GRAGERT:** --watch the chemicals we put on and end up in our water, millions isn't going to do it. Twenty million is like throwing a BB into Lake McConaughy when you-- when you're going to be looking at all these reverse osmosis at all the cities. And now-- and not only the cities, but even the producers or the individuals that live on the farm and, and have their own wells, those aren't even regulated. So the only way you're going to know what really is in your water is to take it upon yourself to go and have that water tested. And please do that because now you're going to need a, a reverse osmosis on your particular well at your, at your place and, and that is going to cost thousands of dollars. So again, there are conservation practices. There are ways that we can do this and it's not going to turn around overnight. This didn't happen overnight. It's going to take years. But the only thing, the only thing we're going to be able to use now to protect our people--

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

**GRAGERT:** --are--

**FOLEY:** That's time.

**GRAGERT:** Thank you.

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

**ERDMAN:** Thank you, Mr. President. Good afternoon-- good morning, I should say. So I said this to Senator Friesen off the mike. What he's

trying to do here is very similar to when you try to stop spending or funding going to the university. You get in front of that university snowball and you're going to get rolled. And so what he has done now has stepped in front of the eastern Nebraska contingency of representation that Lincoln and the east have and, Senator Friesen, we're going to get rolled on this one. There is not a chance that your amendment will ever get adopted because there are a significant number of representatives, whether they are elected now to represent Lincoln or up for election for Congress that are going to represent Lincoln, that will be opposed to what you're trying to do. You can have the greatest idea in the world. You can try to protect rural water sources. You can do all those things, which is what your bill does-- your amendment does, but it won't reach the finish line. So continue with your discussion and you'll probably hear more comments from people who are running for elected offices defend Lincoln's water source and I guess it should be rightfully so. But as I said earlier, this \$20 million got in there at the very last second, didn't have a hearing in our Appropriations Committee, came from another committee, but it's for Lincoln. And those people in rural Nebraska that are listening, they understand what that all means. They understand it completely because, you see, we only have five senators west of Kearney and there's more than that in the city of Lincoln. So when Senator Friesen talked about the urban-rural divide he is, he is very much correct on that. So I'm going to vote for this and Senator Friesen will probably vote for this, but that will probably be about it. So thank you for your time.

**FOLEY:** Thank you, Senator Erdman. Senator Matt Hansen. He waives the opportunity. Senator Friesen.

**FRIESEN:** Thank you, Mr. President. So I'm going to, I'm going to talk a little bit about the different things I've heard here and when we talk about the Republican River Basin and the management that happens there, I will point out I was on the LB962 water task force that rewrote our entire state water law and I was a representative of small municipalities at the time. And I was not an irrigator, but a representative of small cities. When we talk about the Republican River Basin, the reason that's such a messed-up thing is our Attorney General's Office negotiated that settlement in secret without using the NRDs for their experience and their knowledge and he basically negotiated a lot of our rights away and I'll still blame him forever for that. That was a mess that probably can never be made up and those guys down there are paying \$10 an acre in an occupation tax to correct that mistake. So when we talk about-- when Senator Gragert talks about nitrates in our water, the Upper Big Blue NRD had one of the first,

one of the first, I think, in the state water quality areas that were established. I was on that committee when we established it and what it showed in the results of all the data we had is if we would have-- and we were-- if people followed the University of Nebraska recommendations in the '60s and the '70s and into the early '80s, we were overfertilizing. We were-- if, if you even followed the recommendations of the university, they were telling us more water, more fertilizer, more corn. They were wrong. And as we learn more, as we studied more, as we had more research projects out there, we have now cut our nitrogen use probably in half per bushel. But the results that we saw when we drink-- we dug test holes clear down through the vadose zone to the water table. Even back in, I think this was probably in the 1980s when we did this, the late '80s, it showed already that we had a nitrate contamination problem that was going to be coming in the next 20, 30 years. It's here and it's not what we're doing today. It's what we did in the '50s and the '60s and the '70s when we didn't know better and the university made those recommendations and we followed them. We were wrong. But there was 1,200 pounds of nitrogen below the root zone above the water table that's heading down to our groundwater. We could stop farming today, we could stop putting on fertilizer, and we're still going to have nitrates that go up into probably that 20 parts per million, 25. All I ask now-- I keep telling my NRDs is show me that I'm contributing to the problem today and I'll change what I'm doing. But we have changed a lot from the time that those problems occurred and to say that we're going to be able to fix it by doing certain things is not true. It's just going to take another 20, 30 years to fix this. So there's-- I talked to Senator Arch a little bit about what the issue is, but it's, it's a lot bigger than what we're talking about right here. That's not what I'm after, but we-- in our area when we invested in irrigated agriculture back in the '50s, '60s, and '70s, we're the ones that drove that value of irrigated land up to where it is today. We're the ones that invested in wells and we put our pivots on. We didn't have anybody come do that for us. It wasn't a federal water project that built a system of dams and canals. This is us investing our money and in return, they raised our taxes--

**FOLEY:** One minute.

**FRIESEN:** --because we increased the value of that property. We invested in that. No one else. And we don't want contaminated water. We drink it just like everybody else. But when you look at cities and small cities especially, we're asking them to put in water treatment systems where 95 percent of the water gets flushed down the toilet. There's no reason for that. Unless we change our laws to where it's--

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you can put on a reverse osmosis system and have clean drinking water from a spigot-- but right now, you're required to treat all of the water and all of that water, 95, probably 98 percent of it does not get put into your body. You shower with it, you wash the driveway, you wash your cars, and yet we're treating every gallon of the water. It's not how we should do it because it's costing us millions. Thank you, Mr. President.

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

**PANSING BROOKS:** Thank you, Mr. President. First, I want to thank Senator Flood for standing up to support Lincoln's water system. I'm with him on every single thing he said. Water is our liquid gold, and as we know, Lincoln is the second-largest city. We have to continue to protect our water. We have to conserve and protect the water for our future. To criticize the fact that we've had flooding troubles and that Senator Friesen said, oh, gosh, maybe we put the wells in the wrong place or maybe we had people that didn't know where to place them originally belies the fact that if we are not proactive right now, \$30 million will be a happy pipe dream. Water treatment plant-- we're talking about water treatment plant, land acquisition, you know, the, the hue and cry the, the-- that the urban senators do not care about the rural senators, it's enough. You don't have to keep saying that. You are creating that divide. We have supported cut after cut of property taxes. Is it enough? I'm sure that many of you don't think it's enough, but we have continued to support property tax cuts for farmers and for, for people in rural areas. We've supported the income tax cuts. We fought to override on rental assistance, especially to rural areas, and you all decided not to do, not to do that. So it's enough to continue to bring in this wedge about rural versus urban. We are working our darndest. If you have an idea-- if you don't think that rural Nebraska has clean enough water, then bring us the idea. You haven't brought the idea to us. The fact that Lincoln has come forward and said we need to do something about our water is not our problem that they've been foresightful. Yeah, we have a huge population. The State Legislature is here. The state university is here. We have all sorts of, of incredible business opportunities here. We have to have clean water. If you have a problem in rural Nebraska, bring it to us. We'll support your initiatives to clean up the water in the rural areas. You've never brought that issue to us. So I stand against returning to Select File, against Senator Friesen's AM2550. We will continue to fight for water everywhere in our state. It is our liquid gold. It's the way we live. It's the way we grow crops. This makes no sense. Thank you, Mr. President.

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

**FLOOD:** Thank you, Mr. President. Thank you, Senator Pansing Brooks, and I would like to ask Senator Gragert a question if he would yield to one.

**FOLEY:** Senator Gragert, will you yield, please?

**GRAGERT:** Certainly.

**FLOOD:** Senator Gragert, we're having a conversation today about Lincoln and its water supply and the idea of having a secondary water source. I love the comment about-- what did you say, a BB in Lake McConaughy? Is that what you said?

**GRAGERT:** That's correct, yes.

**FLOOD:** OK, that's good.

**GRAGERT:** He and-- just right now, dumping \$20 million into, into what they're asking for and what they're going to need, as I see it in the future, \$20 million isn't going to go anywhere. It's like throwing a BB into Lake McConaughy, the splash you would make.

**FLOOD:** But the reality is it starts the process of answering a question and solving a, a future problem and one of the things I wanted to talk to you about-- and others in here have raised this about rural Nebraska-- Cedar and Knox County have had some water system issues. We've talked about that. And as I recall earlier this session, we adopted an amendment to a, a budget bill that did spend some money to try and address some water issues that you're having in your district. Can you elaborate on that?

**GRAGERT:** Yeah, I appreciate that. You know, through the ARPA and we have-- and, and again, the Appropriations Committee did an outstanding job in my mind. But, you know, we spend a lot of money on water and-- but we didn't, we didn't spend a lot of money on the cream of the, cream of the crop, if you will, the drinking water. I asked for 36 that are-- I asked for some money, which is going to be a rural water system for drinking water, which is going to cost \$36 million and I settled for, I guess, if you will-- and I'm very thankful for it because I believe \$7 million is better than no million, but I, I got-- I received less than 20 percent of the asking, of that asking cost on that rural water system that Knox/Cedar would be putting in and that's fine--

**FLOOD:** Right.

**GRAGERT:** --but we, we need to concentrate on drinking water.

**FLOOD:** I appreciate that, Senator Gragert, and I think it's important to note when the city of Lincoln interests came in, they asked for \$200 million for this process to, to address a secondary water source and they ended up with \$20 million for a city that is growing with 300,000 residents. So my point here is this isn't a zero-sum game. In this ARPA proposal, we have rural interests. We have urban interests. We have a sizable investment into Knox County, Nebraska, for Lake McConaughy and the Weigand Marina that takes advantage of water resources. We have the concept of this lake between Omaha and Lincoln and then we have Lake McConaughy. As I look at the ARPA proposal, I think given the fact that this is a large city and we are-- we were-- the Appropriations Committee considered a \$200 million request, this is modest in comparison to the per capita impact. The other thing I want to say, you know, the senators from Lincoln understand this. Senator Bostar brought this forward. The leadership of the city of Lincoln is paying attention to this. This is one of those issues where we can work together, agriculture and the urban interests, to find a solution to a problem that could get much worse. The last thing I want to talk about as it relates to Lincoln's effort here is that this is not just a city of Lincoln issue, it's a regional water system concept, which means that rural communities in southeast Nebraska will have the opportunity to partner. Think about--

**FOLEY:** One minute.

**FLOOD:** --some of the smaller communities, especially in southern Lancaster County. As, as they grow in their schools, see more and more students, and they have more homes built and more people want to live in close proximity to the city of Lincoln, you're going to see the need for our water system improvement and we want that growth to be organized and we want it to be safe for drinking water and we want those rights protected. So at the end of the day, Senator Friesen is right. Lincoln does have the opportunity with its senior water rights to make a lot of decisions that could impact agriculture. This is a reasonable step forward and it has my support and I am going to vote against Senator Friesen's amendment. Thank you, Mr. President.

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

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**ERDMAN:** Thank you, Mr. President. Third opportunity already, OK. Thank you. You know, I listened to Senator Pansing Brooks talk about property tax relief for rural, but I have a question about that so I'm going to ask Senator Friesen if he would yield to a question.

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

**FRIESEN:** Yes, I would.

**ERDMAN:** Senator Friesen, you heard the comments that Senator Pansing Brooks made about property tax relief for rural. How, how much of the property tax relief of LB1107 went to urban, if you know?

**FRIESEN:** I think if I, if I remember correctly, currently, 71 percent goes to residential commercial properties.

**ERDMAN:** OK, so then would you say that rural got about 20, 25 percent of the total, little over, and urban got about three-quarters?

**FRIESEN:** Roughly, you can say that.

**ERDMAN:** OK. Yeah, that, that's kind of what I thought. So when we stand up and say there's an urban-rural split here and we keep saying that, well, maybe it's true because about three-quarters of the property tax relief went to urban. And so it's peculiar that I guess we can say whatever we want. We don't have to back it up with facts. So with that, I'll yield the rest of my time to Senator Friesen.

**FOLEY:** Thank you, Senator Erdman. Senator Friesen, 3:30.

**FRIESEN:** Thank you, Mr. President. So the reason I guess I wanted this discussion is-- again is that people say, well, us rural guys should come to you for help and we'll help you. And if I recall, I've been here eight years trying to get nonequalized school districts in rural areas some funding and for eight years, Lincoln Public Schools and OPS have blocked any efforts to do that. Why would we come here and ask for help? We just do it ourselves. It's like one city administrator out in rural area said, look, Senator, I don't want to tell you this, but we really don't care anymore what you do in Lincoln. We just work around what you guys do and we make it work for us. So go ahead and pass your laws. Do all your political talking running for higher office, do your campaign speeches, but don't come here and waste our time anymore. We just work around you because you don't help us in rural Nebraska. Thank you for trying. Thank you for going there, but we know nothing is going to happen. When we talk about road issues and I was Chair of Transportation and Telecommunications, got the DOT to

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come out to a small city. They had been working on a project for 20 years. City administrator says, yeah, well, thanks for bringing them out. They'll plant a few flags. They'll wear their orange jackets. They'll walk around town a little bit and when you're gone, they'll be gone. That's how our system works. Most people don't even know anything exists past Lincoln. It was too far to drive to go to the State Fair in Grand Island. We have a problem in this state because we keep forgetting about two-thirds of the geography of the area and you keep saying, well, we've got two-thirds of the population. Yes, and if we keep our tax policy the way it is, you'll continue to grow that ratio. We'll continue to send you less hardworking kids because we're running out of people--

**FOLEY:** One minute.

**FRIESEN:** --because our tax code, the way it's been set up for the past 30 years, drives development to Lincoln and Omaha. Follow the money. You look at this year and we're going to spend-- I don't know, does it approach \$1 billion in Omaha? If you look at OPS and payroll protection money and rent assistance, you add all of that together and it might just equal around \$1 billion of aid that we've poured into Omaha. Go look in rural Nebraska and see how much they got. You all saw schools that got \$6,000 in CARES Act money. Small towns that got \$46,000, \$50,000. Small businesses out there that just went broke, closed up; got very little. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Before proceeding, Senator Gragert would like us to recognize some guests today. We have with us 14 students, grades three to five, St. Ludger School in Creighton, Nebraska. Those students are with us in the north balcony. Students, please rise so we can welcome you to the Nebraska Legislature. Continuing discussion. Senator McCollister.

**McCOLLISTER:** Thank you, Mr. President. Good morning, colleagues. I don't want to unnecessarily delay this vote. I support LB1014 and I oppose AM2550. The talk about supplying Lincoln water is actually an important topic to consider. Senator Flood is correct. There was a drought and Lincoln was desperate for water; water rationing. It was a very serious situation. But there is a resolution of that problem and that is bringing the water from MUD, the MUD south plant. They utilize water from the Mississippi-- or the Missouri and so it wouldn't be an issue, although the Platte west plant gets its water from the Loup and Elkhorn and the Platte is a pretty undependable source of water for that particular water plant. So there is a resolution and I-- folks from MUD and the city of Lincoln are working on that and I hope we can

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bring an answer to the state and take care of Lincoln's persistent water problem. Thank you, Mr. President.

**FOLEY:** Thank you, Senator McCollister. Senator Friesen, you're recognized to close on your motion to return to Select File.

**FRIESEN:** Thank you, Mr. President. So again, I'll continue on a little bit. You know, the reason we don't come here is we do fix it ourselves when we can. When it gets overwhelming, yes, we'll come here. But when we talk about property tax relief for us out in rural Nebraska, we haven't done any more or any less than we've done for the urban areas. This money went to those who are paying the highest. It was probably the most fair way of distributing the money that we've done. It didn't help rural Nebraska any more than it helped urban areas. Majority of the money went to the urban areas so don't, don't tell me you helped us with property tax relief because we haven't done that yet. We've helped everyone. We've done substantial work, but it went everywhere. It did not address agriculture's problem. It did not address the Sandhills or the grasslands or the rancher, the cow-calf producer. We didn't address that at all. We ignored it. We don't fund our schools properly yet. We're still 48th in the country of how we do our schools, but we did provide property tax relief. We did some of that this morning. But again, rural Nebraska is used to kind of doing it themselves. But if we keep pushing this idea that everything has to happen in the east and when do we start to say, oh, my goodness, you know, rural areas, we don't have enough people living there, we don't have-- our schools are half full and we have to build so many more schools in Lincoln and Omaha. But yet when our tax policy encourages that, that's where we're going to continue to have this problem unless you start looking 20, 30 years into the future, we're going to continue to have that problem. I will say that putting some of the nursing facility or the education facilities in Kearney helps a little bit. That's a good small step. But when we kept-- keep giving UNL and UNO hundreds of millions of dollars, it overwhelms the little bit that you did in Kearney. When we give \$300 million to the next project in Omaha, it makes Kearney's investment insignificant. When we invest in \$50 million in amenities at Offutt Air Force Base, when we don't invest in some small rural community in western Nebraska, we don't help the situation for 20 years from now. Our number one industry is still located out there, we can't just shut it down and ignore it, and water will be a tremendous issue to fight over in the future. We're not done by any means. I've always said when the next drought hits, that's when the Legislature suddenly gets interested in water again. But when there's flooding flowing down the Platte, we're sure not looking to fix problems of a shortage of water. We are reactive, we

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are not proactive and we have no long-range look whatsoever. When you dangle money in front of us, we throw it out there as fast as we can throw it. We don't trust our businesses and our industries to invest money if we just let them keep it. We want to tax everything we can, and when we have excess money here, we find ways to spend it. With that, Mr. President, I'll withdraw my amendment. Thank you, Mr. President.

**FOLEY:** The motion is withdrawn. Mr. Clerk.

**CLERK:** Senator Friesen, may I ask, sir? I have a series of other amendments from you. Would you like me to go through them or are you going to withdraw?

**FRIESEN:** Mr. President, in respect to the Speaker in this body, I'll withdraw them. Thank you.

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

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

**FOLEY:** Thank you, Mr. Clerk. Before proceeding and, members, we're on Final Reading, please be at your desks. And while doing so, Senator Morfeld would like us to recognize 39 fourth and fifth graders from St. Patrick's School in Lincoln. Those students are with us in the north balcony. Students, please rise so we can welcome you to the Nebraska Legislature. Members, we're on LB1014e. Mr. Clerk, the first vote is dispense with the at-large reading. Those in favor of dispensing the reading vote aye; those opposed vote nay. Record, please.

**CLERK:** 33 ayes, 6 nays, Mr. President, on the motion to dispense with the at-large reading.

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

**CLERK:** [Read title of LB1014.]

**FOLEY:** Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB1014e pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please.

**CLERK:** Voting aye: Senators Aguilar, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Day, DeBoer, Dorn,

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Flood, Gragert, Halloran, Ben Hansen, Hilgers, Hilkemann, Hunt, Jacobson, Kolterman, Lathrop, Lindstrom, Lowe, McCollister, McDonnell, McKinney, Morfeld, Moser, Murman, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams, Wishart. Voting no: Senators Albrecht, Clements, Erdman, Friesen. Not voting: Senators Geist, Matt Hansen, Hughes, Linehan, and Pahls. 40 ayes, 4 nays, 4 present and not voting, 1 excused and not voting, Mr. President.

**FOLEY:** LB1014e passes with the emergency clause attached. Before proceeding to the next bill on Final Reading, while the Legislature is in session and capable of transacting business, I propose the sign and do hereby sign the three certificates that read that LB1011, LB1012, and LB1013, having been returned by the Governor with his objection thereto and after reconsideration, having passed the legislation by the constitution majority have all now become law the 7th day of April 2022. Next bill in Final Reading, Mr. Clerk.

**CLERK:** [Read LB1084 on Final Reading.]

**FOLEY:** All provisions of law relative to procedure having been complied with, the question is, shall LB1084 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Gragert, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Hunt, Jacobson, Kolterman, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, McKinney, Morfeld, Moser, Murman, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Geist and Pahls. 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

**FOLEY:** LB1084 passes. Next bill, please.

**CLERK:** [Read LB1083 on Final Reading.]

**FOLEY:** All provisions of law relative to procedure having been complied with, the question is, shall be LB1083e pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Gragert, Halloran, Hansen,

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Hansen, Hilgers, Hilkemann, Hughes, Jacobson, Kolterman, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, McKinney, Morfeld, Moser, Murman, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Geist, Hunt, and Pahls. 46 ayes, 0 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

**FOLEY:** LB1083e passes with the emergency clause attached. Next bill, please.

**CLERK:** Mr. President, with respect to LB917, I had, first of all, a motion from Senator Matt Hansen, but I understand, Senator, you wish to withdraw. Mr. President, Senator Wayne would move to return the bill for AM2587.

**FOLEY:** Senator Wayne, you're recognized for your motion--

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

**FOLEY:** --to return the bill.

**WAYNE:** Thank you, Mr. President. Colleagues, this is a, a, a weird request because the business community actually contacted me who hire a lot of these individuals and said 25 percent is too much, believe it or not, they said they don't want that much money. It's kind of odd. So we lowered the 10 percent of the wages of the individual. They said that seems fair and reasonable, but they called me and contacted me. So rather than pass a bill that I think could cause harm, we're going to return it back to lower the, the tax credit from 25 percent of the wage to 10 percent of the wage. And recall, it's a small amount. It's only those individuals who the first 12 months are recent-- recently released. So with that, I ask you a green vote to return. I won't do an opening in an effort of keeping things moving, but that's essentially what we're doing is moving it from 25 percent to 10 percent. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Any discussion on the motion to return the bill? I see none. Senator Wayne, you're recognized to close. Waives closing. Question before the body is to return the bill to Select File for an amendment. Those in favor of vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 46 ayes, 0 nays, Mr. President, on the motion to return the bill.

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**FOLEY:** The motion is successful. Senator Wayne, you're recognized to open. He waives opening. I see no discussion. He waives closing. Question before the body is the adoption of AM2587. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 46 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment.

**FOLEY:** The amendment has been adopted. Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB917 to E&R for engrossing.

**FOLEY:** Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB917 advances. Next bill, please.

**CLERK:** Mr. President, LB1024. Senator Wayne would move to return the bill for a specific amendment. Senator, I have AM2731 with a note you wish to withdraw that amendment. Mr. President, Senator Wayne would move to return for AM2759.

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

**WAYNE:** Is that the right amendment? OK. Thank you, Mr. President. Colleagues, we're returning this from-- if you recall, Senator Friesen and I had a lot of conversations. Senator Wishart and, and Senator Flood had conversations around the 2nd and 3rd District as it relates to the capital construction projects. We came to an agreement on that, so we're returning it back. But essentially, as we started looking at this and we looked at the fiscal note, what had happened was there's a \$10 million transfer of General Funds, initially fiscal and everybody thought that \$10 million would be used to administer. And it was always Senator McKinney and I believed that the administration part of this would come from ARPA. So we specifically outlined ARPA as a \$10 million ARPA request to administer. And part of the reason why it's important that we have this administration cost to DED is because we want to make sure we're being held accountable. The worst thing I want to happen is a, a project that slips through and it gets clawed back. So we want to make sure DED has the staff and appropriate people to, one, make sure we have a coordinated plan but, two, hold us accountable in the years future. So it's those two things that require us to bring this back. Trust me, I don't want to bring this back. I would like this to move forward. But I do think it's important we have an accountability piece and I do think any time we can to try to work

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with senators to make sure we come to an agreement, we can do that and this amendment accomplishes both of those. So I would ask to return this to Final Reading-- I mean, to Select File, and then I would ask for a green vote on AM2759. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Is there any discussion on Senator Wayne's motion? I see none. Senator Wayne, you're recognized to close. He waives closing. Question before the body is the motion to return the bill to Select File for a specific amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 45 ayes, 0 nays, Mr. President, on the motion to return the bill.

**FOLEY:** The bill's been returned to Select File. Senator Wayne, you're recognized to open on your amendment.

**WAYNE:** Again, this just adds a piece of accountability making sure that we have staffing or it could be contracted, but we want to make sure we have an accountability piece to administer these funds, including the Capital Projects Fund. The agreement also includes agreement between Senator Friesen and myself, Senator Wishart, and Senator Flood regarding the 2nd and 3rd District and how the capital construction projects will be used. With that, I would ask for a green vote. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Discussion on Senator Wayne's amendment? Senator Friesen.

**FRIESEN:** Thank you, Mr. President. Thank you, Senator Wayne. So I'll just explain really quickly what we're, what we're dealing with here and, and part of the money that's being used in this, this whole bill is the \$128 million that the Governor had said would go to broadband. And so this money-- what was kind of special about this pot of money that I, I learned about a little bit late in the program was it doesn't require any kind of a match. So if you wanted to go out and build broadband in the really sparse areas of the state where companies can't make a fiscal case to go out there even with the 25-75 match program that we have now, this is dollars that could have been used to build broadband out into those hard to build areas because it required no match on the federal part. The Governor had indicated all along, and I think the Appropriations Committee recognized this, that this was money the Governor was going to appropriate to broadband in some form or fashion. And so we had been told that too. We kind of left it alone. Senator Wayne saw a pot of money and there were some

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others here who thought they could bring home some projects for their district. And they did. And we have reached an agreement where the money is going to be divided up by congressional district. But in the 3rd Congressional District where I'm at, it will only be available to communities of second class cities or smaller because these are the communities I felt that we've totally ignored in this whole coronavirus era. They're the ones that have received the less aid, and they don't have the, the infrastructure, the nonprofits to help them navigate the rent assistance. They've been pretty well operating on their own. And so for now, at least, I would say that this-- in, in this district would only be available to those second class cities or smaller. They could use it to partner with a broadband provider to put broadband in their community because those are the communities that are going to be hard to serve also. They could use it for community buildings like Senator Wayne, I think, and some others are thinking of doing. There's-- there-- it's kind of highly restricted, so I don't know that it will be all be able to be used in those communities. But I think in future Legislatures, if, if that money is still there and it's not being used, I would hope that you would appropriate it to somehow try and push that money out to those rural communities in some other fashion where they could use it. So I do support the amendment and I will support the bill. Thank you, Mr. President.

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

**BOSTELMAN:** Thank you, Mr. President. Would Senator Wayne yield to a question?

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

**WAYNE:** Yes.

**BOSTELMAN:** So obviously, this will be a broadband question. How does this affect outside of the small towns? In other words, are farmers and ranchers in that? Does this keep those funds from going there? Because when we talk about broadband and having zero match, that's the most important funds that can come in to these communities, these areas, because a lot of times the cities or towns, you know, the providers will go there, but they're not going to go 4 or 5 miles, 20 miles outside of town.

**WAYNE:** So the thought process between myself and Senator Friesen was, we would start with the smallest communities in the 3rd District, second class and lower. And then next year, that-- those dollars would be reappropriated. So we were going to start there because those were

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some of the hardest hit who don't have as much resources. And then following the application process next year, it would be reappropriated.

**BOSTELMAN:** But does it allow to go outside of those towns?

**WAYNE:** Well, in the 1st Congressional District it does allow it to go outside of those towns, not the 3rd, necessarily.

**BOSTELMAN:** OK. Thank you, Senator Wayne. That's my biggest concern with this is, is the funding that did come in there. The, the challenge we have in rural Nebraska is our communities usually can-- providers will, will come and, and sometimes can make a business decision to go in and build into those areas. But once you go outside of the city, the village, the town, whatever it is, they can't find a business model that it can't find feasibility for them to do that. So that's my concern. The funds that we did have there that would have provided those opportunities, I'm afraid that it's diminishing that. It's one thing to put it into our small towns, which is great if they build enough to where they can-- to, to then go outside of towns is one thing, but I'm afraid that once we build into a small town, there is no desire anymore for anyone to provide or to build outside of that town. So thank you, Mr. President.

**BOSTELMAN:** Thank you, Senator Bostelman. I see no further discussion. Senator Wayne.

**WAYNE:** Thank you, Mr. President, and I do want to thank Senator Friesen, Senator Flood, and Senator Wishart for working on this amendment. Again, it is a way to add accountability from a DED standpoint and reach some of the hardest hit communities or left behind communities as Senator Friesen quietly said as it relates to some of the small towns and villages in, in the 3rd District, so I would ask you to vote green. This is a compromise amendment and just so everybody knows that we are actually reducing the amount going to north and south Omaha to pay for the accountability piece in this. The \$10 million is coming directly from the north and south Omaha census tracts to run the entire program, and that includes the rural qualified census tracts to make sure they're also being held accountable for the projects they do. So we are reducing our part because we think accountability to this body is more important at this point to show that once we make an investment in north Omaha of this magnitude, we can truly make a difference and will, will be accountable to the whole process. Thank you, Mr. President.

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**FOLEY:** Thank you, Senator Wayne. Members, the question before the body is the adoption of AM2759. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 45 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment.

**FOLEY:** AM2759 has been adopted. Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB1024e to E&R for engrossing.

**FOLEY:** Members, you heard the motion. Those in favor say aye. Those opposed say nay. LB1024e is now advanced. And finally, LB1173e. Mr. Clerk.

**CLERK:** Mr. President, Senator Hunt would move to return LB1173 to Select File for con-- to consider AM2597.

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

**HUNT:** Thank you, Mr. Lieutenant Governor. After the notification portions of my LB932 were amended on to LB1173 with AM2200. That's a lot of numbers. Let me tell you what it is. So my, my bill to say that when the state is taking the Social Security funds of foster youth, they have to notify the foster youth or their guardians or their caretakers, you know, whoever is in charge of them. They can't just take Social Security payments from foster youth without any notification of that. Senator Arch's office worked with the Legislative Fiscal Office and DHHS's fiscal staff to try to find a way to bring the cost of doing that notification down so we could reduce the fiscal note associated with my portion of the bill. And we put our heads together and figured out how to reduce the fiscal note as much as possible for Final Reading and before the A bill for the HHS Christmas tree package. And this amendment is the product of that discussion. The department thought that, as written, the amendment would have required two additional staff members at a cost of \$128,000 a year to carry out the additional tracking and accounting requirements in the handling of foster children's Social Security benefits. With this amended language that we're voting on today, DHHS has agreed to forego the need for a new accountant position. So we're just looking at one full-time employee for an additional caseworker, plus the necessary IT changes to implement the bill. Senator Arch is supportive of this, and the advocates that worked on the bill with me are on board. And, you know, I, I think it's important that we're

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still doing something beneficial for the youth here. Children in foster care who receive Social Security payments, these are really the most disadvantaged of our disadvantaged kids in a lot of ways. Because they're foster youth, and if they're receiving Social Security payments, it's because they've had a death of a parent or because they have a disability. So these are kids who really need every advantage that we can give them. And I think the very least we can do is let them know that we're taking their payments because right now there's just no transparency around that at all. Another sticking point for DHHS was the inclusion of all communications from the federal Social Security Administration, which is because they are paper based and can't be automated, so that makes sense to me. So we removed that requirement in this amendment, and we also loosened the time frame during which notice must be provided from immediate to within 30 days after the department receiving the first payment on behalf of the child. Again, this amendment was formulated with my office, Senator Arch's office, Legislative Fiscal, DHHS Fiscal, and advocates. It's something we're all on board with. It will reduce the fiscal note while still providing really important due process to foster youth that are in the care of the state. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hunt. I see no discussion. Senator Hunt, did you care to close? She waives closing. Question before the body is the motion to return the bill to Select File for a specific amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 44 ayes, 0 nays on the motion to return the bill.

**FOLEY:** AM2597, Senator Hunt, did you have any additional comments to offer? She waives that opportunity. Question before the body is the adoption of AM2597. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 46 ayes, 0 nays on the adoption of the Select File amendment.

**FOLEY:** AM2597 has been adopted. Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB1173e to E&R for engrossing.

**FOLEY:** Members, you heard the motion. Those in favor say aye. Those opposed say nay. The motion is adopted. While, while the Legislature is in session and capable of transacting business, I propose to sign

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and do hereby sign the following three bills, LB1014e, LB1084, and LB1083e. Additional items for the record. Mr. Clerk.

**CLERK:** Mr. President, letters of transmittals from the Clerk to the Secretary of State regarding the overrides of LB1011, LB1012, and LB1013. Also a communication from the Clerk to the Secretary of State regarding LB1073. Senator Wayne, an amendment to LB1024A to be printed. I have a new resolution (LR436) by Senator Lathrop on the membership. That will be laid over at this time. And explanation of vote from Senator Slama. That's all that I had, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Members, we have a number of bills on Select File. Please be attentive to Select File voice votes. LB800, Mr. Clerk.

**CLERK:** Mr. President, LB800, the Enrollment and Review amendments were considered and adopted on March 28. I now have other amendments. Senator Bostar has AM2352.

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

**BOSTAR:** Thank you, Mr. Lieutenant Governor. AM2352 represents the addition of LB1176 to LB800. LB1176 was introduced in follow-up to a bill introduced by Senator Linehan last year as LB674. LB1176 seeks to address an oversight in the initial adoption of Nebraska statutes that allowed Nebraska to opt in to the federal Affordable Housing Tax Credit program. Senator Linehan's LB674 from last year offered two adjustments to address those oversights. First, it clarified the application of earned tax credits to retaliatory fire premium taxes. Second, it clarified the date at which a partner in an affordable housing project could establish their interest to be eligible to claim credits. LB1176, presented this year, clarifies the application of the credits to retaliatory fire insurance premium taxes as before, but adjust the proposed date of acquisition of an ownership interest to February 15 of the tax year. This change of date should allow relevant state agencies additional time to process claim credits and should help in their effort to handle returns. LB1176 advanced from the Revenue Committee unanimously and engendered no opposition during the hearing. And with that, I would appreciate your approval of adoption of AM2352 to LB800. Thank you.

**FOLEY:** Thank you, Senator Bostar. Discussion on the amendment? Senator Linehan.

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**LINEHAN:** Thank you, Mr. President. And I'm sorry, Senator Bostar, I didn't give you a heads up, but can you tell me again what we're doing here?

**FOLEY:** Senator Bostar, will you yield, please?

**BOSTAR:** Yes.

**LINEHAN:** It's a Revenue bill, I hear.

**BOSTAR:** It is indeed.

**LINEHAN:** Yeah, I pay attention. I can't keep up with everything, but I did try to keep up with those.

**BOSTAR:** This is AM2352, is it is adding LB1176 to LB800. And that was the bill that addresses the omission of retaliatory fire premium taxes from our Affordable Housing Tax Credit program. Because when the statutes were written to allow our state to opt into the federal Affordable Housing Tax Credit program, the statute was written in such a way where we essentially grabbed all of the taxes within the revenue code. However, these specific taxes related to fire premium insurance and retaliatory taxes don't exist within that area of statute.

**LINEHAN:** Yeah, I remember this. Yes.

**BOSTAR:** So this is saying that these tax credits can be used for those, for those taxes as well.

**LINEHAN:** So here's my question, can we put a Revenue bill on an Urban Affairs bill?

**BOSTAR:** I believe so.

**LINEHAN:** OK, I'm looking at the front. Seems odd to me. What, what did you say the vote was coming out, got out of committee?

**BOSTAR:** It was unanimous.

**LINEHAN:** It was-- got out of committee.

**BOSTAR:** I appreciated your support.

**LINEHAN:** Because everybody's thinking I'm telling them sit down and be quiet. Is that what you're saying, Senator? OK. I just-- I would like some clarification from the front as to whether this is OK to do. Thank you, Senator Bostar.

**BOSTAR:** Thank you.

**HILGERS:** Thank you, Senator Linehan and Senator Bostar. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. President. I think Senator Linehan was on the edge of saying not germane, but she didn't say that. But I do have a few questions if Senator Bostar would answer?

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

**BOSTAR:** Absolutely.

**ERDMAN:** OK, Senator Bostar, I'm looking up LB176 [SIC--LB1176]. If you would, can you find that bill you introduced? I have a question about that on page 6.

**BOSTAR:** On page 6 of LB1176?

**ERDMAN:** Yep, that's correct. Line 3. It says: An insurance company described in this section shall receive a credit on the tax imposed under this section as prescribed in the Affordable Housing Tax Act. And those are the fire insurance companies, is that what you're trying to get at, is that the plan?

**BOSTAR:** Yes, essentially, the tax we're adding is fire insurance premium retaliatory taxes.

**ERDMAN:** OK, tell me how that works.

**BOSTAR:** So insurance premium taxes, if an insurance company is domiciled in Nebraska,--

**ERDMAN:** OK.

**BOSTAR:** --they will pay our--

**ERDMAN:** One percent premium tax.

**BOSTAR:** --our premium tax. If we-- if, if that company sells into a state that has a lower premium tax, they can apply a retaliatory tax in response to the variation in premium tax rate. And that's, that's what we're talking about here with these taxes.

**ERDMAN:** OK, so where's that tax going to go when it's collected? Who's it gonna-- is this, this is a refund to somebody, correct?

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**BOSTAR:** Sure, it's a tax credit. So you could, you could use the tax credit to offset a tax liability.

**ERDMAN:** So who would be available to have that offset, a housing authority or who would, who would do that?

**BOSTAR:** Yeah, so if you are developing affordable housing in line with the regulations and requirements under the Affordable Housing Tax Credit Act, you would then earn these tax credits and could either transfer them, sell them, or use them yourselves to, to offset a tax liability.

**ERDMAN:** OK, so basically what you're saying is you're increasing the amount of, of incentive that an affordable housing contractor or somebody is building. Is that right?

**BOSTAR:** Yes, we are making the tax credits more attractive, more valuable without-- also, I should, I should have added, this has no fiscal note, no fiscal note. This has no-- this doesn't change fundamentally that the tax credits themselves and add new tax credits. It doesn't, it doesn't alter those in any way. It just makes them more attractive on the secondary market. Because pretty much what happens is the, the developers who will earn these credits will then sell them.

**ERDMAN:** OK. All right. So what happens if we don't do this?

**BOSTAR:** If we don't do this, these tax credits will continue to not be eligible for use on retaliatory fire premium taxes--

**ERDMAN:** OK, so--

**BOSTAR:** --and which would limit their usability. So we would, as a state, we would still be spending exactly the same amount of money. Federal government would be spending the exact same amount of money on these tax credits, but they wouldn't have the same value. So by allowing them to be more valuable, we are-- we're making the development of housing more attractive.

**HILGERS:** One minute.

**ERDMAN:** OK. So explain to me if you can in a short time, how, as Senator Linehan mentioned, a Revenue bill, LB1176, is germane to LB800, explain that.

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**BOSTAR:** So I was informed that, that this, that this bill was germane, and, and I think Senator Wayne, as, as Chair of the Urban Affairs Committee, would probably be a better person to explain that if you wouldn't mind asking him.

**ERDMAN:** OK, thank you.

**HILGERS:** Thank you, Senator Erdman and Senator Bostar. Senator Linehan, you're recognized.

**LINEHAN:** So this amendment now that I understand what's going on is fine, and I agree that Senator Wayne can probably describe better why it's germane. The point is it's about, it's all about housing, and this AM-- amendment has been in front of the committee about three different times. I think Senator Bostar and others have worked on it for two years. I just-- there was issues, but those issues have gone away and they've been worked out with everyone. So it's fine. Sorry for the questions. Thank you, Senator Bostar.

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

**ERDMAN:** Thank you, Mr. Speaker. I see Senator Wayne moving to his mike, so I think he is-- he must have ESPN [SIC] because he thinks I'm going to ask him a question, which is correct. Senator Wayne, would you yield to the question?

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

**WAYNE:** Yes, we're just getting so close that I can finish your sentence now.

**ERDMAN:** Thank you. I got it. So Senator Bostar said you are the expert to ask how this is germane. Can you go through that?

**WAYNE:** Yes, real quickly. So LB55-- LB550-- LB555, which dealt with Municipal Density and Missing Middle Income [SIC] Housing Act is part of this bill. Also, LB727, which deals with redundant language to-- I'm sorry, LB799, which deals with Middle Income [SIC] Housing Act is a part of this bill, so there's two out of the five or six bills that deal specifically with middle-income housing and affordable housing in general. And so this bill actually just clarifies the tax credits on affordable housing. But because the way our committees are structured, if there were taxes in there it goes to Revenue. But this strictly is affordable housing and Urban Affairs deals with all the affordable housing issues. So this could have went to either committee. We, we

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chose not to re-reference or, or try to get it there because previously this bill was introduced there. So we just left it there. But because this deals with affordable housing and there's at least two, if not three areas of this bill that deals with affordable housing, it is germane.

**ERDMAN:** OK, you may have saved me a, a headache there or a problem. So let me ask you this then, how much revenue do you think we're talking about in this premium tax for the fire companies?

**WAYNE:** So actually, there is no fiscal note to it. This just, just clarifies where people were already operating. There was some confusion between firefighters and some other people of where-- how the language reads. And so this just clarifies that there's no, there's no fiscal note attached to this. And I forgot one other bill, LB724 deals with affordable housing too. So there's three bills in this package that all came out 7-0 unanimous in our committee that deal with affordable housing.

**ERDMAN:** OK. All right. So in the conversation I had with Senator Bostar, he mentioned it makes it more valuable. OK? So there's got to be a value there or it wouldn't be more valuable. So somebody is going to get a significant increase and some kind of tax incentive from doing this. What is that number? Is it just whatever we think it is or how do you figure out what that is?

**WAYNE:** So there isn't a number. This is about accessing more federal tax credits. That's why it has no impact on the state. So by clarifying this, we believe that builders will be able to access more of the federal housing tax credit, not, not here locally.

**ERDMAN:** So how much, how much will that be?

**WAYNE:** It's, it's not predictable at this point. He might-- Senator Bostar might be able to talk about the exact dollar amount a little more than I can.

**ERDMAN:** OK.

**WAYNE:** I was here for germaneness only. I'll yield you some of my time to ask that question.

**ERDMAN:** You did a nice job. You don't have any time yet. Senator Bostar, would you yield to a question?

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

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**BOSTAR:** Yes, I would. So--

**ERDMAN:** OK, go ahead.

**BOSTAR:** --I think I understand the question. This isn't changing the number of tax credits that are going to be issued or are allotted for at all. It makes them more valuable because the developer who earns the tax credit from developing affordable housing generally sells a tax credit on the secondary market. And the more avenues that you can apply that tax credit to offset tax liability, the more valuable in the marketplace that one tax credit is. So that's why we're making, we're able to make our tax credits more valuable without actually spending any more money because we're just letting it be used in more places. But they're all going to be used.

**HILGERS:** One minute.

**BOSTAR:** So we're increasing the value in the secondary market for the tax credits, thereby incentivizing further the development of affordable housing. I, I hope that makes sense.

**ERDMAN:** It doesn't, but that's OK because I'm not voting for it anyway. Thank you.

**BOSTAR:** Thank you.

**HILGERS:** Thank you, Senator Erdman and Senator Bostar. Senator Lathrop would like to welcome 35 fourth-grade students from St. Gerald's in Ralston. They are seated in the north balcony. Please rise and be welcomed by your Nebraska Legislature. Returning to debate. Senator Wayne, you're recognized.

**WAYNE:** I'll yield my time to Senator Erdman if he wants it.

**HILGERS:** Senator Erdman, 4:55.

**ERDMAN:** I'll pass.

**HILGERS:** Thank you, Senator Wayne and Senator Erdman. Seeing no one else in the queue, Senator Bostar, you're recognized to close.

**BOSTAR:** Thank you, Mr. President. Colleagues, I think that this is a pretty-- there are, there are complexities about how the tax credits work, but we are not creating the tax credits. We're allowing them to be used for one additional type of tax. To give just a little bit of background on that, why this particular kind of tax-- these, these

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fire insurance premium retaliatory taxes don't exist in the same area of statute as everything else and why they were missed the first time is because those taxes were initially used to fund the, the, the Fire Marshal's Office and operation. So they, they were kind of placed into statute alongside the operations they'd be funding. They no longer do that. They're now just-- those taxes are sent directly to the General Fund, just like everything else. But so that's how they were missed. And this is simply fixing something that I, I think from the inception of our opting in of this federal program was always the idea to make it so that these tax credits could be used for, for any of these kind of taxes. With that, I, I want to thank you for your time, and I'd ask you to vote for AM2352.

**HILGERS:** Thank you, Senator Bostar. Question before the body is the adoption of AM2352. All those in favor vote; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

**CLERK:** 32 ayes, 1 nay on the adoption of Senator Bostar's amendment.

**HILGERS:** AM2352 is adopted. Mr. Clerk for an amendment.

**CLERK:** Senator Blood, AM2210.

**HILGERS:** Senator Blood, you're recognized to open on AM2210.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I rise to bring forward AM2210, and I thank Senator Wayne for helping me find a vehicle for this amendment. What AM2210 does is prohibit cities of the first and second class. And I really hope people are listening to this because I know that somebody has been advocating against it. So please listen to what this bill actually does. So it, it prohibits cities of the first- and second-class villages or planning commissions from granting a conditional use permit known as a CUP or tax increment financing known as TIF to any developer delinquent in the payment of real property taxes. It requires any RFPs by community redevelopment authority or community development agency to state that no redevelopment contract will be entered into with a developer who is delinquent in the payment of any real property taxes owed to the city. AM2210 was originally introduced as LB695 and has a white copy amendment attached from the Urban Affairs Committee. The amendment did two things. It changed the bill to only prohibit granting CUPs and redevelopment contracts to entities who are more than 180 days delinquent in the payment of the property taxes included in the permit application. Additionally, it allows for a clause for cities, counties or villages to waive the prohibition if the delinquent taxes owed are

in dispute, on appeal, or the result of an administrative error. So it does allow if there are concerns for there to be an out. We did this in an effort to work with the League of Municipalities and NACO about the minor concerns they had with the bill. This bill is necessary to prevent situations like what just happened at AltEn. This ethanol plant owed \$518,000 in back payments of real property taxes to Saunders County, yet were granted a CUP that ultimately led to the crisis which is still occurring today. I believe that when entering into redevelopment contract with a developer and especially when giving them funds, we need to know that they are at least responsible enough to pay their property taxes. And I see this as the bare minimum. It's no secret that Nebraska has issues with our high property taxes in the state, and the problem is made worse by the folks who do not pay them. If we want to keep property taxes down, we must make sure the funds due are paid into the coffers. In no universe, in no universe should we be supporting people not paying their property taxes, and we definitely should not be giving them permission for new developments and to spend the taxpayers' money on more failed businesses. While drafting this bill, really all I could think about was Wimpy from Popeye, who would say I would gladly pay you on Tuesday for a hamburger today and Tuesday never came. I will remind everybody that we are a Dillon's Rule state and local government exercises the powers that we as a state body legislate to local government. We aren't passing down an unfunded mandate or telling them not to grow. We are asking them to help us keep property taxes at bay to ensure that everyone pays their fair share and allowing an out if someone is in dispute about what they owe. I urge a green vote on this amendment, and I'd be happy to answer any questions you may have. And I want to add that if you remember my freshman year, I brought forward a bill that said that you couldn't run for office unless you paid your NADC fines and that received, I think, almost every vote except one or two in the body that day. And we said that we needed an out and we allowed for that on that bill as well, that if, if you were disputing the fact that you owed those fees, we allowed for a waiver. That's the same thing I'm doing with this bill. It was the residents of Mead that expressed their concern at the town hall that we had that said, why can't something be done about this? Why can't we allow our local government the ability to say stop? If you want to grow in our community, you need to pay the property taxes that you owe us first. And if there's a reasonable explanation, they have that ability to, to say, OK, we're going to waive it. We think you have a reasonable explanation. Let's move forward. Either we believe people have to pay their property taxes or we don't. Either we believe that, that local government has the ability to say, wait a minute, we

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want you to be good stewards before you move into our communities or not. It's really that simple. So I do ask for your green vote and I'd be happy to answer any questions. And it's my understanding there are some questions. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Blood. Senator Kolterman would like to welcome 12 fourth-grade students from St. Joseph's School in York. They are also seated in the north balcony. Please rise and be welcomed by your Nebraska Legislature. Debate is now open on AM2210. Senator Linehan, you're recognized.

**LINEHAN:** Thank you, Mr. Speaker. So, Senator Blood, would you yield to some questions, please?

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

**BLOOD:** I will.

**LINEHAN:** So this was referred to the Urban Affairs Committee?

**BLOOD:** This was referred to the Urban Affairs Committee, and it was--

**LINEHAN:** But it's about property taxes.

**BLOOD:** I, I don't know what to tell you. It was referred to Urban Affairs.

**LINEHAN:** OK. So does it deal with anything but property taxes?

**BLOOD:** It's-- yes, conditional use permits and TIF, which is why I think Urban Affairs got it. So property taxes is the underlying issue.

**LINEHAN:** OK, besides the plant in Mead, are there-- is this a big issue?

**BLOOD:** Yeah, I mean, as big an issue as it was when we were talking about people who didn't pay NADC fines.

**LINEHAN:** No, do you have any other examples where this has happened?

**BLOOD:** I, I don't with me, but I can get them for if you like. So I do know that it has-- there has been people in arrears--

**LINEHAN:** Do the, the counties--

**BLOOD:** --that have received TIF.

**LINEHAN:** --did NACO support this bill?

**BLOOD:** After we amended it to give the waiver.

**LINEHAN:** How about this--

**BLOOD:** NACO and the League of Municipalities both gave support after we added the waiver.

**LINEHAN:** And what does the waiver do?

**BLOOD:** Again, the waiver says that if you are in dispute or you feel that there's been an error in something the administration did or there's an appeal that there is-- it allows for a clause for the cities, counties or villages to waive that prohibition of the delinquent taxes. So if owed or in dispute or on appeal or the result of an administrative error.

**LINEHAN:** So who, who-- I'm sorry. So the company in Mead got-- what, what did they get? What, what did they get, did they get-- they were TIFed by whom?

**BLOOD:** They were TIFed. They received CARES funds. They were TIFed by the county because you get your TIF from the county and the municipality.

**LINEHAN:** So the county knowing that they owed \$548,000 [SIC] TIFed them?

**BLOOD:** You know, to be really frank, I don't remember the circumstances. That was the example when we wrote the bill and I was told by the citizens. All I know is they were given TIF and I can't remember if it was the municipality or the county, I do know that Nebraska gave them CARES funds even though they were also in arrears in their property taxes which we didn't address.

**LINEHAN:** OK, thank you. Thank you, Senator Blood. I'm sorry, Senator Briese, I did not give you a heads up, are you-- could you yield to a question?

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

**BRIESE:** Yes.

**LINEHAN:** Do you remember this being in committee?

**BRIESE:** Yes.

**LINEHAN:** Did you vote it out of committee?

**BRIESE:** No.

**LINEHAN:** Why did you not vote it out of committee?

**BRIESE:** Number one, there weren't other examples of the need for this beyond the one that has been described here. And number two, I think localities have the discretion to allow the use of TIF. They have the discretion to grant a conditional use permit, and they can hinge those decisions upon whether property taxes are delinquent or late. It seems to me anyway.

**LINEHAN:** So you saw it as basically a local, local issue?

**BRIESE:** Seems to me that it would be. Yes.

**LINEHAN:** OK, OK. I'm not going to support this because I do think-- here, here's something I learned a long time ago. I don't remember who told me this, but bad cases make bad law. So when you have one case that's as bad as the situation in Mead, and you start writing laws just addressing that one bad case, you end up doing things unintended consequences. So it may be a great idea. I'm not going to fight it all day or anything, but I, I don't think we should be writing a law because clearly there were mistakes made in Mead. Plus, if you're TIFing something and your county is TIFing somebody that's delinquent in taxes, that's a problem with your county board. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Linehan and Senator Blood and Senator Briese. Senator Jacobson, you're recognized.

**JACOBSON:** Thank you, Mr. President. I guess when I hear TIF, I always see it as an opportunity to maybe use that as an educational opportunity. A couple of things I'm hearing this morning that probably need to be corrected is that first of all, counties do not issue TIF. It's cities. So you have-- you must-- the property must be within the city limits to be able to be eligible for TIF. So, so it would have to be the city. Secondly, when you're looking at property taxes, remember that if property taxes are delinquent, then there are tax certificates that are generally sold because they earn 14 percent interest and it's something generally people seek, seek to get. Also, I would tell you, if there's a lender involved, that lender has a lien on the property, that lender-- those, those property taxes become a super priority lien ahead of the lender. So the lender has an incentive to either buy those property taxes or in many cases, their loan agreements are set

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up to where they have the right to go ahead and pay the taxes on behalf of the borrower and then add it to their note. The other thing I would clarify is keep in mind under TIF, when you have-- TIF a project, you divide the taxes. So whatever the current tax base is remains on the current tax rolls, gets divided and goes to the taxing authorities as it always has. It's the incremental increase in value that gets divided and then that incremental increase, then that share of the property taxes goes back to the developer to repay the TIF bond. So if they don't pay their property taxes, they're not paying themselves. That's the source of repayment to their TIF bond. So I see this as a very one-off, I think, as Senator Briese had indicated. I-- and we're going to have a carve-out for municipalities anyhow. I, I think it's belt and suspenders. I don't think it's necessary. I think we're giving the municipalities to make that decision. They will make that decision based upon the facts. But I just want to bring a couple of clarifications as to how TIF works and the fact that I don't-- and, and the fact that there are tax certificates that are generally sold. So when the tax certificates are sold, all the taxing authorities receive their tax dollars once those certificates are sold. So it's just a minor delay in the timing. So I'm just not sure that this does a lot. So that's what I have. Thank you and I-- thank you again, Mr., Mr. President.

**HILGERS:** Thank you, Senator Jacobson. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. President. I appreciate that. So as I listen to the discussion and also to Senator Blood's description-- so let me see, and Senator Blood can listen to my comments to see if I get this right. So what Senator Blood is saying that if you're delinquent on your property tax for 180 days or more and then you apply for a project that qualifies for TIF, you will not be eligible for TIF. So would Senator Blood yield to a question and answer whether that statement was true or not?

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

**BLOOD:** I'm sorry, Senator Erdman, would you repeat that?

**ERDMAN:** OK. So I, I believe what you're trying to say is if you're delinquent on your property tax for more than 180 days, and I think the smaller counties or cities had 280 days or whatever it was I read, then you make an application for a TIF project you won't be eligible for the TIF project. Is that correct?

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**BLOOD:** Not necessarily. It depends on the circumstances.

**ERDMAN:** OK, so where did I miss it?

**BLOOD:** So as I just said in my introduction and to Senator Linehan, that county, that village, that municipality has the ability to also waive it. For instance, if it's in dispute, if indeed--

**ERDMAN:** OK.

**BLOOD:** --there was an error.

**ERDMAN:** All right. So if I'm delinquent and there's no, there's no deficiency, there's no issue, say I'm just delinquent because I didn't pay them and I don't have a dispute with the county or the assessor, then I would not be eligible for TIF. Correct?

**BLOOD:** Right. I have the right to refuse you TIF.

**ERDMAN:** OK. So can they now currently, if they're doing a project and someone applies, can they now check to see if they're delinquent?

**BLOOD:** They can check, but they can't necessarily refuse based on that under state statute.

**ERDMAN:** So if they, if they discover someone is delinquent, can they deny the TIF project?

**BLOOD:** Under state statute, that is not part of the guidelines for them to be able to refuse TIF.

**ERDMAN:** I'm having a tough time here.

**BLOOD:** They would, they would-- we have strict guidelines on-- you know, we have some strict--

**ERDMAN:** So--

**BLOOD:** --guidelines on TIF.

**ERDMAN:** --can they deny the project, yes or no?

**BLOOD:** They could, but not use that as the reason.

**ERDMAN:** Say that again.

**BLOOD:** They could, but not use that as the actual reason.

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**ERDMAN:** So I think-- OK, thank you for answering. I think what we're doing here is very similar to what Senator Jacobson alluded to and Senator Briese. They can do it now. So if we don't do this, they can do the same thing. I don't think this is necessary. One other thing that Senator Jacobson left out on his description on how TIF works is once they pay their property tax, they take out the tax of what the, what the original value was and then the incremental increase the taxes paid on that is sent back to the bondholder plus interest. It's plus interest. And he said these certificates are sold. That is probably a misnomer. I've tried to get in a position to buy these TIF bonds, never has-- never have been able to because either the bank gets them or the contractor or someone else. And by the way, they get to negotiate what the interest rate is. They get to negotiate the interest rate. And so if I'm in a position to be eligible to buy TIF bonds and I can negotiate the percentage of interest, I'm very interested in buying those bonds. And so I don't think that the TIF projects that get TIF reimbursed from the county on their property tax are just getting their property tax back, they're getting interest on top of that, some of them as high as 7 percent. It's a sweetheart deal. So I'm not going to support AM2210. I haven't decided yet whether I'm going to vote for LB800, but we'll see what happens. Thank you.

**HILGERS:** Thank you, Senator Blood and Senator Erdman. Mr. Clerk for items.

**CLERK:** Mr. President, thank you. Bills read on Final Reading this morning were presented to the Governor at 11:35 (LB873, LB1014e, LB1084, LB1083e). Senator Vargas would like to add his name to LB852. And Senator Briese would move to recess the body until 1:00 p.m.

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

[RECESS]

**HILGERS:** Good afternoon, ladies and gentlemen. Welcome to the 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.

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

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

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**HILGERS:** Thank you, Mr. Clerk. We'll proceed to the first item on the afternoon's agenda.

**CLERK:** LB800 under consideration, Senator Blood's AM2210.

**HILGERS:** Thank you, Mr. Clerk. We'll continue debate on AM2210. Senator Blood, you're first in the queue.

**BLOOD:** Thank you, Mr. President. So, friends all, I'd like to address several of the concerns on the floor before lunch. Quite frankly, we're all really tired from our late night, and I've got to say my response rate was a bit off mark before lunch. But I have rebounded, so I hope you're actually listening, not just negotiating between each other. So in reference to Senator Linehan's concern about making legislation about a one-off instance to make sure it doesn't happen again, I'd like to remind everyone about Senator Flood's attempt where he had the bill, also brought to Urban Affairs, after-- where he took aim at the Omaha City Council's decision to authorize up to \$17.5 million in TIF for the proposed Warehouse Casi-- WarHorse Casino at Horsemen's Park. So there are lots of instances over the last six years that we have had legislation made on one-off instances because we never want to see it happen again. In reference to Senator Briese's comment, I agree that municipalities can already deny. But as we've learned over and over since I've been here the last six years, because the definition of TIF is so broad, we constantly have municipalities, especially Omaha, coming to us for further clarification, asking us to change statute to clarify if they have the authority to do certain things. And we comply, by the way. The ability to withhold TIF based on past due property taxes is something that several city attorneys have told me they aren't clear on. They know they can refuse based on that, but not sure they can say it's based on the fact that the taxes are delinquent, which is lawyer speak, by the way. I'd also like to remind everyone of Senator Briese's LB1060 that required cities to provide written finding with clear and convincing evidence supported by at least two affidavits from experts in the field of public finance. Apparently, Senator Briese did take issue with how TIF is used in some instances and wanted to address that as well. In reference to Senator Jacobson's comment, yes, I do understand that TIF is only provided by cities, but I want to make it clear that TIF districts may overlap counties and cities. And I hope people are listening because I answered questions that I said in my opening earlier. I believe that there are exemptions for TIF for our ethanol plants, Senator Jacobson, that are outside the city limits, so, yes, cities do provide TIF. But with this exception, they do not need to be within the city limits. I was aware of a developer in Omaha we asked

for another incident who requested TIF from the city council, and there was quite a discussion about it, if somebody in arrears could be refused TIF for a new property if they were unwilling to pay their past due property taxes, I believe that was-- I said "Senator" in my notes here-- Councilman Gray who led that discussion several years ago, so if you Google it, I'm sure it's in the Omaha World-Herald. The question is, is there a prob-- if there's a problem that needs to be addressed. In reference to people not paying their property taxes, is that really a problem? It is a problem. In fact, if you go to the state website, you'll see there are over 500 pages with approximately 40 parcels or more per page of properties with past due property taxes. Just a quick glance, and I haven't been able to do the math because we had such a short lunch, there is a minimum of 10 percent of those properties that are indeed businesses who are in arrears for long periods of time. The question is if NACO and the League support this bill? Yes, yes, after we amended it in committee to provide the waiver, I clearly remember NACO coming in and clearly saying that they want businesses to pay their property taxes and to be good stewards. Apparently, that's not the wish of everybody on the floor. And I believe it was also hinted here on the floor today about tax liens can be paid down, and that's the solution. In fact, it looks like C-- JBGB here in Lincoln partially paid down AltEn's debt. With that said, that creates a whole new issue when it comes to layers of ownership when a person wants to go and buy that property. You may see it as a great investment because, as an investor, you'll get paid. But it creates a secondary issue for government because when that parcel is sold, they often don't know who really owes the taxes and have--

**HILGERS:** One minute.

**BLOOD:** --trouble tracking those responsible down. In fact, when Senator Sanders was mayor, I brought forward a bill that Sue Crawford, Senator Sue Crawford, carried because it is so confusing with layers of ownership. And I can't even count how many people came to me when I was on the council who got stuck paying property taxes in arrears that they clearly did not owe, but was owed by a previous owner, and these liens created confusion, so that's a whole nother issue. And, yes, Senator Jacobson, I know that a lien is a legal claim applied to property, so I don't need to have that explained to me. But it also creates a chain of title that, although it is the title company's job to do a title search, we find that that is problematic, especially with businesses when multiple liens have been utilized. With that, I'll get back in the queue and address additional issues.

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**HILGERS:** Thank you, Senator Blood. Senator Jacobson, you're recognized.

**JACOBSON:** Thank you, Mr. President. Well, my head's kind of spinning right now. I've been a banker for 42 years. I've chaired the North Platte CRA for 23 years. I do know how C-- how TIF works. I'm going to give a little short tutorial here. First of all, I want to speak a little bit to the comments made after I did my first presentation with regard to the TIF bonds themselves. OK, who funds the TIF bond? The answer is the developer. So the developer, if there's a TIF bond that's going to be \$1.5 million TIF bond, the developer writes a check for \$1.5 million and gives it to the city. The city then, the CRA for the-- the city treasurer is the CRA's treasurer. The CRA's treasurer gives them a check back for \$1.5 million. Quick math would say, how much is the city out? The answer is zero. OK? Million-five comes in, million-five comes back. Then the city T-- CRA gives the-- gives them a TIF bond, and that TIF bond gives them the right to the income stream generated from the incremental tax increases that are generated from building that project on the property. Incremental income ta-- incremental tax means that amount of tax that's above the base level of tax that currently goes to the taxing authorities and will continue to go to the taxing authorities. How do we size the bond? I'll tell you how we size the bond. We-- we do it by the interest rate. Let's take, for example, there's \$100,000 a year and it's a 15-year TIF bond. Simple math would be, if it's zero interest, you get \$100,000 a year, so your TIF bond would be \$1.5 million, right? You get \$100,000 a year in payment, you get it all paid over 15 years: \$1.5 million. That's at zero interest. If you set the interest rate at 6 percent, how much is the TIF bond? It's smaller. In fact, it's about \$967,000. And why is that? Because you have to account for paying the interest back. So now the developer puts in \$1.5 million. OK? But instead of 1.5, it's only 967 because they don't get the full 1.5 because they have to account for interest out of the funds flow. The funds flow is fixed. That's why the interest rate moves. Oh, by the way, if the bond payments that come in from the incremental income tax are not sufficient to pay off the bond, then the bondholder loses. That's why you would be somewhat suspect if you wanted to go out and buy a TIF bond at full face value, because there's a pretty good chance you won't get all your money back, so I want to give you that first. As it relates to TIF bonds in North Platte, we've never TIFed a project that wasn't within the city limits. We've annexed property in. We annexed in the land where the Walmart Food Distribution Center is so they'd have it within the city limits. OK? That's the way it works in virtually every case. There might be some rare exceptions, but those--

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that's what they'd be, is rare exceptions. Also, the CRA is appointed by the city council, by-- appointed by the mayor, approved by the city council, and-- and what happens is, when a project is recommended, it has to go through the process and ends up at the city council, and they have to affirmatively approve that TIF project, every one of them. So I'm back again. This is a needless bill. There's no need for this at all. The city council has the opportunity to deal with it. That's how it's virtually ev-- done in every case. There may be rare exceptions. This is belt and suspenders. It's not necessary. I would urge you to vote no.

**HILGERS:** Thank you, Senator Jacobson. Senator Erdman you're recognized.

**ERDMAN:** Thank you, Mr. President. Good afternoon. I am in agreement with Senator Jacobson to vote no here. This is an issue-- I think this bill is trying to be a solution looking for a problem. But if one time this happened, we surely have to pass a statute to fix that. Let me give you an example of why we do things here. When I was on the NACO board, some gentleman from Nebraska drove through a toll booth in New Jersey with his vehicle and they sent the ticket to a farmer who had a very similar number on his pickup that wasn't able to even make it into town, but the difference was one was a commercial vehicle and the other one was a farm vehicle. And so they came to NACO and they wanted us to pass a statute, change the law so that farm plates had to have a letter after the number. And you've noticed now I'm not on NACO anymore, and so they did that for one time one person drove through a toll booth in New Jersey, or wherever it was, and we changed the statute for one time one thing happened. That is exactly what we're doing here. It is time for us to vote red on AM2110 and move on. I would hate to see AM2210 included in LB800 because, if there's any possibility I may vote for LB800, if this is amended into it, I may not. So if you're in-- you're in favor of LB800, you may want to consider not adopting AM2210 if you need my vote. If you don't, vote however you want, but I will be voting against AM2210 and I encourage you to do the same.

**HILGERS:** Thank you, Senator Erdman. Senator Blood, you're recognized, and this is your third opportunity before your close.

**BLOOD:** Thank you, Mr. President. I'll also make this my closing since we're trying to move things forward. Fellow senators, friends all, I just really appreciate all of the mansplaining from Senator Jacobson. Thank you for doing that. I did serve on the Bellevue City Council for eight years, I clearly understand TIF, but it's always nice to-- to

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glean additional information just to kind of make sure you shore up your knowledge, so thank you for that. And, Senator Erdman, shame on you, making threats about the underlying bill if you don't-- if you go ahead and vote for the amendment. If you don't want to vote for LB800, don't vote for LB800, but Senator Wayne and our committee worked very hard on that. You know, I don't have high hopes of this. I asked-- was asked by the people of Mead, as I have many of the bills that we haven't even been able to get out of committee, to-- to do this. They're desperate, they wanted help, I have compassion, and I brought the bill forward. It's clear the bill will likely not pass. That's OK. I'm-- I'm-- this is not a hill that I'm willing to die on. But I will say that there seems to be a weird consensus this year about any bill that I brought forward, so I guess we're going to see how my party bill, when the Speaker puts it on the agenda next week for the Select File. When I answer each and everybody's concerns, how are you going to vote then? So let's see if this is just a trend or if it really is concerns about the amendment itself. With that, please consider that my closing as well. Please vote green. I'm not willing to sink LB800, so I want to move this forward out of respect to Senator Wayne and the Urban Affairs Committee. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Blood. The question before the body is the adoption of AM2210. All those in favor vote aye; all those opposed vote nay. There's been a request to place the house under call. Question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

**CLERK:** 16 ayes, 8 nays to place the house under call.

**HILGERS:** The house is under call. All unexcused senators please return to the floor. All unauthorized personnel please leave the floor. The house is under call. Senator Brewer, please check in. Senator Lindstrom, please return to the floor. The house is under call. Senator Blood, we're waiting on Senator Lindstrom. Would you like to wait or proceed? All unexcused senators are now present. The question before the body is the adoption of AM2210. A roll call in reverse order, Senator Blood? A roll call in reverse order has been requested. Mr. Clerk, please call the roll.

**CLERK:** Senator Wishart. Senator Williams voting no. Senator Wayne voting yes. Senator Walz voting yes. Senator Vargas voting-- Senator Vargas voting yes. Senator Stinner not voting. Senator Slama voting no. Senator Sanders voting yes. Senator Pansing Brooks. Senator Pahls. Senator Murman voting no. Senator Moser voting no. Senator Morfeld. Senator McKinney-- Senator Morfeld, please. Yes, thank you. Senator

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McKinney voting yes. Senator McDonnell voting no. Senator McCollister not voting. Senator Lowe voting no. Senator Linehan voting no. Senator Lindstrom voting no. Senator Lathrop voting yes. Senator Kolterman not voting. Senator Jacobson voting no. Senator Hunt voting yes. Senator Hughes voting no. Senator Hilkemann voting no. Senator Hilgers voting no. Senator Matt Hansen not voting. Senator Ben Hansen voting no. Senator Halloran voting no. Senator Gragert not voting. Senator Geist. Senator Freisen voting no. Senator Flood voting no. Senator Erdman voting no. Senator Dorn voting no. Senator DeBoer. Senator Day voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese voting no. Senator Brewer voting no. Senator Brandt voting yes. Senator Bostelman voting no. Senator Bostar. Senator Blood voting yes. Senator Arch voting no. Senator Albrecht. Senator Aguilar not voting. Senator Wishart voting yes. Senator DeBoer voting yes. 15 ayes, 23 nays.

**HILGERS:** The amendment is not adopted. I raise the call. Mr. Clerk, for an amendment.

**CLERK:** Senator Ben Hansen would move to amend.

**HILGERS:** Senator Ben Hansen, you are recognized open on AM2365.

**B. HANSEN:** Thank you, Mr. Speaker. I would like to offer AM2365 to LB800, and I appreciate Senator Wayne's willingness to allow me to offer this amendment to his bill, which-- which I support. AM2365 would help provide a more predictable regulatory environment for charitable organizations by ensuring state agencies and other state governmental offices do not exceed their legislative authority as pertains to filing or reporting requirements placed on them. The contents of this amendment are LB823, as it was amended and voted out of the Government, Military and Veteran-- Veterans Affairs [SIC] Committee. Let me be clear. This amendment does nothing to reduce requirements and disclosures that are currently required of charitable organizations, but it does reaffirm that all new filing or reporting requirements placed on charitable organizations first be approved through the legislative process. In other states, we have seen an increasing call for charitable organizations to disclose an increasing number of details about their operations, governance, and grant making beyond what the Legislature has required. Seven states have enacted this legislation in just the last two years, including Iowa, Kansas, South Dakota and New York, to name a few. These states have made it hospitable for charities and created a predictable regulatory environment. It's better to be proactive because philanthropy-- philanthropy serves as a vital part

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of the Nebraska community. I believe our charitable organizations in Nebraska should be highlighted, commended and encouraged, not drawn into over burdensome regulations that haven't been authorized by this legislative body. With that, I'll do my best to answer any questions. Thank you, Mr. Speaker.

**HILGERS:** Thank you for your opening, Senator Hansen. Debate is now open on AM2365. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. President. I was a no vote on this bill, and I took a look again at the bill over lunch and I-- I wanted to speak to my opposition and my no vote on this bill when it came through committee. I have concerns about hampering reasonable transparency and accountability in the nonprofit sector. This is a bill backed by a group called Philanthropy Roundtable, which is funded by the Koch brothers and works to shield the identity of donors to nonprofits. And I oppose this amendment because this is the kind of thing that can increase donations of dark money into nonprofits and decrease transparency, which I don't think is a good thing. These are organizations that get significant tax benefits when we're talking about nonprofits, and with those tax benefits I think that we need to expect accountability. I've been the executive director of a nonprofit, I've given board service to several nonprofits, and I know I have the experience in this sector to say that this isn't going to be good policy for Nebraska. Charitable nonprofits are not afraid of government. We work in partnership with government, and the filing and reporting requirements that we already have are not a burden on nonprofits. They know how to run their nonprofits, they know what to do, they know what files-- you know, what things they need to file in order to stay in compliance with the law, and that's not currently a burden on us. There's an organization, the Nonprofit Association of the Midlands, that a lot of you are probably familiar with. They represent 725 different nonprofits in Nebraska, and they told me that they have never had anyone come to them and say that they had concerns about the current regulations that we have in our state for nonprofits, and that's their members and nonmembers included. I think we just have to go on the side of accountability and transparency. And we rely on nonprofits to give us a lot of essential services, but we also expect them to manage their finances, to run their nonprofits responsibly, and also be politically nonpartisan. And the currency-- the current privacy and transparency balance in our state is reasonable, and I don't see a need to change those requirements through an amendment like this, and neither do others in the nonprofit community. Thank you, Mr. President.

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**HILGERS:** Thank you, Senator Hunt. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. I rise in opposition to Senator Ben Hansen's AM2365. I've spoken with both him and Senator Wayne and they're aware of my opposition. Just to clarify, this is a bill that came out of the Government Committee, so a different committee, and it came out of that committee with opposition, both negative votes coming out of committee and with, you know, opponents at the hearing. I was present, not voting, as kind of a polite no, but I certainly don't want it to be or I think it's appropriate to be added to an Urban Affairs package. In my mind, you know, we can maybe debate the bill on its own merits if it had its own vehicle. But this is about changing kind of nonprofits and transparency in nonprofits specifically through the Administrative Procedures Act, and we're trying to attach it to a bill that is almost exclusively about the powers of cities and like local districts, like sanitary improvement districts and, I think, drainage districts. So it's inherently a bill about state function, one of our most core state actions in terms of the Administrative Procedures Act, and we're attaching it to a bill about cities. I think it's tenuously related at best. I don't want to challenge the germaneness at this point, but it's something that I think we should as a body reconsider. Over the lunch hour, I did reconfirm that local nonprofits, including the Nonprofit Associations [SIC] of the Midlands, are still opposed to this bill and this amendment as presented, and so at this point I will just ask my colleagues to continue their opposition and vote down AM2365. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hansen. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, as Senator Han-- Senator Hansen, I sit on the Urban Affairs Committee and, although I did not vote no, I was present, not voting, for some of the same reasons that you just heard on the mike. But, friends, this is a backdoor attempt-- it's a backdoor attempt because we know that there is dark money that is filtered through alleged nonprofits to influence elections in Nebraska. And Senator Hansen may not understand that that's indeed what the cause is, but we know, because we educate ourselves on these issues, that this is indeed the case. Now I want to point out, too, we have a bill in Government that's going to die this year, because we can't get a fifth vote to get it out, that actually prevented dark money filtered through nonprofits, these types of nonprofits, out of committee. So with respect, this isn't about the United Way. This isn't about the Crisis Center. This

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is about a specific type of nonprofit who wants to be under the radar and, quite frankly, that is nothing that-- that is something I can't support. Just like I support transparency in government, I support transparency when it comes to Nebraska's nonprofits. I don't want to hear speeches today about how important it is to protect our nonprofits because that, friends, is not what this bill is about. Don't be fooled. It is a wolf in sheep's clothing. Take a minute, Google, do your research. Voting for this bill means that you are willing to let our consumers, to let our public servants not be aware of who gets involved in their elections and the ne'er-do-wells that are trying to influence them if you support this bill. With that, I would yield any time I have left to Senator Hunt if she would--

**ARCH:** Senator Hunt, 2:50.

**HUNT:** Thanks. Thanks, Mr. President. Thanks, Senator Blood. I don't have anything to add. I would just reiterate my opposition to this amendment. Thank you.

**ARCH:** Thank you, Senator Hunt. Senator Ben Hansen, you're recognized.

**B. HANSEN:** Thank you, Mr. President. I appreciate-- I can understand the concerns that Senator Hunt and Senator Blood and Senator Matt Hansen raised, a little bit off the mike, I did discuss a little bit more with Senator Matt Hansen and-- and Senator Wayne about some of the germaneness issues that do make sense. I-- I just want to quickly, though, first address some of the issues with-- with dark money, that this might be coming into campaigns, possibly. This amendment only impacts 501(c)(3) nonprofits. Taken directly from the IRS: Under the Internal Revenue Code, all Section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in or intervening in any political campaign on behalf of or in opposition to any candidate for elected public office. I think maybe what we might be thinking of here are the 501(c)(4) organizations, which this does not pertain to. The purpose of this bill is to-- it is to protect. I don't want to give a speech about it, because I was told not to, but it is kind of to protect nonprofit organizations from overburdensome-- I want to say regulation, but investigation by the administration or by certain entities and state offices. Whether it is a Republican or a Democrat administration, it's to-- it's to make sure that they're not being too overburdensome on these-- on these nonprofits because they're trying to do something that is not within their purview, per the legislative rules. So with that, and with talking with Senator Matt Hansen off the mike, I am going to pull this amendment because I don't want to get into a quagmire here

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and hold up time. So in respect to the Speaker and in respect to the process, I'll pull the amendment. Thank you, Mr. President.

**ARCH:** So ordered. Return to debate on LB800. Senator Matt Hansen, you're recognized. Senator Matt Hansen waives. Seeing no one else left in the queue, Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB800 to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. LB800 is advanced. Mr. Clerk.

**CLERK:** Mr. President, Senator McKinney, E&R amendments to LB1102, first of all.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to adopt the E&R amendments to LB1102.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. So moved.

**CLERK:** Senator Bostelman would move to amend AM2470.

**ARCH:** Senator Bostelman, you're recognized to open on AM2470.

**BOSTELMAN:** Thank you, Mr. Speaker. Good afternoon, colleagues. AM2470 is a technical cleanup amendment. During the E&R process, the Revisor's Office noticed referencing and gram-- grammatical errors that needed to be corrected and some of the language which needed to be clarified in addition to what the E&R we just passed. They suggested this amendment would be better suited to correct those errors. Some of the specific corrections made in the amendment include changing references from "the act" [SIC] to "the Nebraska Environmental Response Act"; also, shortening references from the "Department of Environment and Energy" to just the "department"; clarified the-- the lien notices only needed to be filed in Nebraska counties where the responsible person owns or holds property, and we clarified that this act applies to releases in such quantities which are harmful to environment. I ask for your green vote on AM2470 and ask for your advance of LB1102 to Final Reading. Thank you, Mr. President.

**ARCH:** Thank you, Senator Bostelman. Seeing no one in the queue, you're welcome to close on AM2470. Senator Bostelman waives close. The

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question is, shall the amendment to LB1102 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Mr. Clerk, please record.

**CLERK:** 32 ayes, 0 nays on the adoption of Senator Bostelman's amendment.

**ARCH:** The amendment is adopted.

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

**ARCH:** Thank you. Senator Bostelman, you're welcome to close on LB1102. Senator Bostelman waives close on LB1102. I'm sorry, we have someone-- Senator Blood, you're recognized to speak.

**BLOOD:** Thank you, Mr. President. I'm going to make this short and painless, I promise. I want to thank Senator Bostelman for introducing LB1102. It's a big deal when you get Governor Ricketts' Administration, Senator Bostelman, and the Sierra Club to endorse the most progressive environmental bill this body has considered in a long time. They are the only ones to support it during the committee hearing. When I first read it, I thought this was a bill from California, maybe from AOC in D.C. I was pleasantly surprised when I saw that it was indeed a Nebraska bill and was even prioritized. This bill gives unrestricted authority to the NDEE to address environmental releases, spills and cleanups. NDEE can assess civil penalties; they can come on your property whenever they want; they can issue cease and desist orders; and they can issue an administrative penalty of \$5,000 per day violation, amongst others. LB1102 is a significant expansion of NDEE authority to address environmental issues, which is not a priority for a lot of my Republican friends. And again, I want to thank Senator Bostelman for introducing this progressive legislation. Bravo.

**ARCH:** Thank you, Senator Blood. Seeing no one left in the queue, Senator McKinney for a motion.

**McKINNEY:** Mr. President, I move to advance LB1102 to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. All those opposed, nay. Motion is carried. Mr. Clerk.

**CLERK:** LB1102A. Senator, I have no amendments to that bill.

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

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**McKINNEY:** Mr. President, I move to advance LB1102A to E&R for engrossing,

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion carries. Mr. Clerk.

**CLERK:** LB888. I have E&R amendments, first of all, Senator.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to adopt the E&R amendments to LB888.

**ARCH:** You've heard the motion. All those in favor say aye. All those opposed, nay. Motion carries.

**CLERK:** First amendment, Senator Bostelman, AM2201.

**ARCH:** Senator Bostelman, you're welcome to open on AM2201.

**BOSTELMAN:** Thank you, Mr. President. Good afternoon again, colleagues. After some discussion on General File as to what acts of genocide our teachers would be educating students about, I decided to bring AM2201. This amendment would allow teachers to educate on any genocide that's currently recognized by the Congress of the United States or the United Nations. Currently, the United Nations officially recognize the genocides in Bosnia and Rwanda, and the U.S. Congress officially recognize five genocides in Bosnia, Rwanda, Darfur in 2004, the Yazidis, in territories under the control of ISIS, and the Armenian. I've spoken with Senator Day and want to thank her for giving me the green-- the opportunity to introduce this and support on this amendment. I would ask for your green vote on AM2201 as well as underlying bill. Thank you, Mr. President.

**ARCH:** Thank you, Senator Bostelman. Debate is now open. Senator Day, you're recognized.

**DAY:** Thank you, Mr. President, and I wanted to thank Senator Bostelman for his graciousness in working with me on this amendment. As I said before, sometimes the floor debate process makes bills better, and I think this amendment does make this bill better. So I would encourage your green vote on AM2201 and the underlying bill. Thank you.

**ARCH:** Thank you, Senator Day. Senator Pansing Brooks, you are recognized.

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**PANSING BROOKS:** Thank you. I just wanted to stand up, Mr. President, and say that this is an exciting day because Judge Ketanji Brown Jackson has just been confirmed for the Supreme Court. I think it's a historic, wonderful day, as our first black female judge will be confirmed to sit on our land's highest court. So thank you, Mr. President.

**ARCH:** Thank you, Senator Pansing Brooks. Senator Jacobson, you're recognized.

**JACOBSON:** Thank you, Mr. President. I guess I'd ask if Senator Bostelman would yield to a question.

**ARCH:** Senator Bostelman, will you yield?

**BOSTELMAN:** Yes, I will.

**JACOBSON:** I guess my question on this bill is-- I'm all in favor of-- of teaching the subject matter. I guess, is this a requirement or is this something that's optional for the schools? I'm-- I'm more concerned about any kind of unfunded mandate that we're going to place upon the schools. That-- that would be my only concern. I'm fully in support of the subject matter. I'm just concerned about, is it-- is it creating an unfunded mandate?

**BOSTELMAN:** So my amendment only addresses the genocide portion of it. I think you might want to ask Senator Day on that. She may have an answer for you.

**JACOBSON:** Senator Day, would you yield?

**ARCH:** Senator Day?

**DAY:** Yes, of course.

**JACOBSON:** I-- I guess my-- I'll ask the same question. Is-- is this a-- is this a requirement that this be taught or is this an optional thing that can be done? My concern really comes down to not creating an unfunded mandate for our school districts.

**DAY:** Yeah, so this is going to add a requirement to the social studies curriculum. Again, many schools are already teaching it. There was no fiscal impact for this bill. There is no cost, ex-- additional cost to schools. We were just ensuring that schools who have had trouble implementing this type of curriculum and have received pushback, that

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they will be able to teach it with the stamp of the Nebraska Legislature, essentially.

**JACOBSON:** Thank-- thank you, Senator Day. I-- I-- I guess my concern is that, as I start looking at smaller rural districts that are struggling to get teachers and really be able to teach the core subjects, I'm really concerned about any kind of unfunded mandate on them. Again, I have no issues with the subject matter. I think the subject matter is-- is-- is good. I-- I would encourage teachers and schools to adopt this. I'm just concerned about the unfunded mandate, and I don't know that I can favor it because of that. If that wasn't a mandate, I would be fine, so that-- that would be a concern. Thank you, Mr. President.

**ARCH:** Thank you, Senators Jacobson, Bostelman and Day. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. Would Senator Day yield to a question?

**ARCH:** Senator Day, will you yield?

**DAY:** Yes.

**FRIESEN:** So part of my concerns is that, and we've done this recently several times, we are as a body starting to mandate or tell our schools what they should teach, how they should teach it. Do you feel at some point that the Board of Education or the State Board of Education should start doing more of this? What's-- what are their duties as you recognize versus what we're doing today?

**DAY:** Yeah, I mean, sure, the State Board of Education can handle some of these types of things, but we have issues that are brought to us from educators. We have ed-- or issues that are brought to us from people in different communities that it becomes appropriate for us to address these issues on a certain level and create some type of congruency across the state, from rural to urban to suburban schools, in terms of the curriculum that's being taught. And again, as I mentioned earlier, a lot of this was part-- I would say part of it was in response to schools saying that they would-- were getting pushback in terms of wanting to-- to implement these types of discussions in curriculums and the rise of-- of white supremacy in the past several years. And I would also add that we had no opposition testimony in this hearing, either--

**FRIESEN:** OK.

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**DAY:** --from rural-- rural schools or anyone else.

**FRIESEN:** I mean, I-- I get it. If-- if the State Board doesn't want to address issues and they would like us to do that, that's one thing. But thank you for answering the question. But I-- again, I-- as we go forward and we keep doing this, we keep adding things. And to me, either the State Board of Education needs to start doing its job or we don't need them, really, we can dictate everything from here, and I think that gets to be burdensome after a while. So my thoughts are the State Board of Education does need to start addressing issues more often and taking that public input, doing their job, as they have been given that authority to do. But again, I've got no qualms about either voting for or against this at the moment, but I do think that the State Board should be more active in addressing some of these issues. Thank you, Mr. President.

**ARCH:** Thank you, Senators Friesen and Day. Seeing no one left in the queue, Senator Bostelman, you're welcome to close on AM2201. Senator Bostelman waives close. The question is, shall AM2201 to LB888 be adopted? All those in favor vote aye; all those opposed vote nay. Has everyone voted? Record, Mr. Clerk.

**CLERK:** 35 ayes, 0 nays on adoption of Senator Bostelman's amendment.

**ARCH:** The amendment is adopted.

**CLERK:** Senator Wayne would move to amend.

**ARCH:** Senator Wayne, you're welcome to open on FA193.

**WAYNE:** Thank you, Mr. President. Colleagues, if you'll recall, some of us was in the body la-- of a couple of years ago when Senator Howard brought the same bill. It was attached to an Education priority bill, omnibus bill, of LB1131. The same concept, we're not changing anything that the body has already not previously adopted, and there were little-- there were 40-- 34 people who supported the floor amendment and this exact same language, and all it does is, after "genocide," adds the words "slavery, lynching, and other [SIC] racial massacres in America." And the point of it is, is not all genocides are based off of race. More importantly, if you look at the-- the genocides that were quoted by Senator Bostelman, while I think it's important that we learn about genocides, particularly the Holocaust, we also should pay attention to what happens here in America, in our history. And so I think definitely slavery, lynching, and racial massacres here in America throughout our history are just as important, if not more

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important, for the American history as the Holocaust. So I would ask for a green vote. If anybody has any question, I would likely appreciate it. I do want to just tell you that this was already passed, again, two years ago on a similar bill that added as a floor amendment, but that overall omnibus bill did not go anywhere. So this is something this body has supported before and, again, it recognizes our American history and some of the massacres that have occurred here in America. Thank you, Mr. President.

**ARCH:** Thank you, Senator Wayne. Debate is now open on FA193. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. President. Good evening-- or it feels like evening this afternoon. Senator Wayne, will you yield to a question?

**ARCH:** Senator Wayne, will you yield?

**WAYNE:** Yes.

**ERDMAN:** Senator Wayne, help me, if you can, describe for me or explain what racial massacres might be included in teaching because I'm not familiar with those. Do you have any examples?

**WAYNE:** Yeah, so you have the famous 1900 Wall Street Massacre where a bomb was dropped in Tulsa, Oklahoma, because there was a black business district that was doing well. You have what happened to the Native Americans with the massacre down in Florida when other people came to America and had huge massacres. You can talk about the Trail of Tears. You could talk about many massacres that have happened based on racial lines.

**ERDMAN:** OK. Would the Boston bomber and the Boston Marathon be a massacre?

**WAYNE:** Not necessarily how I see it right now. I think that's up for de-- debate. Again, Senator Erdman, the bigger issue is when we start listing out things, you-- you can't-- you can't do a full complete list. That's why we said other racial massacres.

**ERDMAN:** That-- that's why I thought Senator Bostelman's amendment that any genocides approved by or recognized by Congress was a good idea, because that kind of opens it up to encompass those things you're speaking about, would it not?

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**WAYNE:** It wouldn't encompass those. He listed five that were actually recognized, and I believe that one massacre that happened in America with the Native Americans, and you can find multiple--

**ERDMAN:** OK.

**WAYNE:** --were not considered a massacre or genocide.

**ERDMAN:** OK, so are-- so you're saying-- in your-- in your opening, you said that we have voted on this language before?

**WAYNE:** Yes.

**ERDMAN:** I don't remember that.

**WAYNE:** LB1130-- LB1131, which was the omnibus Education bill in 2000 and-- I'll get you the exact date here in a second.

**ERDMAN:** OK. All right. Well, you've answered my questions. Thank you.

**WAYNE:** Thank you.

**ARCH:** Thank you, Senator Erdman, Senator Wayne. Senator Day, you're recognized.

**DAY:** Thank you, Mr. President. And thank you to Senator Wayne. Again, I appreciate his efforts here and wanting to include-- include other really important pieces of history, specifically American history, in the social studies curriculum, and I would encourage your green vote on FA193 and the underlying bill. Thank you.

**ARCH:** Thank you, Senator Day. Seeing no one left in the queue, Senator Wayne, you're welcome to close on your floor amendment.

**WAYNE:** Thank you. Just to clarify, so it was Janu-- it was a 2-- 2020 bill that was the Education Committee's omnibus bill that included this specific language from Senator Howard's bill and then amended on the floor for-- Senator Chambers amended it. There was a vote, but that bill ended up dying. If you'll recall, it had some tax provisions, it had a couple of other things that didn't do specifically with this area, so that bill ended up not going anywhere. My only point is, I'm not trying to say the Holocaust is not important, I think it is, but I think if we're going to require the Holocaust, then we-- we definitely should talk about the tragic history of Native Americans in this country and what happened; we definitely cannot ignore sla-- slavery; we definitely shouldn't ignore

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other racial massacres that did happen. But the difference between the genocide and racial massacres is genocide does not have to be purely race; and in fact, most of the time, it's religious. That's why you talk about what happened in Africa. They're not arguing over race. They're arguing over different religious values many times or different-- different areas. So we're just trying to keep it balanced. Again, this was voted on. Over 34 people voted in support of it in 2020, of which many of you are in the same-- were in the same body at the time, so I know some of you are probably looking up to figure out how you voted. I can tell you, but it passed that time. I think it should pass this time. So it's not complicated. I support the underlying bill. I just don't think we should leave out what happened in our own American history. Thank you, Mr. President.

**ARCH:** Thank you, Senator Wayne. The question is, shall the amendment, FA193 to LB888, be adopted? All those in favor vote aye; all those opposed, nay. Has everyone voted? Record, Mr. Clerk.

**CLERK:** 31 ayes, 0 nays on adoption of Senator Wayne's amendment.

**ARCH:** The amendment is adopted.

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

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to advance LB888 to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. All those opposed say nay. LB888 is advanced. Mr. Clerk.

**CLERK:** LB1016. Senator, I have Enrollment and Review amendments pending.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to adopt the E&R amendments to LB1016.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion carries.

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

**ARCH:** Senator McKinney.

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**McKINNEY:** Mr. President, I move to advance LB1016 to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. All those opposed, nay. LB1016 is advanced. Mr. Clerk.

**CLERK:** LB902. I have E&R amendments, first of all.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to adopt the E&R amendments to LB902.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion carries.

**CLERK:** Senator Cavanaugh had pending motion 205. I have a note she wishes to withdraw.

**ARCH:** So ordered.

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

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to advance LB902 to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. The bill advanced, LB902.

**CLERK:** LB902A. Senator, I have no amendments to that bill.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to advance LB902A to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. LB902A advances.

**CLERK:** LB852A [SIC--LB852]. Senator, I have E&R amendments, first of all.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to adopt the E&R amendments to LB852.

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**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion carries.

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

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to advance LB852 to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Bill advances.

**CLERK:** LB1069 has E&R amendments pending, Senator.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to adopt the E&R amendments to LB1069.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion is adopted.

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

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to advance LB1069 to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion is adopted.

**CLERK:** Mr. President, the next amendment-- or next bill, excuse me, LB1068. I have Enrollment and Review amendments, first of all, Senator.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to adopt the E&R amendments to LB1068.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion is adopted.

**CLERK:** Mr. President, Senator Machaela Cavanaugh had a bracket motion. Senator, withdraw? Thank you. Mr. President, the next motion is Senator Stinner. Senator Stinner offers AM2695.

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**ARCH:** Senator Stinner, you're welcome to open on your amendment. While we are waiting, Senator Hilkemann would like to welcome some special guests. There are 50 fourth-grade students from Lifegate Christian School in Omaha with the-- with the adults. Would you please rise, students, and be greeted by your Nebraska Legislature. Senator Kolterman, you're welcome to open on AM2695.

**KOLTERMAN:** Yeah, all-- all that this amendment does, it strikes the word "public" so that private schools are eligible for the money as well.

**ARCH:** Debate is now open on AM2695. Senator Hunt, you're recognized.

**HUNT:** Would Senator Kolterman yield to a question?

**ARCH:** Senator Kolterman, will you yield?

**KOLTERMAN:** To the best of my ability, I will.

**HUNT:** What did you say? Sorry, what did you just say?

**KOLTERMAN:** Well, when-- when the-- when the bill was passed, and Senator Stinner can address it better than I, but--

**HUNT:** Thanks.

**ARCH:** Senator Stinner, will you yield to a question?

**STINNER:** Yes, I will.

**HUNT:** OK.

**STINNER:** Thank you, sir. Yes.

**HUNT:** Senator Kolterman was just saying this allows money to go to private schools. Can you expand on that?

**STINNER:** Yeah, we're-- we're-- we're actually removing the word pub-- "public schools," which opens it up to any private as well as public schools--

**KOLTERMAN:** Behavioral health.

**STINNER:** --on the behavioral health side.

**HUNT:** OK, thank you.

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**ARCH:** Thank you, Senator Hunt. Seeing no one left in the queue, Senator Stinner, you're welcome to close on AM2-- AM2695. He waives close. Members, the question is, shall AM2695 be adopted? Those in favor vote aye; opposed, nay. Has everyone voted? Record, Mr. Clerk.

**CLERK:** 36 ayes, 0 nays on adoption of the amendment.

**ARCH:** The amendment is adopted.

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

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to advance LB1068 to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion is adopted.

**CLERK:** LB1068A, no E&Rs. Senator Stinner, AM2708.

**ARCH:** Senator Stinner, you're welcome to open on AM2708.

**STINNER:** Thank you, Mr. President. This is the funding portion of it. We're using a million dollars in ARPA funding for the AltEn health and environmental study. In Senator Blood's bill, it was original request of \$10 million. It's been reduced to a million dollars in ARPA. There's no General Funds being used. With that, I would ask that you would have a green vote on AM-- on the amendment. Thank you.

**ARCH:** Debate is now open on AM2708. Seeing no one in the queue, Senator Stinner, you're welcome to close. Senator Stinner waives close. The question is, shall the amendment, AM2708 to LB1068 [SIC--LB1068A], be adopted? All those in favor vote aye; all those opposed vote nay. Has everyone voted? Record, Mr. Clerk.

**CLERK:** 32 ayes, 0 nays on the amendment.

**ARCH:** Amendment is adopted.

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

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to advance LB1068A to E&R for engrossing.

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**ARCH:** You've heard the motion. All those in favor vote-- all those in favor say aye. Those opposed, nay. Motion is adopted.

**CLERK:** Mr. President, LB977. I have E&R amendments, Senator.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to adopt the E&R amendments to LB977.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion is adopted.

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

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to advance LB977 to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. Opposed, nay. Motion is adopted.

**CLERK:** LB977A. Senator, I have no amendments to the bill.

**ARCH:** Senator McKinney.

**McKINNEY:** Mr. President, I move to advance LB977A to E&R for engrossing.

**ARCH:** You've heard the motion. All those in favor say aye. All those opposed, nay. Motion is adopted.

**CLERK:** Mr. President--

**ARCH:** We'll now--

**CLERK:** Oh, excuse me.

**ARCH:** We'll now move to General File, Mr. Clerk.

**CLERK:** Thank you, Mr. President. First bill, General File, LB1218, a bill by Senator Walz and the Education Committee. It's a bill for an act relating to education; changes intent provisions relating to requirements to teach, provide special services, and administer in Nebraska schools; redefines terms; it changes fees for certificates and permits; changes provisions relating to loan forgiveness under the Attracting Excellence to Teaching Program. Bill was introduced on

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January 20, referred to the Education Committee, advanced to General File. I have committee amendments, as well as other amendments to the bill, Mr. President.

**ARCH:** Senator Walz, you're welcome to open on the bill.

**WALZ:** Thank you, Mr. President, and members of the Legislature. LB1218 was introduced by the Education Committee, is an Education Committee priority bill, had no opposition at the hearing, and advanced unanimously from General File. LB1218 was written to provide several solutions to the educator workforce shortage. Our teacher shortage is a serious issue, especially in rural areas, but persists around the state. We need to do something to help fix this problem. LB1218 is the result of a lot of hard work in the interim to help us understand the problem. Last night, I provided each of you with a copy of the occupational licensing report to provide additional history and information about teacher certification. It provides some antidotes for teachers that were not able to become certified in Nebraska, or at least not going-- not without going back to college and incurring additional debt. We heard a lot of stories during the hearing, for example, a young couple that had a very unfortunate experience. He was a former assistant coach at UNL but moved his wife-- with his wife to Texas to coach high school ball. For several years, he and his wife had a success-- had successful teaching careers in Texas. He taught special education and she was an ELL teacher fluent in Spanish. After having a baby, they decided to move back to Nebraska to be close to grandparents. He was offered a job at LPS, but after-- after relocating here, found out that he was not eligible for a teaching certificate in Nebraska. His wife, who had planned to take a few years off to be a full-time mom, decided to pursue her teaching certificate instead so that at least one of them would have a job, but no luck. At the time of the hearing, these two students were contemplating their new career moves because going back to college was not a financial option for their young family, not to mention they would need additional college when they were successful te-- when they were successful teachers in another state. So how does LB1218 help the situation? First, it begins with legislative findings and intent language aimed at ensuring that educators from other states have a path to joining the profession in-- in Nebraska. This language also builds upon the intent of the Legislature in 2003 that proficiency and basic skills competency should be a teacher certification requirement, as opposed to a requirement for entrance into teacher education programs, and that it should be demonstrated in multiple ways, not just one single examination; therefore, LB1218 modifies the definition of basic skills competency. And I will explain that further when I

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discuss-- when I discuss the committee amendment in a moment as it was further refined after the hearing. LB1218 changes the fee structure for teacher certificates from being explicitly set in statute to being set by the commissioner with a "not to exceed" amount. This statutory change allows the commissioner to increase, decrease, or waive the fees as deemed appropriate. Finally, LB1218 as introduced offers an additional \$1,000 of student loan forgiveness to participants in Attracting Excellence to Teaching Program after the successful completion of their student teaching. This program is funded by lottery dollars and there are ample funds in the current allocation to cover the additional loan forgiveness. The trifecta of efforts, coupled with the language provided our-- providing our intent for action by the commissioner and the State Board, I believe, providing immediate help to the workforce issue. Did I skip a whole page? No. I'm asking you for your support for our teachers and our schools, both public and private, to ensure that we have high-quality teachers available to educate our teacher [SIC]. Please vote green to advance LB128-- LB1218. Thank you.

**ARCH:** Thank you, Senator Walz. As the Clerk has stated, there is a committee amendment. Senator Walz, you're welcome to open.

**ARCH:** Thank you again, Mr. President. AM2213 substitutes the bill. We're making the following changes to the introduced green copy that I just discussed while keeping the changes to the fee structure in the \$1,000 student loan forgiveness after completion of student teaching. AM2213 modifies the definition of basic skills competency. It requires that the examination, currently the Praxis Core 1, be taken as a certification requirement, but allows that those who fail it or a portion to correct the deficiency by either a retake or the successful completion of college coursework. The "successful employment experiences" language in the definition has been repurposed to allow basic skills and competency to be demonstrated through experience as an edu-- as-- experience as education in another state. AM2213 makes some statutory changes to further eliminate obstacles for out-of-state teachers and administrators to become certified in Nebraska. And this is a really important piece. Finally, AM2213 incorporates LB945, introduced by Senator Linehan, to create the Teach in Nebraska Today Act, a new student loan forgiveness program to offer \$5,000 a year for up to five years for teachers. This is a great program to help recruit and retain teachers in a profession whose hiring rates are less than other in-demand jobs. The student loan forgiveness is available to Nebraska residents who teach full time in public or private schools, including full-time dual credit educators. It is state income tax exempt and will go a long way in helping our hard-working teachers.

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This amendment makes LB1218 even stronger to support our teachers and address the workforce crisis. I encourage your green vote in the committee amendment, AM2213, and the underlying bill. Thank you, Mr. President.

**ARCH:** Thank you, Senator Walz. Mr. Clerk, for an amendment.

**CLERK:** First of all, Senator Linehan, I have pending AM2284, but a note you wish to withdraw? Thank you.

**ARCH:** So ordered.

**CLERK:** Senator Erdman would move to amend AM2751.

**ARCH:** Senator Erdman, you're recog-- you're recognized to open on AM2751.

**ERDMAN:** Thank you, Mr. President. I appreciate that. Senator Walz, I appreciate what you're trying to do here. I do appreciate the loan forgiveness and those things that will help, especially in the rural part of our state. Our senator-- our schools are very needy of teachers, and it's-- it's a-- an opportunity for us to help them get into the profession, which I think is a noble one, and we have people who are trying to get into that profession but can't afford to do that. So thank you for doing that. But I-- I read the bill, I read the amendment to the bill that becomes the bill, and I would bring your attention to page 19, and I have a-- a very simple-- couple very simple amendments, and I'll just describe what those are. On page 19, line 12, I'm striking the words "work experience including student teaching." That's one of the amendments. That's one of the changes on 9-- page 19, line 12. And then I'm-- I'm-- I'm leaving in place the college examination. And so the amendment says that we're going to strike from "college admission examinations" through text-- "teaching," and we're going to replace the "college admissions examination," so we're not removing that. It's just the way the Bill Drafters wrote it. And then I'm taking out the section at the bottom, lines 22 through 31. I was-- I was concerned that what they were-- would do here would allow someone not to have to take the exam to see if they were competent in teaching because they could go back and take-- get a minimum grade in that area where they were deficient, and I think that's inappropriate. So I'm striking the bottom part of that page, 22 through 31, and then on page 20, at the top, I'm just reinstating the language that was stricken. And that's-- that's a very simple amendment. I would encourage you to vote green on that and then vote green on AM2213 and LB1218. Thank you.

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**ARCH:** Thank you, Senator Erdman. Debate is now open. Senator Walz, you're recognized.

**WALZ:** Thank you. Colleagues, I rise to speak very briefly on this amendment. While Senator Erdman and I fundamentally disagree on the value that a single examination for teacher certification plays in-- in preparing for high-quality teachers in the classroom, and personally I would prefer moving forward with the language in the committee amendment, I am really willing to work with Senator Erdman and just move this very, very important piece of legislation across the floor. Therefore, I rise today to support AM2751. There are so many important changes in this bill that will support the teaching pro-- profession and help address the workforce crisis. We will continue to work with the members of the committee, Education Committee, and other interested senators over the interim to find the best solution to the Praxis Core exam. In the meantime, I will be voting green on AM27-- AM2751, AM2213, and the underlying bill. I encourage you to do the same. Thank you, and I will yield the remainder of my time to the Chair.

**ARCH:** Thank you, Senator Walz. Senator Vargas, you're recognized.

**VARGAS:** Thank you. I echo Senator Walz. The only thing I was going to say is I-- I introduced a separate bill that did many of the same things that Senator Walz probably went a little further because I think Senator Walz and I might be the only individuals in this body that have been teachers, if-- if I'm correct, in a school system, in a K-12 school system. And, you know, fundamentally, I believe that there are many different indicators and measures of whether or not somebody is ready to be a teacher in a classroom. And in a time where we have a teacher workforce shortage and we are having teachers that are covering others-- other periods in terms of the classroom day, and we need to make sure that we-- we have the-- we are addressing this shortage reactively. We need to try to address these types of issues that are opening it up so qualified teachers can then enter the profession. And-- and the Praxis, being an-- an assessment, is not the only indicator and should not be the only barrier to entry for somebody trying to enter the workforce as an educator, and that is as somebody that has taken this exam. I-- there's so many different indicators that are part of what is in the language that are really, really important in addition to the-- the teaching time, the work that you've done in terms of the portfolio, your classwork and coursework. So I just want to make sure that's clear. I wish it went further, quite honestly, because I think there-- there's a real opportunity here to reduce some-- more regulations for getting good teachers in

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the classroom and thinking differently about a one-time assessment of what that measures and doesn't measure. But I'll take deference here to Senator Walz and what she's trying to do as a Chairwoman, and will support the underlying amendments to try to get a version of this through. And appreciate everybody and hope we can make it easier for the education workforce right now to be able to get class-- teachers in classrooms that are qualified where we need it the most. Thank you.

**ARCH:** Thank you, Senator Vargas. Before we continue, Senator Albrecht would like to welcome some special guests in the balcony, 43 students, 9-12, from Pender High School, Pender, Nebraska, two teachers, two sponsors. Students are-- are members of the Pender FFA Chapter. And welcome. Please stand and be recognized and welcomed by the Legislature. We will continue with debate. Senator Jacobson, you're recognized.

**JACOBSON:** Thank you, Mr. President. I probably first need to clarify. Senator Vargas, I, too, was a teacher, but I was an-- I was an ag teacher, so I'm very familiar with these guys up above. In fact, I was-- many years ago, I was the state FFA secretary. And if you really want to date me, I would also-- in terms of what time that was, another individual by the name of Charles Herbster, Charles W. Herbster, was also a state officer on my same state officer team, so I can identify with those folks up above. And my jacket does not fit anymore, for-- for those of you who are wondering, so I want to set that straight right now. I do want to speak to this, particularly LB1218. I did receive an email back and forth with a-- a superintendent in one of the communities outside of North Platte who-- who sent me a situ-- explained a situation where she was trying to hire a teacher who's moving here from Colorado, moving into a small town out-- outside of North Platte, was runner-up Teacher of the Year in Colorado and had been teaching for 17 years, but was not able to get immediate teaching certificate and credentials here because the Praxis score that-- or exam that she took in Colorado was not acceptable. So we've got to eliminate these barriers to allow qualified teachers, and I think 17 years in a classroom, runner-up Teacher of the Year, would probably get you there. OK? I'm not sure you'd get me back in there today, and I'd-- I'd probably have to take a couple Praxis exams. But-- but I think we need to take a hard look at this in terms of we've got to be able to let qualified teachers get in the classroom, fill this void. So I'm concerned. I will be very supportive of LB1218. I want to kind of look at the effect of the other amendments, but I am generally supportive, very supportive of LB1218, so thank you, Senator Walz, for bringing that.

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**ARCH:** Thank you, Senator Jacobson. Senator Hilkemann, you're recognized.

**HILKEMANN:** Thank you, Mr. President. I'm wondering if-- if Senator Erdman would take a couple questions, please.

**ARCH:** Senator Erdman, will you yield?

**ERDMAN:** Yes, I would.

**HILKEMANN:** Senator, with your amendment, you're-- you are putting the Praxis requirement back into the teaching bill?

**ERDMAN:** Can you ask that again, sir?

**HILKEMANN:** With this, with your amendment, you're putting the-- the requirement for the Praxis test back into the bill. Is that correct?

**ERDMAN:** Yes, I'm making it so that they have to pass the exam. Here's my issue with it, Senator Hilkemann. Here's my issue. On-- on line 27-- on line 26, it starts: successful [SIC] demonstrate prior to the certification by taking an examination designated by the board and, if necessary, correcting any score deficiencies, either retaking that portion of the examination for which a deficiency existed or earning a minimum grade or above in a college course designated by the board related to the deficiency. So the issue would be they wouldn't have to take the exam. They could go back to college and take a class that was related to the deficiency they had and get a minimum grade, a-- a D or whatever it is, and still become a teacher. And so I-- I thought that was probably something that needed to be addressed, and that's why I struck that part out and put the old language back in that was-- had been stricken on top of page 20.

**HILKEMANN:** So in-- so the bottom line is, is that you're adding that they have to take the Praxis test. Is that correct?

**ERDMAN:** It's-- I'm just making it the same language they had before.

**HILKEMANN:** OK. OK. I-- I, too, Senator Jacobson spent three years in the classroom, and I-- so I-- I'm-- but I'm also familiar with the-- with the Praxis test. And I challenge-- if you've-- I challenge you, just for fun, if you can go online and answer some of the questions that are ask-- asked in the Praxis test. I can see why it is a barrier for people getting into the profession. And so while it's good to-- I-- I have no problems with taking the Praxis in your subject area, there's probably some benefit to that, but some of the other things

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that you have to take with that Praxis test, I think, are-- are probably not necessary, are not going to be really effective as to whether you're-- you're going to be a good classroom teacher. But at either rate, so I just-- I just-- as one who has taken many, many standardized tests for part one of the boards, part two of the boards, part three of the boards, and then your-- your board certification boards, we love to do a lot of testing. And believe me, educational service unit or where all the different-- you know, they love it. They can charge a nice fee for that. I really don't-- I-- I-- I-- frankly, I-- I don't think passing those test boards really is an indicator of whether you're going to be a better teacher or you're going to be a better doctor. I understand we need to have standards. I'm big on standards as well. I just think that a lot of times we use these standardized tests and that they particularly-- they can be a barrier for people to enter into a profession, and so that was why I was concerned about that, whether we were adding that back into it. So thank you, Mr. President.

**ARCH:** Thank you, Senator Hilkemann. Seeing no one left in the queue, Senator Erdman, you're welcome to close on AM2751. Senator Erdman waives close. The question is, shall AM2751 be adopted? All those in favor vote aye; all those opposed vote nay. Has everyone voted? Mr. Clerk, please record.

**CLERK:** 31 ayes, 1 nay on the amendment to the committee amendments.

**ARCH:** AM2751 is adopted. Senator Walz, you're welcome to close on AM2213. Senator Walz waives close. The question is, shall AM2213 be adopted? All those in favor vote aye; all those opposed vote nay. Has everyone voted? Mr. Clerk, please record.

**CLERK:** 38 ayes, 0 nays on the advancement of the bill, Mr. President. I'm sorry, adoption of committee amendments.

**ARCH:** AM2213 is adopted. Senator Walz, you're welcome to close on LB1218. Senator Walz waives close. The question is, shall LB1218 be advanced? All those in favor say aye. Opp-- opposed, nay. Sorry, my mistake, General File. All those in favor vote aye; all those opposed vote nay. Has everyone voted? Mr. Clerk, please record.

**CLERK:** 39 ayes, 0 nays on the advancement of the bill.

**ARCH:** LB1218 advances. Mr. Clerk.

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**CLERK:** Mr. President, LB1218A, it's a bill by Senator Walz. It's a bill for an act to appropriate funds to implement the provisions of LB1218.

**ARCH:** Senator Walz, you're welcome to open on LB1218A.

**WALZ:** Thank you, Mr. President. Sorry. This is just the A bill to appropriate \$5 million a year for the first two years of the Teach in Nebraska Today Act, as well as funds to run the program at NDE. I encourage your green vote to adopt the bill. Thank you.

**ARCH:** Thank you, Senator Walz. Debate is now open. Seeing no one in the queue, Senator Walz, you're welcome to close. Senator Walz waives close. The question before the body is the advancement of LB1218 [SIC--LB1218A]. All those in favor of vote aye; all those opposed vote nay. Has everyone voted? Mr. Clerk, please record.

**CLERK:** 39 ayes, 0 nays on the advancement of the A bill.

**ARCH:** LB1218A advances. Mr. Clerk.

**CLERK:** Mr. President, next bill, LB1261, bill introduced by Senator Murman; relating to the Nebraska Advantage Rural Development Act; it changes provisions relating to limitations on tax credits. Introduced on January 20, referred to the Revenue Committee, advanced to General File. There are Revenue Committee amendments pending, Mr. President.

**ARCH:** Senator Murman, you're welcome to open on LB1261.

**MURMAN:** Thank you, Mr. President. Good afternoon, colleagues. I'm pleased today to bring LB1261, which was advanced out of the Revenue Committee with AM2211 on an 8-0 vote. There were no opponents to the bill. I wish to thank Chairman Linehan and the Revenue Committee for advancing this bill. I would also like to thank Senator Dorn for prioritizing this bill. With the goal of promoting investment in Nebraska agriculture through livestock modernization or expansion, and to encourage businesses to locate in rural Nebraska, LB1261 amends the Nebraska Advantage Rural Development Act in two ways. First, the ceiling of expected credits from approved projects for the Tax Commissioner to accept applications will rise from the current \$1 million to \$25 million each calendar year. Second, the refundable credit against taxes allowed a taxpayer with an approved application under the Nebraska Advantage Rural Development Act remains the same, but this bill would increase the credit cap from-- from the current 10 percent of the investment, not to exceed \$150,000, to 10 percent of the investment, not to exceed \$500,000, per application. This program

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exists because the livestock industry cannot qualify for the traditional business incentives that are given out under the Nebraska Advantage or ImagiNE Nebraska Act. The Nebraska Advantage Rural Development Act encourages investments in livestock production and facilities. The amounts allocated to this program annually have not been adjusted up since at least 2017, and the costs of livestock production investments have increased dramatically since that time. There is far more demand for these incentives in terms of applications than the program-- program currently provides, so this would help address the unmet demand. With agriculture being the largest industry in Nebraska, we need to do all that we can to incentivize investment in projects that would benefit rural Nebraska and the state in whole. These types of inve-- of investments not only benefit the business in question, but also the shops, restaurants, banks, and ultimately the taxpayers. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Murman. As the Clerk stated, there are amendments from the Revenue Committee. Senator Linehan, as Chair of the committee, you're recognized to open on the committee amendments.

**LINEHAN:** Thank you, Mr. President, and thank you, Senator Murman, for provide-- pro-- providing an overview of LB1261. Committee amendment, AM2211, extends the sunset date from December 31, 2022, to December 31, 2027, to apply for a tax credit under the Nebraska Advantage Rural Development Act. LB1261, as amended, was moved to General File on an 8-0 vote. Thank you, colleagues, and I ask for your support for the committee amendment, AM2211, and for your support to move LB1261 to Select File. Thank you.

**WILLIAMS:** Thank you, Senator Linehan. Mr. Clerk, you have other amendments.

**CLERK:** I do, Mr. President. If I may, though, I have a-- Senator Cavanaugh, a motion, 2-- MO213, I understand she wishes to withdraw.

**WILLIAMS:** Withdrawn.

**CLERK:** And I also have, Senator Matt Hansen, FA178, with a note he wishes to withdraw.

**WILLIAMS:** Withdrawn.

**CLERK:** Mr. President, Senator Murman would move to amend the committee amendments with AM2760.

**WILLIAMS:** Senator Murman, you are recognized to open on AM2760.

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**MURMAN:** Thank you. This amendment addresses two things. First, it simply fixes an accidental drafting error with the original Imagine Nebraska Act only found in the rural manufacturing tier. This oversight inadvertently limited a business who had more than one location in the state or in a county from receiving incentives for that second location. Think of any business with more than one location in the state or more than one in any county. In my district, for instance, the Becton Dickinson Company has a location in Holdrege, but also has locations in Broken Bow and Columbus. With this amendment, qualified locations could include companies with locations within one or more counties in Nebraska. I would ask for your support to fix this drafting oversight. Second, this amendment would add Senator Albrecht's LB596 to LB1261. LB596 was advanced from the Revenue Committee this year on an unanimous vote and was named a Speaker priority bill by Speaker Hilgers. The bill and this amendment establish incentives for petroleum retailers to increase higher ethanol blended gasoline sales from the current E10 blend to blends between E15 and E85. The incentives would be 5 cents per E15 gallon sold and 8 cents per gallon sold for-- for E25 and higher blends. These incentives are comparable to what other states in our region are doing, including Iowa, Missouri, Michigan and Ohio. The total amount of incentives available is capped initially at \$2 million, but if the program is used widely, the cap increases to \$4 million. The incentives sunset after five years. Colleagues, in a time of extreme inflation, pain at the pump, and uncertainty around the globe, this amendment brings lower prices at the pump to hardworking Nebraska families, increases demand for our corn growers, while also improving air quality and helping America establish its energy independence. I want to thank Senator Albrecht for her efforts in introducing the bill, and I will urge your support of the amendment. Thank you.

**WILLIAMS:** Thank you, Senator Murman. Debate is now open. Seeing no one wanting to speak, Senator Murman, you are recognized to close on AM2760. Senator Murman waives closing. Members, the question is the adoption of AM26-- excuse me, AM2760. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

**CLERK:** 38 ayes, 0 nays on the adoption of the amendment to the committee amendments.

**WILLIAMS:** The amendment is adopted. Returning to debate. Seeing no one in the queue, Senator Linehan, you are recogni-- recognized to close on AM2211. Senator Linehan, you are recognized to close on AM2211. Senator Linehan waives closing. Members, the question is the adoption

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of AM2211 to LB1261. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

**CLERK:** 36 ayes, 0 nays on adoption of committee amendments.

**WILLIAMS:** The committee amendment is adopted. Returning to debate. Seeing no one in the queue, Senator Moser, you are recognized to close on LB-- excuse me, Senator Murman, on LB1261. Senator Murman waives closing. Members, the question is the advancement of LB1261 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

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

**WILLIAMS:** LB1261 is advanced. Mr. Clerk, next item, LB984.

**CLERK:** LB984 is a bill by Senator Moser. It's a bill for an act relating to revenue and taxation; changes sales and use tax collection fees. Introduced on January 12, referred to the Revenue Committee, advanced to General File. There are committee amendments, Mr. President.

**WILLIAMS:** Thank you, Mr. Clerk. Senator Moser, you are recognized to open on LB984.

**MOSER:** Thank you, Mr. President. Good afternoon. I am happy to present my priority bill, LB984. It was voted out of the Revenue Committee 8-0 with an amendment, AM2130. Chair Linehan will follow with the committee amendment opening after my remarks on LB984. LB984 addresses the collection costs of Nebraska sales-- sales tax and how we compensate the businesses that collect and remit this tax to the state. In 2002, the Unicameral reduced the amount that retailers, restaurants, and other businesses that sell products subject to sales tax receive for collecting and remitting the tax. The Legislature at the time indicated that this was intended to be temporary due to a severely tight budget. I believe the costs of preparation of the tax returns, document-- documentation of tax-exempt sales, and training of personnel on sales tax rules are accepted costs of doing business. However, the exponential growth of the use of bank cards to pay for taxable products in the last two decades has skyrocketed bank card fees. Many retailers at one time had 25 percent of their sales on bank cards, and now they've grown to about 75 percent of the sales; and in some service industries they're a lot higher yet than that. In most cases, the sales tax is 7 percent. Consumers that pay with credit and debit cards cause the merchant to be charged a swipe fee of about 3

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percent on the sale, including the tax. They remit the tax based on the gross sale amount to the state, and that's actually more than they collected after paying the credit card swipe fees. On \$100 in sales tax, they receive \$97 after paying the fee, yet they remit the full amount of the \$100 to the state. Over time, the percentages that processors charge to clear credit card sales continue to rise. LB984 is more conservative than the reimbursement that existed prior to 2002, and this bill is intended to help small businesses the most as it retains a cap for larger merchants. LB984 would increase the present maximum amount of \$75 collection fee per month to \$150 a month to help offset credit card transaction costs. I hope that you vote green on LB984, and Senator Linehan will talk about AM2130.

**WILLIAMS:** Thank you, Senator Moser. As the Clerk stated, there are amendments from the Revenue Committee. Senator Linehan, as Chair of the committee, you're recognized to open on the committee amendments.

**LINEHAN:** Thank you, Mr. President. First I would like to thank Senator Moser for bringing this bill and for working with the Revenue Committee on the amendments to his original bill. Senator Moser selected LB984 as his priority bill to-- for allowed-- which allowed the committee to amend in three additional bills, all related to sales tax issues. The committee amendment reduces the retailer collection fee in the green copy from \$180 per month per location to \$150 per month per location. This is on page 11 of the amendment. AM2130 incorporates the provisions of LB941, introduced by Senator Slama. This would exempt the sales tax, what is commonly known as net wrap, which is defined as plastic wrap used in baling of hay. This is on page 12. The amendment incorporates the provisions of LB881, introduced by Senator McKinney. This would exempt sales tax feminine hygiene products, but not general grooming or hygiene products such as soap and toothpaste. This is on page 13. Please note that on page 33 is an additional provision from Senator McKinney's bill. It would require detention facilities to provide feminine hygiene products to female prisoners free of charge. LB1209, which addresses an unfair consequence of Nebraska's contractor laws, is included in the amendment. This can get very complicated down in the weeds, so here's a simple explanation. A contractor is defined as any person who repairs property annexed to real estate, who annexes-- who annexes building materials and fixtures to real estate, or who arranges such annexation. Contractors must choose to be an option one, two, or three contractor, which then dic-- dictates how and when they pay sales or use taxes on the materials they purchase and the labor they provide. Manufacturers are exempt from paying sales tax on the purchase of qualified manufacturing machinery or equipment, MM&E, but the

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manufacturer chooses a contractor to install the MM&E who does not have the right option, the sales tax exemption is lost, so it's just trying to make it fair for everybody. The remainder of the committee amendment contains only necessary conforming changes. Since this is a sales and use tax bill, it must be operative at the beginning of a calendar quarter, which the bill says is October 1 of this year. There are ver-- some very important sales tax provisions in this bill. I would ask you to vote green on AM2130 and on the underlying bill. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Linehan. Mr. Clerk, do you have another amendment?

**CLERK:** Senator Linehan, AM2144.

**WILLIAMS:** Senator Linehan, you're recognized to open on AM2144.

**LINEHAN:** Thank you, Mr. President. As I just mentioned, the amendment is intended to further clarify the manufacturing M&M-- M and-- MM&E sales tax exemption that is in the committee amendment. We're following other existing exemption provisions. That-- that is why we need to add this language. Please vote green so the exemption can be clear and precise. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Linehan. Debate is now open. Senator Slama, you are recognized.

**SLAMA:** Thank you, Mr. President, and good afternoon, colleagues. I'll be brief in my remarks, but I did just want to thank Senator Linehan and the Revenue Committee and Senator Moser for including the text of my LB941 in the Revenue Committee amendment. This bill was brought to me by one of my predecessors and someone who I consider a-- a mentor, former Lieutenant Governor and State Senator Lavon Heidemann, who saw a very clear issue in that sales of net wrap, which I believe is a clear ag input that should be sales tax exempt, was being taxed in some situations and sometimes not in others. This was creating a situation in which farmers could incur hundreds of dollars of unexpected costs, just depending on the ag equipment dealer that they were going to. So LB941, besides it being clarifying language and an exemption, would normally be consent calendar worthy, so I am grateful for the Revenue Committee for advancing it and adding it to Senator Moser's LB984. So I'd encourage your green vote on AM2144, AM2130, and then the baseline, LB984. Thank you.

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

**McKINNEY:** Thank you, Mr. President. I wanted to rise in support of LB984 and AM2130, and I wanted to thank Senator Linehan, the Revenue Committee, Senator Moser for attaching my bill, LB881, which would exempt feminine hygiene products from-- from sales tax and use tax for individuals that are incarcerated in our prisons and juvenile facilities across the state. I think it's a good gesture from the state to do this and thank you.

**WILLIAMS:** Thank you, Senator McKinney. Seeing no one wanting to speak, Senator Linehan, you're recognized to close. Senator Linehan waives closing. Members, the question is the adoption of AM2144. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

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

**WILLIAMS:** The amendment is adopted. Mr. Clerk, do you have an additional amendment?

**CLERK:** Senator Pansing Brooks would move to amend AM2642.

**WILLIAMS:** Senator Pansing Brooks, you're recognized to open on your amendment.

**PANSING BROOKS:** Thank you for the pause, colleagues. I will be pulling this amendment. This amendment was to include Social Security when we were having problems earlier not getting the Social Security bill of Senator Lindstrom's passed. And so I had added it to this bill of Senator Moser's. I did tell him about it, and I thought that in case there was something that happened where the Social Security did not pass out of the tax pa-- package, I wanted to make sure that we were protecting our seniors. So with that, I pull my amendment and thank you for your time and patience.

**WILLIAMS:** The amendment is withdrawn. [MICROPHONE MALFUNCTION]

**CLERK:** Well, Mr. President, I do. Senator Matt Hansen has two amendments, but I think he wants to withdraw them, FA176 and FA175, so I have nothing further pending to the committee amendments.

**WILLIAMS:** Thank you, Mr. Clerk. Returning to debate. Seeing no one in the queue, Senator Linehan, you're recognized to close on the

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committee amendment. Senator Linehan waives closing. Members, the question is the adoption of AM2130 to LB984. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

**CLERK:** 41 ayes, 0 nays on adoption of committee amendments.

**WILLIAMS:** The amendment is adopted. Returning to debate. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. I'm in support of this bill. Since it's a Revenue Committee bill and we passed LB873 this morning, I wanted to just mention something had looked up over the lunch hour. There is a website called Rich States, Poor States that ranks the tax economic outlook of tax situation [SIC] in various states. And as of yesterday, Nebraska would rank 35th best in-- in the nation. I put in the tax rate changes, the ones that will eventually be in, if they would change to our-- the bottom rates that we're going to, would bring us from 35th to 31st in the country, and that includes inheritance tax. If you change inheritance tax from a yes to a no, we go from 31st up to 25th best, be right in the middle, and so I was glad that we reduced the inheritance tax a little bit, although not enough that what we did today or this year did not eliminate it. But we're moving in the right direction, and so we're pretty quick going to move up, least to 31st, and I hope we can move up more in the future. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Clements. Seeing no one willing to speak, Senator Moser, you're recognized to close. Senator Moser waives closing. Members, the question is the advancement of LB984 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

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

**WILLIAMS:** LB984 advances. Mr. Clerk, next item on the agenda, LB729.

**CLERK:** LB729 is a bill by Senator Lindstrom. It's a bill for an act relating to economic development; adopts the Quick Action Closing Fund Act. Introduced in January, referred to Revenue, advanced to General File, there are Revenue Committee amendments pending, Mr. President.

**WILLIAMS:** Thank you, Mr. Clerk. Senator Lindstrom, you are recognized to open on LB729.

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**LINDSTROM:** Thank you, Mr. President, and good afternoon, colleagues. I present to you today LB729 to create the Quick Action Closing Fund. This legislation was modeled on a program that was passed in Oklahoma in 2011. The pro-- that program was extremely successful in recruiting new businesses to the state of Oklahoma and is offered-- and, excuse me, has allowed for meaningful employment opportunities for their citizens. The Quick Action Closing Fund establishes a fund to assist the state with attracting, recruit-- recruiting, and incentivizing high-impact business projects to our state. A high-impact business is one that is expected to provide employment opportunities to Nebraskans, but also to provide a net benefit to the state and generate more revenue to the state than the cost incentive. The Quick Action Closing Fund would be administered by the Department of Economic Development and all qualified businesses receiving this incentive would qualify under the Imagine Nebraska Act. Monies in this fund would be, excuse me, expended by the Governor for the purpose of economic and infrastructure development. The Governor cannot issue any payment with-- until the Department of Economic Development has conducted a complete and thorough analysis of the impact of an applicant's business to determine the economic impact to the state of Nebraska. Only when this analysis is completed would funds be issued by the Governor to the recipient. Please note that I have not set a specific amount in this act. When the Quick Action Closing Fund was originally passed in Oklahoma, the appropriation was around \$7 million. Since 2011, around \$14 million in funds have been issued to seven companies within-- with a result of approximately 3,500 jobs. According to Oklahoma Department of Commerce, this collect-- collected \$14 million through the Closing Fund awards will amount to about \$3.4 billion in investments by companies awarded the funds. Nebraska has a tremendous opportu-- amount of promise in attracting various industries, like those listed on the handout that I provided. The Quick Action Closing Fund could be a deciding factor for a company looking to relocate to our state, and whatever Nebraska can do to get-- gain an edge, I believe that we should do it. That, that was-- that is the intent of LB729. I want to thank Speaker Hilgers for making it a Speaker priority and I would appreciate your green vote on LB729. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Lindstrom. As the Clerk stated, there are amendments from the Revenue Committee. Senator Linehan, as Chair of the committee, you are recognized to open on the committee amendments.

**LINEHAN:** We're pulling the committee amendment.

**WILLIAMS:** The committee amendment is withdrawn.

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**CLERK:** No, no, no, no, no, no, no. No, Chairs--

**WILLIAMS:** Senator Linehan, a Chair cannot withdraw the amendment, we have just discovered, so it needs to be voted upon. So if you would like it voted down, I would recommend that.

**LINEHAN:** That would be-- OK, learned something new, even though-- OK. So there has been some question on the committee amendment that-- whether it's constitutional or not so since we don't know and I discussed with Senator Lindstrom this morning, I believe that if any Governor was going to use this fund, he would, in his own best interest, consult with the Legislature so we really don't need this language. So I would like a red vote on AM2084. Thank you.

**WILLIAMS:** Thank you, Senator Linehan. Debate is now open. Senator Erdman, you are recognized.

**ERDMAN:** Thank you. Thank you, Mr. President. I'll follow up with Senator Linehan. I would like a red vote on AM284-- AM2084 and LB729. Let me explain. If I were running for Governor-- if I were a candidate for Governor, I would really like this bill, just saying. If I were running for Governor, I'd like this bill a lot. We currently have the Imagine Act in place to incentivize businesses to come here and that incentive package picks winners and losers, just like TIF, just like all the other incentives we do. They pick winners and losers because they have to do those things because their taxes are too high. And so now don't worry, we're not putting any money in here. We're just setting up a program. That's how that works here. You establish the program and then later on, you make a contribution from appropriations; the rainy day fund, ARPA, whatever you can figure out. And then if you're Governor, then you are the one that decides which business comes here and which one doesn't, which one succeeds or which one fails; very similar to the Imagine Act and all the other incentive packages that we've put in place. If you don't believe me that government chooses winners and losers, you can look at many examples where businesses have been started and given TIF financing on a hayfield or a cornfield that's been annexed into town, into a city or community-- a town or municipality and the other businesses in town that don't get to take advantage of TIF, they're not able to compete because they have to pay taxes. So we surely need to set up a quick closing fund so that the Governor can go out and recruit businesses and pay them to come to our state because our taxes are too high. So we're going to give him an opportunity to make a decision quickly without any consideration of the rest of the people, the rest of the businesses who don't get this fund. I, I, for the life of me, never

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understand why we do the things we do. I see in committee there were two no votes, Senator Friesen and Senator Flood, and there were six votes in favor of advancing the bill. I'm a little, I'm a little confused. Why didn't everybody support it if it was such a good idea? And so I would encourage you to vote no on AM2084 and on LB729 unless somebody can tell me and explain to me how this is a good idea to give the authority to the Governor to be able to decide which business he wants or she wants to come to the state irregardless of what it does for the people who have been here and been paying taxes for years. So those are my comments. I would assume that most of the people will think that's a good idea, but from where I sit, this is not a commonsense approach to how to spend tax dollars. And just because Oklahoma did this-- and you have to understand Oklahoma's property tax is not near as high as ours and so these incentive packages, what it is, is a race to the bottom. It's a race to the bottom to see who can give the most incentives to attract businesses to your state. If we had a level playing field where everybody could compete for the dollars and the, and the--

**WILLIAMS:** One minute.

**ERDMAN:** --business as they should, the best business managers and the best managers would win; not who the government chooses, but who the economic situation advantage goes to. So vote no and we'll move on and we'll get out of here early. Thank you.

**WILLIAMS:** Thank you, Senator Erdman. Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr. President. Colleagues, when I first ran for office, I put together a plan called Innovate Nebraska. It's probably somewhere still on the website or our Facebook and I just want to thank Senator Lindstrom for one day accidentally running across the plan that had this bill in it. So I think he remembers it from six years ago and I think he also has passed Social Security because that was in my plan too and I introduced that bill six years ago and it didn't go anywhere. So it isn't about who gets the win or loss. I'm just glad that we're actually doing this because where other states have this, often time, the quick-action funds are not used to recruit. Many times, they're used to actually keep businesses here who have been recruited. And by the time they get through the incentive process, they're still short \$5,000, \$10,000, maybe \$15,000 to stay. And I will tell you where this actually happens the most is not in the urban areas, but in rural Nebraska or actually, in this case, rural Iowa and some other places that have this type of legislation and fund. It is the small communities that is recruited from somewhere

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else, maybe-- usually a-- another, another state with a major-- metropolitan area that recruits a manufacturer. And there is just a difference of \$20,000 or \$30,000, but by the time they go through the incentive process, those decisions are already done. So this quick-action ability for a governor to make those decisions has often saved hundreds of thousands of jobs in rural areas throughout this country so that's why I'm in favor of the bill and I'm-- you know, why I supported Social Security. So I just want to say, Senator Lindstrom, I really appreciate six years ago, I had that influence on you. It really makes a difference when you can work with people. And I will end by saying, Senator Erdman, we've talked about practice quite a bit on the mike this year and Allen Iverson and tonight I will be wearing the Allen Iverson warm-up just to make sure we can-- that was our bonding moment. Two years ago, we brought it up and we've kept that joke going and so I just want to make sure you're there. If not, I'll, I'll put it on early and wear it in here. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Wayne. Senator Friesen, you are recognized.

**FRIESEN:** Thank you, Mr. President. So in the committee, I was one of those that voted against it. We had a pretty vigorous discussion on this bill. And from my standpoint, giving this to the discretion of the Governor really turns it into a political football at times because all he has to do is consult with the Department of Economic Development, which he already controls, and now he can just hand out money to wherever he wants. You know, I won't say it's political favors, but it could be. There's no oversight to this program. Right now, we're sitting with 80,000 jobs that are unfilled. And yes, we can give money to companies that are threatening to leave, but to me, if you want to have a company and you need this quick reaction fund in order to keep them here, is it just blackmail saying there leave? Recently, we gave I think it was \$20 million or \$40 million to a company that we thought might leave. Now you're going to create a fund where somebody could say, hey, you know, guys, I'm thinking of moving out of state. I see you got a pretty good pot of money built up. I could use a couple of million dollars. Otherwise, we're going to pull out. You get a little discussion going with your DED folks and lo and behold, here you go. You can give them some money. Again, separation of powers. We have the DED who has lots of funds in it already for doing all kinds of things that they are entrusted to do, but to me to say that you're going to create a pot of money for the Governor to use is a big stretch when you're talking about political favors when it comes to doing things. And right now, after being on this body for

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eight years, I don't trust anybody with political favors. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Friesen. Senator Machaela Cavanaugh, you are recognized.

**M. CAVANAUGH:** Thank you, Mr. President. Colleagues, I am going to support this amendment. I don't support the underlying bill. This is something that I feel like we've had problems with in the past is that when we're not here, we give the Governor authority over the purse strings when we're supposed to have authority over the purse strings. And so I don't think that it's appropriate for us to write a blank check without any sort of oversight because we have a financial responsibility and that is our job. So I will be voting for the amendment and I will not be voting for the underlying bill if the amendment is not attached. Thank you.

**WILLIAMS:** Thank you, Senator Cavanaugh. Senator Lindstrom, you are recognized.

**LINDSTROM:** Thank you, Mr. President. The reason that we would vote no on the amendment just is the constitutionality of it and so I encourage you to vote no on that. Senator Wayne, with the six years, I got you beat by two. Brought Social Security for eight years, but who's counting at this point? Appreciate that vote earlier on that as well. When we, when we look at this bill, I want, I just want to be clear on what we're doing here. This is not an appropriation. This is just setting up the framework that whomever the Governor is can come into the Appropriations Committee and request dollars. It's-- the, the Legislature still has the ability to say no or say yes. We're not changing that authority. Nothing happens there. If whoever that is comes in and says appropriate amount of dollars to this fund, it is still the prerogative of the Legislature to say yes or no so we're not changing anything on that front. As far as the oversight, the oversight is under the criteria of what we're doing in ImagiNE Nebraska Act and so it has to meet the qualifications to, to do that under what we have currently in the parameters of that. When we think about just the flexibility, there's often times that-- and you're right, Senator Erdman, this is not a shotgun approach. This is a targeted approach. When we think about the opportunities that we, we lose in the state of Nebraska, particularly with companies that want to expand and, and companies that are typically national companies-- I know ADM is out in the, in the Rotunda today-- thinking about how to take some of those hubs and grow spokes off of those hubs. We have the opportunity to expand on a lot of the businesses we have in the state

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of Nebraska. And when they're comparing the tax code in state of Nebraska, they're comparing our incentive packages, and they're stacking up against other states, we have no other way to close the deal. There's no other flexibility. And every time that we have to do that, we'll have to come back into session and change some mechanism in here. What this allows the Governor to do is to, to structure a deal or to make-- to take a closing fund to actually execute and close that deal. That's all this is attempting to do is making sure that there's one little thing, one extra thing, one tool in the toolbox to say our tax code isn't exactly where it needs to be-- our-- the incentive package aren't exactly where it needs to be, but we want you here. And yes, it is a targeted approach. It would be companies that want to locate here or even expand here and that's the purpose of this bill. And again, I want to be clear: this is not an appropriation. This is just setting up the framework to do it. This keeps all the control still with the Legislature. The Legislature still has the purse strings. And if somehow down the road, if, if a future Governor down the road were to abuse the situation, then the Legislature, Legislature could claw back those dollars and, and give them zero. So I encourage your red vote on AM2084 and your green vote on LB729. I'll be happy to answer any questions.

**WILLIAMS:** Thank you, Senator Lindstrom. Senator Erdman, you are recognized.

**ERDMAN:** Thank you, Mr. President. Thank you. Senator Lindstrom, so you brought some questions in mind. If you would answer those, I would appreciate it.

**WILLIAMS:** Senator Lindstrom, would you yield?

**LINDSTROM:** I will.

**ERDMAN:** OK. Senator Lindstrom, you said the Legislature would have control. Do you mean the Legislature would have control to the fact that they would be the one to decide how much money went into this fund? Is that what you meant?

**LINDSTROM:** Correct.

**ERDMAN:** OK, so once the money was appropriated for that fund, then it would be at the Governor's discretion to spend it however he felt it was necessary, according to the rules in the Imagine Act?

**LINDSTROM:** Correct.

**ERDMAN:** OK. So that's not a lot of control once we make an appropriations of the dollars. Would you think that there should be some other provision there so the Governor just can't go and do whatever he wants to do once the money is appropriated? There's no oversight there.

**LINDSTROM:** Well, that, that was the intent of AM2084, but we found some issues with the constitutionality of it so therefore, we can't do that. I would suspect that anybody that is inclined to utilize these dollars on the executive side would be in consultation with the Appropriations Committee, with the Banking, Commerce and Insurance Committee, Revenue Committee, the people that are influencing a lot of those decisions and policies directed towards growing business, but--

**ERDMAN:** He wouldn't have to or she wouldn't have to.

**LINDSTROM:** You are correct. Technically, they would not have to.

**ERDMAN:** OK. All right. So very good. So you mentioned there may be a business that wants to expand or move here or whatever and you said because our tax system is not competitive, we have to do that. What about all those other businesses that don't get to take advantage of this Governor's contribution? How do they compete with that business if they do similar things? How does that work? Is the Governor choosing winners and losers by doing that?

**LINDSTROM:** Well, I think the intent of the bill is more about expansion and recruiting. It's not-- the point isn't lost on me that that may be how some people view it, but it-- the intent of it is to make sure that we are expanding Nebraska businesses and/or recruiting--

**ERDMAN:** OK.

**LINDSTROM:** --businesses here.

**ERDMAN:** Well, a couple of days ago, we as a body here had an opportunity to fix all of those issues about being competitive or noncompetitive with our neighboring states or anyone else for that matter with a consumption tax and that didn't get advanced. So now we have to continue to do these things and continue to put a Band-Aid on an amputation. So let me close with this on this, this time on the mike: if my Lieutenant Governor was involved in economic development, that would be a great opportunity for me as a Governor to know how to, how to encourage people to come here and spend those dollars. As I said earlier, this looks to me like that this would be a great

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opportunity for somebody that was running for Governor that had a chance to take advantage of this, as Senator Friesen alluded to, maybe to repay some political favors. I'm not saying that that would happen, but I'm sure saying that that should be the-- that could be the possibility. So as I said earlier, and, and people say this all the time, I'm in strong opposition or I'm in strong favor of something, but I'm just going to tell you I'm 100 percent against LB729. Thank you.

**WILLIAMS:** Thank you, Senator Erdman. Senator Bostelman, you are recognized.

**BOSTELMAN:** Thank you, Mr. President. I got some concerns similar to maybe what Senator, Senator Friesen was saying just a little bit ago. This seems to be setting up a fund that may already reside within DED. You know, isn't that part of what they're supposed to be doing is recruiting, keeping businesses here and is it better to sit within DED? I guess my question would be and Senator Lindstrom, I may ask you here in a minute, but my question would be, does DED already have some of this authority to do it? And so if they're going to do this, how do they choose which companies, which businesses? You know, Conagra went out of here several years ago and they moved to Minnesota. You know, would they have put money there? We lost Cabela's out west. Would there have been money put into that? What were the incentives there and what does this give-- if Senator Lindstrom would yield to a question?

**WILLIAMS:** Senator Lindstrom, would you yield?

**LINDSTROM:** Yes, I will.

**BOSTELMAN:** I apologize I didn't talk with you beforehand, but it just--

**LINDSTROM:** That's OK.

**BOSTELMAN:** --questions come up in my mind. What does this give that DED does not already have the authority to do?

**LINDSTROM:** Well, DED does administer the, the criteria within the fund so it does have to meet and they will do an analysis before they ever say yes, this fits under those parameters, but ultimately it would be the Governor who could deploy those dollars as long as it fits under the, the criteria that we have in Imagine Nebraska.

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**BOSTELMAN:** Right, I understand that and I guess my question is, is, is this not better, fund wise, put within DED where there may be-- the DED has, has part of the say within this as far as part of the process rather than just the Governor would have it?

**LINDSTROM:** They have, they do have a say. I mean, they have to go through and complete the analysis to say if it's viable and if it makes sense to do it. And once that-- clear that hurdle, then it would be the Governor. Maybe-- so let's just say you have two companies coming in and saying, we're going to-- we want to come to Nebraska and we have a finite amount of resources in the Governor's closing fund or the Quick Action Closing Fund. Then the Governor would have to make the decision on if those dollars are appropriated one way or the other, but it would be based on an analysis done by DED that would, that would have to fit under those parameters to, to have that company fit under that and be able to use those dollars. But again, the, the Legislature would have to first have the say on whether or not they want to authorize the funds or release the funds to that-- the Quick Action Closing Fund.

**BOSTELMAN:** Do you see this as an annual obligation that we would appropriate funds for \$20 million, \$50 million, \$100 million every year for that fund or how would that work?

**LINDSTROM:** No, I don't, I don't think it is a-- an annual deal. I look at it as the Legislature-- obviously, the Governor would have to come into Appropriations, talk about maybe what they're, what they're seeing as it pertains to opportunities in the state of Nebraska, and come in with an ask of an appropriation. It could be \$2 million, \$5 million. In the case of Oklahoma, in the first-- in 2011, it was \$7 million, but that would be up to the Legislature on what they'd want to do there. But I don't see it as being an annual thing unless we had a lot of companies that wanted to look at Nebraska for, for-- to relocate.

**BOSTELMAN:** OK. Thank you, Senator Lindstrom. I yield the rest my time to the Chair.

**WILLIAMS:** Thank you, Senator Bostelman. Senator Friesen, you are recognized.

**FRIESEN:** Thank you, Mr. President. So in order to get ready for the sine die show tonight, let's, let's just imagine down the road that the Hughes ticket would be on the ballot and Senator Hughes would be Governor down the road and he's term limited out and he's feeling a

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little spunky and he's thinking Venango need something down there and we've got this fund built up to, you know, \$50 million. And if we work the DED over pretty good and Senator Hughes, in the meantime, has got this project in Venango to really bring off something great, term limited out, not running for office, Senator Hughes, what would you use the money for?

**WILLIAMS:** Senator Hughes, would you yield?

**HUGHES:** Of course I would.

**FRIESEN:** So Senator Hughes, I've laid out the, the issue here and we came close to accomplishing this, but what would it look like eight years from now or nine when you're term limited out? What would, what would you do in Venango?

**HUGHES:** Well, we would, we would probably dig another ditch. Get, get, get more water.

**FRIESEN:** Would you get more water or would you send it back?

**HUGHES:** We, we would get more. We would get more.

**FRIESEN:** Get more.

**HUGHES:** There, there are tremendous opportunities in Venango and I would certainly encourage any of you to show up because it is the garden spot of Nebraska.

**FRIESEN:** Maybe a hotel?

**HUGHES:** Could be, a convention center, yeah, or if we get this ditch, we could have a lake.

**FRIESEN:** Recreation?

**HUGHES:** Of course. There is, there's a lot of recreation.

**FRIESEN:** Thank you, Senator Hughes. I guess the point is we don't-- think back in time and think of the different situations we've had. We have had opportunities in the past where big manufacturing plants have thought about coming to Nebraska. Those were huge, huge opportunities. And there, we would have talked tens of hundreds of millions of dollars in incentives to get BMW or somebody. But right now, we are looking at-- we're 80,000 people short. There-- we've, we've-- we're in-- getting our cash-- our tax situation where who's going to want to

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leave? We're, we're-- well, we're not quite to Senator Erdman's level yet, but we're-- we've reduced our taxes. We're going to be to the point where-- I think Senator Linehan has even said it-- if we get our tax picture down to where it belongs, we should get rid of the incentive program. Now, would-- if the incentive package was gone, would this-- I can see where this might be needed then because you might need that, that pot of money there to do things with. But until that incentive program is gone, I do think without the oversight right now-- and in this bill, I know he's setting the framework, but get the framework right. There is no oversight. When a Governor controls the DED, he knows-- he hires, he fires. I still think that over the longer term and down the road, there has to be oversight over that fund because I can see where it would be pretty easy to build up fund up if you had some extra revenues, put things in there and pretty soon, you've got a pot of money built up and now you've got things that can go wrong and there has to be some oversight built into this program.

**WILLIAMS:** One minute.

**FRIESEN:** And with that, I hope everyone comes to the sine die show tonight. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Friesen. Senator Linehan, you're recognized--

**LINEHAN:** Thank--

**WILLIAMS:** There is no one following you in the queue if you would like to use this as your close--

**LINEHAN:** OK.

**WILLIAMS:** --on the amendment.

**LINEHAN:** Yes, thank you. So I just-- I want to thank Senator Friesen. So this is a little window into the Revenue Committee. So we don't always have 8-0 votes. The reason I like Senator Lindstrom's idea is something that Senator Friesen just said and this is why our committee works so well together. I have said and I am not a big fan of our incentive packages and I would much rather have lower rates. So my thought on this was you give-- you have-- the Governor has some power to use his judgment and his cabinet's judgment. And I can't imagine any Governor wouldn't consult with the Legislature, at least the Chairman of Appropriations and some others-- Speaker-- and take advantage of an opportunity. Part of-- Senator Friesen mentioned this too. When we were doing the ImagiNE Act two years ago, three years ago

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now, we had a company that got bought by another company and the chances were they were going to move. It was a big employer. I think 6,000 or 7,000 jobs in Omaha, 5,000 jobs in Lincoln. We had to scramble around and put something together. Now, did we have to? What if they left? There was questions. Maybe not, but we did. And my thought process at the time is, what if we're not here? What if the Legislature isn't in session? As long as it seems like we're here, the Governor is here far more without us than with us. So my thought process, Senator Friesen, was-- you're right, this would, I think, be better than an incentive package that is so much paperwork and you got to have 100 lawyers and five-- 50 accountants to figure it out. This gives more direct oversight. And as far as oversight, if a Governor misuses this fund, there's all kinds of oversight. First, you have press. They watch things like this. They're very good at chasing down stories when politicians abuse their power and second, you have the Legislature. If a, if a Governor would misuse these funds, the Legislature would take the money back, take it away from him, wouldn't let him use it again. So again, there's no A bill on this. It's a framework. We can come back next year and monkey with it or move it if we've got better ideas, but I like the idea of starting in a different direction, different direction than our big incentive packages. So again, I would like a red vote on the amendment and then a green vote on LB729. Thank you.

**WILLIAMS:** Thank you, Senator Linehan. Members, the question is the adoption of AM2084. All those in favor vote aye; those opposed vote nay. Have all voted that wish? Record, Mr. Clerk.

**CLERK:** 3 ayes, 33 nays on the committee amendments.

**WILLIAMS:** The committee amendment is not adopted. Returning to debate. Seeing no one in the queue, Senator Lindstrom, you are recognized to close on LB729.

**LINDSTROM:** Thank you, Mr. President. Appreciate the comments today and like Senator Linehan said, we, we had numerous conversations in the Revenue Committee about this. I, I do understand where Senator Friesen is coming from, where Senator Erdman is coming from. I look at this as, again asking myself, how do we compete? How are we competitive? And we've taken steps today with, with reforming some, some taxes. We did a couple of things last year with our incentive package, but what's another thing that we can put into the equation to grow Nebraska? And if you look at states that are doing those things-- and I pointed out Oklahoma. Obviously, what they're doing down there is working. The return on investment on the Quick Action Closing Fund is

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working. The bill itself is not asking for any dollars. It sets up the framework. If this bill passes and next year the Appropriations Committee doesn't feel the need or we don't have any money in the, in the Cash Reserve or any money to allocate to this, no harm, no foul. No money gets allocated. We move along. Senator Bostelman's question, again, this would not be an ongoing ask. I think if it's utilized in the right way, it'll, it'll again have a good return on investment. We can't continue to do the same things and expect a different result and that is clear. And Nebraska continues to lag. We have 60,000 unfilled jobs. We continue to see an outmigration. I see this as a real opportunity to, to-- when an opportunity presents itself, to seize on it. We've had those opportunities over the years. We have, we have companies that are located here that are expanding to other states that offer them these things, that have a better tax structure and we are losing. And this allows the flexibility, when the Legislature is not in session, to close on these deals. And so again, I encourage your green vote on this. If there's other questions that come up between General and Select, I'm happy to address those, but I was open to the amendment-- underlying amendment, but again, it's, it's a constitutional problem. But I do think this is necessary again to, to put another tool in the tool chest to allow the-- ultimately Nebraska to compete and close deals and grow the economy. So I encourage your green vote. I will on this bill call-- have a call of the house and do a roll call vote in reverse order, please. Thank you.

**WILLIAMS:** 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; those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 30 ayes, 8 nays to place the house under call.

**WILLIAMS:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. The house is under call. Senators Wayne, Bostar and Hunt, please return to the Chamber. All unexcused senators are now present. Members, the question is the advancement of LB729 to E&R Initial. There has been a request for a roll call vote in reverse order.

**CLERK:** Senator Wishart voting yes. Senator Williams voting yes. Senator Wayne voting yes. Senator Walz. Senator Vargas voting yes. Senator Stinner voting no. Senator Slama voting no. Senator Sanders voting yes. Senator Pansing Brooks voting yes. Senator Pahls. Senator Murman voting-- not voting. Senator Moser voting yes. Senator Morfeld

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voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator McCollister voting yes. Senator Lowe not voting. Senator Linehan voting yes. Senator Lindstrom voting yes. Senator Lathrop not voting. Senator Kolterman voting yes. Senator Jacobson voting yes. Senator Hunt not voting. Senator Hughes not voting. Senator Hilkemann voting yes. Senator Hilgers voting yes. Senator Matt Hansen voting no. Senator Ben Hansen voting yes. Senator Halloran not voting. Senator Gragert voting yes. Senator Geist. Senator Friesen voting no. Senator Flood voting no. Senator Erdman voting no. Senator Dorn voting yes. Senator DeBoer voting no. Senator Day not voting. Senator Clements not voting. Senator Machaela Cavanaugh voting no. Senator John Cavanaugh not voting. Senator Briese voting yes. Senator Brewer voting yes. Thank you. Senator Brandt voting yes. Senator Bostelman voting no. Senator Bostar voting yes. Senator Blood voting no. Senator Arch voting yes. Senator Albrecht. Senator Aguilar voting yes. Senator Lowe voting yes. 27 ayes, 10 nays, Mr. President, on the advancement of the bill.

**WILLIAMS:** LB729 advances. Mr. Clerk, for any items. I do raise the call.

**CLERK:** Mr. President, before we proceed, I had amendments on that last bill that I forgot to acknowledge to be withdrawn: Senator Matt Hansen, FA150-- 1-- FA150 [SIC--FA159], FA160, FA161. Those are all to be withdrawn.

**WILLIAMS:** Withdrawn.

**CLERK:** Amendments to be printed: Senator Lathrop to LB896; Senator DeBoer, LB922; Senator McCollister, LB709; McCollister, LB344; John Cavanaugh, LB344; and Senator Arch to LB1173A. That's all that I have, Mr. President.

**WILLIAMS:** Thank you, Mr. Clerk. Returning to the agenda, General File senator priority bills, LB543.

**CLERK:** LB543 is a bill by Senator Brandt, a bill for an act relating to trade practices. It adopts the Agricultural Equipment Right-to-Repair Act. Introduced on January 19 of last year. At that time, referred to the Judiciary Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President.

**WILLIAMS:** Thank you, Mr. Clerk. Senator Brandt, you're recognized to open on LB543.

**BRANDT:** Good afternoon, colleagues. Today I'm bringing LB543 for your consideration. I would like to thank the Judiciary Committee for advancing LB543, the Agricultural Equipment Right-to-Repair Act. In January of 2020, I asked a representative of a major equipment manufacturer when farmers and third-party mechanics would be able to fully repair their own ag equipment. They responded that the industry was working to have a right-to-repair available across the country by January of 2021. As of January 2021, nothing had been done so we introduced LB543, the Agricultural Equipment Right-to-Repair Act, which, quote, will allow owners and third-party mechanics the ability to repair agricultural machinery back to manufacturer's specifications, unquote. The hearing was held last year in the Judiciary Committee and after the hearing, the original equipment manufacturers, or OEMs, asked that the bill be held in committee to allow them time to come up with a national solution. We agreed. For the past year, American Farm Bureau Federation and the OEMs have been working on a memorandum of understanding that would create a nationwide right-to-repair policy. To date, not much has been forthcoming. Therefore, I ask that LB543 be advanced from committee and be named my personal priority for 2022. I am asking you to consider a simple bill. This is about securing our food supply. Let me use this example. Imagine a farmer stranded in their field staring at the crop they were going to harvest until a component on the combine failed. They know exactly how to replace it, they have the parts to replace it, and they achieve this in a matter of hours. After the defective part is replaced, they unfortunately do not have access to the software tool that allows a computer on the combine to accept or reboot this replacement component. The producer calls dealership after dealership praying a service technician is available to access the onboard computer and allow the combine to accept this new part. However, no technician is available to make a service call for one to three days. By then, weather conditions could have caused extreme field loss or created conditions that prevent harvests, creating a revenue loss. Adding insult to injury, the implement owner must still pay a dealership to reset the combine's computer after making the necessary repairs himself. The dealership then sends out a technician with a laptop computer to plug into the machine to reset the machine computer to accept the new part. The producer is charged from the time the tech leaves the dealership until he returns, often costing hundreds of dollars. The goal of this bill is to protect competition, not prevent it, as is happening today. Profiteering by OEMs not only affects farmers, but also local ag equipment repair shops that are nonaffiliated with dealers, often known as third-party mechanics. Today, these shops are effectively locked out from completing repairs

they are qualified to perform, repairs they can complete when they are provided with the appropriate manufacturer resources. This creates a monopoly where only dealers fix the equipment they sell and farmers and local repair shops have no competitive resources. While dealers should be able to service their customers' equipment, dealers should not be the only avenue for servicing equipment. Implement owners deserve to have options just as car and truck owners do today in Nebraska. In 2012, one state passed an automobile and light truck right-to-repair act. Because this one state passed a meaningful right-to-repair legislation, the entire automotive industry, Ford, GM, Chrysler, and the foreign car companies, signed a memorandum of understanding agreement that allows owners and independent mechanics access to the digital tools necessary to repair their own vehicles. Nebraska has thousands of independent mechanics running shops throughout the state today because of the car and light truck MOU. This is the reason an owner of a car or pickup or a third-party mechanic can purchase diagnostic repairs from independent auto part stores or tool vendors nationwide. If cars and pickups have the right-to-repair, why can't farm equipment? Farmers in Nebraska have shared stories with me about standing up and being heard on this issue. Because they had the courage to speak up, they tell me they have been retaliated against by the local dealership who refuses to sell them the necessary parts. In Europe, OEMs are required to make repair software available. Americans are buying it there and bringing it back to the states, creating a gray market. LB543 would stop that in Nebraska. The equipment manufacturers, dealers, and farmers are tied together as partners in producing, producing large quantities of high-quality, affordable foodstuffs. Historically, all the partners have worked well together. This partnership has been strained by the reluctance of equipment makers to provide the necessary digital repair equipment. What the people of Nebraska need to understand is unlike the automotive side, where you can purchase repairs from independent auto part stores, ag equipment owners must purchase virtually all repairs from the local dealership whether this bill passes or not. This is aggravated by the fact that there are very few dealers left in the state. One dealer today may own 20 locations because of consolidation. Eventually, we may end up with one dealership for the entire state, essentially a company store. We see this already in the arena of construction equipment. This has had a detrimental effect on competition, particularly in the repair arena. OEMs have had record years making billions of dollars. Ask yourself where does the money come from? Answer: the people who buy and pay for repairs on the equipment sold by these manufacturers. The opponents will say that this will enable owners to delete exhaust systems or chip engines.

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LB543 explicitly prohibits emissions tampering. If this is happening today, then the dealers need to turn in the people modifying exhaust systems to the EPA because they are breaking federal law. As for chipping, if an owner would chip an engine, it would void the warranty. Ask yourself why would anybody do that? The answer is they would not, particularly when large ag engines cost in excess of \$30,000 to replace. Exhaust and shipping issues have been going on for years. This is a smoke screen issue by the opponents. This bill has no bearing on these issues. U.S. PIRG and Nebraska Farmers Union sent out a survey to owners on right-to-repair and it overwhelmingly showed they were in favor of LB543. I have been told by a former mechanic that if the diagnostics are corrupted on a modern tractor or combine that it would take eight hours to upload a replacement operating system. Ask yourself what would happen if we had a cyberattack like what we saw in meatpacking last year? The FBI and Homeland Security are quite concerned about just that. If a nefarious group were to cyber assault our combines at harvest and force them into brick mode, the FBI estimated that 80 percent of the U.S. crop would go unharvested. This would endanger the food security of the United States. Putting the necessary repair tools in the hands of the owners will help alleviate this scenario. Consolidation of farms and dealerships in the state has been going on for decades. Currently, there are 46,332 per the USDA Ag Statistics Service. As for dealerships, we know they have been consolidating down to the point where one dealer may have 15 or 20 locations. Today in Nebraska, there are six John Deere dealers. Farm.com lists 124 total dealer locations in the state. According to the 2017 Census of Agriculture, there are 119,938 tractors, 18,885 combines in the state. As a farmer, I appreciate that dealers still have a presence across the state, but with so few choices, it has reduced competition to the point that farmers are being hurt due to lack of competition.

**WILLIAMS:** One minute.

**BRANDT:** The OEMs have a public relations problem that is easily solved, colleagues. It is time to swing for the fences and pass this bill. This bill has already been given a clean bill of health by an Attorney General's Opinion. I urge you to vote green on LB543 to protect the food security of Nebraska and the nation. Thank you.

**WILLIAMS:** Thank you, Senator Brandt. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Lathrop, as Chair of the committee, you're recognized to open on the committee amendments.

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**LATHROP:** Very good. Thank you, Mr. President. Colleagues, good afternoon. LB543, the Agricultural Right-to-Repair Act, was heard by the Judiciary Committee on February 25, 2020. Committee amendment, AM1800, was adopted on a 6-1 vote, with one member present and not voting. The bill, as amended, advanced on a 5-2 vote. Committee amendment, AM1800 is a white-copy amendment that makes a few changes to LB543 as it was introduced. Many of these changes affect the definitions contained in the bill. The amendment adds sprayers and removes drones and off-road vehicles from the definition of agriculture equipment. In the definition of documentation, language is added to include service that would bring the equipment back to full or upgraded functionality. AM1800 adds updates to the definition of embedded software, as well as adding "or other supplier" to the definition of part. The amendment strikes software program from the definition of firmware. The amendment also strikes Section 2 and 3 from-- subsections (2) and (3) from Section 3 of the green copy of LB543. These subsections would have required manufacturers to provide documentation and tools to disable the security locks and to provide, during the warranty period parts, tools, and documentation necessary to repair the equipment if costing more than \$100. Provisions regarding the immobilizer system are also removed. The amendment rewrites and adds language clarifying that repair does not include these modifications. I would urge your support of AM1800 and a green-copy vote on a committee amendment and AM543 [SIC--LB543]. Just as an aside and as, as an observer in the Judiciary Committee, I'll, I'll offer this as well. We all see people that come in here and come to the Legislature with their unique set of interests and their unique issues when they arrive. Senator Brandt has been a great committee member on the Judiciary Committee and I've watched him, since this bill was introduced, you'll-- in my introduction, I said this was heard in February of 2020. Senator Brandt's been working on this issue almost nonstop since February of 2020 and probably well before that. I very much appreciate what he's done to try to reach an agreement and not have to bring this bill to the floor. And I would, I would strongly encourage you to engage in this subject to support AM1800 and the underlying bill. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Lathrop. Debate is now open. Senator Brandt, you're recognized.

**BRANDT:** Thank you, Mr. President. You all should have a handout on your desk. A two-pager from PIRG. This is the national group that represents right-to-repair. It shows the number of dealerships and what some of the concerns are. In talking with some of the colleagues this morning, they have a little bit of a difficult time wrapping

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their, their head around this and it really should be-- right to digital repair should be the name of this. What you need to be aware of is the ag equipment industry is a very large industry. It's dominated by four or five companies, the largest of which manufactures over half the tractors and over half the combines that one company does. But not all the companies address this the same way. I've got a handout here from AGCO that gives farmers digital repairs-- doesn't give it to them, but it, it makes it-- if you want to see this, they have a program where a farmer can go in and rent the equipment needed. A lot of farmers have reached out to me. Typically, it's, it's-- it addresses maybe a very few of the original equipment manufacturers. I'm going to, I'm going to try and not, not call anybody out on this. You also received a handout on a World-Herald editorial today by John Hansen. This is not just my issue. This is not a Nebraska issue. In 2022, the following states introduce bills on right-to-repair on ag equipment: Florida, Kansas, Michigan, Missouri, Nebraska, New York, Rhode Island, South Carolina, and Vermont. I can-- and I guess I will mention John Deere here for a moment just because it pertains to the right-to-repair aspect. There have been 11 class actions filed against Deere this year, all pertaining to right-to-repair and I've got a list of those here if anybody wants to see them. I want to thank Senator Slama. She asked the Attorney General for an Opinion. I've got that here also if you'd like to see it. The end of the Opinion says-- and I highlighted in here-- the hack-- "Act, however, defines 'repair' to exclude modifications, including changes affecting equipment or engine settings, and prohibits accessing any proprietary software code. These limitations on access and use of repair information would lessen any impairment of such agreements." What the Attorney General is saying is that the software code is not an issue. At the end, he goes on to say even if a substantial impairment exists, "the Act serves significant and legitimate public purposes, including: (1) ensuring the ability of agricultural producers to repair their equipment in a timely manner, which facilitates the broader purpose of strengthening farms and businesses in rural communities; and (2) reducing monopolistic practices in the market for repair of agriculture machinery. Finally, the Act is a reasonable and appropriate means to serve these purposes. We therefore conclude that the Act likely does not violate the Contract Clause." So that's the highlight on that. A lot of people have asked me about data. We excluded data from this bill. Originally, it was included. A lot of people are not aware--

**HUGHES:** One minute.

**BRANDT:** --that data is being continually collected and downloaded from these machines to who knows where. And if you're a landlord and your

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renter has modern farm equipment, that data is probably getting downloaded on your farm. Maybe with your permission, maybe without your permission, but one thing's for pretty sure you are not getting paid for the, the collection of how many acres are harvested or planted on your farm. And yet the person that owns that piece of equipment has to turn around and get software repairs from a dealer. I talked about that. And I guess the last point I would like to make is this: on the car and truck industry, you can go to an O'Reilly's, a NAPA, a lot of different auto parts store and get repairs. In agriculture, you have to go to a dealership to get the repairs.

**HUGHES:** Time, Senator.

**BRANDT:** No matter what-- thank you.

**HUGHES:** Thank you, Senator Brandt. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President, and good afternoon, colleagues. First and foremost, I'd like to thank Senator Brandt for his work with me on this issue, talking me through some of my concerns. It is wonderful to have a fellow rural senator on the Judiciary Committee, especially from southeast Nebraska. That being said, I stand in respectful opposition to LB543 and it's because of the wide-reaching consequences this kind of legislation would have, not just in Nebraska and not just in the ag industry, but nationwide. I support the well-being and economic prosperity of farmers. Nebraska's economy is driven forward by the ag industry. The Nebraska Department of Agriculture reported that cash receipts from farm marketing contributed to more than \$21 billion to Nebraska's economy in 2019. Nebraska's \$5.8 billion in agricultural exports in 2019 translated to a \$1.28 in economic activities such as transportation, financing, warehouse, and production so that's, like, 28 percent return, which is very high. One in four jobs in Nebraska are related to agriculture. Nebraska needs farmers and it is the job of the Legislature to protect them through meaningful and transparent legislation. So farmers and ranchers in Nebraska are not only the economic backbone of our state, but are also critical to the health and well-being of our nation as well as the world. According to the Nebraska Department of Agriculture, Nebraska is the number one beef exporter to the European Union, Vietnam, Israel, Kuwait, and Colombia. The Yeutter Institute reported that in 2018, Nebraska alone exported more than \$1.44 billion of beef. Simply, America needs farmers. The world needs farmers and our duty in the Legislature is to represent and protect Nebraska's most important industry. LB543 is being marketed to benefit farmers by giving them the ability to repair their own machines. So it's no secret that the

machines being used by farmers are invaluable to the industry and are critical to the statistics that I shared previously and the overall success of agriculture in Nebraska. However, the language and marketing of LB543 of just being the right-to-repair is kind of misleading. Farmers already have the right-to-repair. There's a stark contrast between the right-to-repair and the right to modify. The manufacturers of farming equipment such as John Deere have given farmers the tools needed to repair their equipment. The same manufacturers are being held to national standards by federal organizations and could be held liable if the modified machines no longer meet those national standards. There is a safety and reliability component that's a problem within this legislation too. The tractors being used by farmers are constantly changing and manufacturers like John Deere are constantly innovating their products to give farmers the best chance at success and growth. Modern tractors are more than just a mom-and-pop, 1960s, 1970s machine like my dad's 1972 Kubota. They are equipped with onboard computers, cell transmitters, GPS guidance systems, the whole thing. John Deere recently unveiled a fully autonomous tractor, meaning that a farmer can transport the tractor to a field, configure it for its operation, and just operate it on an app on their phone. So this software and work by manufacturers have helped increase productivity, but this has come at the cost of operational control. A farmer, unless he's equipped with some relatively high-level intensive training or education in terms of software coding, doesn't have what's needed to safely repair these machines and get into those systems.

**HUGHES:** One minute.

**SLAMA:** Trying-- thank you, Mr. President-- trying to do so leaves their own personal safety at risk, as well as the safety of their community. We've got a director of precision agricultural strategy and business development stating that one tweak to a modern tractor could cascade through an entire software system and lead to unintended consequences. Tractors weigh as much as 20 tons and run on 500-horsepower engines. Modifying these machines can be dangerous and LB543 does not take these dangers into consideration. All this to say the conversation facilitated by LB543 is a good one and a valuable one and Senator Brandt is pointing out real issues within the industry. We're constantly working, whether you're on the farmer side of this issue or the manufacturer side, to ensure that both sides are happy because we're all, we're all working towards the same goal, which is to grow agriculture in the state of Nebraska. So I'll be speaking--

**HUGHES:** Time, Senator.

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

**HUGHES:** Thank you, Senator Slama. Senator Flood, you're recognized.

**FLOOD:** Thank you, Mr. President. Members, I want to thank Senator Brandt for bringing this bill. This is Nebraska on the front line of an issue that is a nationwide issue, if I'm correct. There are people probably in almost every rural state. There are farmers in America and there are manufacturers in America that want to see where Nebraska goes. And it's best, I think, when the states lead the way and here we're having a conversation about something that is meaningful and will guide the future on many levels. As I see this, there's the right-to-repair, there's intellectual property rights, there's safety, a lot of different angles. I'd like to ask Senator Brandt some questions, Mr. President.

**HUGHES:** Senator Brandt, will you yield?

**BRANDT:** Yes, I would.

**FLOOD:** Senator Brandt, can you speak to where this issue is? Are you dealing with the Federal Trade Commission on this or what would be the governing agency in-- on the federal side that's looking at this?

**BRANDT:** Ultimately, it would be the Federal Trade Commission. When we started this in '21, we were doing this as a state and sometime in mid '21, there seemed to be some, I believe, Congressmen-- maybe your future colleagues-- that have stepped up on this subject and you started to hear a little bit about it at the federal level. There have been-- I do have a complaint, I think, in my pile here that some farm organizations have filed with the Federal Trade Commission on this subject.

**FLOOD:** So ideally, what would happen here is that the manufacturers would reach an agreement with the Federal Trade Commission and the complainants-- the complaining parties, in this case, farmers-- it was your understanding-- I heard in your comments earlier that there was a possibility for that to happen by January of 2021. Describe that process for us and explain what the best outcome would have been.

**BRANDT:** Absolutely. We initially brought this bill for Nebraska Farm Bureau. Historically at their state convention, they had a vote of, like, 178 to 5 to do right-to-repair. They asked me to bring this bill and I agreed. After it went through the committee hearing, the original equipment manufacturers asked us to hold off for a year from introducing and we readily agreed in the hope that American Farm

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Bureau, working with their attorneys and the-- and I cannot remember what the name of the overriding group for the OEMs is-- could come up with a memorandum of understanding or an MOU like what we see in car and truck repair. And to date, that's kind of stalled out.

**FLOOD:** So if we were to pass LB943 [SIC--LB543] as amended by the Judiciary Committee amendment, what would ripple through the United States in terms of the policy?

**BRANDT:** I think using the state that passed the car and truck right-to-repair, there's only been one state passed that and we're all a beneficiary of it because the MOU affects all 50 states. I think you would see them come to the table and it would be resolved.

**FLOOD:** And what year was that car and truck?

**BRANDT:** 2012.

**FLOOD:** OK, and that governs electronic systems and all of the different IT systems in, like, a Buick or a Cadillac or different types of American-made vehicles or all vehicles?

**BRANDT:** It's my understanding that it includes all vehicles that sign on-- all companies that sign onto the MOU.

**FLOOD:** OK. So help me understand the intellectual property rights issues. Are the OEMs basically saying, hey, we develop this software, it's proprietary, we are employing it in our implements that you purchase and therefore, is one of the issues like, hey, this is our intellectual property? Is that--

**HUGHES:** One minute.

**BRANDT:** Essentially, yeah, that, that would be a good way to explain it. With some companies when you buy a half-million dollar or \$600,000 combine, you have what's sitting in front of you. They still control the software component, which I think most farmers are fine with. The problem becomes when it says fuel system or, or something that the onboard computer cannot handle and then you have to go to the dealership to get the digital fix and have them come out to fix it. Not all companies and equipment are the same.

**FLOOD:** Now this is something that we might have to talk again about, but does the farmer purchase a software license for the software or does the farmer outright purchase the software that could only be

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repaired by the OEM? Is this a license that they purchase with a continuing obligation of, like, \$200 a month or something--

**BRANDT:** I--

**FLOOD:** --or what are they actually purchasing?

**BRANDT:** Yeah, that's a good question and I'll have to get back to you on an exact answer.

**HUGHES:** Time, Senators.

**BRANDT:** OK.

**HUGHES:** Thank you, Senator Flood and Senator Brandt. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. President, and thank you, Senator Brandt, for bringing the bill and, and putting it before us today. The last bill before our sine die party so this is going to stretch on for a long time. It's going to feel that way anyway, I think, an, an evil, an evil joke to most of us still here on the floor. I'd like to read testimony from Trevor Mecham from Valmont Industries. Good morning, Chairman. My name is Trevor Mecham. I am vice president of global technology and industry relations for Valmont Industries, representing Valley Irrigation. First off, thank you for the opportunity to be able to address my concerns regarding LB543, Agriculture Equipment Right-to-Repair Act. On behalf of Valmont Industries, then Valley Irrigation and the state of Nebraska, I'd like to first off say thank you for all the public service. As you are aware, the agriculture industry is thriving and it is a business that continues to be at the forefront, influencing many sectors of the economy, both locally and internationally. With the growing population diminishing land available today to feed that population, it's important to understand, understand the current development and the industry and how it will affect our production and distribution of food. So as a third-generation family farmer and a longtime industry professional myself, my career over the past 22 years has spanned the continual changes and advancements in agriculture that we now benefit from today. This, specifically, the advancement in agricultural technology, has transformed many areas of farming, including irrigation. Whether, whether the perspective of a farmer, a participating dealer, or original equipment manufacturer, I have the distinguished, distinguished honor opportunity to be on each side of the table. As you may know, water is the foundation of many agricultural crops in

the U.S. and worldwide. What you may not know is that it also contin-- consumes approximately 80 percent of all the water used in the United States. However, with many consumer technology trends, we have been able to leverage many benefits into our industry that conserve water and energy resources. This also includes automation of center pivots and remote access to turn them on, turn them off, control the flow of water, how much it-- is needed, how much is being used and receive notifications and alerts as to a grower where there are issues regarding machines and even the crop itself. They're the reason why we invest so much time and money into our dealer network, ensuring the proper training and certification is meant to achieve the highest standards necessary for proper functionality. Amongst the thousands of connections growers have, enabling them to control a variety of devices remotely, there are safeguards in place to help assure the necessary water efficiency and power management. Make no mistake, we are advocates for the farmer and we do advocate for the appropriate right-to-repair as needed, as I just did in our-- with our family farm, and looked at-- to serve and save on operational costs--

**HUGHES:** One minute.

**LOWE:** --year over year. Thank you, Mr. President. Still, there were inevitable certain things that we-- that were understood I cannot repair myself without creating more potential risk. As I stated earlier, the evolution of technology is continuous in innovation beyond just familiar sprinkler irrigation and will soon include hardware applications and artificial intelligence, knowing where, when, and how much to spray for pest and disease. Naturally, such applications require higher level, higher level of expertise to troubleshoot. Giving uncertified access to independent third parties who have not gone through the proper certification and training could materially and negatively impact growers' attempt to produce greater yields year after year. From a consumer perspective, I like to say also Apple and--

**HUGHES:** Time, Senator.

**LOWE:** --Android application-- thank you.

**HUGHES:** Thank you, Senator Lowe. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. So on this bill, I've dealt with this issue for several years along with Senator Brandt and I appreciate him bringing it. And I'm going to talk a little bit about some of the issues that we run into in the ag industry. And I went to

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Southeast Community College in Milford. I'm a trained diesel technician and for up until last couple of years, I have had the ability to really fix almost anything on my tractor or combine that needs to be fixed. Once in a while, I do have to call my dealer and have it fixed, but as we've added technology, there are places where I don't even want to go. I do not understand how it works anymore. I have not had training and so as far as me getting into the software of a, of a machine, I would not want to go there because I don't know what I'm doing. So back in the day when I was first started farming and we were buying equipment, I was usually buying used equipment because that's all beginning farmers can, can do. That's all you can afford. And so with every piece of a machine that I bought or equipment, I bought the repair manual and a parts manual and Deere sold it to me. I had that at home. I could, I could use it, but what I didn't get was the, the updates that the-- I guess the dealers have to pay a monthly fee to receive those updates. So I was not in possession of an updated repair manual. So if they had to do flash updates like they can now on computers, they're updated as they see things happening across the country. Dealers can get an updated repair manual that covers that situation, but my dealer has always treated me really well, but the-- I think the big issue in this here is that when you buy a new piece of equipment, it's under warranty for however many years or hours of service. I don't expect to touch that machine. I will call my dealer because they are going to offer the service. I'm going to let them do it. But when that warranty runs out, do I own the machine or do I own a piece of iron that without software is worthless? And so if I can't touch the software or do anything with it, do I own a tractor or do I own a pile of iron? Because these days, without the software, without the computers, without all of that modern technology put in there, that tractor would not run. I could not disconnect things. I could not just bypass wires. It functionally would not run. It wouldn't move. It wouldn't do its job. And so yet the warranty is run out and if I have to call my John Deere dealer to come work on that equipment because I cannot have access to that software, to that computer program that would look at the software to see if I have a problem. So I mean, this is a very complicated issue going forward. So we're at a point in time where if we start to see autonomous vehicles-- and I'm going to-- you can talk about cars, whether it's a Tesla or a, or a John Deere tractor that's fully autonomous. I think we're reaching that point where we're never going to have an independent repair dealer available for cars or trucks or tractors because at some point in time, if I work on-- if-- whether I'm an independent garage or an independent farmer, if I work on an

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autonomous vehicle or any kind of piece of that, if something happens, if somebody gets killed--

**HUGHES:** One minute.

**FRIESEN:** --who's liable? And I think that's where the whole big issue here lies is so many things are tied into this with safety. And if your PTO shaft would suddenly start because of something you did in the software code and you are killed in a farm accident, who does your widow sue? Do they sue the dealer or the manufacturer or is it because you worked on the tractor? Those are issues that we're going to have to talk about here and make people feel comfortable about. But again, it gets to that point where do you own your tractor or do you own a piece of iron? Thank you, Mr. President.

**HUGHES:** Thank you, Senator Friesen. Senator Dorn, you're recognized.

**DORN:** Thank you, Mr. President. Thank you, colleagues, for the conversation this afternoon. I want to thank Senator Brandt for bringing this. Visited with him quite often in the last couple of years, him and other people and Farm Bureau and everybody that's been working on this bill, and attempting to bring something about that. There is an issue out there. There is an issue with something that, generally speaking, farmers who are-- if a farmer could be his own mechanic, he's, he's sometimes a real happy person. And there are many farmers that are tremendous mechanics, probably better than some of them in the dealership, and yet they've decided to farm and go that route. So the issue of repairing or having that ability to do that is not the same for every farmer or everybody out there, but the comments here today, I think, are very interesting to me. I, I agree some with Senator Friesen here about the fact that this is not just a simple issue. I, I re-- compare it to some of the technology, technology issues that we have in our society today. If you look at 20, 30 years ago, our cell phones was a bag phone and now look at what our cell phone does and everything. And when you have issues, a cell phone, generally speaking, they're at the price where you go get a new cell phone. But a tractor or combine out there, we used to think a tractor that was \$20,000 or \$30,000 was an expensive tractor and now we just had a neighbor that bought a tractor; it was a \$500,000 tractor and that's-- he's going to use to plant this year. So when that tractor has an issue, what happens? Does-- who, who takes care of that issue and how long will he be down? Because when we're in the middle of planting season and that tractor goes down and now we are basically under the auspice of the dealer being the only one to repair that and not some farmer or some, I call it, independent mechanic coming and

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helping, sometimes those hours are a lot of money out there in the field or whatever. A little example, last year, we had a-- another neighbor that bought a new tractor, bought a new planter, and he went out to the field to plant, got along fine for several days. Fourth, fifth day, he went out there and the tractor-- and you have to understand the-- on, on the tractor, on the monitor-- on the planter monitor now, we have-- it shows which way the tractor is going, which way the planter is going, and all the rows are planting and what seed population and everything. His tractor was backwards so it wouldn't move because his tractor on the monitor was backwards. It took two and a half days of the dealership and that farmer to work that out so that he could get going again. We talk about all of the-- Senators Slama talked about all of the importance of agriculture in this state and all of the crops that we raise and everything, but when we start having issues like that where now the farmer or the-- a mechanic from the shop isn't able to, I call it, have the, the information from that company to correct those issues in a timely manner to the farmer or to that crop planting in a different time is very, very important. This is something that has evolved over time. John Deere is going to have an autonomous tractor out there. They will have several of them out in Nebraska this year. I talked to a co-op in western Nebraska that has two autonomous sprayers that that's how they're going out and spraying the fields with two autonomous tractors--

**HUGHES:** One minute.

**DORN:** --so-- or sprayers. So this is something that, I call it, won't become less of an issue. This will become more of an issue. And how does it go about to get solved? Appreciate Senator Brandt very much talking about the fact that on the national scale, the American Farm Bureau and many of these are talking. They haven't come to an agreement, yet the car industry could come to an agreement. So I think they'll keep working on it, but I think this is also something we need to be very much aware of as we go forward and the importance of this to the state of Nebraska. Thank you.

**HUGHES:** Thank you, Senator Dorn. Senator Pansing Brooks, you're recognized.

**PANSING BROOKS:** Thank you, Mr. President. So this, this bill is emblematic of the beauty of this Legislature because when I first got here eight years ago, I was voting against the right-to-repair. And then I had a lot of long nights in the, in the Legislature with our whole committee and got to talk to Senator Brandt once in a while about the right-to-repair. And he really gave me a lot of arguments

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and, and I have switched my opinion and I, I do now support the right-to-repair. I understand it better. It's-- I feel fortunate to have had this time with Senator Brandt. A couple of things-- I'm going to read something to you, but I also want to ask Senator Lathrop a couple questions.

**HUGHES:** Senator Lathrop, will you yield?

**LATHROP:** Yes, I will.

**PANSING BROOKS:** Thank you, Senator Lathrop. So I was-- we just heard some information about people being confused about who would be sued. If, if a farmer fixes his own equipment, then who's-- and then is killed, who is the, the widow to sue? And that's not an understanding of causation and negligence so could you explain that a little bit, please?

**LATHROP:** Sure. So if, if you were to repair or if a repair is done on a tractor, we'll say, and the farmer is then driving the tractor down the road and something about the repair causes the tractor to go swerve into the other lane-- I'm just making up an example-- and hit a semi head on, if the repair was done negligently and the negligent repair is what caused the accident, then the person that did the repair. But it's not just you sue John Deere just because you happen to be riding a John Deere tractor when it did something. If there's a manufacturing defect, then John Deere is on the line. But if it is a negligent repair, it's the person that did the repair, whether that's the farmer-- of course, the widow isn't suing the state of her husband-- if it's the farmer, the third party, or the equipment dealer.

**PANSING BROOKS:** Perfect. Thank you. Senator Lathrop. And as a trial lawyer, I just thought he could clarify that more easily than even I. So I wanted to read to you-- thank you for your time, Senator Lathrop. I wanted to read to you the article that was handed out to us: the Midlands Voices: For farmers' sake, pass the right-to-repair. And it's written by John Hansen on April 7, 2022. If and when your car, pickup or truck breaks down, you have repair options. You can fix it yourself, have your independent repair shop fix it or take it in to the dealership. As owners, we decide which option works best for us. Thanks to automotive right-to-repair laws, manufacturers are required to provide necessary repair materials to consumers and independent mechanics. That creates the compensation in the repair market we all benefit from. Because farmers don't have right-to-repair for farm equipment when their tractors, combines, windrowers, or silage

cutters break down, farmers are at the mercy of the dealership. Farm equipment manufacturers use the very same software farmers paid for to lock farmers out of the ability to fix their own equipment or to take it to an independent repair shop. Farm equipment farm manufacturers force farmers to depend on their dealerships at their prices and their schedules. Since there's no competition, the cost of farm equipment repairs is high and the quality of the service is often low and slow. That's an opinion. When farmers get together, they share stories about how much simple-- sensor repairs cost and how long it took for the dealer technician to arrive. During spring planting, summer haying, or fall harvesting lost time amounts to a lot of lost money. After all, it was the sensitivity to limited time that drove farmers and ranchers to buy newer and bigger software-enabled equipment for hundreds of thousands of dollars in the first place.

**HUGHES:** One minute.

**PANSING BROOKS:** I'm going to jump down to one-- another paragraph. "Federal Trade Commission investigators asked for hard data from both equipment manufacturers and right-to-repair proponents to get to the bottom of these concerns. Their report found 'scant evidence to support manufacturers' justifications for repair restrictions.' Instead, the FTC found that 'the specific changes that repair advocates seek to address manufacturer repair restrictions like access to information, manuals, spare parts and tools were well-supported by comments submitted for the record and testimony provided.'" These are the same kinds of arguments that Senator Brandt has given to me over the years to help me understand and change my position on right-to-repair and I wholeheartedly support LB543 and the underlying amendment. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Pansing Brooks. Senator Brandt, you're recognized.

**BRANDT:** Thank you, Mr. President. As a farmer, I just want the damn thing to work. You laugh, but that's the truth. And I mean, that might explain some of my personality here. I don't care about the source code. So essentially what we're talking about with modern farm equipment is this thing here. If this is what it takes to make the tractor go or the combine go, fine. I probably won't be buying one of these things. But we, we-- historically in Nebraska, the mechanics that work in our ag dealerships, a good mechanic to a farmer is worth more than a doctor and it is. And a lot of those guys will work there. It's sort of a starter job. Five years, ten years. Dad gets to be my age, is thinking about retiring. He'll go work with dad for a while

and he'll fix stuff in the shop. And a lot of the neighbors know and like him as a mechanic and they'll take stuff over to him and all those parts still get bought from the local dealership. In fact, I've had dealers tell me they kind of rely on these guys during harvest and planting because there are not enough technicians in the state to service, service us in the heat of the battle. So it's not like everybody's going to run out and spend however many thousands of dollars to buy an agreement to have this thing, but it sure would be nice if that third-party mechanic out there could do this. I think you see a symptom of this when you watch online auctions. In agriculture in the last ten years, we buy and sell everything online. Tractors that are 15 years old, 10 years old are bringing as much as they did new and a lot of that is because they are pre-DEF-- and DEF is the diesel exhaust fluid system-- and that's, that's kind of a problem for a lot of people and we can fix them. They don't have a lot of electronic components on it. And if you don't believe me, go to BigIron or AuctionTime or some of these sites and just look at the history of what this stuff is bringing. It's kind of ironic if you know history. For those of you that don't know, I graduated UNL. I'm a double major: ag econ and mech ag. I'm sort of a techie back then, 1982, on the ag side. I wanted to work for a tractor manufacturer, but those of you around in the '80s understood that the ag economy collapsed and International went bankrupt. Allis-Chalmers went bankrupt. Companies folded, but mech ag is part of ag engineering. Ag engineering in Nebraska runs the tractor test lab. And I know the dealers don't like Nebraska Tractor Test Lab because you have to have a Nebraska tractor test to sell a tractor in Nebraska. That came about 102 years ago in this building because a state representative bought a Ford tractor and it was Ford in name only and this machine was so awful that a state senator-- he worked with the next year, Crozier, passed this law in 1919 mandating that Nebraska have all tractors tested that are sold here in the state and that's still enforced today. And that's sort of similar to what we're talking about is the cutting edge of technology.

**HUGHES:** One minute.

**BRANDT:** Thank you. So with that, let's see, Senator Slama is back. She was asking-- she was saying this would have wide-reaching consequences nationwide. We hope so. We really hope that if Nebraska passes this, that it will bring the OEMs to the table to sign a memorandum of understanding for the entire country and that's really what the end goal is here, folks. So this is not, this is not about the right to modify. That's already happening. The bill's not here. If you're

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complaining about the exhaust system and chipping, do something about it. That's not what this bill is about. Thank you, Mr. President.

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

**BOSTELMAN:** Thank you, Mr. President. I think Senator Dorn and Senator Friesen said it best. This is a complicated issue that's not going to be solved very easily, I don't think. A lot of issues have come up already and I think things need to be talked about some more. I think Senator Friesen-- well, Senator Dorn mentioned the autonomous vehicles coming up. That's a, that's a, that's a serious issue, I think, especially as we begin talking about computer components, command modules, whatever it might be within those motherboards and those type of things and how we interact with that. You know, one thing that, that was mentioned here earlier-- and I, I appreciate what Senator Lathrop said-- I think one of the, one of the challenges with this is that if you are-- if this now becomes part of the equation we're talking about out and, and a local-- the farmer, the hired man, hired woman has one of these and, and does some work on a, a piece of equipment and they do follow technical guidance and they do make changes to fix whatever it is on that, then they go out and have an accident, then who's going to be responsible for it? I think there's, there's a whole lot of things here that, that need to be considered and I think it's something we really got to think about, be careful about. And the MOU at the national level, I know we've talked about this for several years since I've been here. I think every year I've been here, we've been talking about this and the need for it. I'm not saying that there does not need to be an agreement there where, I think, local shops, local people can already do a lot of this, but not all of it, but especially when it comes to safety issues is where, where the dividing line is right now, perhaps. And that's a concern for me on this is that this isn't your old farm model anymore. It's not something you're going to tear apart and, and put back together on your own. There is a lot of technology that are built-- that's built into these-- this equipment today. And yes-- and I agree with Senator Brandt. There's, there's occasions out there where you may be down for some time because you can't get a technician out there, a person out there to get it done. I had a similar incident when I first-- several years ago with, with one of my tractors. We had an electrical issue and I had to have somebody come out and it took us a long time to track that thing down and, and get it fixed. It's not something that can be done easily sometimes and sometimes it does take time. I don't know that this will necessarily fix all those problems. I was at a neighbor's place here just the other day-- no, a couple of weeks ago--

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and he had just bought a new grain trailer and the, and the canopy-- canvas across the top. If you don't know, those automatically roll back and forth. You can do those. Well, the problem was, was it would open, but it wouldn't close. So then they had the technician come out. Technician looked at it, couldn't figure it out. So then they took it back to the manufacturer. They worked on it, couldn't figure it out. Well, part of it was-- they thought was climatic; weather, cold weather, warm weather, whatever it is. So there's issues that deal with, especially when we start talking about computers, electronics, and other things with this equipment, that I think is-- needs, needs to be carefully considered because when we start having individuals-- when, when myself or someone else starts working on a piece of equipment, a tractor, a baler, or a combine, whatever it might be, and you really don't have all that technical skill and knowledge behind it, I think it's a challenge for us to automatic just say everybody can do it because everybody doesn't have that skill. Everybody doesn't have that knowledge. Everybody doesn't have that technology, nor the ability to do that. And I think what's happening now across the country--

**HUGHES:** One minute.

**BOSTELMAN:** --and I think in the state is, is that there is a certain amount of technology ability for you to go out and repair-- work on those vehicles. It's that last bit of information, that last bit of technology now that we're talking about that is being worked on at the federal level. And that's one thing-- when we talk about broadband and mapping, what am I told? Well, the FCC is doing it so we need to wait till they get done because when they do it, it's going to trump whatever we do anyway. Not saying that's necessarily the right thing to do or the best thing to do. In fact, I, I would rather, I'd rather do the mapping myself and not have them do it. But I do believe in this case, there is some significant things so I'm listening to the conversations that are going on. I'm talking to different people here-- that's here or that's in the Rotunda about this. I do think that this is something that's going to take time to look at. I think it's something that we need to have the conversation on. Will this move the, the, the needle at the national level? I don't know if that really will.

**HUGHES:** Time, Senator.

**BOSTELMAN:** Thank you.

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**HUGHES:** Thank you, Senator Bostelman. Senator Flood, you're recognized.

**FLOOD:** Thank you, Mr. President and members, friends all. It is-- this bill, LB543, is, is very interesting and Senator Brandt and I were having a good conversation. One of the issues that I want to delve into a little bit is property rights. That's why I was asking the question about whether the purchaser of one of these tractors, for instance, actually has a license to the software or if they outright own the software. And I'm going to ask Senator Brandt a question in a moment, but I want to just explain my in-- my experience with software. So probably in the late '80s-- I think it was Ray Lockhart. He was the owner of KOGA Radio in Ogallala, Nebraska. He and his son developed a special software that allowed radio stations to play the music digitally without putting it on records or carts or, you know, whatever, reel-to-reel machines. And I was working at a radio station in Norfolk, one of the first in the nation that bought the software. And at that time, it was a beginning company. Ogallala was the head-- you know, the, the pinpoint for the entire nation and his business took off. And when we would have a sound card go down or a malfunction with the computer, there would be midnight runs to Ogallala from all over the country to go to Keith County and get the software because there was only one place to get it fixed and that was the manufacturer because Ray had built the software and it was his intellectual property. Fast forward 30 years and when that happens today-- and by the way, that company that he started is worldwide now, purchased by iHeart Media, used almost in every radio station in the world. And now, within a few seconds, a technician-- used to be in Ogallala. Now you don't know where they're from-- remotes into your computer system, fixes your problem, and we pay a support fee of X amount of money a month. And the reason I raise this whole question is, is this where right-to-repair is going? Is it going to where you hook your tractor or it hooks automatically, data is sent over the Internet, and the manufacturer gets into the middle of your motherboard and determines where it's going? And if so, will this render itself moot? I don't-- as I understand it, it's more complicated than that. Senator Brandt, would you answer a question?

**HUGHES:** Senator Brandt, will you yield?

**BRANDT:** Yes, I would.

**FLOOD:** So you understand what I'm saying, where John Deere, for instance, could remote into someone's combine or their tractor.

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Respond to that for me so I can kind of appreciate what your view is on that.

**BRANDT:** You're about five years too late. That, that already happens.

**FLOOD:** OK.

**BRANDT:** But, but you need the-- you need wireless to do that. And I think you and I and Senator Wayne and Senator Bostelman have had a lot of conversations about broadband and fiber in the state of Nebraska.

**FLOOD:** That's a very good point. Here we are back to broadband, but OK, so if you can remote in and that diagnostic work can be done remotely, where does the right-to-repair come in if you have no barrier back to the manufacturer? And I'm not saying there isn't a need for it, but if they can, if they can diagnose what the issue is remotely, then it's-- I think we're talking about a computer chip or a part here that's, that's connected to the information technology system, the IT system--

**HUGHES:** One minute.

**FLOOD:** --of the--

**BRANDT:** So--

**FLOOD:** --of the tractor.

**BRANDT:** So my understanding is that's kind of what happens today with some manufacturers is you can call the dealership, they've already downloaded or looked at what's wrong with your machine, and they're working with you on the phone to figure out-- telling you to go in and do this or check this or, or maybe it's a fault that you need a part for and they're saying come to the dealership. We'll have the part for you.

**FLOOD:** OK.

**BRANDT:** So what, what you're saying is happening today. It's just not happening across the board.

**FLOOD:** So in a way, you don't need more-- you don't necessarily-- you just want it fixed. You don't necessarily need more repair shops. You need more technicians, regardless of who they work for, to come out and deal with the motherboard of the, of the IT system.

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**BRANDT:** Both.

**FLOOD:** OK.

**BRANDT:** You need more third-party technicians and you need more dealership technicians.

**HUGHES:** Time, Senators.

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

**HUGHES:** Thank you, Senator Flood and Senator Brandt. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. President. Well, thank you, Senator Brandt and Judiciary Committee, for bringing this bill. I always appreciate Senator Brandt usually starts his comments in some fashion like that. I rise in support of AM1800 and LB543 and, you know, like Senator Pansing Brooks, I, I wasn't really-- didn't know about the right-to-repair issue when I first got here and ran for the Legislature and I serve on the Agriculture Committee with Senator Brandt and he's educated me on a number of issues, as have other people in this body about importance-- important issues in agriculture. And one of the things I've learned about is efficiency, that farmers are working to make sure that they can get as much done as they can in the limited window that they have, weather wise and, and timing wise. And so what Senator Brandt talked about earlier is getting somebody out there to actually be able to fix it quickly because you might only have a day where you can be harvesting. And nobody needs me to tell you this, but it just seems to me logical that time is of the essence when it comes to all stages of agriculture production. So I think this bill is important to help farmers do the work they, they need to when they need to do it and not have a hurdle to actually getting things repaired. But I've been listening to the debate and learning and I just had a question if Senator Brandt would yield to a question.

**HUGHES:** Senator Brandt, will you yield?

**BRANDT:** Yes, I will.

**J. CAVANAUGH:** So-- thank you, Senator Brandt. So I've been listening and there's some vocabulary that I just wasn't familiar with. So you talked about chip, chip in, is that the word?

**BRANDT:** Yep.

**J. CAVANAUGH:** And could you explain what that is?

**BRANDT:** Let me give you a little history. On some of the older equipment, like when I was growing up, you needed more horsepower. You turned the screw on the Roosa Master injection pump and, well, you got an old Allis, you can get another 20, 30 horse out of it. OK. So what we've got now is we have, just like your automobiles, computer-controlled equipment and the only way you can get more horsepower out of that equipment is you have to put it a different chip in it, OK? But unlike the old equipment that could take maybe an increase in horsepower, the specifications on the new equipment are so finite that if you have a 150-horse tractor and you're going to jack that thing to 200 or 250 horse, quite often the transmission and the axles can't take that. So what happens is, is it's called chipping. So basically, for lack of a better description, there's sort of a gray market out there that'll come out and switch chips in your machine to give you more horsepower.

**J. CAVANAUGH:** So people are already doing that?

**BRANDT:** Yes.

**J. CAVANAUGH:** And would this bill make that legal?

**BRANDT:** This bill would have really no bearing on that.

**J. CAVANAUGH:** Oh.

**BRANDT:** If it's happening today, it's a problem for our dealers in Nebraska. And here's the problem: somebody chips a machine. They trade it in. It's going to wear out prematurely because it's, it's over horsepowerd, OK? And then you're going to come in and buy this machine and that dealer is on the hook because nobody told them that was chipped. And that is something that probably needs to be addressed somewhere down the road. I think a lot of farmers are honest enough to tell them that, yeah, I had-- in fact, I bought a chipped combine and it was unchipped before I traded in. It works just fine. I've got no issues with that. I was checked out by my dealer. I'm fine with it, but it can cause a lot of mechanical problems.

**J. CAVANAUGH:** OK, so-- well, see, I learned something just now. I didn't know anything about that topic. I appreciate that answer, Senator Brandt. So-- and just to, to be clear that I understand what you said there, this chipping thing is something that is going on that--

**HUGHES:** One minute.

**J. CAVANAUGH:** --thank you, Mr. President-- is, is already happening. This bill does not make it easier to do or harder to do or doesn't really address it in any way.

**BRANDT:** I-- that's not how I see this bill, no. It, it would give you access to the repair-- digital repair tools that you need to make your equipment go back to the original or the manufacturer specifications.

**J. CAVANAUGH:** OK, thank you, Senator Brandt. I would yield you the remainder of my time if you want it.

**HUGHES:** Thank you, Senator. To Senator Brandt?

**J. CAVANAUGH:** To Senator Brandt, yes.

**HUGHES:** Twenty-five seconds.

**BRANDT:** Thank you, Mr. President. That's it.

**HUGHES:** Thank you, Senator Cavanaugh and Senator Brandt. Senator Gragert, you're recognized.

**GRAGERT:** Thank you, Mr. President. Well, I've-- came in about the same-- well, the same time that Senator Brandt came in and I've been pretty much riding this train with him on this right-to-repair. But as I see it-- and I visit with different people on both sides of the coin here-- it all comes down to the software. And I'd just like to ask Senator Brandt a few questions to clarify for myself and maybe hopefully clear some of them.

**HUGHES:** Senator Brandt, will you yield?

**BRANDT:** Yes, I will.

**GRAGERT:** Senator Brandt, is there currently software available for producers and independent dealers to have to fix tractors?

**BRANDT:** It depends on the, it depends on the machine and the company. It's all over the board. Some companies provide it easily. Other companies, the only way you can access it is, is through a dealer. It's really varied right now.

**GRAGERT:** OK, thank you. And what I'm hearing from the very start, the two major concerns of being able to purchase this software and why they don't want you to purchase the software or have full control, the

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two concerns are jacking with the exhaust and/or horsepower. Is that correct?

**BRANDT:** Yes.

**GRAGERT:** So if, if I was-- bought that implement and I used that software and I did do something like that, could somebody track that I've been into that exhaust and/or power-- horsepower with computer technology?

**BRANDT:** Here again, it depends how new the equipment is on the-- if you bought a brand new piece of equipment today, I'm pretty sure they know everything that happens on that piece of equipment. It's, it's downloaded constantly. Maybe not on an older piece of equipment.

**GRAGERT:** So I buy a new piece of equipment. I have a warranty on it and if I did something like that is it, is it-- would this bill make that warranty no longer valid?

**BRANDT:** This bill doesn't affect the warranties. If you do that, you're in-- most cases, you're going to be in violation of your warranty. If you, if you would either chip the machine during the warranty period, I'm pretty sure the warranty would be void and it already is a federal violation to mess with the, with the exhaust systems.

**GRAGERT:** So I go back to and possibly once again if they're able to track this and they know that you've been into those two areas and it's federal law, couldn't that be something like, like we have on if you wreck your car, there's a salvage title on that, that, that's-- you know, you can only buy that car with the owner, the new owner knowing that this, this piece implement has been messed with in those two areas?

**BRANDT:** That's an interesting concept. I, I suppose that could happen, except we don't have titles on farm equipment.

**GRAGERT:** Yeah. Well, yeah, that-- like, like you say, with the technology, things like that could be happening, which would lower the value or make that piece of equipment worthless if somebody got into something like that to, you know--

**BRANDT:** I guess I'd sort of like to flip a question back to a former helicopter mechanic and pilot.

**GRAGERT:** Pilot, not mechanic.

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**BRANDT:** Did you guys have technology when you fixed helicopters?

**GRAGERT:** Well, I was a pilot and I don't know how to fix a helicopter. I just know how to break it. Thank you.

**BRANDT:** Yep.

**HUGHES:** Thank you, Senator Gragert, Senator Brandt. Senator Lowe, you're recognized.

**LOWE:** Thank you again, Mr. President. I just want the damn thing to work. I believe those were your words, right? Senator Brandt, I want my cars to be that way too. My first vehicle was a 1950 Buick and it was beautiful. It was a boat. It was huge, had a chrome grille that went down over the top of the bumper. It was beautiful. I was 14 years old when I bought that car with a buddy of mine who was also 14 years old and we tore it apart and we made it run. We could do that. Senator Brandt, I think if you'd take an Allis-Chalmers 5050 or a John Deere 4040 that you could probably do the same thing and the dealers wouldn't have a problem and you could make that damn thing work. But we're talking about new machinery, computers on wheels. Scott Raber for Titan Machinery had this testimony. Good morning, Chairman Lathrop and the committee. Thank you for this time. My name is Scott Raber. I'm with Titan. Thank you for this time this morning. We're a Case IH, New Holland, Case Construction dealer representing 16 dealerships across the straight-- across the state. They employ 400 individuals in various small towns across the state. First of all, I guess I'd like to say, I'd like to thank the farmers in the room. I myself grew up milking 400 dairy cows every morning-- senator Murman, I think you may have some friends there-- for many of my years of life, so I appreciate what you do. From our dealership's perspective, it was our goal, and I think of any dealer's mission to be partners with our customers to make their lives easier, not harder. Their success and their satisfaction is critical to our success and our satisfaction, our success. I have handed out the service tool that is available from Case IH or New Holland that is very recently available for consumers to purchase, whether that be a farmer or an independent repair shop. I listened to all this testimony this morning and I'm somewhat confused. It seems like there's confusion in the marketplace on what is available, what is not available, what a customer does have the ability to do, what a customer does not have the ability to do. And what I say directly to your earlier questions, Chairman Lathrop, I believe there's a-- well, a poor breakdown in communication on what one dealership offers, that CNH offers and has available in the marketplace. If you do look under the electronic diagnose--

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diagnostic, diagnostic tool portion that I handed out, I think it addresses a lot of the concerns and really consternation that many customers have experienced over time. As the equipment has evolved, we've all had to learn. I guess we are spending a lot of time talking about equipment that's 10 and 15 years old. I can say from our perspective, technology is advancing very quickly. New equipment is not clearly always the answer. But there is a vast and quickly evolving technology that's happening now and we have the ability or our customers have the ability of new machines to repair or see what's happening to them remotely, whether it be from a dealership seat or whether it be from a grower seat.

**HUGHES:** One minute.

**LOWE:** Thank you, Mr. President. I guess in closing, it's our opinion and our hope that we are able to, that we are able to resolve this without further legislation and really address it as market-based solution. Thank you and I welcome any questions at that time. And I seem to recall at one time, that Rolls Royce, if you did any repairs yourself on that car, it voided their warranty. So as the equipment goes up in price, we have to think about that warranty and what it will do if we decide to repair it ourselves or with a third party. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Lowe. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. So earlier, I was talking about what could happen down the road when you have software that you don't own and you have a piece of equipment that depends on it. And it's-- I don't know that we can ever go back to where we could get to when the automotive industry made the switch, but at some point in time, the dealerships and the manufacturers are going to have to realize that third-party repair shops are a good thing and I think they enhance your brand. But when you look at what's available today-- and, and again, I have not gone out and tried to purchase the laptop and the software and the technical manuals anymore because I feel that I'm outdated in my training. But when you purchase a \$450,000 tractor these days and when it's out of warranty or 10 years from now, 15 years from now, if one of the onboard computers fails and Deere says, well, we no longer make it. It was, you know, we didn't sell very many of them so, you know, your tractor is obsolete. We don't have that anymore. Do we have the ability to get the third-party market interested in manufacturing those components that Deere maybe thinks isn't profitable anymore? Or Case IH-- I don't want to just pick on one brand. I'm just saying that one of the manufacturers determines

that after 10 or 12, 13 years. They're not selling enough of them. We just quit handling that and suddenly one of those computers goes down. Do we have-- like in the automotive industry, I think we have third-party manufacturers that make aftermarket parts. You have choices. We don't have those choices in farm equipment manufacturing and so that's, that's what troubles me a little bit. And I don't know if this bill gets there or it doesn't, but somewhere there's got to be this, this middle ground to where we can reach this agreement. And I was hoping that they would have this MOU done by the time we would get to this bill, but it seems like everybody wants to drag their feet and stretch this out. And it is a-- more of a national issue than it is state, but this would push the manufacturers to do something. But down the road, we're going to either have to have what we call maybe a, a third-party market where someone else can come in, but that would require John Deere to share their source code. And I think, you know, there are companies that have sold some software upgrades where you can up your horsepower. And I have a feeling that there are companies that have probably acquired that source code and been able to manipulate it and do this already. But wouldn't it be-- I guess the question is should there be an active third-party market where you have choices to go? Would it be nice to be able to go to an auto parts store and purchase this computer that runs your tractor versus having to go to a dealership? You could say the same about your car. There are third-party manufacturers that make a lot of car parts. Now, as we get into the Tesla, I, I think down the road, Tesla-- and there is no third-party repair shops are ever going to touch a Tesla. There are liability issues there and that's the way it's going to happen with equipment down the road as they are more autonomous. There-- or no one third party is going to ever work on those vehicles. This is a--

**HUGHES:** One minute.

**FRIESEN:** --extremely complicated subject, but I think it boils down to the fact that if there were third-party manufacturers that could have access to the source code when vehicles get 10, 12, 15 years old and all of a sudden, the original equipment manufacturer decides not to make those parts anymore, instead of having a tractor that I can use, I have a boat anchor. I have a pile of junk. And unless, at some point, Deere wants to actively push this idea that there could be a third-party manufacturer that does this, we are going to run into this issue more and more as we go forward. And I wish Deere would address it or the manufacturers would address this issue sooner rather than later. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Friesen. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. Sorry, I would have walked a bit more quickly, but I've got coffee here and a white dress so didn't want to mess that up. Once again, I'd, I'd like to thank Senator Brandt for his, for his efforts on this issue. And I-- as you're listening to debate, I mean, I think it really becomes clear that even, even the senators that are in opposition to this, we're not that far apart from Senator Brandt in the essence of I just want the damn thing to work. I mean, you talk to anybody who has owned any kind of machinery, whether they're a farmer or not, at the end of the day, that's what you want. That's what the end goal is. I just disagree with the means of how we're getting there. I worry that LB543 is-- it's-- it goes beyond just a basic right-to-repair and it turns into a mandate that could really compromise manufacturer, dealer safety. It raises all sorts of questions about liability that have already been raised as in when this tractor that's been modified goes into the dealer for repairs, who's liable when a part blows up in their face and that's, that's a real question. I mean, that's something that's been an issue within the cell phone industry for years. And as tractors start getting that level of technology, you're raising those sorts of safety issues. So I, I just disagree with the approach here. And I think there's a really good reason why an agricultural right-to-repair bill hasn't advanced from committee in anywhere in the United States besides Nebraska. And that's because at the end of the day, Senator Brandt and I are totally on the same page with our end goal. It's that we want a federal memorandum of understanding in place, like the, like the auto manufacturers did in 2012 or 2011, whichever year it was. I just disagree with the route of going on the state legislation side, doing something that is, that is unprecedented and opens a lot of doors for liability, not just in the ag industry, but also opens doors for other areas of tech, like cell phones, like computers. And I think my concerns are pretty well reflected in, in some testimony. A similar, almost identical bill actually was introduced in Missouri. It's called HB 975. And Aaron Porter, who is a, who is a farmer from Missouri testified before their house about HB 975, and it gets to some of the safety concerns, some of the gaps in this kind of legislation, in this kind of approach. So at the end of the day, Senator Brandt and I are on the exact same page. I want a federal memorandum of understanding. We all just want the dang thing to work. If you're sitting in the field waiting for your dealer, your manufacturer for hours on end, come out and do a repair on a piece of equipment that's not working because you threw a code and it's a fuel line code and you know that you can replace a fuel line code on your own, like six hours can cost you thousands of dollars. I see that issue. Coming from a rural district, absolutely I'd wrap my head around that issue all the way. I

just think that a large mandate that raises a lot of questions when it comes to liability, and even though the Attorney General generally disagrees on a violation of Article I, Section 16, and impairment of previous contracts, which you can't do--

**HUGHES:** One minute.

**SLAMA:** --thank you, Mr. President-- under the Nebraska State Constitution. I, I do think there are constitutionality questions that are open here. So I-- since I'm running out of time here, I'll get to Aaron Porter's testimony on my next turn on the mike and that really gets into more of the substance of the issues within these right-to-repair bills, their language. But again, at the end of the day, I see the issue. I respect the issue and Senator Brandt and I, and even the opponents of the bill, we all see the issue. We just take different approaches on how we want to get to that federal memorandum of understanding. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Slama. Senator Williams, you're recognized.

**WILLIAMS:** Thank you, Mr. President, and good afternoon or good evening. Just wanted to take a few minutes, I have-- this is an issue that has been around for a long time. As many of you know, I was on the Judiciary Committee my first two years in the body and in 2015 was the first time I had heard about this when a bill came to our committee at that time. And as I recognize the bill now, there are fairly substantial changes in the bill that, that Senator Brandt has brought forward. The bill that we had back in 2015 covered a lot more than farm equipment, and that was one of the real hang-ups of it. It covered things like the intellectual property with your cell phone, other things that were like that so we had a, a, a lot of concerns about it. And there was an attempt at that time to talk about and, and look for a national solution. And I think that's what Senator Brandt talked about at the beginning of, of his introduction today. And with that, I've got a couple of questions I would like to ask Senator Brandt if he would yield?

**HUGHES:** Senator Brandt, will you yield?

**BRANDT:** Yes, I would.

**WILLIAMS:** Thank you, Senator Brandt, and appreciate your, your work on this issue because it, it is extremely important that we find solutions to these kind of things for our state's number one industry, agriculture. When, when you were talking about a potential national

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solution or a memorandum of understanding, tell me again what, what is the status of that as we sit here in 2022?

**BRANDT:** Well, I'll give you just a little cursory view of what I know. So Nebraska Farm Bureau is a leader on this subject matter, and they went to their national which is the American Farm Bureau and asked them to work on this and they agreed. They hired a law firm that specializes in this to do the work. It went through their process, which is being-- which was the process at Farm Bureau is to be vetted by all the states and or at least a council of, of state presidents, one of which is Nebraska's. And once it went through that process, then they approached the OEMs. And at this point, I know no more on where we're at in that, in that relationship.

**WILLIAMS:** I'm assuming that you would agree that a national solution would be something that would, would help all of the industry, the ag industry, the implement industry, and the manufacturing industry, I think, would all benefit from that. Several of the-- and you talked about how the consolidation of, of dealerships has happened and being, being a banker, I understand consolidation. When I started in, in banking in Nebraska, there were 455 banks in the state of Nebraska. Now we're down to 155, give or take, but there are still as many banking locations as there used to be, they're just owned by people. Several of the dealerships that, that-- well, two in particular that, that I deal with that have green color are on the state borders. And what, what situation would they have if we were to pass this law and they're doing business with customers in Nebraska and customers in Kansas? Is there, is there a problem with that kind of a situation?

**BRANDT:** This is pretty simple. You would bring a civil action to the-- it would go to the AG's Office and the AG would rule on it. So I doubt anybody from Kansas would have standing. So I, I think it would be just limited to--

**HUGHES:** One minute.

**BRANDT:** --producers in Nebraska.

**WILLIAMS:** So a dealership wouldn't have to gear up and, and act differently with Nebraska customers than they would their Kansas-based customers?

**BRANDT:** I don't believe so. I'd have to find out and get back to you.

**WILLIAMS:** OK. And I know we're running out of time, the, the other questions that I have if I'm back on the mike I want, I wanted to talk

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a little bit about the issues with emissions, safety equipment, and, and voiding or not voiding warranties and how that would all work under this bill. But we can do that again at another time. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Williams and Senator Brandt. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. President. So different than 35 other people, I've been here all the time listening. And this is peculiar, Senator Brandt, very similar to the day I had my epic consumption tax up there, nobody in the room. So for those of you back home, it's like a weekend here. And that's disheartening, because there's information to be shared here that needs to be heard by people. And I understand that, but I have a few questions for Senator Brandt if he would yield?

**HUGHES:** Senator Brandt, will you yield?

**BRANDT:** Yes, I would.

**ERDMAN:** OK, Senator Brandt, so let's say today we pass this and this becomes law. Does this force those implement dealers, those manufacturers to give us the codes and the things that we want?

**BRANDT:** No.

**ERDMAN:** So tell me what happens?

**BRANDT:** It, it gets back to the one-liner, the one-liner is it would allow owners and third-party mechanics the ability to restore equipment to manufacturer specifications. And I know that's vague. It would be impossible to write a bill that encompasses all the possible scenarios with all the codes and all the computers and all the, the what-ifs out there, and we chose to keep it, keep it simple for that reason.

**ERDMAN:** OK, so then this passes and then the local mechanic would be able to get the proprietary information they need to make the repairs. Would that be correct?

**BRANDT:** They, they would be able to purchase that, yes, the bill as it was originally written and we took the language out that said that the dealer had to provide that and--

**ERDMAN:** OK.

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**BRANDT:** --kind of read free of charge. But no, so we removed all that language.

**ERDMAN:** OK, so what happens if they don't and we pass the statute and they say that's proprietary information, we have a patent on this, we don't have to share this with you, then where do we go from there?

**BRANDT:** You would, you would file an action with the state Attorney General.

**ERDMAN:** OK, so if we're the only state that does this, is that a problem for us?

**BRANDT:** Part of our motivation for doing it this way was what happened in the car and truck industry where one state did this and what really strikes the fear a God into a manufacturer is not the first state, but the second state. Because now let's say Missouri and Nebraska both passed a law and they're a little bit different, now that original equipment manufacturer has to do two different things. And then the more states, every state law is going to be a little bit different. So it's to their benefit to have a national memorandum of understanding.

**ERDMAN:** So I think early in your comments, you made an explanation of the tractor testing lab we have here. Correct? Is that right?

**BRANDT:** Yeah.

**ERDMAN:** And so if I'm going to sell-- if I'm a manufacturer and I want to sell a tractor in Nebraska, does it have to go to that, to that testing lab first?

**BRANDT:** Well, historically it did, and I may be incorrect here, but I think it had to be like over 100 horse. There was a horsepower limit in Nebraska. If it was below that, you could use the manufacturer's stated test. But the Nebraska test would verify what the manufacturer was saying.

**ERDMAN:** OK, so, so could the manufacturer say because of the stipulations in Nebraska, I'm not going to sell any equipment in Nebraska? Could they do that?

**BRANDT:** Not only could they do that, they have done that. I farmed with Allis-Chalmers for years, and there were certain models and transmissions that were not sold in Nebraska because they didn't manufacture enough and they didn't feel it was worth the cost of the test.

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**HUGHES:** One minute.

**ERDMAN:** OK. So if that happened here, we may find a manufacturer not even sell equipment to us. Would that be fair?

**BRANDT:** That would be a stretch. There-- you know, Nebraska has a very large ag economy that if somebody is unwilling to sell something here, trust me, somebody else will step in and sell it.

**ERDMAN:** OK. Thank you for answering my questions. Appreciate it.

**HUGHES:** Thank you, Senator Erdman and Senator Brandt. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. President. There's been a couple of things talked about here tonight that I think we need a little more explanation, and I, and I did ask some of the manufacturers about it specifically. And we're talking about EPA controls and why not give them if you give them the codes, then, you know, why can't you fix it? And then if something's wrong on the, on the emissions, well, then it's on you. Well, that's not how EPA sees it. This is how it's been explained to me is the EPA holds a manufacturer responsible for those emissions. So even if, even if I was the one who went in and adjusted the emissions side of things where it was out of compliance, that would still go back onto the manufacturer. So that's an issue that when we start talking about given specific information, computer codes, those type of things, that's a challenge with that is that the EPA doesn't-- the EPA isn't going to come back to me and say, and say, you're, you know, you may be, you may be the one that did it. But ultimately, the manufacturer, whoever that manufacturer is, they're the ones that are held responsible for that. And they're the ones that have to make sure that no one does any adjustments on that to take them out of compliance. I think that's important for us to understand. And that, and that goes to the complexity of things that we're talking about before. Currently, the diagnostic software is available on most all the manufacturers so you can download the diagnostic systems. You have to pay for them. But sure, you can download that diagnostic software in order to use on your machine to figure out what is happening to it or your local mechanic, your local shop. They can have that diagnostic equipment or that diagnostic computer program to identify what it is. And majority of the things is, is what I'm being told the majority of things, failures on, on equipment is, is not necessarily computer. So if you can diagnose the issue, majority of, of the issues that we have is going to be something you can repair. You can fix. So we really don't have-- I think the, the stick has

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moved significantly over the last few years as to what you as an individual can do with your equipment as newer equipment come up, you know, Senator Dorn spoke about it a little bit ago. I'll talk about that again. As we get into self-propelled or autonomous-type vehicles, turnaround at the end of the row, whatever it might be, you know, that's getting into some more significant computer software that's going to be needed. And, and, you know, I'm not so sure that's something that on without specific training being done and schooling being done through the manufacturer that's certified, I think when you talk about cars and, and automobiles and trucks like that, there's, I think it's ASCE, or there's certain certifications you can go and get. And perhaps that's exactly where this could go. This is the direction this needs to go is that those shops that are out there, those mechanics that are out there, they can go out and get certified, go to specific training to get certified on this equipment to work on it.

**HUGHES:** One minute.

**BOSTELMAN:** The question came up with a little bit with parts, where the parts come from? I think that's probably an issue that is being dealt with as well as, you know, you want to make sure you get the right parts. Who's going to do this? Is the manufacturer going to bring those out or a third party? Right now, I think it's the manufacturer, the one that, that needs to or has those parts out there. And so those are things that as they're talking about at the, at the federal level, those and that MOU, those are the things that they're talking about right now. How does that happen? How do, how do our local technicians, our local mechanics, local shops or our-- ourselves or our hired, hired hands get certified in this equipment? You can download it. You can diagnostic. You can, you can find out what's wrong with the machine and you can repair most of it now. But I think to go that next step, as we were talking about before, if this is, if this is a piece of equipment--

**HUGHES:** Time, Senator.

**BOSTELMAN:** Thank you.

**HUGHES:** Thank you, Senator Bostelman. Senator Dorn, you're recognized.

**DORN:** Thank you, Mr. President. Thank you, guys, for the conversation. It was a little bit interesting listening there when Senator Erdman was talking to Senator Brandt about our tractor test lab here, that in Nebraska which is, I call it, world renown or world known and the ability that they have out there and all that they've done. But I know

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Senator Erdman asked the question of why would somebody come and do that or why wouldn't they do that? Well, I call it, if the profitability is there, they're going to want to do that and be here in Nebraska. And I think Senator Slama early on, I don't remember the exact numbers, but she talked about the amount or the stuff that we all do in Nebraska. We are, I think, third maybe in corn production and we rank up there high in bean production, which requires all of this type of equipment. This right-to-repair then becomes involved in that as we talk about it. And as I've grown up over the years and we grew up with-- well, my dad started farming with horses. I started with, I call it, tractors without cabs. And today we are at the stage where if you wanted to buy a tractor or a brand new tractor that most people would use to pull the size of equipment we have today, you're talking probably a minimum of \$300,000 to \$500,000. And if you're looking at a combine, you're looking at probably for all the combine and the heads, if you're looking at list price, you're looking at over \$500,000. Some of those-- the-- one of the equipment dealers, the brand new combine they came out with listed for over \$1 million. So it, it-- we've had some good discussions here tonight, and Senator Flood, I really enjoyed some of his questions and thoughts on it's not only in the farming industry, but it's also in, I call it, the radio industry and how we've evolved over time and where we've come from 20, 50 years ago and where we are today. Why is this important about the right-to-repair today? Because we have gone slowly down a path where it has become very, very challenging for some of these farmers, some of these people that, I call it, are their own mechanics or a neighbor mechanic and getting that equipment repaired. And as we, I call it, I always like to talk on the mike here and, and when I talk the finances looking out there two years and five years and ten years, and I guess the question I have, where will we be at in ten years? What will this look like? Will this be, everybody has to bring everything to the local dealer or will there still be some availability or some, I call it, possibility of having a repair shop in the area or a neighbor repair shop? There's a little bit about the, the auto industry. Senator Brandt talked about in 2012, they-- I forget which state, I think Massachusetts or somebody passed the MOU and then what that's evolved in the car industry. Well, most places, our town, most little towns have a auto repair or a car repair facility. The one in our town, people often complain about he has too much business. He has to park cars along the street where he shouldn't park. So that has-- that part has still gone on and they are able to work on many of these vehicles and they are able to, I call it, repair many of these cars. So that part has evolved. And then why or how comes or what has been

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the hang-up of, I call it, bringing in the farm aspect of this into that right-to-repair or that same type of MOU?

**HUGHES:** One minute.

**DORN:** And where is the holdup or where is the hang-up of why this isn't progressing or progressing at the rate or coming to something like the auto dealers or the car makers have or whatever? So it's been a very interesting discussion in the last couple of years and to see where Senator Brandt brought this bill originally, where we are at today. And to just to have this discussion on the floor for me has been very, very exciting and I will yield the rest of my time back to the Chair.

**HUGHES:** Thank you, Senator Dorn. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. President. And I was just thinking as technology advances, so does the, so does the automobile industry. What do we do about Tesla? Can you take a Tesla into a third-party dealership to have them fix the motor, the battery? I don't think so. As Senator Moser just said, if you stick a screwdriver into that place in the wrong place, you could send yourself to orbit. So I'd like to continue reading of, of the testifiers. My name is Mark Hennessey. I'm the president and CEO of Iowa-Nebraska Equipment Dealers Association, and you've heard from two of our members about association here today. I think we are all in this room and trying to accomplish the same thing. And I do believe that on this legislative floor. We don't want to have a producer unable to operate their equipment in the field. We want them to be able to harvest. We want them to be able to plant. And if they want to be able to repair their equipment, we want them able to-- and we want to be able to support that repair. We are all after the same objective. The question you raised earlier, earlier, Senator-- and I'm not sure which senator raised this question, was that there aren't, they aren't aware that they can already do this. I think when you hear and what you've heard about our products that are currently available in the market today, producers can buy diagnostic tools, equipment software subscriptions, much the same as an independent repair or dealer themselves, this is available for them to be able to do themselves if they wish. The question becomes why, why aren't they doing this? Well, they can if they desire. They can if they desire. So they already can do this. It really does boil down to the awareness of the issue. Are they aware that these tools exist? Why are we needing to have legislation for something that's currently on the market today? So I think the crux of the matter is to crystallize it as to how we create better awareness. Do we do that through legislation or

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we do-- or do we do that through communication? What is the best way we can accomplish this objective? Because we are all after the same thing, and that's trying to make sure that our producers in Nebraska can be able to plant 24/7 or whatever schedule they want to be able to get their crop in the field or harvest on time. That's what our producers want to have. That's what our dealer, our dealers are striving for. That's what the OEMs have been able to provide those tools and diagnostic capabilities for all of us to be able to do. So I just want to close that we're all after the same objective. We don't believe we need to have legislation to accomplish the ability to the right-to-repair because the products are available on the market today. We don't have legislation to be-- to create awareness. That's the challenge that we have to do and we have to do a better job of it. But that's where we really like to be able to step up and make sure that we are looking at this bill from the lens of are we doing the thing right? And if, and if we can improve, we certainly are open to that. We don't think legislation is needed--

**HILGERS:** One minute.

**LOWE:** --thank you, Mr. Speaker-- we don't think legislation is needed in order to get that accomplished. So I think what the dealers and the association is saying is this is already out there that the producers can repair the vehicles themselves. They just have to pony up and buy the software or buy the equipment to do it. So do we need this legislation? Senator Brandt, I thank you for bringing the legislation making us become aware of it. And that we need to continue to bring awareness to the producers out there that they already are able to do this. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Lowe. Senator Aguilar, you're recognized.

**AGUILAR:** Question.

**HILGERS:** The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

**CLERK:** 13 ayes, 5 nays to cease debate, Mr. President.

**HILGERS:** Debate does not cease. Returning to debate. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. Good evening, colleagues. I'm going to get back to where I left off on my last turn on the mike with Aaron

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Porter's testimony before the Missouri House on HB 975, which is almost identical to LB543. And he's a, he's a farmer. He has a lot of experience in this field. So I do think this testimony is valuable because it hits on a lot of the key issues and concerns I have with the route that LB543 is taking. Again, Senator Brandt and I are on the same page about the federal MOU. I think it absolutely needs to happen. And he has pointed out an issue that is very real and very expensive for our farmers. I just again disagree with going about it through LB543. So this is Aaron Porter's testimony: Chairman, members of the committee, my name is Aaron Porter, and I'm a cotton, corn and soybean farmer from Dexter. I've been farming in Stoddard County now for 20 years and have owned, operated and maintained farm machinery just as long. I oppose HB 975 and would like to take a moment to share why I believe it is wrong for Missouri's farmers. I support every farmer's right-to-repair and maintain their own equipment. However, HB 975 has gone far beyond right-to-repair. If it were simply about the right-to-repair, it would be unnecessary because the ability exists today for me as a customer or an independent repair person to purchase the same diagnostic equipment, software and wiring harnesses that John Deere dealers purchase for their factory-trained technicians. After talking to my local dealer, I found out that for a fee and a yearly subscription anyone can diagnose and repair a wide array of John Deere equipment complete with periodic software updates and IT support. In preparing for this committee hearing, I wanted to make sure that what I am telling you is true so I looked into it. I called three dealerships from three different owner groups in southeast Missouri and found that I needed-- that, indeed, I could obtain the capability to diagnose and repair my own equipment if I so choose. However, diagnostic data is not all HB 975 seeks to access. The bill is written so that equipment manufacturers would be required to divulge embedded code, code that even factory-trained technicians at your local, local dealer does not have access to today. This code would allow the user to manipulate performance and safety parameters for the equipment they are servicing. This manipulation of a tractor, for example, would result in several possible outcomes that would have safety, liability, and equipment value implications. I would like to share a couple examples of two possible scenarios. These are real, and I promise you will result from such access being granted regardless of what the proponents of the bill will tell you. A practice common in the diesel pickup world known as chipping or tuning would be possible and probable if this legislation passes. This practice generally increases horsepower to levels that cause powertrain failure and defeats emission control components that result in a violation of federal law. Several problems arise with the manipulation of this nature. First,

there are no physical indicators that express an alteration of code has occurred. Farm equipment manufacturers spend millions of research and design dollars to build tractors capable of handling the power they produce. When tractors under heavy load put out more power than the drive train can handle, components tend to fail. This, I believe, will have a negative impact on the value of used equipment. Unless a buyer knows a seller, how can they have the confidence they are not buying a piece of equipment that has been manipulated and abused? Secondly, there is a lia--

**HILGERS:** One minute.

**SLAMA:** --thank you, Mr. President-- there is a liability issue that arises with such a manipulation. If an owner of a tractor violates federal law by disabling emission controls and trades that tractor and then the buyer of that tractor is caught with a tractor out of compliance, who is liable? Remember, there is no visible way for the new owner to identify that a manipulation of code has occurred. Guess who will be paying a very hefty fine? I'll continue with the second point on my next turn on the mike. Thank you, Mr. President.

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

**SANDERS:** I yield my time to Senator Slama. Thank you.

**HILGERS:** Senator Slama, 4:55.

**SLAMA:** Thank you, Senator Sanders. I appreciate that and I appreciate the discussion on LB543. I'm really grateful for these ag-related days. We don't get many of them unless we're talking about property taxes, so to have an ag-related bill and to be able to have so many of the farmers on the floor share their expertise and some of their concerns and points of support for LB543 is good for me to see. So continuing on with Aaron Porter's testimony before the Missouri House on HB 975, which is very similar to LB543, it's-- I was about most of the way through. So I'll just wrap that up on this turn on the mike and ask Senator Hughes if he's available for a question. Just giving him a heads up. Another potential scenario involves a real annoying safety feature of harvesting machines, a feature I may add that has saved countless life and limbs. Operator presence sensors in the seat of combines and cotton picker sense that their operator is seated and in control of his or her machine. If the operator gets out of the seat, the machine immediately disables harvesting operations. This feature is present to reduce the potential for the operator to injure themselves in the various moving components on the harvester in its

row units or header. Manufacturers build these safety features and others into their products making them safer, making them safer to operate even though many operators may find it annoying or cumbersome. This is a feature that if this bill passes can be overridden and accidents will happen, threatening the safety of the operator and those it will follow during the life of the machine, decreasing the safety of the machines and increasing liability for the farmers that own them. These are just a few of the several examples I could share with you today on the negative implications for Missouri farmers if HB 975 passes. I urge the members of this committee to carefully consider this proposal, and I appreciate the opportunity to provide input for the committee's consideration. And Mr. President, I'd like to see if Senator Hughes would be willing to yield to a question?

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

**HUGHES:** Of course.

**SLAMA:** Thank you, Senator Hughes. So what are your thoughts on LB543? I want to make sure that you as a, as a farmer on the floor, an experienced farmer on the floor, had a chance to share your thoughts on this.

**HUGHES:** Thank you, Senator Slama. I appreciate that. I am opposed to LB543 and there are several reasons. It's been a good discussion and while I was in the Chair, I do have to pay attention to everything that's being said and I, I appreciate all the different points of view. But trying to compare today's farm equipment with cars or pickups, that's apples and oranges. You know, cars and pickups get us from point A to point B. Farm equipment, whether it's a combine or a swath or a tractor, there's a lot more involved. It's not only getting us from point A to point B, but it's doing a lot of work in the meantime. If you take a combine, there are multiple computers on that combine and there are a lot more moving parts. You know, it's not only stripping the crop from the head or from the plant, it's thrashing that crop, managing the residue, cleaning that crop, storing it until it can be off-loaded. There's a lot of different operations that are going on at the same time. So being-- comparing cars and farm equipment is not even close to the same thing. On one of our tractors, you know, the tractor is pulling our implement from point A to point B across the field, but we've got three to seven different hydraulic outlets hooked up doing many different things. It's driving the planning devices, driving the fertilizer--

**HILGERS:** One minute.

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**HUGHES:** --pump, it's driving the, the transmission and all that is being monitored at a different-- on different monitors at different rates that are doing different things. So this is very complicated equipment, and I'm very appreciative of the manufacturers of the millions, probably hundreds of millions of dollars that they've invested in this technology and they deserve a return on that. And as a farmer who takes advantage of those opportunities that modern equipment gives us, I am very appreciative because it allows me to be much more effective, much more productive. And that's been the driving factor. We don't have farm kids like we did, so each person on the farm has to do more. And the way we do more is by buying modern equipment that allows us to do more with less manpower. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hughes, Senator Slama, and Senator Sanders. Senator Williams, you're recognized.

**WILLIAMS:** Thank you, Mr. President. I think Senator Hughes is on a roll. I'll just yield him my time.

**HILGERS:** Senator Hughes, 4:52.

**HUGHES:** Thank you, Senator Williams. I do appreciate that. I, I, as I said, I've been in the Chair for quite a while and have wanted to weigh in and got, got here as quickly as I could. But as a, I'll call it, significant-size farmer, we do have multiple pieces of equipment that-- and we are very frustrated when something breaks down. I mean, I, I am not someone, you know, I like new paint because when I want to work, when the window of opportunity is open for me to harvest or plant, I want that piece of equipment to go. But if you're a farmer that's having trouble with your dealer and your equipment's down for two or three days, you better find a different dealer or you better find a different piece of equipment. There's quality equipment out there. Yes, it does cost, but you've got to be able to keep up with the times and make sure that you have got the support network. Senator Dorn has talked about the price of equipment, and he's somewhat low in some of his estimates of what today's equipment costs. But that goes back to how much productivity we have and that productivity costs money and our manufacturers have invested hundreds of millions of dollars in that technology. And one of, one of the pieces that I really marvel at is our satellite guidance. You know, we have guidance for all of our equipment. You know, God forbid the guidance goes, goes down, nobody knows how to drive anything anymore. But that convenience, that value comes at the end of the day because if you're driving, concentrating on going straight after eight, ten hours,

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you're wore out. But if you don't have to concentrate on that and the machine is doing it for you, you've got 10, 12, 14 hours that you can be in that piece of equipment and not be as drained at the end of the day. And you are more productive because you can concentrate on the operation that you're doing, not on where you're driving, not keeping that straight line. You can analyze the rest of the machine. On our combines, we've got opportunities to shift things on the go and that's incredible technology. But that takes computerization and getting back to the point where car dealers, mom-and-pop auto shops can do these changes. It's apples and oranges. Downtime is very, very expensive, and we've been frustrated. We had one of our combines down for a couple of days this last harvest. I-- corn harvest, I believe, because there was a part missing, that was supply chain issues. Our, and I'm not going to say what color we drive, but the color we have, they do a very good job of servicing their customers. Our local dealer does a very good job of making sure they've got quality mechanics and they pay them well. And yes, we do pay a large bill when it comes for those mechanics to come to our operation. But what is our time worth? That one combine that we've got today does more than three did when I was a little kid, that's two less individuals that have got to be out there, and it's certainly a lot nicer place to work with the cabin air conditioning and radio. You're not sitting out eating dirt for ten hours a day.

**HILGERS:** One minute.

**HUGHES:** What is that worth? What is that worth to today's farmer? We are the most efficient farmers in the world in this country because we have the technology that our equipment manufacturers have invested in to help us be that way. We are not the least cost operators, producers in the world because our infrastructure and our government regulation causes our cost to go up. But we are the most efficient operators and that's something to be very proud of. We have the most abundant, safest, cleanest food supply in the world, and that's something we should be proud of. And that's not just the farmers, that's the equipment manufacturers, that's the truckers, that's the railroads, that's everybody. It takes a lot of people to make this thing work. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hughes and Senator Williams. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. This has been a concern of mine, I know that-- I talked to Senator Friesen, he said he had bought a \$1,200 part, put it in his combine himself, and then the combine gave

an error that it was a foreign part, couldn't be repaired until the technician authorized it. And so it is a-- this is a concern, I can see I've got an independent mechanic in my home town that I hope he still can get access to these, but I'd like to yield the rest of my time to Senator Brandt.

**HILGERS:** Senator Brandt, 4:20.

**BRANDT:** Thank you, Senator Clements. I'll probably be the last speaker on this, so everybody in the room knows what's going on. We've had a very productive discussion. It looks like this is going to get filibustered. That's just the way it goes sometimes. But we might be bringing this back next year. I guess my interest is we had a very robust discussion about technology and agriculture and in Nebraska that's critical. Hopefully, some of the people out there got the message that we aren't going away. So a lot of this had to deal with source code or intellectual property theft. This bill's got nothing to do with that. This bill is basically about getting the equipment to work. Farmers out there have been lockstep with the dealers on working together. I can tell you if you have a monitor that takes cables or if you have a guidance system that needs work, it's, it's a team effort. And this is, this is not an attack on the dealers. This is not an attack on the OEMs. This is just sort of shows mission creep. There are certain original equipment manufacturers out there that have made it very, very difficult to work with farmers and other ones have been outstanding, and this kind of was to level the playing field. It doesn't look like we're going to get a shot on that, and, and that's fine. For those of you that are interested, when I opened I did mention that there were 11 class action lawsuits against John Deere. All of those were filed this year by farmers. You can look it up online. I've got one here. It's 48 pages. It does an outstanding job of outlining what the problem is. I would guess that down the road, these will be consolidated into one class action, so maybe farmers need to be aware of that. Data, we talked about data. We hit a little bit on cyber. So this is the world we live in today. If something would happen to our satellites, think how many planters or tractors wouldn't be able to go forward. We don't use markers anymore, we use satellites to plant with. And if we're getting to these autonomous tractors and, and a lot of our cars and stuff like that, guys, we lose the satellites, you're going to be SOL. That's, that's a fact of the matter. So anyway, with that, thank you, everybody, for-- what-- thank you, everybody, for all your help on that, and I'll give the rest of my time back to the President.

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**HILGERS:** Thank you, Senator Brandt and Senator Clements. Mr. Clerk for items.

**CLERK:** Mr. President, explanation of vote from Senator Machaela Cavanaugh. Series of name adds: Senator Vargas to LB721; Morfeld, LB852; Slama, Wishart, Brewer, Blood, Briese, Williams, Jacobson, Moser, McDonnell, Kolterman, Lowe, Gragert, Dorn, Aguilar, Clements to LR427. Mr. President, Senator John Cavanaugh would move to adjourn the body until Friday, April 8 at 9:00 a.m.

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