

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 18, 2026
Rough Draft

KELLY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-eighth day of the One Hundred Ninth Legislature, Second Session. Our chaplain for today is Senator von Gillern. Please rise.

von GILLERN: Thank you, Mr. President. Colleagues, please join me in an attitude of prayer. Lord, watch over us today as we do our best to serve you and to answer the call in our lives to serve Nebraskans. Give us clarity, wisdom, discernment, and supernatural energy as we go through the remainder of this session. Be with family members as we're apart, be with those who are sick and in need of your healing, be with the poor and the downtrodden and let us never forget them in our work. Remind us of the idealism that we all arrived here with and don't allow us to become cynical or embrace futility. Keep our eyes on you as we do our best. Holy Spirit, we invite you into this place and ask that you reside here and may the peace you bring be felt by all who work and visit. On a personal note, I have a family member who's nearing the end of their life and I found it serendipitous that today's verse of the day in my app was this one, 2 Timothy 4:7, "I have fought the good fight, I have finished the race, I have kept the faith." May we all run our race well, Lord. In Jesus' name we pray. Amen.

KELLY: I recognize Senator Hughes for the Pledge of Allegiance.

HUGHES: Colleagues, please join me in the prayer, or in the pledge. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

KELLY: I call to order the twenty-eighth day of the One Hundred Ninth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

KELLY: Are there any corrections for the Journal?

CLERK: I have no corrections this morning, sir.

KELLY: Any messages, reports, or announcements?

CLERK: There are, Mr. President. Communication from the Governor: Engrossed LB203, LB437, LB668, and LB716 were received in my office on

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February 2 [SIC], 2026 and signed on February 17, 2026. These bills were delivered to the Secretary of State on February 17, 2026, signed Sincerely, Jim Pillen, Governor. Additionally, your Committee on Enrollment and Review reports LB1001, LB720, LB745, LB940, LB1022, LB748, LB924, LB956, LB749, LB771, LB743 as correctly engrossed and placed on Select File. Additionally, notice of committee hearings from the Judiciary Committee. Communication from Senator Holdcroft designating LB1235 as the General Affairs Committee priority bill. LB1235 as a General Affairs Committee priority bill. Letter from Senator Sorrentino designating LB1100 as his personal priority bill for the session. LB1100, Senator Sorrantino's personal priority bill. Communication from Senator von Gillern concerning Revenue Committee priority bills. The Revenue Committee has designated LB803 and LB901 as the two committee priority bills for the session. Additionally, communication from Senator von Gillern designating LB1165 as his personal priority bill for the session. Senator von Gillern, LB1165, personal priority. And communication from Senator Dorn, as Chairman of the Legislative Oversight Committee, designating LB1155 as the Oversight Committee priority bill for the session. LB1155, Oversight Committee priority bill. That's all I have at this time, Mr. President.

KELLY: Thank you, Mr. Clerk. Senator Moser would like to recognize the physician of the day, Dr. Kip Anderson of Columbus. Please stand and be recognized by the Nebraska Legislature. Mr. Clerk, please proceed to the first item on the agenda.

CLERK: Mr. President, Select File, LB795. When the Legislature left the bill pending was a motion to reconsider a bracket motion that was unsuccessful, Mr. President.

KELLY: Thank you, Mr. Clerk. Moving to the queue, Senator McKinney, you're recognized to speak.

McKINNEY: Thank you, Mr. President, and good morning, colleagues. I rise in support of MO-- well, it went off the board, but in opposition of the bill and an amendment that's proposed on the bill. So we had this conversation yesterday about, you know, whether this is enhancement or this is doing this or that. And then others got on the mic and said, hey, we need to hold people accountable and those type of things. So on my drive home, I started to think, you know, at least for my lifetime, my lifetime, some of you all are older than me, but I was born in 1990, the United States of America and the state of Nebraska has taken a tough-on-crime approach, maxed out a lot of

people in the '90s, a lot of enhancements. And you know what kept happening? More prisons were being built, increased costs for Corrections and law enforcement. So it made me think, if tough on crime actually worked, why are we, why are we spending close to a billion dollars on Corrections and law enforcement? Because you've been doing this since I was born in the '90s, at least, and it probably started in the '80s, but what I'm saying is-- can I get a gavel-- so what I'm trying to say is, whether you disagree with me or not, I think the facts are simple, that we need to look at things in a better way to, to better address these issues. This enhancement or not enhancement, as some might say, is already a 0 to 20 years. So what will be the change here is, is what I'm really asking? We could continue to be a felony factory, which would mean, Senator Dorn, as a member of Appropriations, the Appropriations Committee will have to continue to put more money into Corrections while we're still fighting a budget deficit. And maybe that's a good trade-off for some people, more money for Corrections and building prisons, less money for property taxes, because that's the result of that. And, then, you know, there's people who are saying Senator McKinney just wants to let everybody out. I never said that. And I never said people shouldn't be held accountable. My point is, these things are already crimes. They are already penalties. And we have, if not one of the most overcrowded prison systems in the country, which is causing us, well, this state to be building a \$350 million prison, still wanting to keep the prison that many said was too old to stay open, not good for people to be housed in. That's going to stay open, too. So you're going to be spending at least a half a billion dollars on prisons in the prison capital of Nebraska, which is Lincoln, Nebraska. So I think it's just a question we have to ask ourselves, are these enhancements, are these extra felonies actually addressing the issue, or is there another way to address the issue to prevent people from committing offenses? That is the question we should be asking each other. It is not a-- if you don't support holding people-- well, not even holding people accountable, if you don't support enhancing this penalty, you, you want to let people out. That doesn't even make sense. I never stated that. I think people should be held accountable. I don't support fentanyl because it's very deadly, but it's already a crime. We did-- this country and this, and this state did a lot of enhancements on crack cocaine, which took it to another level than powder cocaine and maxed people out and then boosted mass incarceration in this country, built a bunch of prisons, and still communities that were most affected are still impoverished. So how did you solve the problem? That's what you need to ask yourselves. That's the issue I have with

things like this because nobody's having any type of critical thinking. It's just, let's just throw a lot of felonies at the problem, and then it'll be solved. And there's no evidence that shows that. And I wish somebody would show it to me because there is zero evidence. Actually, the opposite could be shown in, you know, research that this place has paid for. Thank you.

KELLY: Thank you, Senator McKinney. Senator Holdcroft, you're recognized to speak.

HOLDCROFT: Question.

KELLY: The question has been called. Do I see five hands? I do. The question is-- there's a request for a roll call vote-- shall debate cease? Mr. Clerk.

CLERK: Senator Andersen voting yes. Senator Arch not voting. Senator Armanderiz. Senator Ballard. Senator Bosn voting yes. Senator Bostar not voting. Senator Brandt voting yes. Senator John Cavanaugh. Senator Machaela Cavanaugh voting no. Senator Clements voting yes. Senator Clouse voting yes. Senator Conrad voting no. Senator DeBoer voting no. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover. Senator Dungan voting no. Senator Fredrickson voting no. Senator Guereca voting no. Senator Hallstrom voting yes. Senator Hansen. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt-- Senator Hunt voting no. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Juarez. Senator Kauth voting yes. Senator Lippincott voting yes. Senator Lonowski voting yes. Senator McKinney voting no. Senator Fred Meyer voting yes. Senator Glen Meyer voting yes. Senator Moser. Senator Murman voting yes. Senator Prokop not voting. Senator Quick voting no. Senator Raybould voting no. Senator Riepe voting yes. Senator Rountree voting no. Senator Sanders voting yes. Senator Sorrentino voting yes. Senator Spivey voting no. Senator Storer voting yes. Senator Storm. Senator Strommen voting yes. Senator von Gillern voting yes. Senator Wordekemper voting yes. The vote is 26 ayes, 12 nays to cease debate, Mr. President.

KELLY: Thank you, Mr. Clerk. Debate does cease. Senator Dungan, you're recognized to close.

DUNGAN: Thank you, Mr. President. Sorry, I was in the back there conferring with some other colleagues. I didn't get a chance to refresh on the motion to reconsider this morning. So I just wanted to

kind of situate where we are. We only had one person so far talk before the question was called. I did anticipate the question being called though because that's exactly what was happening yesterday instead of having what I think would be constructive debate on the underlying issues here. But I want to re-situate where we are, so LB795 is a Senator DeKay bill that was noncontentious on General File. It was a bill that was an update to some statutes that had to do with various substances and it passed General File, I think, unanimously, maybe except for a few folks who weren't in the room when the vote happened. So here we are on Select File, which normally is a voice vote as the bill proceeds forward, and Senator Storer is attempting to attach an amendment that not only increases penalties beyond what they currently are for the possession of some controlled substances, but does so in a way that is so extreme that I think it warrants debate. And Senator McKinney and I both filed some motions on this bill and had a chance to talk to Senator DeKay ahead of time and said, hey, you know, if this amendment goes up there or attempts to get attached, we think that that is worthy of some actual debate. And my understanding was that if there was any kind of drag on this bill or if it sort of created a problem, that Senator DeKay was going to ask for that amendment to not be attached. Now, Senator DeKay indicated yesterday that that's maybe not exactly the direction he wants to go in, and that's perfectly fair. Everybody has a right to do with their bill as they see fit. But the underlying bill that is attempting to be attached by the amendment from Senator Storer is substantive in nature. It is not simply a cleanup. It is not simply putting statutes in line with one another as has been explained or, or argued about that amendment. It is enhancing and increasing criminal penalties in an era and an age when Nebraska's prisons are already exceptionally overcrowded and when we continue to walk down the path of enhancing penalties, creating new crimes, and not addressing the upstream problems that cause a lot of the community safety issues that we all care about here. In an era of the current budget crisis, we see proposals of slashing the state budget by \$500 million from this Governor, from others in this body, which cut or drastically reduce essential services that deal with things like mental health, substance use, housing, the kind of things that we know prevent crimes from happening, the kinds of things that we actually create safer communities. And at the same time, we see proposals that increase penalties beyond what is simply putting them in line with other statutes, and create potential life sentences, life sentences for trace residue amounts of a controlled substance that you may not even know you have. Make no mistake about it, colleagues, part of the

provisions of the amendment that's trying to be added into LB795 says that if you are carrying a particular weight of a controlled substance and that controlled substance has any trace amount of fentanyl in it, it could be not even measurable, but residue, meaning it doesn't actually have a weight, but it still tests positive, if you have over a certain weight of that substance, it could be a 20 to life that you are sentenced with. Now let's talk about the bottom number on that. When I say 20 to life, sentences are a range. The 20 on the bottom is a hard, mandatory minimum 20 calendar years. No discretion, no parole, no probation, no reduction, 20 years in prison. With the top end being, in the judge's discretion, a life sentence for a trace, nonmeasurable amount of a controlled substance. Now I agree substance use is an issue, but what we should be talking about are ways to reduce addiction and ways to address substance use [MALFUNCTION] increasing penalties when we already have a prison overcrowding crisis for nonviolent offenses. So that's why I filed this motion to reconsider, is I think we should vote yes on the reconsider and subsequently vote yes on the bracket motion if this LB795 is going to become a vehicle for that amendment. With that, colleagues, I'd encourage your green vote on MO421. Thank you, Mr. President.

KELLY: Thank you, Senator Dungan. Senators, the question is the motion to reconsider. All those in favor vote aye-- there's been a request for a call of the house. The question is, shall the house be placed under call? All those favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 25 ayes, 7 nays to place the house under call.

KELLY: The house is under call. Senators, please record your presence. All 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. Senator Armendariz, please return to the Chamber and record your presence. The house is under call. All unexcused members are present. The question is the motion to reconsider. There's been a request for a roll call vote. Mr. Clerk.

CLERK: Senator Andersen voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard voting no. Senator Bosn voting no. Senator Bostar not voting. Senator Brandt voting no. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Clouse voting no. Senator Conrad voting yes. Senator DeBoer voting yes. Senator DeKay voting no. Senator Dorn voting no. Senator Dover. Senator Dungan voting yes. Senator

Fredrickson voting yes. Senator Guereca voting yes. Senator Hallstrom voting no. Senator Hansen voting no. Senator Hardin voting no. Senator Holdcroft voting no. Senator Hughes voting no. Senator Hunt voting yes. Senator Ibach voting no. Senator Jacobson voting no. Senator Juarez. Senator Kauth voting no. Senator Lippincott voting no. Senator Lonowski voting no. Senator McKinney voting yes. Senator Fred Meyer voting no. Senator Glen Meyer voting no. Senator Moser. Senator Murman voting no. Senator Prokop not voting. Senator Quick voting yes. Senator Raybould not voting. Senator Riepe voting no. Senator Rountree voting yes. Senator Sanders voting no. Senator Sorrentino voting no. Senator Spivey voting yes. Senator Storer voting no. Senator Storm voting no. Senator Strommen voting no. Senator von Gillern voting no. Senator Wordekemper voting no. The vote is 12 ayes, 31 nays on the motion to reconsider, Mr. President.

KELLY: The motion to reconsider is not adopted. I raise the call. Mr. Clerk.

CLERK: Mr. President, Senator McKinney would move to recommit the bill to committee with MO415.

KELLY: Senator McKinney, you're recognized to open.

McKINNEY: Thank you, Mr. President. As I stated yesterday, we have motions and we have time. And some people don't like that we have time, so you'll keep calling a question and we'll be here and figure it out from there. It is what it is. But I support my motion to recommit this back to Judiciary where I would vote against it again. Also, just to get back on topic of what I was talking about, thinking about the war on drugs that was so celebrated from the '70s to the '90s and so on, and just reason for bills like this. Did it reduce addiction? No. I think the United States is the most addicted country in the world. Did it eliminate the drug markets? No. Did it improve public safety long term? I think that's debatable, and I would probably argue no or yes or I could argue both ways, but if somebody's introducing a bill to enhance something to 20 to life then they would probably argue no. Did it increase incarceration? Yes, it did. Mass incarceration spiked after the war on drugs was, I guess, implemented or whatever. You know, we're building a prison, \$350 million, it will be overcrowded the day it opens. So whether you like it or not, the cost of Corrections will increase in the state of Nebraska, which means there will be less money for property tax relief. You all don't like that correlation, but it's true. If you're spending more money on Corrections, there's less money from property tax relief, it's just

simple. And maybe you like it, maybe, you know, you feel great, we put bad people inside is probably what people say or we're, we're holding people accountable. It is what it is, but I would like you to know that a huge reason for our overcrowding problem is people have been over-sentenced. So if you take something that is zero to 20 currently and turn it to 20 to life, what do you think is going to happen? More people staying in prison. You know, the war on drugs, it succeeded at punishment. It failed at solving addiction. It failed at a lot of things. Let's say it also failed at improving the communities where people perceive drug addiction to be more prevalent because there has been a total lack of investment in many of those communities across the country. We spent trillions of dollars on prisons, militarizing our law enforcement agencies, a bunch of things, but we have a housing crisis, affordability crisis. We have a budget deficit in the state of Nebraska. So I would, you know, hope that numbers would get people to understand that you should start looking at things from a different perspective. Yes, you should want to hold people accountable. That's just simple and that's just life. People should be held accountable for things they do. But we, as elected officials, I think we have other things to factor and we should put context into things to make sure that we're making the best decisions possible and just making knee-jerk decisions. So I'm assuming if people don't get up and continue to call the question, people are going to stand up and say fentanyl is a horrible drug. Yes, it is. People who sell fentanyl should be held accountable. Yes, they should. But if it's already a felony that is perceived to have to hold them accountable, why do we have to enhance it? Why do we have to keep having all these enhancements if the system is working? Well, maybe the system isn't working because it's very overcrowded. And then, disproportionately, it's overcrowded with black men and minority men, which goes back to the 13th Amendment, which illegalized slavery under our constitution. So then I can make the argument that, you know, another form of slavery under the guise of public safety. It's just interesting what our priorities are. Then, I haven't even seen a fiscal note of this. What is the increased cost on the state if this passes? I'm also hoping, you know, if those that support this get on the mic, can you point me to a data point, a report, any research that states that these enhancements solve the problem? Please point it to me, if that is true. I would love to see it, honestly. I've seen reports that's, that's shown otherwise. So, you know, as trying to be a critical thinker and make the best decisions possible, I'm cool with seeing both sides of the argument. Just bring it to me. I would love to look at it. If you, if you could bring the numbers that show these

enhancements do the job, I would love to see them. So I'm not saying that you're wrong or I'm right and you're wrong and I have all the information and you don't know what you're talking about. I just haven't seen the data. So I can only make an assessment off of what I've seen. And if you've seen something different, show it to me. Get on the mic and speak to it. Don't just speak to the emotional side of this. Because the reason why I say this emotional side thing is, because every time I get on the mic, people say we know you're so passionate. We know you really care about these issues, but we got to vote against it. We know you really care, all these things, but got to vote against it. So the emotional argument to me is, is going to fall on deaf ears because when I make a-- I wouldn't even say it's emotional, I think it's a logical argument, I'm being told that I'm being passionate and I'm very passionate and emotional about an issue, but you still got to vote against it. So I just want to see a fact-based argument because if the emotional argument for me, which I don't think I made, I'm just speaking the truth most of the time, then it's not going to work because I haven't seen the data that shows things like this actually do the job. All they continue to do is put more men and women in prisons, break up families, increase the cost of the state in child welfare, health and human services, all the things that you want to cut them off of, all, you know, you know, you talk about you need more fathers in the home and all those type of things. Well, when you don't provide basic resources to communities, things happen. Whether it's agreeable or not, it's the truth. And then you complain about it. But it is what it is. You know, we're just going to be here. People are going to keep probably calling the question. I think we got till noon, so we might get to noon. Just get up and speak to the facts, please. And then we could have a substantive debate about this, whether I'm right, you're wrong, other people are right, and other people are wrong. I think that's fair. That could be a fair debate. But from the looks of it, people don't want to have a fair debate. I think I was the first person to talk, and then we called the question. Again, the emotional argument doesn't work for me. Not today, not tomorrow, not next week, because any time I speak, I'm too passionate and emotional about something. So don't get up with passion, speak to the facts, and please point to the data that shows these enhancements actually do what they're supposed to do, outside of making people feel good about we passed a bill to hold people more accountable. Speak to the numbers. I'll wait for it and I'll listen, because I always do. And if you're right, I might congratulate you, but I doubt it. Thank you.

KELLY: Thank you, Senator McKinney. Senator Murman would like to recognize a guest under the south balcony, that is Keston Rubeck here on a job shadow. Please stand and be recognized by the Nebraska Legislature. In the north balcony, Senator Arch would like to recognize members from the AFL-CIO of Nebraska. Please stand and be recognized by the Nebraska Legislature. Returning to the queue, Senator Bosn, you're recognized to speak.

BOSN: Thank you, Mr. President. Good morning, colleagues. Just for a frame of reference, we have 4 hours on this round of debate. And so with the motions that have been filed, which I refer to as kill motions, the reason that the proponents of the bill are continuously calling the question is because we have to keep things moving in order to get the amendment on. And so in order to do that, we have to call the question. So it's not genuine to say, well, why are we calling the question if we want to support the bill? It's because we want to support the bill that we have to call the question. So for those of you who are watching from home, that is the reason that the proponents of the bill continue to call the question. I want to explain a little bit about how this bill came out of committee and some of the process and some of the concerns that have been raised about the effectiveness of these types of penalties. And I'm certainly willing to work with Senator McKinney to try and get some of the answers that he was asking about how effective these types of laws are in terms of reducing recidivism and improving public safety. What I will tell you, colleagues, is that fentanyl is an exceptionally dangerous drug. There is no question. As I've said on this floor several times, last year and the year before, essentially two granules of sugar is what is an amount of fentanyl that will kill you. Two granules of sugar is the equivalent of a death sentence when it comes to fentanyl. So there isn't a genuine argument out there that fentanyl in that small of a quantity is not exceptionally hazardous. By definition, two granules equaling death makes it exceptionally hazardous. So what Senator Storer's amendment, if we're able to get to it, does, is says fentanyl is exceptionally hazardous, the same as heroin, cocaine, methamphetamine. It takes substantially more of those three drugs to kill you than fentanyl, which is why she believes, and I completely support, that fentanyl is an exceptionally hazardous drug and it should be treated as such in our penalties. The concern that we are enhancing penalties without rehabilitative programming, that was mentioned several times yesterday, and I am shocked to hear that, because we spent a significant amount of time last year talking about rehabilitative programming, treatment courts, drug courts, expanding

opportunities for peer support programming, all the different ways that we can try to rehabilitate individuals who have a genuine addiction and support them on their road to recovery. There is no question that this Legislature over the last decade has designated a significant amount of time and resources to rehabilitative programming, and we should continue to do so. But we also have to have the ability for public safety for those individuals who cannot comply with the law. There is a focus on deterrence as the only reason for enhancing penalties or for creating laws. And that's not true. The other strong reason for doing so is public safety. When someone is dealing drugs, and individuals are taking those drugs and they're dying or they're being trafficked or their lives are going down the drain for any variety of reasons, it is our job to hold them accountable. That is the job of the Legislature. And it keeps the public safe because when drug dealers are behind bars, you know what they're not doing? They're not dealing drugs. They're not using drugs. They're not overdosing on drugs. They're not stealing because they're on drugs. That is a public safety argument that we have somehow overlooked. I don't want to fill our prisons with drug dealers. I want to be safe, though. And so I'm putting public safety ahead of those other concerns. And that's not because I'm not feeling like we need to be rehabilitative or any of those things. The reason that such a small amount of fentanyl is exceptionally hazardous is because it's so deadly. We talked about this last year with the fentanyl overdose death bill that I had to bring three times. Colleagues, this is a very serious drug and it is absolutely exceptionally hazardous. And so the argument that it shouldn't be treated as heroin and as cocaine and as methamphetamine are treated because they are exceptionally hazardous doesn't make any logistical sense. Colleagues, I ask for your support for the amendment, if and when we get to it, and ultimately on the bill. I would-- thank you, Mr. President.

KELLY: Thank you, Senator Bosn. Senator Storer, you're recognized to speak.

STORER: Thank you, Mr. President. I just want to, again, just basically do a refresh on what the amendment is we're trying to get to here. We're trying to get an amendment onto LB795. And LB795, again, is just an update to the Uniform Controlled Substances Act to schedule bromazolam, did I say it right, which is a dangerous emerging drug that's showing up in counterfeit pills and in combination often potentially with fentanyl. So my amendment that we're trying to get to, AM2092, complements that work by ensuring that Nebraska law treats fentanyl trafficking with the same clear, proportional, and consistent

penalty structure that we already apply to methamphetamine, heroin, and cocaine. And Senator Bosn did a great job of explaining many of those things. She was a prosecutor on the drug docket. She understands the need for this. The amendment is simply about alignment and consistency. We're not creating something new. We're just bringing fentanyl into line with those other lethal drugs. This gives prosecutors, courts, and law enforcement the tools to target the highest level traffickers responsible for the harm we're seeing in our communities, for the deaths we're seeing in our communities. The lethality of fentanyl is a, a few granules can kill someone. So Nebraska already uses, again, a graduated weight-based framework for other dangerous drugs. Yet, fentanyl is more lethal than those substances, and our statutes currently treat it differently. So AM2092, again, simply applies the same structure, the same thresholds, the same mixture language, the same enhancements that already exist in statute for other Schedule I and Schedule II drugs. We are not breaking new ground here. In some ways, you could call this a cleanup bill if you want to look at it that way, but, but we're having-- we're spending a lot of time on something that's not, that's not new. We are trying to protect our communities and give law enforcement, prosecutors, and the courts the tools they need to bring this into consistency with the other laws on the books. Thank you.

KELLY: Thank you, Senator Storer. Senator Kauth, you're recognized to speak.

KAUTH: Question.

KELLY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? There's been a request for a roll call vote. The question is shall debate cease? Mr. Clerk.

CLERK: Senator Andersen voting yes. Senator Arch not voting. Senator Armendariz voting yes. Senator Ballard. Senator Bosn voting yes. Senator Bostar not voting. Senator Brandt voting yes. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh not voting. Senator Clements voting yes. Senator Clouse voting yes. Senator Conrad voting no. Senator DeBoer voting no. Senator DeKay voting. Senator Dorn voting yes. Senator Dover. Senator Dungan not voting. Senator Fredrickson. Senator Guereca. Senator Hallstrom voting yes. Senator Hansen voting yes. Senator Hardin. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt voting no. Senator Ibach-- Senator Ibach voting yes. Senator Jacobson. Senator Juarez. Senator Kauth voting yes. Senator Lippincott voting yes. Senator Lonowski

voting yes. Senator McKinney-- Senator McKinney voting no. Senator Fred Meyer voting yes. Senator Glen Meyer voting yes. Senator Moser. Senator Murman voting yes. Senator Prokop. Senator Quick voting no. Senator Raybould. Senator Riepe not voting. Senator Rountree voting no. Senator Sanders voting yes. Senator Sorrentino voting yes. Senator Spivey. Senator Storer voting yes. Senator Storm. Senator Strommen.

KELLY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. The question is, shall the house be placed under call? There's a request for a roll call vote. Mr. Clerk. No roll call on that. The question is, shall the house go under call? Record, Mr. Clerk.

CLERK: 31 ayes, 3 nays to place the house under.

KELLY: The house is under call. Senators, please record your presence. All 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. All unexcused members are present. The question is the motion to recommit. There's a-- to cease debate. The question is to cease debate. Roll call vote request. Mr. Clerk.

CLERK: Senator Andersen voting yes. Senator Arch not voting. Senator Armanderiz voting yes. Senator Ballard voting yes. Senator Bosn voting yes. Senator Bostar not voting. Senator Brandt voting yes. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh voting no. Senator Clements voting yes. Senator Clouse voting yes. Senator Conrad voting no. Senator DeBoer voting no. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover. Senator Dungan not voting. Senator Fredrickson voting no. Senator Guereca voting no. Senator Hallstrom voting yes. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt voting no. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Juarez. Senator Kauth voting yes. Senator Lippincott voting yes. Senator Lonowski voting yes. Senator McKinney voting no. Senator Fred Meyer voting yes. Senator Glen Meyer voting yes. Senator Murman voting yes. Senator Prokop not voting. Senator Quick voting no. Senator Raybould not voting. Senator Riepe voting yes. Senator Rountree voting no. Senator Sanders voting yes. Senator Sorrentino voting yes. Senator Spivey voting no. Senator Storer voting yes. Senator Storm voting yes. Senator Strommen voting yes. Senator von Gillern voting yes. Senator Wordekemper voting yes. The vote is 30 ayes, 11 nays to cease debate, Mr. President.

KELLY: Debate does cease. Senator McKinney, you're recognized to close.

McKINNEY: Thank you, Mr. President. Again, I heard no facts. I just heard public safety, public safety, public safety. Public safety is making sure that, that these individuals that you want to incarcerate have a bite to eat. Making sure they have affordable housing. Making sure that they have health care. That's public safety. Public safety isn't enhancing penalties to 20 to life just because without no data to back it up. That's my issue is that I'm waiting for somebody to stand up with the data that shows these enhancements do the job. No, I don't think fentanyl is a good thing that people should be using or selling or anything like that. I would never make that argument. But I will make the argument that there's no historical history or facts that show that any enhancement has actually benefited our communities or made our communities safer. We've increased our prison populations, but people kept selling drugs, still selling drugs. We've mass incarcerated the, the whole United States of America. People are still selling drugs. Why? I would argue because when you leave communities impoverished, you don't allocate resources to the right issues and things like that, then you get these problems. That's what's being missed. Nobody is standing up saying we don't want our communities to be safe. Nobody would make that argument. Their argument is this is not the solution to safety. What it will do is continue to boost the Department of "Punitive" Services budget. They're already building a \$350 million prison. You're keeping NSP open because I guess it's not as bad as it was when you made the argument to build the new prison. So you're going to have two prisons in, in the prison capital of Nebraska and this Legislature is going to pay for that. And we're trying to climb out of a budget deficit by raiding cash funds, currently, then I saw that yesterday. Our Auditor said these incentives have caused a \$1.2 billion loss for the state, but people are pushing incentive packages. I just want to know where the money is going to come from, come from to house all these people. Well, it really doesn't matter because for some people, you did the crime, you deserve whatever you get because some people believe in inhumane things. But that's, that's exactly where we're at today in the state of Nebraska, enhancing more penalties, calling the question after two people talked. And, I guess, it's the new normal for the Legislature. It wasn't like this when I first got in. We actually were way more productive when I first got to this Legislature. We didn't get along on a lot of things, but we were definitely more productive and more collegial and all those type of things. But over the years, it's

gotten worse, honestly has. I think term limits have played a huge, played a huge part in that where institutional knowledge or respect has left. And it's where we're at. But when you're complaining about we need to figure out this budget deficit and we, we, we can't keep going along to get along with all these things and we need property tax relief and we need to fund our schools, you miss me when you vote for things that increase the, the budget or expenditure on Corrections and things like this. Because it's already a crime. It-- they would already go to jail for a long time for selling or being caught with fentanyl. Literally, they would. So the, the argument is being missed. And I still haven't seen any factual data. I said bring the data to me. Stand up with the data. I'll listen to it. And I'm open to it about more than emotional argument, because you all said Terrell can't make a passion argument. I have to be super fact-based, but you-- because your-- you'll vote against it. Although, I care a lot about it, bring the facts and bring the data. That's all I'm asking, because I'm holding you all to the standards you hold me to. So that's where we're at. Thank you.

KELLY: Thank you, Senator McKinney. Senators, the question is the motion to recommit to committee. All those in-- there's a request for a roll call vote. Mr. Clerk.

CLERK: Senator Andersen voting no. Senator Arch voting no. Senator Armanderiz voting no. Senator Ballard voting no. Senator Bosn voting no. Senator Bostar not voting. Senator Brandt voting no. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Clouse voting no. Senator Conrad voting yes. Senator DeBoer voting yes. Senator DeKay voting no. Senator Dorn voting no. Senator Dover. Senator Dungan not voting. Senator Fredrickson not voting. Senator Guereca voting yes. Senator Hallstrom voting no. Senator Hansen voting no. Senator Hardin voting no. Senator Holdcroft voting no. Senator Hughes voting no. Senator Hunt voting yes. Senator Ibach voting no. Senator Jacobson voting no. Senator Juarez. Senator Kauth voting no. Senator Lippincott voting no. Senator Lonowski voting no. Senator McKinney voting yes. Senator Fred Meyer voting no. Senator Glen Meyer voting no. Senator Moser. Senator Murman voting no. Senator Prokop not voting. Senator Quick not voting. Senator Raybould not voting. Senator Riepe voting no. Senator Rountree voting yes. Senator Sanders voting no. Senator Sorrentino voting no. Senator Spivey voting yes. Senator Storer voting no. Senator Storm voting no. Senator Strommen voting no. Senator von Gillern voting no. Senator Wordekemper voting no. Vote is 9 ayes, 31 nays to recommit the bill, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate February 18, 2026

Rough Draft

KELLY: The motion to recommit is not adopted. I raise the call. Mr. Clerk.

CLERK: Mr. President, announcement quickly. The Government Committee will have an exec session in Room 2022 now. Exec session for Government, Room 2022, now. Mr. President, Senator Dungan would move to reconsider the vote taken with MO422.

KELLY: Senator Dungan, you're recognized to speak.

DUNGAN: Thank you, Mr. President. Colleagues, I do rise today to ask you to reconsider the vote on MO415, the motion to recommit. It's my understanding there might be some conversations happening as we continue to have this debate, and so I think it's important that we do take the time to discuss this issue, and I really hope my colleagues are listening to what it is that we're debating here. And I hope that my colleagues are listening to Senator McKinney, because he's hitting the nail on the head about what the larger problem is that we're dealing with. Colleagues, what we do in Nebraska is not in a vacuum. I know that people think the bills that we pass here are not a part of a larger problem. And I've had a number of conversations with my colleagues where you talk about some larger nationwide issue and the people in this body seem to think sometimes that it's not a part of that. Oh, we're-- you know, we're the Unicameral, we're Nebraska, we're not doing that. We're not a part of the larger issue of mass incarceration. We're not a part of the larger issue of increasing jail and prison populations exponentially over the last 40 years. We're not a part of the problem of locking up people who merely have addiction issues. Because every single bill that comes up on this floor, it seems like people go, oh, well, this is just one little exception. This is not part of the problem. We would never do that. But, colleagues, LB795, if it were to be amended, is a part of the problem. Every time a bill comes before this body with enhanced penalties that seeks to raise the time in which people are incarcerated for nonviolent felonies is a part of the problem. And what Senator McKinney, I think, is articulating and what I think is worth having a reconsider motion filed about is it is valuable to have a discussion about the, the facts and if what we are doing here in this body actually makes a difference and are we creating safer communities? I, I genuinely believe Senator Bosn when she says that for her this is about public safety. I've worked with Senator Bosn for quite some time and I think that she is truly committed to creating a safer community. The question is, does this do that? And for avid watchers of the Legislature, you probably heard me pontificate a little bit yesterday

about the various penological goals and why we punish people or why we have sentences and what the purposes are behind that. I'm not going to reiterate all that again today, but I do think it's important that we have the broader discussion of whether or not we are, as a state, part of the problem or part of the solution. And I do think there have been efforts that have been made over the last few years to try to focus on things like rehabilitation or helping people deal with their underlying problems, be them mental health or substance use. But, colleagues, every single time we do that, first of all, everyone's dragged along kicking and screaming and we have to convince you that it's a good idea. Don't pretend like everyone in here is voting 49-0 for rehabilitative options to actually help people who need it. And, two, once we do implement those programs, literally right away, the next year, this Governor and this body are trying to cut the budgets to make it so we don't have the funding for those programs. To get up here and tout veterans court, which is a great program, or drug court, which is fantastic program, or local jurisdictions that have things like mental health court or DUI court or these various problem-solving courts that are based on best practices for nationwide standards that we know help people address their underlying issues, we know they create safer communities, we implement those programs and immediately the courts are threatened with budget cuts and being told that we're going to walk back programs that we as a Legislature passed. So don't, colleagues, think that we as a body have just unilaterally invested a ton of money and a ton a time into rehabilitative services. My 3 years that we've been here, what we've seen are increased penalties, time and time again, the creation of new crimes that are already covered under the statutes. People looking at longer sentences. Make no bones about it, the, the state of Nebraska does have an overcrowding problem in our prisons. The Office of the Inspector General in 2025 released a report that talks about the prison overcrowding that we have. And there is some parsing of words that happens about whether or not there's an overcrowding problem, which by the way for years, everyone agreed we did have an overcrowding problem. And now there's a parsing words of whether or not the facilities are overcrowded based on what they're rated for based on their-- or based on their bed capacity. But the reality of the situation is, colleagues, our prisons are one of the most crowded and full in the country. We are second, I believe, to Alabama. And that is not a top five list that we want to be on. And I think that when I first got into the body, everyone agreed the prisons were overcrowded and we just disagreed about what to do about it. And there have been bipartisan efforts. I will say there have been absolutely bipartisan efforts to address this problem. There have been

people on both sides of the political spectrum who have been trying, in good faith, to reduce our prison overcrowding and to provide the services and the upstream investment that we need to actually have safer communities and not just lock people up and allow them to then recidivate and go back into the communities and create these unsafe communities, which is a danger to people in the public. It is a danger to our law enforcement when we're not addressing the underlying problem. But nobody seems to want to invest in that or have a commitment beyond a year or two that they, then, don't walk back immediately. What we do in this state is not in a vacuum, colleagues. Since the 1970s, the United States has been a part of a failed experiment of mass incarceration. And that's not hyperbolic. The prisons in our state in the 1970's to 2009, I think, in our state, in our country, the prisons multiplied their population eight times. Nonviolent drug offenders imprisoned for years. Across the country we saw three-strike policies. We saw the rippling effects of mass incarceration affecting children, affecting families, affecting jobs, affecting communities. Senator McKinney is talking about it, but nobody seems to want to listen because we think that what we do in this body is different. We think, oh, no, no, this one is fine. We're not a part of the mass incarceration problem. This amendment to LB795 is no big deal. It is a big deal, colleagues. And it's worthy of debate. And I know that people are frustrated because there are bills on the agenda that we want to get to. And we're running low on time in this Legislature. And I think there's-- I have a bill that's down there on General File that I would love to get to. And we know the Speaker said recently that if we don't get to some of these things, they may not make it on the agenda. So people are all frustrated that we're debating, that we are talking about this. Colleagues, the amendment to this bill creates the potential of a life sentence. And you can have a debate about whether or not you think that is fair or you think that is correct and whether or not fentanyl is an exceptionally hazardous drug. Everybody in here agrees fentanyl is dangerous. Nobody in here is, like, in the pocket of big fentanyl. That's preposterous. But when you continue to throw spaghetti at the wall to see what sticks, and you see our jail population increasing, our prison population increasing, you see the same people dealing with substance use disorder going into jail, serving a sentence, and getting out with no treatment, with no help, with no services available to them in the community because the few services that we do have are overcrowded. There's no beds available for substance use treatment, inpatient treatment. There's no mental health facilities that can get an evaluation in time because they're all overworked.

Because we don't invest in things like that, because we do not care about it as much. And you see the same people going into jail and into prison over and over and over again, serving long sentences, years for user amounts of substance use or substances, because we're not addressing the problem. I think in this body we talk a lot about locking up kingpins or cartels or drug dealers and we always have this sort of image in our head of like, you know, we're-- we watch *The Night Manager*, the TV show, and we're locking up these, you know, gun dealers or these drug dealers or something like that. That's not who we're talking about here. We're talking about people with addictions who are sometimes selling to fuel their own addiction. That's the drug dealer that you're locking up. And that's the drug dealer that if this is passed, doesn't get the services they need, but simply has a more extreme sentence. So, colleagues, I apologize for getting a little bit heated. But what we do in here is not in a vacuum. And if we continue to increase penalties writ large without addressing the underlying issues, if we continue to threaten to cut budgets for programs that do work like problem-solving courts, and if we continue to not actually address the underlying issues, but simply think that we can put a Band-Aid on this problem, we are doing a disservice to our community and we are doing a disservice to the public that we say we're keeping safe. I would encourage your green vote on the reconsideration. Thank you, Mr. President.

KELLY: Thank you, Senator Dungan. Senator Dorn would like to recognize guests in the north balcony from Leadership Beatrice. Please stand and be recognized by the Nebraska Legislature. Senator Clements, you're recognized to speak.

CLEMENTS: Thank you, Mr. President. I rise in support of LB795 and the Storer amendment, which we hope to get to shortly. The issue is that methamphetamines and heroin and cocaine are already classified with higher offenses and fentanyl is more recent. I think those were all classified that way because they were a big problem in society and now fentanyl has become the bigger problem and it's very reasonable to include it in with meth and heroin and cocaine. And I, I see that the total number of overdose deaths for synthetic opioids was greater than 260,000 people for 2013 through 2021. These overdose deaths involving synthetic opioids is primarily driven by illicitly manufactured fentanyl. And the, the argument that putting people in prison doesn't help anything, I, I agree-- I disagree, especially the new prison we're going to build is going to have more programming capabilities. People who aren't in prison definitely are not getting treatment, and they're continuing to cause the deaths of people that the dealers are

preying upon, and I think it's very reasonable to protect society and get these dealers off the street so that we have a chance to possibly rehabilitate them or keeping especially them from preying on other people at causing deaths. It's such a dangerous drug that I definitely support LB795 and especially the amendment that Senator Storer has come up with. And so I urge your red vote on the reconsider motion and urge you to continue to vote to move us to the amendment that's forthcoming. Thank you, Mr. President.

KELLY: Thank you, Senator Clements. Senator Dungan, you're recognized to speak.

DUNGAN: Thank you, Mr. President. Colleagues, I rise again in favor of, well, my motion to reconsider. And a vote on that would then allow us to vote yes on the motion to recommit to committee, at which point in time, I think that this bill could be heard with this potential amendment and the committee can make a decision as to whether or not they wanted to kick out LB795 with the amendment that's been proposed by Senator Storer. So this is the first time I've gotten a chance to talk today, actually, according to queue order, I did have the opening and a closing, but this is the first time I've been able to actually get up and talk since I punched in, which I think is actually probably good that there's some people trying to engage in conversation, but I, I do agree that it seems like a lot of the conversation has been one-sided. Senator Clements, I actually appreciate him getting up and explaining his support, and as I said yesterday, we are allowed to disagree about these things. And, you know, differing minds on this can come to different conclusions. I believe that the data supports that increased penalties-- when penalties are already high, increasing them to a higher penalty has not been shown to have a deterrence effect or to actually prevent people from committing the underlying offense. And I talked about that yesterday. I may get back into it today if we have time. But the data is pretty clear that this does not actually stop people from committing the offense. And so if we take that off the table, and if your conversation is about why we want to lock these people up for longer periods of time. I think we can have that discussion about whether or not this is helping them or not. So Senator Clements made the point that, you know, if we, we lock these people up or if we put them in custody, then they can get treatment. I will tell you that there is currently a very significant staffing crisis with the Department of Correctional Services. And when you talk to those in the Department of Correctional Services, and this isn't even saying this is like a fault-based thing, but there, there are not enough employees currently for the Department of Correctional Services

to fill all of the roles that they have. And we've seen this across the board. Last year in Revenue, we passed a bill that I was supportive of to do more recruitment and retention for prison guards, to make sure that they and their families had more access to tuition, to encourage people to stay in that job or get into that job to help their families. I think that was a great bill that we had. There have been discussions, though, since then about whether or not the prisons have sufficient staffing. I had a bill earlier this year that addressed medical conditions in our prisons. And it was a good faith effort to standardize care across prisons because, colleagues, we have people dying in our prisons because they don't have access to care. And when I'm talking about the people that are dying, I'm talking about nonviolent drug users who are imprisoned for periods of time and then die because there's not ample services being provided to them in those prisons. So the argument that if we incarcerate an individual, they'll be able to get the services they need, I think falls unfortunately flat because we don't have the current services available that those folks need in custody. I will tell you, anecdotally, in my job when I worked as a public defender, people who get taken into custody, now we're talking about jail, pre-trial, not prison, but people who are taken into custody have far less access to things like substance use disorder evaluations, mental health evaluations, certainly far less access to treatment. And so the people who actually get the help they need are the people who can afford to bond out or people who are approved for supervision by Community Corrections. And the Community Corrections agency here in Lancaster County is fantastic. They do a great job, but we are very fortunate in Lincoln and in Lancaster County to even have access to that. It's not a statewide program. So in custody, there are not the services available that there are out of custody to address substance use disorder or mental health problems. And so the idea that incarcerating somebody in order to provide for their services, I think, is unfortunately not going to play out because we just don't have those services currently. So, colleagues, because of that, I would encourage you to vote green on the motion to reconsider. This, this is a legitimate recommit to committee. We're having a debate about an amendment that is completely separate and apart from the underlying bill, and I think a recommit to committee would provide the Judiciary Committee an opportunity to talk about these two things combined and to talk about whether or not that amendment should be added into this bill. And so I'd encourage your green vote on the reconsider, which would then permit you, if we reconsider it, to vote yes on the recommit committee. And I would encourage us to continue to have this

discussion because, colleagues, I'd reiterate, yet again, this amendment is not small, it is a significant change. Thank you, Mr. President.

KELLY: Thank you, Senator Dungan. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. Good morning, colleagues. I've had my light punched a bunch of times to get in on this and for a variety of procedural reasons haven't had a chance to speak yet, so. I don't necessarily have a quarrel with LB795, but I'm supportive of the motions and the reconsider that is on the board today. I am deeply concerned about the amendment that my friend Senator Storer has filed on this measure. Sometimes passion or rhetoric can be overstated in our work and sometimes it's important in a roadmap and a signal. And I want to level set this for a minute because nothing about this is normal or right. Senator Storer's amendment isn't like, oh, I'm going to just find a little cleanup thing to hitch a ride on because I couldn't find a priority on. Senator Storer's amendment is a major departure from a thoughtful, sensible approach to criminal justice policy. It's not about purity. It's not about weight. It's about a life sentence for a trace amount of fentanyl, which by the way is already criminalized, and should be, with significant penalties: 0 to 20, 0 to 20 years. And we enhanced it. When harm happens, we enhanced it last year with Senator Bosn's bill with additional significant penalties. A trace amount of fentanyl under Senator Storer's amendment can trigger a potential life sentence. That's not right. That's not proportional. That's not aligned with sensible criminal justice policy. I went back and I reviewed the hearing transcript again last night. There isn't a parade of people that came forward in Nebraska that said we really need to make this change because a bunch of folks are evading prosecution in Nebraska. Two proponents came forward and said, essentially, fentanyl is dangerous and bad. Agreed. Agreed. But they didn't drill down to what's actually contained in her original bill and then her amendment that's pending on LB795. And it's not proportional, and it's not sensible. And every trace amount of fentanyl does not kill someone. We know that fentanyl is used in medical treatments every day for a host of legitimate reasons, and those don't all result in death. We need to collect ourselves and think carefully here. We understand that fentanyl causes harm in certain instances. That's why it is criminalized presently with significant penalties. When it causes harm, we've already decided just last year to enhance the penalties. But throwing out all proportionality, not based on purity, not based on weight, perhaps not

even with a clear mens rea to say a trace amount in fentanyl equals a life, potential life sentence, that's not right. That's not right. And it's not right within the context of the mass incarceration crisis that Nebraska finds itself within with some of the most overcrowded prisons, prisons in the country, significant staff shortages, significant programming shortages. And every act of this Legislature, in regards to new crimes and criminal enhancements, exacerbates mass incarceration and racial injustice. It's not the only thing, but it is an important consideration, and it cannot be divorced from the broader context. Every entity that's looked at this in our sister states and in Nebraska, CSG, CJI, even the LB50 Task Force, which Senator Bosn sits on--

KELLY: That's your time, Senator.

CONRAD: Thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator von Gillern, you're recognized to speak. Senator Hunt-- Senator Andersen, you're recognized to speak. Senator Hunt, you're recognized to speak.

HUNT: Thank you, Mr. President. I wanted to address-- you know, I think that the attorneys and the people who have experience with prosecution and the people who heard this bill in committee are making some really valid points on this bill. I do think that a life sentence for a trace amount of fentanyl is probably not a proportional type of punishment. I don't know if I have a trace amount of Fentanyl on me right now. I don't think so, but, I mean, I've-- if it's a gram of sugar or a granule of sugar, as Senator Bosn is saying, I mean, I, I think that there has to be some intent and things like that, but I think a possible life sentence is just way too severe for something like that. But I wanted to mainly-- I put on my light mainly to speak on a procedural comment that Senator Storer has made, that Senator Bosn has made about calling the question. Yesterday, Senator Storer said, well, it's loaded up with motions and amendments and we've got 4 hours to talk so we're going to talk so it doesn't matter if we call the question because you're still going to get to talk. Not correct. Today, Senator Bosn said, well, we have to move things along. The only way that we can get through to talk about, you know, other things on the bill is to call the question. Also not true. Senator Bosn, herself, when she had her time, she didn't call the question. She used her time to address questions that Senator McKinney had to respond to what he said on the microphone, to make points in, in, you know, contradiction to what he said, or whatever, to get her point of view

out there in the record. That is how she used her time. And that's how all of us should be using our time. When you call the question over and over and over, there isn't time to have the conversations under the balcony or the time to ask questions on the microphone, as other members have done, or the time to take to respond to questions that people have had. And that's where the compromise happens. That's where the negotiation happens. It's that time under the balcony, it's that time on the microphone to clarify our goals and our ideas about the problems and the solutions that we're sent here to do. And, instead, when members are continually calling the question, we're not having those negotiations and conversations. We're looking at the queue and trying to guess who down here is going to call the question? Is Senator Lonowski going to have something intelligent and experienced to say about LB795? I hope so, maybe. But I think it's just as likely that he's in the queue to call a question, too. So instead of using the time to work, we're using the time to manage the queue, to manage the motions, to manage the amendments, and that's not work being done. My advice to colleagues is to not get in the queue if you don't have something to say. If you don't have anything to add and you don't know anything about this bill, maybe sit and listen to the people who do, instead of filling the time with calling the question, which then necessitates filling the time with calls of the house, with roll call votes, all of these things that take more time. And it's not even necessarily a strategy to take time to kill the bill, it's probably, often, usually a strategy to give people time to talk about the bill before we run out of time and we don't have anything on the board to, to give us space to debate. And everybody knows that. Everybody should know that. Everybody used to know that, the good old days, blah, blah blah. You know, I can talk about that. And what was I there for, 1 year or something, 2 years? But, you know, that, that scope of experience is really gone. And if you don't have anything to say on a bill, just don't get in the queue. People can't talk forever. Filibusters don't last forever. You guys can't do them. I only have 1 minute left, and I wanted to yield some time to my friend, Senator Conrad, so I'll do so. Thank you, Mr. President.

KELLY: Senator Conrad, 47 seconds.

CONRAD: OK. Thank you, Mr. President. Thank you, Senator Hunt. I'm not sure I can cover a lot in 47 seconds, but just to pick up, every expert that we've invited into our state to look at sensible smart justice reforms to unwind the thoughtless war on drugs and tough-on-crime approach that mired us in a fiscal and human rights crisis did not say go out and willy-nilly keep increasing crimes and

creating new crimes. They said the exact opposite. And our colleagues in our sister states invited CSG and CJI in and who followed their expert recommendations actually moved in a thoughtful direction. Thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Lonowski, you're recognized to speak.

LONOWSKI: Question.

KELLY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? There's been a request to place the house under call. All those in favor, all those favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 13 ayes, 2 nays, to place the house under call.

KELLY: The house is under call. Senators, please record your presence. All unexcused senators outside the Chamber, please return and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Fredrickson, Guereca, and Riepe, please return to the Chamber and record your presence. The house is under call. All unexcused members are present. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. There was a request for a roll call vote. Mr. Clerk.

CLERK: Senator Andersen voting yes. Senator Arch not voting. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Bosn voting yes. Senator Bostar not voting. Senator Brandt. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh voting no. Senator Clements voting yes. Senator Clouse voting yes. Senator Conrad voting no. Senator DeBoer voting no. Senator DeKay voting yes. Senator Dorn. Senator Dover. Senator Dungan voting no. Senator Fredrickson voting no. Senator Guereca voting no. Senator Hallstrom voting yes. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt voting no. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Juarez voting no. Senator Kauth voting yes. Senator Lippincott voting yes. Senator Lonowski voting yes. Senator McKinney voting no. Senator Fred Meyer voting yes. Senator Glen Meyer voting yes. Senator Moser. Senator Murman voting yes. Senator Prokop not voting. Senator Quick voting no. Senator Raybould not voting. Senator Riepe not voting. Senator Rountree voting no. Senator Sanders voting yes. Senator Sorrentino voting yes. Senator Spivey voting no. Senator Storer voting yes.

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Senator Storm voting yes. Senator Strommen voting yes. Senator von Gillern voting yes. Senator Wordekemper voting yes. Vote is 27 ayes, 13 nays to cease debate, Mr. President.

KELLY: Debate does cease. Senator Dungan, you're recognized to close.

DUNGAN: Thank you, Mr. President. Colleagues, well, you have a chance here to vote yes on a reconsider, which I know we've done a couple of times in my time in the Legislature, in an effort to then take a vote on the underlying motion, which is a recommit to committee. So I'd encourage your green vote on the reconsider, and your green vote on the recommit. Let's take this back a second and zoom out. What we're talking about here, colleagues, is the broader conversation about sentences. And should we be in the business as a state of increasing penalties or taking a smart look at our criminal justice system, as many of our other states have done in the country, to determine what is the best path forward, both for public safety and for the taxpayer dollar? I want to talk briefly about Oklahoma. I don't talk about Oklahoma very much, but Oklahoma has really actually been a leader in a lot of the conversations that we've had about criminal justice reform. So back in 2016, Oklahoma was leading the nation or almost leading the nation in their prison population. And they took an objective analysis of their laws to see what was and what wasn't either causing the problem or, or helping be a solution. Governor Stitt, who is a Republican, made this one of the pillars of his time as the Governor of Oklahoma. And I had an opportunity at a conference that I went to that was put on by CSG, which for those at home who don't know is an organization of state legislators across the country. It's nonpartisan. It's meant to provide information. And I went to one of these and I listened to Governor Stitt talk about criminal justice and being smart on criminal justice as a Governor of his state. And it was really informative, because what he talked about, colleagues, was how using taxpayer dollars smartly and making sure that we are actually reducing recidivism and reducing the crime in his state, he saw as true conservative values. And he saw these as things that have bipartisan support. And in Oklahoma, when Governor Stitt made this one of the hallmarks of what he was going to continue working towards as Governor, it had an impact. There was, generally speaking, a reduction-- I'm looking at some information here that I've pulled up-- there was a reduction in the prison population that started with a ballot initiative amongst the citizens of Oklahoma and, ultimately, was part of a, a larger package of bipartisan bills that they pushed in an effort to reduce recidivism, and it was successful because it wasn't a partisan bickering match. Because people didn't just look at

the board of what bills were in front of them and see what name was attached and think, oh, I guess I'm opposed to this without even knowing what the actual bill or the amendment does. They knew that it was a problem in their state. They knew their prisons were overpopulated and they addressed it. And so for those who weren't in the room when I spoke last time, which is a number of people were in exec sessions, I understand, I want to reiterate that nothing we do here in Nebraska is done in a vacuum. For decades, we have heard about the mass incarceration crisis that our state is going through. And that is not a partisan issue, it's just true. Since the 1970s, our prisons have ballooned in population in every single state. And we have seen that those populations have gotten to a breaking point. Many states have begun to address this problem by looking at what they can do with their laws to actually try to contribute to the solution instead of exacerbating an issue that already exists. Everyone has said that when you increase penalties specifically for nonviolent drug offenders, you're not addressing the problem and you're creating more of an issue with prison overcrowding. All of the studies have shown that when have a sentence that is already relatively high, for example, currently a 0 to 20, 20 years on the top, and you increase that to something like what's being proposed here with a potential 20 to life, that that does not have a deterrent effect, nor does it actually solve the problem of preventing people from using or selling drugs. Colleagues, I believe in public safety as much as all of you. We need safe streets, we want safe communities, and nobody in here wants people to use drugs. But, absolutely, we need to look at the issues before us and be smart about what we're doing, and not simply vote, because it makes us feel like we're something about the problem. I would encourage your green vote on the motion to reconsider. I would encourage then a subsequent green vote on the motion to recommit to committee so the Judiciary Committee can have another opportunity to look at these two bills together and determine if this is actually the best use of our time when we have other bills that we can be proceeding with, and whether or not it addresses the underlying problem that we're seeing in our state with regards to prison overcrowding. Thank you, Mr. President.

KELLY: Thank you, Senator Dungan. Members, the question is the motion to reconsider. There's been a request for a roll call vote. Mr. Clerk.

CLERK: Senator Andersen voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard voting no. Senator Bosn voting no. Senator Bostar not voting. Senator Brandt. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements

voting no. Senator Clouse voting no. Senator Conrad voting yes. Senator DeBoer voting yes. Senator DeKay voting no. Senator Dorn. Senator Dover. Senator Dungan voting yes. Senator Fredrickson voting yes. Senator Guereca voting yes. Senator Hallstrom voting no. Senator Hansen voting no. Senator Hardin voting no. Senator Holdcroft voting no. Senator Hughes voting no. Senator Hunt voting yes. Senator Ibach voting no. Senator Jacobson voting no. Senator Juarez voting yes. Senator Kauth voting no. Senator Lippincott voting no. Senator Lonowski voting no. Senator McKinney voting yes. Senator Fred Meyer voting no. Senator Glen Meyer voting no. Senator Moser. Senator Murman voting no. Senator Prokop not voting. Senator Quick voting yes. Senator Raybould not voting. Senator Riepe not voting. Senator Rountree voting yes. Senator Sanders voting no. Senator Sorrentino voting no. Senator Spivey voting yes. Senator Storer voting no. Senator Storm voting no. Senator Strommen voting no. Senator von Gillern voting no. Senator Wordekemper voting no. Vote is 13 ayes, 28 nays on the motion to reconsider, Mr. President.

KELLY: The motion to reconsider is not adopted. I raise the call. Mr. Clerk.

CLERK: Mr. President, Senator Kauth would move to amend with FA424.

KELLY: Senator Kauth, you're recognized to speak.

KAUTH: Withdraw.

KELLY: So ordered. Mr. Clerk.

CLERK: Mr. President, Senator Storer would move to amend with AM2092.

KELLY: Senator Storer, you're recognized to open.

STORER: Thank you, Mr. President. This is the amendment that we've talked a lot about already so I'm, I'm probably going to be a little bit repetitive here, but just to bring a refresher in terms of what this amendment does and why I'm introducing it. So, again, AM2092. This is about alignment and consistency. Again, we're not creating something new. We're bringing fentanyl up to the same penalty level based on weight that currently exists for methamphetamine, heroin, and cocaine. Nebraska already uses a graduated weight-based framework for these other dangerous drugs. Fentanyl, again, is more lethal than those substances, yet our current statutes treat it differently. We are trying to correct that. We will correct that with AM2092. What this amendment simply does is applies the same structure, same

thresholds, same mixture language, same enhancements that already exist in statute for other Schedule I and Schedule II drugs. Again, this is not a new theory of criminal law. It is simply aligning fentanyl with existing Nebraska policy. There's a couple of things that you may hear in terms of some opposition. And I'm just going to address them now. One, again, is the issue of double jeopardy or double counting argument. And, certainly, that's a worthy question. I don't want to discount the concern. But it is clear that what this is, is not double jeopardy. It is not a double jeopardy issue from the constitutional sense. Double jeopardy prevents someone from being tried twice for the same offense. This, this would not allow that. What this amendment does is define how a single offense is classified and sentenced just like we already do for cocaine, heroin, and methamphetamine. Nebraska law already permits multiple charges when multiple controlled substances are involved. That is happening now. It's not new, and it's not created by this amendment. The courts already address any overlap or sentencing concerns through merger doctrines, prosecutorial discretion, and sentencing structure. The amendment does not create a new constitutional issue. Again, it applies the same long-standing statutory framework we already use for these other controlled substances. There are some other concerns regarding trace or, or the, the weight. The mixture or substance containing a detectable amount language in this amendment is identical to language already in Nebraska statute for cocaine, heroin, and methamphetamine. You're going to get tired of hearing me say that. That framework has been used for decades and is well understood by the courts and the prosecutors. Again, we're bringing fentanyl into alignment with those other existing statutes. You have to understand traffickers do not distribute pure substances. They distribute mixtures. And the danger comes from the entire mixture that's being distributed. It takes a much smaller amount of fentanyl to kill someone than it does cocaine, methamphetamine, and heroin. One other concern you may hear about that we'll address upfront is about over-penalizing low-level offenders, and the graduated structure is specifically designed to distinguish between low-level possession and high-level trafficking. This does not address possession. This is only on distribution. Thresholds increase penalties only as quantities increase. So prosecutors have testified that current law lacks the tools to address-- currently, lacks the tools to address higher level fentanyl trafficking, and this amendment will restore that proportionality, does not remove it. We've attached this to LB795. It is, it is certainly germane. Both deal with dangerous controlled substances and emerging drug threats. Combining them simply approves

efficiency, ensures consistency in statute, and provides one coordinated update to the Uniform Controlled Substances Act. Colleagues, I thank you for your patience. This is important. While this may, may not have been like a headline bill, this is going to improve the tools our prosecutors have to penalize some of the most serious crimes that are killing members of our community. Fentanyl distribution is increasing and we have to be equipped with the tools to meet that head-on for those traffickers. I respectfully ask for your support of AM2092 and the advancement of LB95 [SIC] as amended. Thank you.

ARCH: Mr. Clerk, for an amendment.

CLERK: Mr. President, Senator Conrad would move to amend with FA980.

ARCH: Senator Conrad, you're recognized to open on your amendment.

CONRAD: Thank you, Mr. President. Good morning, colleagues. So I filed a series of floor amendments to try and ensure that we can continue the debate and offer some perhaps more thoughtful alternatives to potentially resolve this issue that better aligns with existing sentencing structures and doesn't allow for a potential life sentence if somebody is caught with-- here's the problem with Senator Storer's bill. If somebody-- or original bill, now an amendment, that's on the board. So if a person is caught with 10 grams of fentanyl, they'd be punished the same as a person who's caught with 10 grams of sugar and a trace amount of fentanyl. That's not commensurate with our approach to drug policy. We have graduated more significant and more severe penalties when we have more drugs present because they do more harm. So that's the issue, the significant issue at play with Senator Storer's amendment and why it's problematic in its own right in terms of just basic proportionality and penological objectives that have to be part and parcel with our criminal justice policy and debate. But then also must be contextualized in regards to Nebraska's present mass incarceration crisis that stands in sharp contrast to the direction the federal government is going and our sister states are going, including most red states where they've made smart justice reforms to unwind the failed war on drugs and took a more thoughtful approach to reflexive nonthinking policy in regards to acting tough on crime. There is a broad coalition of progressives and conservatives working across this country and that used to exist in Nebraska until recently that said when we double down on the failed war on drugs, when we double down on trying to outdo each other to be tough on crime, we're blowing up our budgets. We're risking human civil-- human rights,

civil rights, civil liberties violations, and we're, ultimately, not making our communities safer. And we all share the same goal and value to have safer communities. This isn't academic, we don't have to guess. This has worked on the federal level with President Trump's first administration where they passed the First Step Act, which modernized and right-sized sentencing structures, which provided more opportunities to step back from the failed war on drugs and tough-on-crime policy to make our federal criminal justice system work better. Our sister states: Texas, Oklahoma, South Carolina, and others have looked at similar challenges, brought in the experts, and said how can we modernize our criminal code so that we get a better value for taxpayers? We get better return on investment. We have less human rights, civil rights, and civil liberties violations, and we, ultimately, have a safer society. And they brought in CSG, and they adopted those playbooks. And they've brought in CJI, and they've adopted those playbooks. In Nebraska, we've taken very small, but meaningful steps to follow the roadmap supported by conservatives and progressives across the country in our sister states and on the federal level to achieve stronger public safety, to keep people safer, to ensure we are not burdening and bankrupting our citizenry with, yes, property tax pressure and General Fund impact by a failed war on drugs and a reflexive tough-on-crime policy. Everyone knows it is undeniable that the least effective, most expensive way to deal with societal challenges is in our prison system. The prison system should exist to ensure true public safety threats are removed from society. There is no disagreement about that. And that's important and at the heart of that criminal justice policy, but it shouldn't be unwieldy, it shouldn't be sprawling, it shouldn't capture evermore nonviolent offenders. It should be proportional. It should be sustainable and affordable. It should ensure that we have access to programming and services for those that have lost their liberty because they've transgressed society because over 90% of them will come home one day. And if they come home without programming and rehab and services, they'll be more helpless, more hopeless, and more likely to re-offend, increase in recidivism, which makes us all less safe. So every time you create a new crime, every time the Legislature engages in a criminal enhancement for an existing crime, it exacerbates mass incarceration and racial injustice. And there's a lot of factors that go into how this system was established and nondispositive, but all important. The more that we can do on the front end to keep people outside of the, of the expensive and ineffective prison system, behavioral health, economic opportunity, family support, treatment, good jobs, drug courts, diversion, problem-solving courts, all of

those things that we can do at the front end to keep people out of that expensive, ineffective system and actually address root causes, saves money, and has better outcomes for public safety. This is not an exaggeration. When former Speaker Newt Gingrich was in Nebraska recently for an event, I attended the event to hear his remarks. And I thanked him for his past work helping to lead right-of-center criminal justice policy that took a more thoughtful approach to criminal justice issues. And he had even engaged in Nebraska to try and right-size and modernize our criminal justice system to save money and get better outcomes, and I thanked him for his work in that regard, and he asked me how it was going here, and I said terrible. We've moved back from that commonsense approach that's worked on the federal level in our sister states, and instead of right-sizing our criminal system, we're committing to new prisons and will have to build more. We're seeing a Corrections budget that's eclipsed human services and infrastructure and economic development and education. On the local level, criminal justice issues eat up 80% of local budgets, driving your property tax pressure ever higher. It doesn't have to be that way. But the only way to stop it is to stop it with unthinking policy like this amendment puts forward. Thank you, Mr. President.

ARCH: Senator Hughes would like to recognize some special guests from Leadership York, and they are seated in the north balcony. Please rise and be welcomed by your Nebraska Legislature. Turning to the queue, Senator Spivey, you're recognized to speak.

SPIVEY: Thank you, Mr. President, and good morning, colleagues. I have really appreciated the debate and framing, especially from my colleagues Senator Dungan and Conrad, on the criminal side, the, the actual practice of law and the implementation, and then, again, really going upstream to Senator McKinney's points on, on the impacts that it has on our budget and community just overall. And so the queue has been really full and this is my first time on the mic, however, I would like to yield the rest of my time to Senator Rountree, as I think he has some important announcements for the body.

ARCH: Senator Rountree, 4 minutes, 20 seconds.

ROUNTREE: Thank you so much. Good morning, Mr. President. And thank you, Senator Spivey, for the yielded time. Good morning to all Nebraskans. I've enjoyed our discussion as well, and I hope we can continue until we get to a place where we can get the best bills across that would take care of the needs of our Nebraskans. But in keeping with our Black History Month recognition this month, I wanted

to talk just a little bit this morning about the Little Rock Nine. It deals with community safety as what we're talking about today and how we got to [INAUDIBLE] safety, but in 1954 the United States Supreme Court ruled that segregated schools were illegal. The case Brown v. Board of Education has become iconic for Americans because it marked the formal beginning of the end of segregation. In this Brown v. Board of Education of Topeka decision, issued May 17, 1954, the United States Supreme Court ruled that segregation of America's public schools was unconstitutional. Until the court's decision, many states across the nation had mandatory segregation laws, or Jim Crow laws, requiring African American and white children to attend separate schools. Resistance to the ruling was so widespread that the court issued a second decision in 1955, known as Brown II, ordering school districts to integrate with all deliberate speed. But the gears of change grind slowly. It wasn't until September 1957 when nine teens would become symbols much like the landmark decision we know as Brown v. Board of Education of all that was in store for our nation in the years to come. The first institutions to integrate would be the high schools beginning in September 1957. Among these was Little Rock Central High School which opened in 1927 and was originally called Little Rock Senior High School. Two pro-segregation groups formed to oppose the plan: the Capital Citizens' Council and the Mother's League of Central High School. Despite the [INAUDIBLE] opposition, nine students registered to be the first African Americans to attend Central High School. They were Minnijean Brown, Elizabeth Eckford, Ernest Green, Thelma Mothershed, Melba Pattillo, Gloria Ray, Terrence Roberts, Jefferson Thomas, and Carlotta Walls. They had been recruited by Daisy Gaston Bates, president of the Arkansas NAACP, and copublisher of the Arkansas State Press, an influential African American newspaper. Daisy Bates and others from the Arkansas NAACP carefully vetted the group of students and determined they all possessed a strength and determination to face the resistance they would encounter. In the weeks prior to the start of the new school year, the students participated in intensive counseling sessions guiding them on what to expect once classes began and how to respond to anticipated hostile situations. The group soon became famous as the Little Rock Nine. On September the 2nd, 1957, the night before, night prior to what was to become the teens' first day in Central High classrooms, Arkansas Governor Orval Faubus ordered the state's National Guard to block their entrance. Faubus said it was for the safety of the nine students. The Mother's League held a sunrise service at the school on September the 3rd as a protest against integration. The Little Rock Nine arrived for the first day of school

at Central High on September the 4th, 1956-- 1957. Eight arrived together, driven by Bates, but they all came to school. In the following weeks, Federal Judge Ronald Davies began legal proceedings against Governor Faubus and President Dwight D. Eisenhower attempted to persuade Faubus to remove the National Guard and let the Little Rock Nine enter the school. Judge Davies ordered the Guard removed on September the 20th and the Little Rock Police Department took over to maintain order. So they escorted them into the schools and we came through an integration time. Several of the Little Rock Nine went on to have distinguished careers, and my time is about up, but Green served as Assistant Secretary of the Federal Department of Labor until President Jimmy-- under President Jimmy Carter; Brown worked as the Deputy Assistant Secretary for Workforce Diversity in the Department of the Interior and President-- under President Bill Clinton. The group have been widely recognized for their significant role in the civil rights movement. My time is up, but I'm thankful for what they did and thankful for the integrative efforts that brought us to where we are today. And we continue to try to strive together to create good educational opportunities and safe communities for all Americans. Thank you.

ARCH: Senator Hansen would like to recognize some special guests seated in the north balcony, they are 24 high school students from Blair. Please rise and be recognized by your Nebraska Legislature. Senators Juarez and McKinney also have special guests, they are from Project Extra Mile, the Youth Leadership Network from Omaha. They're also seated in the north balcony. Please rise and be recognized. Returning to the queue, Senator McKinney, you are recognized to speak.

McKINNEY: Thank you, Mr. President. I rise in support of FA980, against AM2092 and LB795. Here we are at 11:15 and I've still yet to hear any factual data that backs up these type of enhancements. I still haven't heard any. All I hear is public safety and we need to increase these penalties because this drug is so harmful. No data that says this will actually solve the problem. What it will do, which many things in this place actually does, like suspending 5-year-olds, it will more than likely disproportionately increase the amount of black males and other minority groups inside of our state prisons as they are already disproportionately represented in our population, just like the black males that will be 5 years old that will disproportionately suspended because we want to suspend 5-year-olds. So that's another correlation to the school-to-prison pipeline that we help out. Well, not we because I don't support none of these policies because they don't make any sense and they don't solve the problems

that you're trying to solve. It just furthers the systemic racism that occurs in this, in this state and this country. You know, I'm just waiting to hear the data that says sentencing enhancements make our world a better place. I'm just waiting. Because if your argument is to lock up people who distribute drugs and all these things, I would argue that you've already had these-- a lot of these enhancements. We did an enhancement last year. You already had these increased penalties and those type of things. Wouldn't that mean that our communities would be safe if your war on drugs was actually working? Wouldn't it mean something? I'm just trying to figure it out. You built all these prisons, overcrowded them, underfunded them. And, Senator Clements, you talk about the new prison and it's going to have programming and those type of things. Well, one of the problems in the current prison is that it is so overcrowded, they cannot properly utilize programming. But guess what? The new prison is already forecasted and projected to be overcrowded. So guess what's going to happen, Senator Clements? They're not going to be able to properly do programming because of overcrowding and a staffing crisis. And it doesn't matter that it's in Lincoln and it's going to solve anything because we already have a prison in Lincoln that is overcrowded and understaffed. So it's not going to solve it, Senator Clements. Sorry to break it to you, we're just going to waste more money on building prisons and in the hopes that we'll be able to if-- I even think the goal of the Department of "Punitive" Services is to rehabilitate people, I don't think that's going to happen, not with an overcrowded prison population and short staff. So there goes another failed solution. But because you vote for this bill, it's going to further guarantee that, that new prison will be overcrowded. So you can feel good by voting for this, but this budget crisis that you're hoping to get out of is not going to be solved anytime soon because our solutions are felonies, tax incentives, and not addressing real-world problems for people, not bringing new revenue for the state, not making this state a welcoming place for people, in general. So I don't know how we're going to get out of this, but, you know, it's just Terrell speaking. You don't have to agree with me because you won't anyway. But-- thank you.

ARCH: Senator Hallstrom, you're recognized to speak.

HALLSTROM: Mr. Speaker, members, I rise in opposition to FA980, in support of AM2092, and in support of LB795. It's been interesting to sit here in the Chamber and listen to some of the comments that are being made. When we look at the issue, and I'm going to probably just echo a lot of the comments that Senator Bosn made earlier, it

certainly is an issue of public safety. For Senator McKinney's suggestion, with or without data, we, we read and we hear continuously about situations where fentanyl-laced products get into the hands of children inadvertently or intentionally unknown to them and, and they can be lethal. Senator Conrad talked about the difference between a trace amount and a larger amount. If a trace amount is lethal, I don't think it makes too much difference to the person how much they might have ingested. Hopefully they can get the treatment to save their lives, but if they don't, whether it's 2 grams or 20 grams, is irrelevant to the, to the case at hand. Senator Hunt suggested that a potential life sentence is maybe too harsh. We can agree or disagree on that, but a potential death sentence for a child or a youth that gets in possession of fentanyl-laced products is certainly not appropriate either. For those reasons, I would encourage the opposition to FA980, support for AM2092, and support for the underlying bill, LB795. Thank you.

ARCH: Senator Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. I actually don't know what FA980 does. I should probably look that up. I know that I am opposed to AM2092. And if it weren't for that amendment, we probably would have moved on from this bill yesterday. So-- but that's, you know, the cost of doing business, I guess. We are on Day 28, ooh, 32 days left. Yes. Not that I'm counting. I'm totally counting. I'm totally counting. OK, let me see, what does this floor amendment do? It does something. OK, it strikes IB and insert IC. I don't know what that means. Oh, would you yield to a question? Would Senator Conrad yield to a question?

ARCH: Senator Conrad, would you yield to a question?

CONRAD: Yes. Yes, of course.

M. CAVANAUGH: Senator Conrad, what does this amendment do?

CONRAD: Thank you, Senator. I was kind of setting the table more broadly in my opening and appreciate the opportunity to draw the body's attention to the specifics and the amendment pending before you. So this amendment would amend the proposal that Senator Storer has before us in AM2092. So her proposal would move the top line for trace amounts of fentanyl to-- which is already criminalized with significant penalties, and there's already enhancements when fentanyl results in injury or death that we passed last year. But her proposal

would move trace amounts of fentanyl to a sentence that would carry the potential punishment of 20 to life. My amendment seeks to put an alternative before the body that says if you're caught with a trace amount of fentanyl, you get a mandatory minimum of at least 5 years. But the top line, the top end of the sentence, instead of life, a life sentence would become 50 years. So my proposal in trying to be pragmatic about where this body is in regards to criminal justice policy would provide for an enhancement, which I'm philosophically opposed to, but I'm trying to work in good faith here, to put a mandatory minimum in place and a top line of a 50-year sentence instead of a life sentence. So it's a proposal that would change the type of felony and the sentencing structure that goes with it. From potential life-- 20 to potential life, we, we kind of generally call an IB to a mandatory minimum 5 to 50, which would be an IC, if that's helpful.

M. CAVANAUGH: That is very helpful, thank you. I guess I will support that floor amendment, though I still do not support the overall amendment of AM2092. I was-- I've been listening to the floor debate, I've been in the queue all morning, and I appreciated Senator Clement's comments about rehabilitation and programming. I like the hopeful attitude that the new facility will have more of that. I think, though, if we really care about rehabilitation and people who struggle with addiction, that we should maybe be focusing more on things like drug courts and veterans courts to help do more of the rehabilitative work and not just the constant incarceration and lifetime incarceration because these things are, are more complex than, than just somebody is a drug user, so. Thank you, Mr. President.

ARCH: Senator Quick, you're recognized to speak.

QUICK: Thank you, Mr. President. And the, the other day, I had the opportunity to, to talk to Senator Storer. She had me come in and, and look at her amendment or her bill. And, you know, I, I expressed some of my concerns at that time, and I-- you know, I talked to her a little bit. I haven't talked to her today yet about it, but I still have some of the same concerns I had when I talked to her. I said I don't really maybe see a problem with your bill, but, you know, I still-- I think I even expressed to her that-- of course, we have a son in our family who has struggled with substance abuse for, for 25 years now. And that's something that just doesn't go away. I mean, those are-- it's-- for people who struggle with substance abuse, it's a lifelong issue for them. And so I was trying to make sure that, that maybe her bill wouldn't be something that would come back to

actually-- you know, I understand fentanyl is so dangerous, and opioids are dangerous. Those are both things that my son has been-- that has used over the years. I might be one of the few senators in the body who has actually experienced someone going through withdrawal with opioid use. Also, our families had to give our son Narcan. And those are really difficult, you know, to live through that. So, you know, I understand we don't want people selling the drug. We don't want people using the drug, but we have to be careful about what we do, you know, to make sure that we're addressing the issues of substance abuse. And it seems like we're always reactive. So we're bringing bills after the fact to try to address the behavior after things are already down the road. And for me, it's about how can we address things on the front end? How are we helping, you know, maybe kids on the front end or maybe how we're helping someone who, who-- who's become addicted to drugs, you know, more access to treatment, more access to resources to help them fight that addiction. And, you know, I, I recognize-- even through our son's addiction, we put him through treatment three times before he got out of high school. You can't make them get better. It has to come to the point where they finally realize that they're-- that that addiction is-- that that life that they're leading is worse than, than, than anything they can experience and they have to get better. I will-- I'm happy to say our son is in recovery right now. He's doing very well. He's got a job. He's going to meetings. He's doing everything he needs to do to make his life better and restoring some of those family relationships that he lost over those years when he was using so heavily. And-- but-- you know, I had a bill last year in HHS Committee and it was to, to ask for a million dollars from the opioid settlement dollars for treatment for-- it's medically assisted treatment. So it's called MAT treatment, and this is a-- they give them a drug that will help them fight the cravings for-- reduce the cravings for opioids or some other drug. And I struggled-- I still haven't got-- it's still sitting in committee. The Department of Health and Human Services opposed my bill. I was only asking for a million dollars out of the opioid settlement dollars, but they were saying that this should-- they wanted to use the money for infrastructure and not necessarily treatment. So, you know, I still struggle with that. How can we, how can we help these people? I mean, we can put all the facilities in the world in, but sometimes we also need to make sure we're providing treatment for everyone. And I get it right now, we're short providers that help with substance abuse. There's also, like, if someone goes in and, and they want to get treatment, like right now, there's a waiting list. There's a-- you might have to wait for a bed. So by the time that there is a

bed available, they're back into their, into their, their drug use or alcohol use or whatever their drug of choice is. So I'm just trying to be really careful about what we're doing with this bill and not putting in the position of people who make bad choices as, as someone who struggles with, with, with substance abuse, that they're buying a product and then supplementing their own use by selling some of the drugs themselves. And so that they're not-- you know, I get it. I didn't want my son to use drugs. I don't want him to sell them to somebody else, but I understand that struggle that they go through on a daily basis. So I'm being really cautious about what I do on this bill because I-- or this amendment-- oh, I see I must be out of time. Thank you, Mr. President.

ARCH: Senator Hardin, you're recognized to speak.

HARDIN: Thank you, Mr. President. Fentanyl is not just another illegal drug, it's uniquely lethal. Two milligrams, an amount smaller than a few grains of salt, can be fatal. It's increasingly mixed into other substances without the user's knowledge, turning experimentation or addiction into a death sentence. The people most harmed are not hardened criminals, but sons and daughters, coworkers, neighbors, and friends. AM2092 recognizes that reality and responds in a measured, responsible way. The language before us establishes clear, tiered felony thresholds for fentanyl-based on quantity. 10 grams, 28 grams, 140 grams, these are not possession for personal use amounts. These quantities reflect trafficking, distribution at a scale that endangers entire communities. By aligning penalties with the amount involved, the statute targets those who profit from this poison, not those struggling with addiction. Importantly, this approach brings clarity and consistency to enforcement. Law enforcement, prosecutors, defense attorneys, and judges all benefit from knowing exactly how fentanyl offenses are categorized and punished. Clear standards reduce arbitrary outcomes and strengthen the integrity of our criminal justice system. The definition of fentanyl included here is also critical. Traffickers are constantly modifying chemical compositions to evade accountability. This provision closes those loopholes by covering fentanyl, its isomers, salts, and chemically similar substances already listed in Schedule I. That ensures the law keeps pace with reality rather than lagging behind it. This is not about being tough for the sake of being tough. It's about being smart, targeted, and honest about the danger fentanyl presents. Strong penalties for high-volume trafficking can coexist with treatment, prevention, and recovery efforts, and they must. But treatment alone cannot stop organized distribution networks that knowingly flood our

streets with a substance that kills indiscriminately. Every overdose leaves behind grieving parents, traumatized siblings, and shattered communities. We owe it to them to draw a clear line. If you traffic fentanyl at scale, you will be held fully accountable. This provision does exactly that. It focuses on the worst actors, provides legal clarity, and responds proportionally to an extraordinary public safety threat. I support AM2092. Thank you, Mr. President.

ARCH: Senator Storer, you're recognized to speak.

STORER: Thank you again, Mr. President. I think we've heard, heard a lot of good conversation about this. A lot of the concerns that have been brought up we, we have addressed. I addressed those in my opening. You know, I do want to say this again and, and had very, very good conversation with Senator Quick last week, was able to walk through some of those concerns. This only applies to distribution. These penalties are only applicable to traffickers or distributors. This does not apply to simple possession. That, that is a whole other set of penalties. This is not those. So, again, we're trying to get to the root of-- part of the, part of the root of the drug problem, specifically with fentanyl, and that is to get to and to penalize appropriately individuals selling, distributing these drugs in our communities. This is simply aligning the statute with the same weight-based enhancements that we currently use for cocaine, methamphetamine, and heroin. With that, we could, we could spend quite a bit of time, I guess, talking about fentanyl. I think we all clearly understand the danger that this presents to our communities, to our kids. We have got to put appropriate tools in the hands of, of law enforcement and the courts and the prosecutors to bring these individuals to justice. And that's what this bill does. I ask for your green vote on AM2092. Senator Conrad's amendment is not friendly. She has not spoke to me about it. So I would ask for a red vote on FA980, a green vote on AM2092, and a green vote on LB795. Thank you.

ARCH: Senator Dungan, you're recognized to speak.

DUNGAN: Thank you, Mr. President. Colleagues, I rise again, I think, in favor of the FA and then opposed to AM2092, as we've already discussed. And if AM2092 is attached, I would be opposed to LB795 for the reasons that we've laid out, in general. I do appreciate, as the day's gone on, that we had, I, think, a little bit more discussion about the, the heart of the bill and where we fall on enhancing penalties. I think it's good for folks to be able to get up on the mic and articulate their perspectives. And like I've said many times, we

can obviously disagree about that. But I do think that continuing to further these enhanced penalties does do a disservice to the criminal justice system writ large. I want to zoom in just a little bit more and talk about something that was just said on the mic just to provide a little context for what is a user amount versus a dealer amount. And for those who are involved in the criminal justice system or have been a part of these kind of-- this litigation, you know that this is a discussion [MALFUNCTION] is whether or not something is a user amount or a dealer amount. And that's often a question of fact, right? So for example, if a person is found with a certain amount of methamphetamine in their pocket, the police officer or law enforcement that cites them can make a determination as to whether or not they believe that they are in the process of just holding a controlled substance or possessing a controlled substance, or are they in the process of possession with intent to deliver? Are they holding on to that substance with an intent to actually distribute it or provide it to other individuals? And there's a number of factors that are taken into that conversation to determine whether or not it's a user amount or a dealer amount. And the weight is something we talk a lot about. And that is, I think, key and core to the conversation we're having with AM2092. We've heard a lot of discussions about, you know, the dangers of fentanyl. And as I've said multiple times on the mic, I absolutely agree that fentanyl is a, a dangerous substance and clearly should be treated as such. Nobody is saying that it's not. But when we're talking about the amounts of substances, the weight of substances, I think it's really vital that we kind of understand what that actually looks like. I think a lot of people in here have this image in their mind of the trunk of the back of the car that's, you know, popped open with giant bags of drugs that look like bags of rice and tons of money that are, you know, posted online to say we stopped these drug dealers and look at all this-- look at these drugs they had. That's not what we're talking about with these measurements that are being discussed in the AM. AM2092, the first level that we're talking about which has an exceptionally high penalty is 10 milligrams. And 10 milligrams is, according to some of the things that I've looked up here, I don't have a scale on my desk to look this up, 10 milligrams is about a tablespoon of flour. A tablespoon of flour. And I believe the penalty that's associated with that portion and the underlying amendment is a mandatory minimum, meaning there's no parole or any kind of judicial discretion given to the judges, and I believe it goes up to 50 years on the top end for the possession of a substance that would be a tablespoon. And Senator Conrad pointed this out, and I think she did a great job talking about this in her opening, as others have talked

about this, with the current way that amendment is worded with the mixture, it could be other substances with a residue amount of fentanyl in it that you don't even know is there, that's nonweighable, but a residue amount, so it tests positive, and that could result in that enhanced penalty. And I don't think that that is a proportionate response to what we're trying to address here, which is the underlying problem of substance use disorder. In addition to that, I've heard multiple times, and I've said it before, I'll say it again, we've heard it multiple times about we're not going after users, we're going after traffickers, and we're going after dealers. Colleagues, I can tell you, in looking at these cases for years, the folks that you're talking about that are dealers, quote unquote, are users. These are people who are addicted, these are people who oftentimes have really tumultuous backgrounds of mental health issues and substance use issues, sometimes unhoused, who are alleged to be dealing in order to fuel their own habit because they're addicted. The people that you're talking about are not the folks that you think you're imagining on TV or in movies that are the traffickers or the dealers who are taking advantage and abusing people while not using themselves. That's not who the vast majority of these people are. So I just want to be very clear, the enhanced penalties, they do fuel the problem. They do lead to a larger issue of mass incarceration. And if we actually want to address substance use disorder, we have to be able to do that with some of our underlying issues in the Legislature when it comes to drug courts and providing for substance use evaluations.

ARCH: Time, Senator.

DUNGAN: Thank you, Mr. President.

ARCH: Senator Clements, you're recognized to speak. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. Good-- again, good morning, colleagues. So let me also insert into the record and contextualize what this measure means in regards to our fiscal bottom line because ensuring that we're fiscally conservative and good stewards of taxpayer dollars in many instances has been the connective tissue across the political spectrum to bring people together in addition to the public safety components and benefits to support smart justice reform and a more sensible approach to our criminal justice work. So it's no surprise to anybody, Nebraska remains at the top of one of those lists you don't want to be at the top of in terms of the most or close to the highest overcrowded system in regards to a prison system

in the country behind maybe just Alabama. So after countless studies and significant consultants, analysis, and reports, we heard from those that looked at our existing structure of our criminal law as it existed a few years ago, before the felony factory really got ramped up in here. And it's commonly called the Dewberry report. So Nebraska commissioned these experts, these consultants to look at what we needed to do to address prison overcrowding. And what they said in 2023, essentially, was that Nebraska needed to build at least one massive new prison with hundreds of millions of dollars as its price tag. And probably a second, OK, with another few hundred million dollars as a price tag. Probably a second under the existing sentence structure from a few years ago before the felony factory heated up and ramped up. The consultants and the experts in this field said you probably need to build two prisons, huge massive prisons that cost hundreds of millions of dollars to address overcrowding. And in the past few years, in particular, as we've stepped away from a smart justice approach that has worked on the federal level and in our sister states, this body has passed multiple new crimes and multiple felony enhancements, which will increase pressure on the overcrowded prison system significantly, and tip more quickly towards the requisite commitment to build a second massive new prison amid, mind you, a structural deficit of about \$500 million today and ever growing, money that we literally do not have. So if you want to be tough on crime and blindly follow a life sentence for a trace amount of fentanyl, how are you going to pay for it? What's the plan, friends? What \$300 or \$400 million are you going to back out of schools or roads to make it happen? And if you can't answer the question, you shouldn't vote for this. Didn't come up at the committee hearing. It's not reflected on the fiscal note. And you may not be responsible for all of it, but you're not divorced from it either. I'd really like to hear the perspective of members on Appropriations who are sitting there day in, day out, figuring out how to make painful choices.

ARCH: Time, Senator.

CONRAD: Thank you, Mr. President.

ARCH: Senator Lonowski, you're recognized to speak.

LONOWSKI: Thank you, Mr. President. During wartime, World War II, Korea, Vietnam, the use of morphine was strictly regulated and primarily reserved for surgeries, end-of-life care, and terminal illnesses. Soldiers, Marines, all service members on the battlefield

were given morphine when pain was so great, so severe, that taking the morphine would numb the entire body many times when death was imminent. Fentanyl is 100 times more powerful than morphine. I want to say that again, fentanyl is 100 times more powerful than the drug morphine, which was used during war times. The primary, the primary danger of fentanyl lies in its extreme concentration. It is significantly more than other opioids, being approximately 50 times more than heroin, and, as I said, 100 times greater than morphine. This high potency means that a very small amount can be lethal. A dose of just 2 milligrams, which is similar to 10 grains of table salt, is considered deadly. The danger is further compounded by the nature of illegally manufactured fentanyl. [INAUDIBLE] labs often lack the precision and quality control found in pharmaceutical settings. This can lead to inconsistencies in the amount of fentanyl in each batch, meaning that even-- seemingly, even smaller doses could contain lethal concentration. The user may be unaware of the actual strength of the substance they are taking, dramatically increasing the risk of accidental overdose. Because of its intense effect on the central nervous system, a fentanyl overdose can rapidly cause respiratory depression, leading to the user stopping breathing and potentially resulting in immediate death. This drug is so powerful that the police have special fentanyl gloves they must wear before handling these drugs. AM2092 aligns penalties of these dangerous pills with other illicit drugs that are not even this dangerous. A particularly, particularly insidious aspect of fentanyl crisis is a proliferation of the counterfeit pills. Traffickers are increasingly pressing fentanyl into pills that are designed to look like oxycodone, Xanax, or Adderall. This deliberate deception aims to mislead individuals into taking these drugs and thinking they are safe. The practice poses a significant threat to a wide range of people: teenagers, young adults, and many others who acquire these pills online or from friends mistakenly think they are a less risky alternative to other illicit drugs. The danger is underscored by recent DEA lab testing, which revealed 6 out of 10 fentanyl-laced pills contain a lethal dose. Furthermore, fentanyl is often mixed with other illicit drugs, such as cocaine, methamphetamine, heroin without the knowledge of the user. The cost to human life and to economics in our society is devastating. I stand in support of AM2092 and also in support of LB795. Thank you, Mr. President.

ARCH: Senator Hunt, you're recognized to speak.

HUNT: Thank you, Mr. President. Good afternoon, colleagues. Almost afternoon. Isn't it interesting, isn't it inspiring to learn that for

all the talk that we do in here about protecting women, protecting children, protecting families, collecting data, it seems like we're most motivated to do those things if it lets us lock somebody up in the process as well. All of the proactive things that we do to get in early in the pipeline before people are addicted to drugs, before they are escalating to a point where they're abusing drugs like fentanyl. I've been around people who were abusing fentanyl, who, who took it as a party drug and stuff like that and mixed it with other things. And it's really scary, and I don't want anybody to take fentanyl. And I think that all people should look into, you know, having Narcan, having any of the things that you can get over the counter to help people who are dealing with an overdose, especially today. I think that we should be prepared to support each other through things like that if we do encounter someone who's experiencing an overdose. But whenever we have opportunities to get early in the pipeline to help people who are dealing with addiction, who are more likely to be dealing with poverty, who are more likely to dealing with joblessness, insecure housing arrangements, the arguments that we have for those types of bills never seem to be about, well, and then we'll help, in the long run, decrease drug addiction. And then we won't have these costs to the state. We won't have these issues addressed in AM2092. And I don't think drug abuse will ever go away. That's evident. What I think will happen is we, as a Legislature, will just have an increased appetite to lock more and more and more people up, thinking it's going to solve the problem. But it doesn't. Opening these warehouses, opening these jails, building new prisons to warehouse and create these landfills for people where we're going to throw them away, where they end up not getting any services, they don't get support in the prisons either to deal with these problems, I think it's just easier for some of you to throw these people away and then get to, you know, claim that you're standing under some kind of morally superior viewpoint of helping families and public safety and keeping people safe. What AM2092 does is makes it a felony offense for anyone to deliver or possess with intent to deliver fentanyl or any mixture or substance containing a detectable amount of fentanyl, with the penalty depending on the weight amounts. And listening to Senator Dungan talk about how, if someone has a, a teaspoon of fentanyl versus a teaspoon of sugar plus one grain of fentanyl, they get the same exact punishment, which could be up to life in prison, I, I don't think that that's a proportionate punishment. I think it's wrong for us to treat pure fentanyl as the same as a mixture of any substance with a little bit of fentanyl in it. I don't think that that makes a lot of sense. This means that anything that weighs the requisite amount with a

detectable amount of fentanyl in it is considered to be a controlled substance, and a person could easily be charged with a very serious felony, again, up to life in prison, for possessing a very small amount of fentanyl. And Senator Hallstrom made a point that I think is a common point saying, well, maybe they should get a life sentence, because if somebody died from overdosing on fentanyl, you know, their life is gone, their life has been taken away, so, of course, they should a life sentence. And I think, you know, we don't really do eye for an eye in our justice system. I know that some of you wish that we would, but I think that the way we have due process now, the way that these things are already moving through the legal system, as we've seen back through years of attempts at criminal justice reform here in this Legislature, I think that that's good. I think it's adequate. I think that if we want to be serious about addressing drug addiction and overdose problems and distribution of drugs in Nebraska, there are much more effective downstream ways to do that than continuing to enhance penalties, continuing to lock more and more people up. Because the results of AM2092 are actually absurd, a person having 11 grams of pure fentanyl subject to a--

ARCH: Time, Senator.

HUNT: --lesser penalty with a detectable amount of fentanyl. Thank you, Mr. President.

ARCH: Mr. Clerk, for items.

CLERK: Thank you, Mr. President. Committee report from the General Affairs Committee concerning three appointments to the Nebraska Liquor Control Commission. Committee report, your Committee on Banking, Commerce and Insurance, chaired by Senator Jacobson, reports LB835, LB1160 to General File. Additionally, your Committee on Agriculture, chaired by Senator DeKay, reports LB948 and LB894 to General File, both having committee amendments. Your Committee on Revenue, chaired by Senator von Gillern, reports LB826 to General File. Your Committee on Banking, Commerce and Insurance, chaired by Senator Jacobson, reports LB1062, LB1185 to General File, both having committee amendments. Notice of committee hearings from the Natural Resources Committee. Communication from Senator Riepe designating LB1212 as his personal priority bill for the session. A communication from Senator Hansen designating LB634 as an Executive Board priority bill and LB1237 as an Executive Board priority bill. Motions to be printed from Senator Conrad to LB795 and LB877. Senator DeKay, amendment to be printed to LB948 and LB894. Amendments to be printed from Senator

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Brandt to LB979. Senator DeBoer, amendments to be printed to LB1100. Additionally, amendments to be printed from Senator Arch to LB905, Senator Holdcroft to LB512, Senator Jacobson to LB525. Series of name adds: Senator Spivey, name added to LB14, LB28, LB30, LB75, LB221, LB256, LB238 [SIC--LB338], LB409, LB447, LB571 and LB578; Senator Raybould to LB779 and LB843; Senator Riepe, name added to LB1044; Senator Machaela Cavanaugh, name added to LB1087; Senator Hallstrom, name added to LB1159 and LB1230. Series of motions to be-- and amendments to be printed from Senator Hunt to LB730. Notice that the Executive Board hearing today, tomorrow, and Thursday will be held in Room 1023. Executive Board hearings for the next three days held in Room 1023. And a priority motion, Senator Strommen would move to adjourn the body until Thursday, February 19 at 9:00 a.m.

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