

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 14, 2023

**KELLY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-eighth day of the One Hundred Eighth Legislature, First Session. Our chaplain today is Pastor Bill Forbes; Paxton New Life Lutheran Church' Paxton, Nebraska, from Senator Erdman's district. Please rise.

**PASTOR BILL FORBES:** Appreciate the opportunity to come before you this morning and if we could bow our heads together in prayer, I'd appreciate it. Heavenly Father, we want to praise you and thank you, God, for this great land and the wonderful things that you accomplished from the Founders as they established the Constitution that protects us little guys here out in the middle of nowhere in Nebraska. We thank you, God, that as this body of, of legislators come together today, God, we pray that as the sparring goes and the debates and going back and forth with one another, that as a result of all of it, Lord, that your perfect will would be accomplished. And that, as we bow our knees before you and we seek you in all of the details of what we're doing here in this Legislature today, I pray, Father, that your Holy Spirit would lead and guide and direct each senator that is involved here. And God, we just thank you and praise you, that through that wonderful Constitution that you gave us, that you've also, at the very same time, given this great authority to each one of the states. And we thank you for this little state of Nebraska that's right in the middle of the United States. And I pray, Father, that as the Legislature here continues, that it will pass laws that here, in the middle of the United States, we might become a beacon of light for the rest of the United States because of the Legislature and the laws that we pass. And we want to praise you and thank you for all of these things, Lord. In Jesus' name, Amen.

**KELLY:** Thank you, senator-- or Pastor Forbes. I recognize Senator val-- von Gillern for the Pledge of Allegiance.

**von GILLERN:** Please join me in the pledge. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

**KELLY:** Thank you. I call to order the twenty-eighth day of the One Hundred Eighth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

**CLERK:** I have no corrections this morning.

**KELLY:** There are any messages, reports or announcements?

**CLERK:** There are, Mr. President. A notice of committee hearing from the Government, Military and Veterans Affairs Committee. That's all I have this time, Mr. President.

**KELLY:** Senator Geist would like to recognize Dr. Rachel Blake of Lincoln, who's serving as the physician of the day. Please recognize Dr. Blake. The cookies on your desk are from Senator Vargas in honor of his daughter Ava's fourth birthday. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign Legislative Resolutions LR36 and LR37. Mr. Clerk.

**CLERK:** Mr. President, pending before the Legislature is a committee report from the Natural Resources Committee concerning the gubernatorial appointment of James Reed Macy, director of the Department of Environment and Energy. Additionally pending is a reconsideration or no, excuse me. Also pending is a recommit motion from Senator Blood that was disposed of.

**KELLY:** Senator Bostelman, one minute to refresh, please.

**BOSTELMAN:** Thank you, Mr. President. The Natural Resource Committee held a confirmation hearing on July [SIC] 25, '23, to consider the appointment of Director Macy. The appointment is to the director of DEE. Director Macy appeared in person at the hearing and the committee voted 7-0, with one present not voting, to advance. There were five--four testifiers at the hearing in favor of. We received five letters, proponents, and one opponent at the hearing. I have handed out--yesterday, we talked about more information. There's two things being handed out. One is NDEE's accomplishments and the other one is a progress report for NDEE. And the other thing I have on my desk is the actual complaint, the filing, of the lawsuit of the 18 action items. It's 97 pages long. If anyone would like to see that, you're more than welcome to come and look at it on my desk. Thank you, Mr. President.

**KELLY:** Thank you, Senator Bostelman. Senator Blood, would you take one minute, please, to refresh on the recommit?

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**BLOOD:** Thank you, Mr. President. Yes, I am asking that it be recommitted to committee so they can come back with more compelling information that really explains to us why we should reappoint Mr. Macy. You'll see I'm handing out additional information today. I have another one coming down from my office. I want you to seriously take a look at this information and I'm looking forward to talking more on this matter as we move forward. Thank you, Mr. President.

**KELLY:** Thank you, Senator Blood. Mr. Clerk, for a motion.

**CLERK:** Mr. President, Senator Machaela Cavanaugh would move to reconsider the vote taken on the motion to recommit.

**KELLY:** Senator Machaela Cavanaugh to open.

**M. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues. Happy Valentine's Day. And thanks to those who have provided me with chocolate. It's one of my favorites. So, appreciate that. So yesterday we had the confirmation report for Mr. Macy, and Senator Blood had put up a motion to recommit. And then there was a question called and the Chair ruled that there had not yet been a full and fair debate, then the body motioned to overrule the Chair. And so then we voted on the motion to recommit and I put in a motion to reconsider the vote on the motion to recommit. So that's just sort of where we are at in this process. A few things were said towards-- well, not towards the end, in, in the debate over overruling the Chair that I'd like to speak to first. There just-- the work that we do is, is extremely important. It is the work of the state. And the work that we do is at the expense of the taxpayers. And this notion that we shouldn't spend time on things is very bizarre to me. I think that it is important to be diligent and purposeful in our work. And for those in the body that get impatient with the work that we are doing, I don't think that you maybe understand what the job is. Our job is-- 90 percent of our job is to debate, whether it's to debate on the floor or to debate in committee, to bate-- to debate in Executive Session or to debate in private conversations, our job is to debate and to discuss, have robust discussions over the issues in front of us. And the issue in front of us today is a reappointment to the Department-- Nebraska Department of EE, Environmental-- I don't know what the second E is. Environmental ener-- anyone? No? Yeah. All right. Well, someone will speak to it, I'm sure, at some point. DE-- NDEE. So I, I do think it's important that we spend time on this. And I do think it's important that we have-- Oh. Department of Environment and Energy. It's right here in Senator Bostelman's handout. Thank you, Senator Bostelman. I do think

it's important that we take the time. And I think yesterday was a little bit of a signal as to how this session is going to go with the calling of the question. Calling the question when there's a handful of people left in the queue is kind of-- well, it's rude, first of all, but it's also impatient. We would have probably resolved debate and moved on to a vote yesterday if we had allowed the debate to naturally continue and conclude. And so oftentimes, debate does naturally continue and conclude. It's this notion that we must put a stop to debate, that is what is extending debate. I have a few more comments to make today about this particular nomination, but I don't have a lot. And frankly, if I had just had my turn in the queue yesterday, I was done. But impatience ruled the day yesterday and it keeps ruling the day in this body. Folks, this isn't 8 hours. This was like 2 hours and 15 minutes. And this is important. Acting like this is dilatory because you're annoyed with the amount of time that's being taken does not change the fact that those of us that are talking are taking this seriously, that we think that it's important. Just because you are inconvenienced does not make it less important. You don't have to listen. You can walk away unless we do a call of the house, which I anticipate all future calls of the houses that I do will probably fail. But that's fine because I'll just keep doing them. But you can walk away and you should if you don't want to participate in the conversation, if you don't want to participate in the debate, if you want to have meetings, check out and go do something else. There's lots of work to be done in this place. And if you don't like the work that's being done on the floor, then you don't have to be here. You can do other things, but it's disrespectful to your colleagues that are debating what's on the floor to try and end debate prematurely. It was clear that we were not being dilatory. It was clear that we were talking. It was clear that people were yielding time-- their time to the content expert, which is Senator Blood. She has put together dozens upon dozens of pages of articles and information and research and timelines. So to yield her time for her to speak to this issue is not the body being dilatory, it is debate. And so I'm taking my time right now on this opening to speak to that. And I will get back in the queue and I will say the things that I had to say yesterday that I didn't get a chance to say and then I personally don't have a lot left to say on this issue. But again, patience. If you all would just have patience in the process and honor the process, this would have been done yesterday. How much time do I have left?

**KELLY:** 3:45, Senator.

**M. CAVANAUGH:** Thank you. I do want to speak to one other thing about yesterday and just moving forward. There is this thought that perhaps the work that I'm doing and the work that others are doing around these issues, these conversations, these full debates, is that I'm burning bridges. And I, I feel like I've informed you all this before, but I'll do it again. I'm on an island and all the bridges that go to that island were burned over the last couple of years, not by me, but by others in this body. I can't burn any bridges because there are no bridges left to burn. So if you don't like how things are being done, if you don't like how I'm doing things, I would first of all suggest that you come talk to me about it. And I, second of all, would suggest that you listen to what I'm saying, because all I'm doing in this debate is begging you all to behave better, towards one another, towards me, towards the state, towards the institution. And I will keep doing it in, frankly, my mom way, because that's how I know how to do things. And I will keep teaching lessons even if they're painful to me and painful to you, because I know that you can do better. I know that we can do better as a body. And I think that we should all expect better from ourselves. But if you think that I'm burning bridges, you already burnt them yourselves. If you want bridges with me, you need to build them, because I'm on an island and I don't have the tools or the supplies to build a single bridge anymore because you put me there. I can tell that there are a few people that are listening and I can tell that there are most people that are not listening in this body and that's fine. They'll probably ask me again later why I'm doing the things I'm doing. And I'll say, I told you why I was doing them. Because you need to build bridges; you all need to build bridges. I will yield the remainder of my time and get back in the queue. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Moser, you're recognized to speak.

**MOSER:** Thank you, Mr. Lieutenant Governor. Good morning, colleagues, and good morning, Nebraska. The topic for discussion this morning is the potential nomination and approval of Jim Macy to NDEE. I don't think there's anybody that I have been told of or have knowledge of who has more experience or more background to do this job. I think he was given a tough job. The AltEn situation is an ecological mess. And based on the advice he was getting from the state's attorneys and what our state law allowed us to do, he proceeded in the way that he felt was the best to handle the situation. He requested better authority to handle future situations like this and the Legislature responded by changing some of the laws. And so we've made some improvements in that direction. We're on day 28 today and we have a lot of work to do. I

don't think there's enough time to get to everybody's priority bill. And if we spend a whole lot of time to try to make a point and we burn up days that we would regret using later, I don't think it's productive. I think that Jim Macy is the best guy for the job. There was very little opposition to him. I don't think anybody appeared in person to show any opposition to his nomination. The committee voted 7-0 to approve him. He was chosen by the Governor because he feels that Mr. Macy is the best one for the job. I think we should move on, bring this to a vote. And if we want to have tussles over issues, I'm sure there are issues of more importance to some of us to get to. So I appreciate the discussion. I understand it's your right to say whatever you want. We can say whatever we want here. We can call each other liars. We can say that government is inept. We can-- we're given carte blanche to say whatever comes to our mind, whether it's good to say or not. But again, I think we should bring this to a vote and go on to the next item on our agenda. The clock is ticking. Thank you.

**KELLY:** Thank you, Senator Moser. Senator Fredrickson, you're recognized to speak.

**FREDRICKSON:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. I've been listening closely to this debate. I sit on the Natural Resources Committee and I actually voted yes on Director Macy out of committee. I usually, in general, would defer to the Governor for gubernatorial appointees and I would generally do that in this case, as well. Last night, however, I was reading through the documents that we were provided by Senator Blood's office, in particular, the timeline document that she provided. And I do have some concerns about what was brought up in those documents. And I'm also very appreciative to Senator Bostelman for also providing us with more information. I plan to read through all of that, as well. So I currently am undecided on how I'm going to vote about this on the floor. But after reading these documents in particular, you know, it's, it's incumbent upon the director of an agency to utilize their full scope of power to ensure the safety of Nebraskans. And reading through the timeline of how this has been handled, I'm not sure that that was the case with Director Macy, So I am not sure how I'm going to proceed on the floor with this and I will yield the remainder of my time to Senator Blood, should she be interested.

**KELLY:** Senator Blood, you're yielded 3:30.

**BLOOD:** Thank you, Mr. President. And thank you, Senator Fredrickson, for yielding your time. So I have sent out two handouts today. One is

part of a PowerPoint that was given to the citizens of Mead in reference to sampling and analysis and I want you to look at that very closely. I want you to see what's happening and why the citizens of Mead are concerned for their safety and well-being. And I want you to consider if the circumstances would be the same had we acted in a more timely manner. Yesterday, Senator Jacobson talked about working at a bank and how people make mistakes, as did several other senators here on the floor. And the question I have for the business owners today or those that have been in power or worked in HR departments, how many times do you allow somebody to make mistakes? How many times would you allow a cash drawer to be short, Senator Jacobson? Would it be 12 or 13 times, like what happened with, with the Mead incident? Would you allow someone to get the deposits wrong multiple times? In a business, if someone forgot to lock the door of the business multiple times, would you just say, you know what, I'm going to give you 10, 11, 12 times until you get it right. I, I don't think so. And then yesterday, it was very disingenuous when they said that we hadn't even discussed the purpose of our recommitment. I feel sometimes like we yell into a void here. We clearly said yesterday that we wanted an opportunity to get more compelling information. Now, you can say that we're nit-picking, you can say that we're just trying to slow down the process of the year. That's not what's going on with me. I'm not participating in any shenanigans. This is important to me. And I love when Senator Moser gets up, because he always says the quiet things out loud. The things that most people say behind closed doors or whisper in each other's ears, he'll stand at the mike and say. But I will say, Senator Moser, nobody is calling anybody a liar and nobody has called anybody inept, so to even put that out there is incorrect. What we've said was, if this is indeed the expert that everybody wants, what was his justification for taking so long--

**KELLY:** One minute.

**BLOOD:** --to address this long-standing issue? Now, I also want to remind you that we've had trouble with the State Environmental Trust Board. And Mr. Macy also sits on that board. He is an agency director who sits on that board and a voting member. And until the last round, there were a lot of concerns from previous senators and environmental groups about how those funds were being allocated. He was part of that problem. I also want to address this spreadsheet and I am in the queue, so I'll be able to get back to it, as well. I appreciate Senator Cavanaugh calling me a content expert. I don't think I would agree with that, but I would say that I feel passionate about this. I feel that we are trying to kick it under the rug. And the fact that we

have this progress chart, I want to walk you through some of the issues with this progress chart because it looks good in print. And obviously, they went to a lot of work and did it in color and everything, so pretty impressive.

**KELLY:** That's your time, Senator. Senator Jacobson, you're recognized to speak.

**JACOBSON:** Thank you, Mr. President. We've heard a lot of talk today, as we did yesterday, as we've heard the last time we were in session about taking our time in the process. And, and we could certainly do that. There are 812 bills that were-- or over 800 bills that were introduced. There are going to be over 100 priority bills. We can hear those priority bills. We can do spending time here doing the people's work, which I don't think is arguing over who's going to be on the Committee on Committee or who's going to be on what committee or about an appointment that came out of committee after they heard all the testimony, which, by the way, there-- no one came in person and testified in opposition and it was a 7-0 with one voting present, not voting. That sounds to me like a resounding support for someone that the Governor has confidence in to serve in that role. Recommitting this to the committee is going to come back with the same result. There will be a majority of the members of that committee are going to support this appointee because he's the right person to serve in this role. None of us were there with him. None of us have the same expertise of what was being dealt with at the time that he dealt with the problems. It's very easy to sit in the back seat and take shots at what he should have done differently or mistakes that he made. But at the end of the day, he's done a great job, I believe, overall, in all the issues that he's dealt with in his tenure in that role and that's why the committee voted the way they did. So, again, we can spend the rest of today and we can continue to spend time arguing over this appointment. And all of us know that the votes are here to approve this appointment and he will be appointed in that role. And we will have lost two or three more days of doing other work. And so I've got-- there are many senators here who've talked to me personally about supporting their priority bill. Well, you know what? We're not going to probably hear their priority bill because we're going to be spending time on this. So I do think there's a time when you have to prioritize what's most important here today. And if this is the most important issue, then I'm disappointed because I think there are a lot of other issues. There's a lot of things that we need to get done this session. And I think the voters of Nebraska and the residents of this state are expecting more from us in this body than that stuff that's

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been going on so far in the floor debate. Hopefully, we're going to get to substantive issues that are going to deal with real debate on real issues where it would actually make a difference on how the outcome would work. So that's where my focus is, that's where I'm going to continue to focus. I think everyone in this body who knew me from last year and know how I operate, I'm going to support anyone's bill if it's a good bill. And I'm going to work throughout this body to help get things done. And not-- but I do have a short patience factor when it comes to dealing with things that are just designed to waste time. And that seems to me that that's what we've been doing with this appointment, because we all know what the outcome is going to be. So with that, I'd be willing to yield the rest of my time to Senator Bostelman.

**KELLY:** Senator Bostelman, that's 1:25.

**BOSTELMAN:** I oppose the reconsider motion by Senator Cavanaugh and would request that you do the same. Thank you.

**KELLY:** Thank you, Senator. Senator Slama, you're recognized to speak.

**SLAMA:** Question.

**KELLY:** The question has been called. Do I see five hands? I do. The question is, shall debate cease on the motion to reconsider the unsuccessful motion to commit? All those in favor say aye; all those opposed say nay. Machine vote. Excuse me. Machine vote. All those in favor, aye; all those opposed, nay. There's been a request for a call of the house. All those in favor, say aye-- vote aye; all those opposed, nay. Record, Mr. Clerk.

**CLERK:** 18 ayes, 9 nays, to place the house under call.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Kauth, could you please check in? Senator Walz, could you-- thank you. Senators McDonnell and Hunt, the house is under call. All unexcused members are now present. Senator Slama, there's an open vote on the call of the question. Would you accept call-ins?

**SLAMA:** Yep.

**KELLY:** We are now accepting call-ins. Senators, please call in your vote.

**CLERK:** Senator Hunt voting no. Senator Moser voting yes. Senator McDonnell voting yes. Senator Brewer voting yes. Senator John Cavanaugh voting no. Senator Brandt voting no-- yes. Excuse me. Speaker Arch voting yes. Senator McKinney voting no. Senator Conrad voting no. Senator Ben Hansen voting yes. Senator Dorn voting yes. Senator Vargas voting no.

**KELLY:** Record, Mr. Clerk.

**CLERK:** The vote is 30 ayes, 10 nays on the call of the question.

**KELLY:** Debate does cease. Senator Cavanaugh, Machaela Cavanaugh, you're recognized to close on your motion to reconsider the unsuccessful motion to recommit.

**M. CAVANAUGH:** Thank you, Mr. President. How much time do I have?

**KELLY:** 4:58.

**M. CAVANAUGH:** Thank you, Mr. President. OK. Well, colleagues, I am the last one in the queue. There's, I think, four or five people in the queue. I stated that I only had one more thing that I was going to say and I was done talking. I probably was going to pull this motion. But again, our impatience has led us to-- we would have already gone through this entire queue in this amount of time and been done with this portion of our day. But we are impatient. So here we are yet again. What I wanted to say was that I had concerns over the people that came in support of Mr. Macy, because they are people who financially benefit from regulations going a certain way. And that, to me, is a cause for concern. I am not going to vote against Mr. Macy's nomination; I'm not going to vote for Mr. Macy's nomination. He needs 25 votes to be-- to move forward and I'm certain that he has 25 votes. It is unfortunate that the body did not take this debate more seriously, but instead played political games in trying to cease debate on what was a serious issue. We could have been done with this again, yesterday, if we would have let debate naturally end. We could have been done with this already today if we allowed debate to naturally end, but this body continues to waste time. You're wasting time. These hijinx are wasting time because I was the last one in the queue. No one has gotten in the queue since I put my name in when I opened on this motion. I have been the last person in the queue this

entire time. And when I said I was going to speak one time, that was it, we would have been done. But instead, we did a call of the question, we did a call of the house, we did call-in votes and now we're doing a vote on this and we're going to do a roll call vote on this and it's going to take more time. So if you're frustrated with the amount of time that we're taking on this, maybe stop taking so much time and let the debate happen. I am very transparent to an infuriating degree about what I'm going to do. If somebody asks me, I almost always tell them exactly what I'm going to do. And sometimes, that even bothers me that, like I like, Machaela, keep it to yourself, Senator Cavanaugh, keep to yourself. I call myself Machaela in my head, I don't call myself Senator Cavanaugh. But I was very transparent on the microphone on my intentions today on this. I have been very transparent on my intentions on this. I am going to take the full 4 minutes or whatever I have left. How much time do I have left?

**KELLY:** 2:15.

**M. CAVANAUGH:** I'm going to take the full 2 minutes and 15 seconds because you all gave it to me, in doing a call of the question, voting on the call of the question and call of the house, sitting, calling the house, we're under call. We can't get up. Nobody can get up from your seats because we're under a call of the house. So we're just going to sit here and listen to Machaela talk for 2 minutes. That's what we're going to do. Senator Cavanaugh, whatever. I guess. Again, I don't call myself Senator Cavanaugh, but I know. Again, it's impolite to call people by their first name on the floor. I think we can make an exception when we're calling ourselves by our first name. But-- so, we could have been done. We could have been done yesterday. We could have been done at about 9:35 today. We could have been done with Mr. Macy's nomination, but we're impatient. And by we, I don't mean the people that have been in the queue talking about Mr. Macy's nomination. By we, I mean the people in the body that are too impatient to sit here for 30 minutes on a Tuesday morning to debate a nomination. Five people in the queue. I'm the last one. I was going to withdraw my motion.

**KELLY:** One minute.

**M. CAVANAUGH:** And now we're going to vote on my motion. We're going to do a roll call vote and we're under call because that's apparently how we want to behave. If I were the people sitting in here who have not been participating in this, I would be super frustrated right now, like super, super frustrated, because you are being forced to sit in

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your seats while you have probably meetings that you need to do around bills that you're introducing or meetings with people out in the lobby. But instead, you're being forced to sit in your seats because your other colleagues can't be patient enough to just let debate happen. And I doubt that's the lesson any of you are going to learn. I'm pretty sure you all are going to just keep doing this over and over again and keep complaining about how people like myself are taking up so much time, yet I'm just having debate. You're the ones taking up time. I think I'm about out of time, so roll call vote, reverse order. Thank you, Mr. President.

**KELLY:** That's your time, Senator. Thank you. Mr. Clerk, please call the roll. The question before the body is the motion to reconsider the, the motion to recommit-- the unsuccessful motion to recommit.

**CLERK:** Senator Cavanaugh, did you request, request reverse order? Senator Wishart voting no. Senator Wayne voting yes. Senator Walz not voting. Senator von Gillern voting no. Senator Vargas voting yes. Senator Slama voting no. Senator Sanders voting no. Senator Riepe voting no. Senator Raybould. Senator Murman voting no. Senator Moser voting no. Senator McKinney voting no. Senator McDonnell. Senator McKinney voting yes. Senator McDonnell voting no. Senator Lowe voting no. Senator Lippincott voting no. Senator Linehan voting no. Senator Kauth voting no. Senator Jacobson voting no. Senator Ibach voting no. Senator Hunt voting yes. Senator Hughes voting no. Senator Holdcroft voting no. Senator Hardin voting no. Senator Hansen voting no. Senator Halloran voting no. Senator Geist voting no. Senator Fredrickson voting yes. Senator Erdman voting no. Senator Dungan voting yes. Senator Dover voting no. Senator Dorn voting no. Senator DeKay voting no. Senator DeBoer voting no. Senator Day. Senator Conrad voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese voting no. Senator Brewer voting no. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar. Senator Blood. Senator Blood voting yes. Senator Ballard voting no. Senator Armendariz voting no. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar voting no. Vote is 10 ayes, 35 nays on the motion to reconsider.

**KELLY:** The motion fails. Mr. Clerk. Turning to debate on the confirmation report. Senator Cavanaugh, for what purpose do you rise?

**M. CAVANAUGH:** Point of order.

**KELLY:** Could you approach, please?

**M. CAVANAUGH:** Sure.

**KELLY:** Senator Cavanaugh, Machaela Cavanaugh, please state your point of order.

**M. CAVANAUGH:** Thank you, Mr. President. I had put in a motion to bracket until tomorrow, but I am not going to ask-- I'm asking that we not take that up at this time and that we move forward with the debate on the underlying confirmation report. Thank you, Mr. President.

**KELLY:** Thank you, Senator. I raise the call. Turning to debate and the speaking queue, Senator Blood, you're recognized to speak.

**BLOOD:** Mr. Pres-- thank you, Mr. President. I still stand in opposition of this appointment. One of the things that I really enjoy when I'm on the floor is when somebody mansplains to me or talks down to me like I'm some kind of idiot, not that that happened today. But I would like to respond to Senator Jacobson, since his responses were in reference to this appointment and say that we are having real debate on real issues and I've looked at some of these bills that are on our agenda and some of them are simply clean up language or feel good bills. And yeah, there are a few important bills, but we are having a real debate on real issues. To say that it's not substantive, is ridiculous because we're talking about the air that we breathe, the water that we drink, the soil that we grow things, things in. We're talking about property rights. This is an important issue. This isn't how I, I had planned on spending my first few days of debate. And the one thing that's really interesting is that you keep hearing people say nobody came in person in opposition. At this time, I'd ask that Senator Fredrickson yield to a question.

**KELLY:** Senator Fredrickson, will you yield to a question?

**FREDRICKSON:** I will.

**BLOOD:** Quick question, Senator Fredrickson, were there any letters of opposition?

**FREDRICKSON:** Yes, I believe there's one letter of opposition.

**BLOOD:** Thank you very much. Something that for some reason has not been mentioned once. Interesting. We were told that, on the mike today, that we were sitting in the back seat and talking about things that we don't understand and really, clearly, supposedly don't have the right to talk on. I disagree. There are a lot of things that I can

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point out on this progress report. I'm going to point out one thing on this progress report, to put in perspective, one of the many, many things that went wrong. And I want you to look at the dates, look at consolidating wet cake waste and-- it's hard to read in here, by the way-- and covering. And I want you to look at the date. The wet cake was covered with polyshield on-- in February 2022. What happened seven months later? It cracked and it needed to be repaired. What a good solution that we put a lid on a poisonous pile of crap with nothing under it and seven months later, we're already repairing it. Whether you like it or not, the head of that department oversaw a lot of what was going on. And you can talk about the remediation and how the seed companies came together. The seed companies came together, then turned around to sue AltEn, which we're already in litigation with AltEn. What are the people of Mead going to get? Nothing but sickness, disease, cancer, brain tumors, infertility. We, and by the way, we should be talking about the Attorney General's Office, as well, because they're just as complicit. We've got to decide what we stand for and to say that we trust the Governor's-- with all due respect, we're the legislative body. The Governor can appoint, but we approve. And I don't know what you're worried about, but you can be not voting, you can vote no. If you really feel that you have enough information because you actually read what I've handed out in the last 24 hours, then I respect you when you vote green. But I'm not going to stand here like another senator did and school you and shame you and tell you that you don't know what the heck you're doing.

**KELLY:** One minute.

**BLOOD:** You know what you're doing. You're elected by your constituents to come here and do a job. And for those senators that are complaining that we're taking too much time, remember I have a very long memory, as you all know. When you stand and filibuster a bill you don't like, we'll have to bring today up because what we're doing is our job, what we're doing, what we were trained to do, what we're doing is the people's will, the people's work. And by the way, I've got not, not one negative email, one negative phone call, all I've gotten were people thanking me for standing up for the people of Mead. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Lowe, you're recognized to speak.

**LOWE:** Question.

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**KELLY:** The question's been called. Do I see five hands? I do. Quest-- call of the house. Request to place the house under call. All those in favor vote aye; those opposed vote nay. Record. Mr. Clerk.

**CLERK:** 18 ayes, 13 nays to place the house under call.

**KELLY:** Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All authorized personnel, please leave the floor. The house is under call. Senator Jacobson, please check in. Senators McKinney, Linehan, Erdman, and Arch, please return to the Chamber. The house is under call. Senator Erdman, please return to the Chamber. The house is under call. All unexcused members are now present. The question is shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 34 ayes, 9 nays to cease debate.

**KELLY:** Debate does cease. Senator Bostelman, you're recognized to close on the confirmation report from the committee.

**BOSTELMAN:** Thank you, Mr. President. I just want to state some facts on the record to clear up, ensure people understand. Senator Blood, this morning I did mention that there was opposition when I opened this morning. One-- in one minute, I did state that. Under 81-1510, the director was required to make every effort to obtain voluntary compliance. LB1102, which the Legislature passed last year, gave NDE the tools to take action against significant violators. The AP-- the EPA does not consider neonicotinoids a hazardous material and still allows treated seed to be used in the production of ethanol. We passed LB507 in 2021 to prohibit the prac-- that practice in Nebraska. The seed label says it can be used to make ethanol, but you cannot feed it to livestock. The Department of Agriculture was responsible for the label, label and allowed the wet distillers grain to be used as a soil augmentation and applied to land. The director is not authorized to speak on the contents or status of the law-- lawsuit filed by the Nebraska Attorney General against AltEn. You can read the steps taken by NDE [SIC] in the lawsuit, found in C 121-00036 [SIC]. The complaint I have here on my desk, you're more than willing to look it over, the handouts cover many of the accomplishments of NDEE. The progress report states what's happening at AltEn, the clean up is happening and has been happening and will continue to happen. The levels that have been detected in the homes were below health advisory level. There's

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no in-home benchmarks established by the EPA for that. There are 18 causes of action. 97 pages, 97 pages in the filing. That's significant. The state of Nebraska takes this very serious; NDE takes this very serious; I take this very serious; the community of Mead takes us very serious and we are all involved in getting this site cleaned up and getting taken care of. The NOV's and the noncompliance letters are not mistakes. The litigation referred concurrently with the continuing problems at the site. NDEE has acted to what they are statutorily required to do. They have fulfilled that. That is the debate that, that's before you. I think the lawsuit, the complaint that was filed by the Attorney General will show that they did follow the statutes as they were responsible to do. And with that, I would ask for your green light in confirming Director Macy as the director of the Department of Energy and Environment. Thank you, Mr. President.

**KELLY:** Thank you, Senator Bostelman. We've had a request for a roll call vote. Mr. Clerk, please call the roll.

**CLERK:** Senator Wishart voting yes. Senator Wayne voting yes. Senator Walz voting yes. Senator von Gillern voting yes. Senator Vargas voting yes. Senator Slama voting yes. Senator Sanders voting yes. Senator Riepe voting yes. Senator Raybould. Senator Murman voting yes. Senator Moser voting yes. Senator McKinney not voting. Senator McDonnell voting yes. Senator Lowe voting yes. Senator Lippincott voting yes. Senator Linehan voting yes. Senator Kauth voting yes. Senator Jacobson voting yes. Senator Ibach voting yes. Senator Hunt not voting. Senator Hughes voting yes. Senator Holdcroft voting yes. Senator Hardin voting yes. Senator Hansen voting yes. Senator Halloran voting yes. Senator Geist voting yes. Senator Fredrickson not voting. Senator Erdman voting yes. Senator Dungan not voting. Senator Dover voting yes. Senator Dorn voting yes. Senator DeKay voting yes. Senator DeBoer voting yes. Senator Day. Senator Conrad not voting. Senator Clements voting yes. Senator Machaela Cavanaugh not voting. Senator John Cavanaugh not voting. Senator Briese voting yes. Senator Brewer voting yes. Senator Brandt voting yes. Senator Bostelmen voting yes. Senator Bostar. Senator Blood not voting. Senator Ballard voting yes. Senator Armendariz voting yes. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting yes. Vote is 38 ayes, 0 nays on the committee report.

**KELLY:** Thank you, Mr. Clerk. The committee report is approved. Raise the call. Mr. Clerk, for items.

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**CLERK:** Mr. President, reminder, the Education Committee will meet in Executive Session at 10:00 in their hearing room, 1525. Education in Executive Session, 10:00, in room 1525. Additionally, your Committee on General Affairs, chaired by Senator Lowe, reports LB376 to General File with committee amendments. That's all I have at this time, Mr. President.

**KELLY:** Next item on the agenda, Mr. Clerk.

**CLERK:** Mr. President, the next item on the agenda is a committee report concerning the gubernatorial appointment of Patrick Guinan from the State Personnel Board, from the Government, Military and Veterans Affairs Committee.

**KELLY:** Senator Brewer, as Chair of the committee, you're recognized open on the report.

**BREWER:** Thank you, Mr. President. On February 3, the Government Committee held six confirmation hearings on appointments by the Governor. The first was on the appointment of Patrick Guinan to the State Personnel Board. Mr. Guinan is the current chair of the board and he has served for eight years. This was to be his second appointment. He has a great deal of experience, obviously, as a practicing attorney and knowledge in relevant areas of law. The Government Committee recommended to him. Thank you, Mr. President.

**KELLY:** Thank you, Senator Brewer. Is there anyone wishing to speak to the appointment? Senator Brewer, you're recognized to close. Senator Brewer waives closing. The question before the body is the adoption of the committee report. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 34 ayes, 0 nays on the adoption of the committee report.

**KELLY:** The report is adopted. Next item, Mr. Clerk.

**CLERK:** Mr. President, the next item, a committee report from the Government, Military and Veterans Affairs Committee concerning the gubernatorial appointment of John Andrew Bolduc, superintendent of the Nebraska State Patrol.

**KELLY:** Senator Brewer, to open.

**BREWER:** Thank you, Mr. President. Our second appointee is Colonel John Bolduc, who is a reappointment to the head of the Nebraska State

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Patrol. Colonel Bolduc has been with the Patrol for five years, has a total of 37 years of law enforcement experience and has led the State Patrol through a series of reforms that includes stepping up felony arrests, increasing community engagement, office consolidation in Lincoln and the expansion of the crime lab. The Government Committee recommended adopting Colonel Bolduc. Thank you, Mr. President.

**KELLY:** Thank you, Senator Brewer. Does anyone else wish to be heard? Senator Brewer, to close. Senator Brewer waives. The question before the body is the adoption of the report from the committee. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

**CLERK:** 31 ayes, 0 nays on the adoption of the committee report.

**KELLY:** Thank you, Mr. Clerk. The report is adopted. Next item.

**CLERK:** Mr. President, the next item is a committee report from the Government, Military and Veterans Affairs Committee concerning the gubernatorial appointment of John Hilgert, director of the Department of Veterans Affairs.

**KELLY:** Senator Brewer, to open. You're recognized.

**BREWER:** Thank you, Mr. President. As you heard, Director John Hilgert is-- been picked to head up our Department of Veterans Affairs. John is from Omaha and is a Creighton Law grad. He served in the First Infantry Division as a JAG officer on deployments to Iraq. He has been in his current role for 22 years, since first being approved by Governor, Governor Johanns. He has worked on a number of different projects to include the moving of veterans home from Grand Island to Kearney. He has shown an amount-- an amazing amount of dedication to our veterans and the mission of the Veterans Affairs. And the committee voted 8-0 to approve John as the Department of Veterans Affairs director. Thank you, Mr. President.

**KELLY:** Thank you, Senator Brewer. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. I would actually ask if Senator Halloran would yield to a question.

**KELLY:** Senator Halloran, will you yield to a question?

**HALLORAN:** Yes.

**M. CAVANAUGH:** Thank you, Senator Halloran. I'm just looking at the Journal report and I see that you were present not voting on the last three nominations. And I, I just wondered if there was anything that you wanted to share or anything I should know about or we should know about as to why you were present not voting?

**HALLORAN:** I was present not voting because I was excused from the confirmation hearing.

**M. CAVANAUGH:** Oh, OK.

**HALLORAN:** So I was not present there to listen to them directly--

**M. CAVANAUGH:** Thank you.

**HALLORAN:** --and so I didn't feel adequate to vote on those.

**M. CAVANAUGH:** I've been in the same position before. Thank you for the clarification. That was it. I yield the remainder of my time.

**KELLY:** Thank you, Senator. Senator Vargas, you're recognized to speak.

**VARGAS:** Thank you very, very much. And I rise in support of, of John in, in this capacity. John is a south Omaha connection, SOB, and he is a wonderful director. I hope we support his appointment. I'm actually taking this time just quickly, personally, because earlier today, you should have on your desks and many of you already ate this, a cookie on behalf of my daughter Ava's birthday. And I just wanted to say happy birthday to my daughter, Ava Kay. Now, I know we don't always say happy birthday to all of our loved ones, or our sons and daughters and, and-- but I wanted to take an extra special second because well, my daughter was born on this day. And I remember because I was in legislative hearings the day before, actually introducing bills and had to quickly leave and let some of the chair, chair, chair people know that I had to quickly leave because my, my wife is going to go into labor. And it was just a wonderful surprise to have Ava Kay in our life. Born on Valentine's Day, she has been a blessing to our entire family. And I wanted to say to you, Ava, a happy birthday. We love you, from me and Lauren and our entire family. And we hope you have a wonderful birthday today. So thank you, everybody, for giving me this time. And I support the appointment of John to this position. Thank you.

**KELLY:** Thank you, Senator Vargas. No one else in the queue. Senator Brewer. Senator Brewer waives closing. The question is the adoption of

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the report offered by the Government, Military and Veterans Affairs Committee. All those in favor vote aye; all those opposed vote nay. Have all voted who wish to? Record, Mr. Clerk.

**CLERK:** 32 ayes, 0 nays on the adoption of the committee report.

**KELLY:** Thank you, Mr. Clerk. The report is adopted. Mr. Clerk, next item.

**CLERK:** Mr. President, the next item, committee report from the Government, Military and Veterans Affairs Committee concerning the gubernatorial appointment of Andrew Reuss to the Nebraska Accountability and Disclosure Commission.

**KELLY:** Senator Brewer, you're recognized to open.

**BREWER:** Thank you, Mr. President. We heard from Andrew Reuss. He's an appointment to the Accountability and Disclosure Commission. Mr. Reuss will be a new member of the commission. However, he has a lot of related experience. He's a graduate of Hillsdale College. He's worked as a communication consultant. He spent time on Capitol Hill. In our conversations in the Government Committee, he told us that he was very committed to carefully following the letter of the law. He won a positive vote out of the Government Committee with our recommendation. Thank you, Mr. President.

**KELLY:** Thank you, Senator Brewer. No one else in the queue. Senator Brewer, you're recognized to close. Senator Brewer waives closing. The question is the adoption of the report offered by the Government, Military and Veterans Affairs Committee. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 29 ayes, 0 nays on the adoption of the committee report.

**KELLY:** The report is adopted. Mr. Clerk, next item.

**CLERK:** Mr. President, next item, committee report from the Government, Military and Veterans Affairs Committee concerning the gubernatorial appointment of Edward A. Toner, Chief Information Officer of the Office of the Chief Information Officer.

**KELLY:** Senator Brewer, you're recognized to open.

**BREWER:** Again, thank you, Mr. President. We had a chance to talk to Ed Toner as our chief information officer. Some background on Ed. He is a

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Texas A&M graduate with 25 years of IT experience across the private and public sectors. He is a former industrial engineer and expert in process efficiency. He has a strong history of supporting customers across our state. Again, he received a positive vote out of the Government Committee and we recommend him. Thank you, Mr. President.

**KELLY:** Thank you, Senator Brewer. No one else in the-- Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. President. I would just like to emphasize I've worked with Mr. Toner, OCIO, on several different levels, both things that we've done here in the body before some of you got here, as far as secure Internet and other areas. And I strongly support Mr. Toner to be confirmed. He is one of the top individuals, I think, we have in the country to do the job that he's doing. And I just want to thank him for the work he's done and encourage your green vote. Thank you.

**KELLY:** Thank you, Senator. No one else in the queue. Senator Brewer, you're recognized to close. Senator Brewer waives, waives closing. The question is the adoption of the report offered by the Government, Military Affairs-- Military and Veterans Affairs Committee. All those in favor vote aye; all though those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 30 ayes, 0 nays on the adoption of the committee report.

**KELLY:** The report is adopted. Mr. Clerk, next item.

**CLERK:** Mr. President, the next item is a committee report from the military veteran-- excuse me, the Government, Military and Veterans Affairs Committee concerning the gubernatorial appointment of Jason Jackson, Director of the Department of Administrative Services.

**KELLY:** Senator Brewer, you're recognized to open.

**BREWER:** Thank you, Mr. President. All right. We'll finally wrap this up here. The final person that we heard from was Jason Jackson, who is a reappointment to head the Department of Administrative Services. Director Jackson is a Naval Academy graduate and with eight years of service as a naval officer. He continues now to serve as a JAG officer within the Nebraska National Guard. Before becoming-- before coming to the Nebraska state government, he was an HR executive in technology sector. As part of DAS, he was involved with many major projects, some to improve workplace process efficiency, coordinate the pandemic

response and to improve the Nebraska State Patrol transparency and accountability. He has faced some difficult challenges as the DAS director in, in state procurement and has worked with the Speaker and other in the Legislature to address these challenges. His agency also ha-- recently faced challenges related to fiscal reporting. He has shown that he has the ability to recognize when there's an issue and then work hard to fix that and provide us a course correction as a result. This last report was excellent. So with that, the Government Committee voted to recommend confirmation. Thank you, Mr. President.

**KELLY:** Thank you, Senator Brewer. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Colleagues, I am not in support of Mr. Jackson, Jackson's reappointment. I would like to share some of my concerns around his work in the past four years. Under Mr. Jackson's watch, we had Saint Francis Ministries contract. That was a procurement contract that was awarded with a 40 percent underbid for child welfare. Under Mr. Jackson's watch, the Department of Administrative Services deemed it appropriate to change the contract from our previous contract with PromiseShip. When we had had a cost assess-- analysis done and-- from an outside-- I'm sorry. It's a little loud. We had a cost analysis done that said that the cost of the services that were being provided by PromiseShip were appropriate. And then we had a bid, because we-- our contract was up and we needed to rebid. And Saint Francis Ministries came in and bid at 40 percent less than PromiseShip, which gave them disproportionate points in the scoring process, which, which ultimately led to them getting the award. Now, if you look at the actual breakdown of cost in their bid, the administrative side of their cost, the human resources, which is caseworkers, which is what you need to do child welfare in Nebraska. And we have a statutory obligation to have a 17-1 ratio of caseworkers, so you cannot cut corners on caseworkers. They are a human resource and it is-- there is an amount that you must have of people to maintain those ratios. That portion of the bid was 93 percent less than PromiseShip. They said that they could provide the same services for child welfare that PromiseShip was providing at 7 percent of the cost. And under Mr. Jackson's watch, that contract was awarded. That in and of itself should be cause for dismissal, not retention. However, lessons learned is what I'm sure many people would say. We learned our lessons in this flawed procurement process, which does allow for them to take into consideration the feasibility of a, a bid to do the services that they say they can do at the cost that they can say that they do. And the people that were scoring were directed

to ignore that. They were directed to ignore whether or not they could deliver the services at the cost that they said that they could. They were actually directed to ignore a simple Google search that told them about the financial mishaps of the company that we were engaging, which turned out to be way worse down the road and there is a federal indictment against Saint Francis and their leadership. But bygones, right? We were defrauded as a state under Mr. Jackson's watch for millions of dollars and the children of Nebraska are suffering, but we should definitely reappoint this person. So now, where are we at? We just had a new bid of contracts for our managed care organizations for Medicare. We have three contracts with three different companies for-- to administer our managed care organizations. They put the bid out, bids came back, they did the--

**KELLY:** One minute.

**M. CAVANAUGH:** --scoring and they went with one contract, one new contract, and eliminated one of the existing contracts. OK. Maybe this was a better deal, except that the CEO of DHHS was the reference, the main reference for the new contract. Illegal? No. Appropriate? Definitely not, as was the chief of staff for Governor Ricketts. And they withheld information that would have impacted their scoring. And we went with that contract and we didn't re-score after we found out that they withheld information, important information, that would have adversely impacted their scoring. Lessons learned from Saint Francis Ministries? We are now engaged in a lawsuit again, because of the procurement process with DAS. I understand I'm probably out of time, so I will get back in the queue.

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

**CLEMENTS:** Thank you, Mr. President. I do rise in support of director Jason Jackson. I have had much reluctance also in his performance and I had a few meetings with him already this session. Regarding the Saint Francis bid, I was on the committee that did review the Saint Francis problem/situation and the, the president of Saint Francis did state he should not have bid. He was not very well prepared to know what the requirements were and that he was under, you know, understaffed and it was a very sad situation. But I think we've, we've gone through that and we've gone over that. We did have questions from that on how we do procure items at DAS. And Mr. Jackson has told me he's accepted the recommendations, the procurement recommendations that the Legislature has given him. The main concern I have was with

the audit reports. The 2020 audit had \$21 billion worth of adjustments and corrections to the financial statement of the state. There were no embezzlements found, but there were just-- there were posting errors in the accounting. 2021, a report we got a year ago in December was \$4 billion still. It was not acceptable. This year, the 2022 report had half a billion, \$500 million, which was still the-- I've been told the unemployment benefits were the main-- still the main area. We had a huge amount of unemployment. New federal bills that came with more requirements and the Department of Labor is trying to-- is working on a accounting interface so they can forward their accounting information to DAS. And so I was questioning Director Jackson as to what corrective action he's taken. He has hired more accountants to work on the audit and get the state's ledger, ledgers under control and I believe in another year he will. And so I am standing in support give-- to give him another chance, so I will be voting green and because of the, the commitments that he has made, especially in the financial area, to solve the issues that we've had with our audit report. Thank you, Mr. President.

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

**HUNT:** Thank you, Mr. President. Senator Machaela Cavanaugh is often on an island. And I know that for many people in this body, sometimes you see her in the queue or you hear her speaking and you think, oh no. You know, either we're going to be going a long time or this is about something petty or now we're going to be punished for not voting for a call of the house or something like that. But I don't want her to stand alone on this-- on the conversation about this appointment of Jason Jackson. The points that she's making about the mishandling of the Saint Francis Ministries case are very valid. They're very good. So many people run for office and they talk about running government like a business. Governor Pillen talked about that a lot on the campaign trail. I think he talked about it in his State of the State address and in his inaugural address. Many of you talk about it on the floor. And if anybody had run a business the way Jason Jackson has run that department, with what's gone on with Saint Francis Ministries, with what's gone on with TestNebraska. That was the thing that I was really embroiled in, that, that bothered me, the way that was handled. I think that an employee would have consequences for that kind of thing. The fact is that in the Legislature here, that's not going to happen. You know, we all know that no matter what happens with this conversation, this man is going to be confirmed. And you know, I'm not one to say that people don't deserve second chances and things like

this, but-- and it's hard to find public servants who are willing to work in government, who are willing to forego higher salaries in the private sector where they would be held accountable for mistakes like this. That's all very true. You know, in the past, when we've brought up really legitimate concerns about appointees, I, I remember being scolded by some committee chairs, saying, well, Megan, don't you know how hard it is to find people who are willing to serve? Don't you know how hard it is to, to find people who are willing to work in the public sector? That's fair. It is hard. It seems hard to find good help. Right. Because Senator Cavanaugh is raising some very, very valid criticisms about this appointment. I wanted to speak to-- so I passed out an article to all of you from The New York Times. I got a New York Times alert on my phone yesterday that this article was published and I read it. And it immediately made me think of all of the things that we're discussing in this Legislature, from all of the shenanigans so to say-- I hate that word so much, I need like a thesaurus. I need to find a different way to talk about that-- but antics, I guess, regarding procedure and norms, the blind following of party leaders in this body instead of a lot of independent thought. Continuing to bid-- to end debate on a nomination quickly, despite reasoned opposition and then not allowing opposition to hear testimony or to give testimony in committee hearings. All of these things are contributing to the degradation of this body so that we can rush through bills that lead to problems like the ones mentioned in this article I handed out. The article from The New York Times talks about a recent CDC study that shows teen girls are reporting record levels of sadness. And it's not just girls, it's also--

**KELLY:** One minute.

**HUNT:** --thank you, Mr. President-- it's also LGBTQ people. In the article on the third page, the important part, it says about 57 percent of girls and 69 percent of gay, lesbian or bisexual teenagers reported feeling sadness every day for at least two weeks during the previous year. And 14 percent of girls, up from 12 percent in 2011, said they had been forced to have sex at some point in their lives, as did 20 percent of gay, lesbian or bisexual adolescents. What we are looking at-- when we're looking at experiences of violence, girls are experiencing almost every type of violence more than boys, said Dr. Ethier of the CDC researchers-- should be studying not only the increase in reports on violence, she said, but its causes. We need to talk about what's happening with teenage boys that might be leading them to perpetrate sexual violence. The researchers also analyzed the data by race and ethnicity, finding that black and Hispanic students--

**KELLY:** Your time, Senator.

**HUNT:** --thank you, Mr. President.

**KELLY:** Senators, Senator Albrecht has 17 Leadership Wayne visitors, guests of hers from Wayne, Nebraska, in the north balcony. Please recognize those visitors. Senator Vargas, you're recognized to speak.

**VARGAS:** Thank you very, very much, President. Colleagues, so first, I, I do want to thank Senator Cavanaugh for bringing up these very, very important things. You know, I'm going to speak a little bit from the perspective of Appropriations. And I think you, you heard from my colleagues on Appropriations and my chairman, Chairman Clements, here. So we serve, we serve on the Appropriations Committee. We've-- we probably have spec-- we have a decent amount of, obviously, engagement on all the different agencies. You have, I would say, a lot more with DAS and, and Director Jackson. So, so here's, here's what I'm going to say. I'm not committed to voting for, for Director Jackson. At the end of the day, I don't believe it will matter. I believe that there's enough votes in the body, I think, to what Senator Hunt said. I think transparency is really important in regards to, you know, what decisions we're making on who we're reappointing and for what reasons why. You know, I won't be here in two years, whether it's going to be either reappointment for him or for another individual for this agency, the-- probably the most important aspect of here is there, there does need to be increased accountability on Director Jackson and the agency as a whole. We have really wonderful people that work in, in this department and what we have seen, concerning issues over the years, not only for what Senator Cavanaugh mentioned and also Senator Hunt, but also what my other colleagues, Senator Clements and many conversations, even with Senator Erdman, on our accounting and audit practices, which have not been up to par in the last few years. I give credit where credit's due. It's improved. There have been some really, really bad and tough years where we have not met our own standards and, and the, the accountability goes across. You know, we, we as a committee, as Appropriations, we are held accountable to doing a better job of that oversight, as much as Director Jackson and DAS are also held accountable to that, too. This is not just a, a, you know, a mark on them. I'm not just saying they're to blame on specific instances where we have not-- we've, we've sort of had too much exposure in our audits that has been blatantly shown to us. And we've had many different hearings that have actually-- my voice is cracking because I'm, I'm getting a little, a little cold here, I think. But this is to say that it-- there are real concerns in regards to how we

move forward at this agency. The conversations that we have had publicly with our committee and Director Jackson has said he has made concerted efforts to improve on our audit practices, have outsourced auditors to help make sure that we are improving our continuous improvement processes and staffing, have requested the staff that is needed to do this and has really done a 360 on it. However, many of these things shouldn't happen in the first place. As what Senator Cavanaugh mentioned in child welfare, these things shouldn't have happened in the first place. And rather than say that it only rests on one person-- I mean, as a director of leadership, we take accountability for these things and we have made it really clear to Director Jackson that we hold him accountable for being the director of this agency. We also hold ourselves accountable for making sure that the public knows that we are expecting more, because we're not the Governor, we're not the executive branch, we are holding the purse strings. So this is to everybody that's going to be in this body from two years in. We've had our issues within the Department of Administrative Services on our audits and some of our practices forbidding and, and other entities, as we clearly have seen. This is not saying that they are bad or good in terms of people. We have wonderful people that work in these services. It is saying that the people that are going to be on Appropriations from here on in and on Government and Military Affairs for this appointmentship in the future, we have to do our due diligence to make sure that if it is Director Jackson in the--

**KELLY:** One minute.

**VARGAS:** --future or if it is some other individual leading this agency, no matter who it is, that we're going to hold them accountable to improving on these and we're putting this on the record. It is a concern to me that having these conversations doesn't mean that we're wasting time. Having these conversations doesn't mean that we do not care about our executive branch or we do not care, also, about these directors and the good that they have done. There's a lot of good that Director Jackson has done. It means we hold them accountable and we actually also expect best and better from them in their services. I hope everybody is hearing that from all the different people that have come up, regardless if they're voting yes, no or not voting. We're putting in the record that this is something that we absolutely have to be very watchful of. And I, and I, and I said this in many committee hearings over the years to Director Jackson. There's nothing I wouldn't say to him personally. And my hope is in these two years,

it's not about giving people necessarily a chance, it's that he's building on the things that there's--

**KELLY:** That's your time, Senator.

**VARGAS:** --specifically have to work on. Thank you.

**KELLY:** Thank you, Senator. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. So in my time in the Legislature, we had an incident at the Youth Rehabilitation Treatment Center in Geneva. I probably need an hour just to unpack that one. So it's a facility, 24-hour facility-- was a facility in Geneva that housed our female youth. And the incident was that I think-- I don't know if it was the middle of the night, 10:00 at night, it was nighttime and the adults on the campus were trying to get the youth to go back into the dormitory. And they refused and really staged an uprising. Thank God. I'm genuinely concerned that they would still be at that facility if it hadn't been for those girls, those young women, taking it upon themselves to be the adults in the room. The county sheriff was called and two of the young women were taken to the county jail, which they couldn't be, they couldn't be placed there. The county board was notified and that's how the Legislature found out. We didn't find out because anybody at DAS or DHHS informed us of the quality and the conditions of the facility. We found out because the girls, the young women did something about it. Now that's mostly a DHHS issue, but it speaks to this lack of taking responsibility. We have facilities in disarray where we have children that we are responsible for. We have contracts for children that put children in vital danger. We waste millions and millions and millions of dollars every year because of this, what I would call incompetence. Apparently, some of you would call it mistakes were made, let's learn our lessons. I believe yesterday, Senator Briese had a bill in General Affairs, taxing around gaming or something to that effect and stated that he just wanted to put more money towards the Property Tax Relief Fund. Well, folks, under Jason Jackson's watch and under Dannette Smith's watch, we have lost millions of dollars in state funds that could have gone to the Property Tax Relief Fund. But if we as a body and the administration continue to turn a blind eye to the incompetence of the leadership, then you're going to continue to lose out on those dollars. You got to walk the walk if you're going to talk the talk. If you really care about being fiduciarily responsible with the taxpayer dollars, if you really care about property tax relief, if

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you really care about being fiscally conservative, then stop appointing people that are wasting money hand over fist. Mr. Jackson came in front of the LR29 Committee on October 8 of 2021. The LR 29 Committee was formed in the 107th Legislature--

**KELLY:** One minute.

**M. CAVANAUGH:** --thank you-- to address the issue of the Saint Francis Ministries contract. I have the transcript from that committee hearing, which I don't have time to do in one minute, so I will get back in the queue. I also would like to talk about, further, the MCOs and the lawsuit that we have there. And I do think it's worth and thank you to Senator Hunt for bringing it up, unpacking TestNebraska a bit further as well. Of course, I anticipate that somebody will call the question because that's what we do here. So I am going to put a motion up, because the only way I can defend against the question being called and debate being ceased on this is to have a motion on the board. So I'm putting a motion up on the board, not because I really want to, but because it's the only way I can ensure that we at least--

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** --thank you.

**KELLY:** Speaker Arch, you're recognized to speak.

**ARCH:** Thank you, Mr. President. Senator Cavanaugh has raised some serious, legitimate issues with her questions regarding, particularly, Saint Francis, because some of those questions were questions that I had previously. And, and I want to, I want to address where we are right now with that, because I think, I think that there is no question that when the LR29 Committee was formed, which I chaired, we joined with the HHS committee. Senator Cavanaugh was on that. We, we joined together, had-- I think we had 15 senators in total that was looking at this issue. We saw, we saw some very serious issues with procurement. And I want to, I want to read to you a section of our, of our statute. In 81-161, it reads this way: all purchases, leases or contracts, which by law are required to be based on competitive bids, shall be made to the lowest responsible bidder. And those-- that sentence, I believe, what we saw in it, biased the bidding and biased the awarding of the bid to lowest. There was another provision and, and, and that is assessing of what is called realistic or reasonable pricing. So we have a provision currently in statute for reasonable

pricing, meaning too high. We're being taken to the cleaners, what-- you know, how-- we are being taken advantage of, this should not cost that much. So we can assess that, but we have no provision in our current statute for what is called realistic bid. Can a, can a bidder provide that at that cost? And so, and so our statutes did not support good decision making when it came to Saint Francis. And as a result of that, I have introduced LB461, which was heard last week at the Government Committee. And I'm hoping that this will come to the floor because a consultant was hired this summer that, that reviewed all of our procurement processes, statutes, policy manuals, everything. Interviewed many people, including legislators, as well as people in government that are using purchasing as part of their, as part of their daily routine. But all of that was done, recommendations came out. Now, it has been put into a bill and, and hopefully, we can, we can hear that here on the floor, because I think at the, at the heart of our issues, we had statutes that did not support good decision making. And, and so I, I have resolved the issues in my mind that our responsibility here is that and that is to make sure that we have a good system that supports people that are in those decision-making capacities. But when I read those statutes and I saw that it is biased towards that lowest bidder, I believe that it tied the hands of some of the decision makers. So I've had discussions with Director Jackson and I have come to the resolve that I do support his, his nomination and, and will, and will vote affirmative for the confirmation. But I just wanted to let you know that, that there is, there is a lot of work that has gone on behind the scenes, regarding the procurement process, to make sure that we have got into our statutes and policy manuals, those things that will support good decision making. So with that, I yield the remainder of my time to the Chair. Thank you very much.

**KELLY:** Thank you, Mr. Speaker. Senator Dorn, you're recognized to speak.

**DORN:** Thank you, Lieutenant Governor. Thank you this morning for the discussion on Jason Jackson for this appointment. Listened to Senator Clements get up and talk a little bit about some of our questions or comments or concerns we've had and some of our, I call it, discussions we've had with senator-- or not senator, with Jason Jackson in Appropriations. The first thing I really remember was two years ago when the audit came back and \$20-some million, as Senator Clements said, was in question, not being able to be specifically accounted for. And we had Jason Jackson in for a discussion with the Appropriations Committee. And I remember how that discussion went that

day. He was on the hot seat, very much on the hot seat. He did visit with us about some of the improvements he intended to make at that time. We came back to last year again and there were improvements, but there were also some issues with the audit. And there was another meeting with Jason Jackson, again, in the Appropriations Committee and a lot of discussion about the whys, not showing the information the way it should have been and so on. During that same time, Jason Jackson met with, including myself, many of the Appropriations Committee people, met with him in my office a couple of times throughout that time, met with him again this fall in the office about what was going on. And they did this year, as Senator Clements say, they did have an audit come back that had a lot of improvement except for the labor issue yet with unemployment. And that is something that, because of COVID and the extra funding that came in, magnified that or made that a bigger issue or a concern than what we are normally used to in the state of Nebraska. I also had the discussion with Jason that-- told him at one time, that if he would have been in private practice, I'm not sure he would still be where he was at, that we expected more from him than what he was showing early on. He has, from my point of view, done a very good job of meeting with Appropriations people, having those discussions, having those really hard discussions. We even had him in a couple of weeks ago in Appropriations for a morning-- when we had a morning when we weren't meeting, we had him in for another discussion that lasted probably about an hour, about some of the policies and some of the things and some of the procurements and some of the bids that are going on. Excuse me. I will be voting for him. I think he has definitely shown improvement. I think, as Senator Vargas said, these next two years will tell us whether we made a right decision or a wrong decision. And for the state of Nebraska and for sen-- and for Jason Jackson, I hope this proves to be a right decision and I will be voting affirmative. Thank you.

**KELLY:** Thank you, Senator Dorn. Mr. Clerk, for a motion.

**CLERK:** Mr. President, Senator Machaela Cavanaugh would move to recommit the gubernatorial, the gubernatorial appointment.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to open.

**M. CAVANAUGH:** Thank you, Mr. President. Colleagues, as I said, I put this motion up because I felt that I-- first of all, I need more time to talk about this, but also concerns on how the body has been behaving on calling the question. I recognize that Mr. Jackson's

nomination is going to move forward, probably sail forward, but part of floor debate is building a record. And frankly, I am building a record for all future vendors with the state of Nebraska for lawsuits. I want it to be clear to the state, to this body and to any of our vendors or future vendors or potential not future vendors, that we knew exactly what we were doing when we reconfirmed Jason Jackson, that we knew that we were reconfirming someone who has a pattern of behavior that is not aligned with the values and the mission of Nebraska and that is to be fiduciarly responsible to the taxpayers. At least that's what I view as our values and mission. If you're that-- at the core of my job is to be fiduciarly responsible to the taxpayers of Nebraska. And I view that to be my job above whether or not I like or dislike someone, because I don't know Mr. Jackson personally. I've only met him I think twice. Once was when he was sworn in, under oath, to testify in front of LR29, because that's where we got to in that point in that contract, is that we had to swear people in within the state agencies to get real answers from them, including Mr. Jackson. We are currently-- our managed care organizations. So we have these three contracts and the contracts needed to be rebid and so they were put out for bid. And one was awarded to a new contract, as I previously stated, that had CEO Smith and Mr. Miltenberger as references and, and they withheld information that impacted the scoring that would have lowered their scoring. So we awarded the contract to them. One of the ind-- the companies that did not receive the renewed contract sought an injunction, received the injunction. This is a big deal. There is a court date set in June over this contract. So here's, here's the real breakdown. When the contract was awarded and they tried to appeal, instead of pulling it back, which they could do, they could have extended the contract for one additional year to try and sort this out without disrupting services to our Medicaid patients. But instead of doing that, they pushed forward and said, nope, because we are in charge of our own reviews of whether or not we awarded a contract appropriately, we say we did it. CEO Smith, who is named as the reference for one of the-- for the contract that got the new award said that the contract was fine. That's totally cool, right? Right. So CEO Smith was part of the decide-- the committee that decided that the contract was fine. They moved forward instead of doing the financially responsible thing that would not result in us being in another lawsuit. They moved forward. They could have extended the contracts for a year and redone the bidding process, which we have done in the past. So we've moved forward, a judge has awarded an injunction, now we have a court date set for June. Yes, our contracting process is flawed. But yes, our

contracting process allows for human judgment and we, as a state, has systematically refused to use good judgment. And now, this body is being asked to reconfirm the person who is leading that. And that's fine and dandy that people think that Mr. Jackson, Jackson has made improvements. But after Saint Francis Ministries, I don't care how many improvements he's made. The children of Nebraska that we are responsible for are suffering. They are suffering right now and they will be suffering for a very long time. And the long-term repercussions of what happened because we changed contracts for a cheap deal, a real sweetheart, cheap deal, those repercussions will be for decades. I wasn't a fan of the privatization of child welfare to begin with, but I certainly thought that it was a better idea to stick with the contract that we had that was working. It had problems, but not problems to this degree. And we had a cost analysis done and we were told, the state was told, that the cost was appropriate, yet we still went for the cheap deal. And the children of Nebraska are suffering and the people in this body are okay with it. Are you really okay with it? We're just lucky that nobody died. And that's not being hyperbolic. We are lucky that nobody died on Saint Francis' watch. And we don't know what other horrible things happened on Saint Francis' watch. And we will eventually find out all of those horrible things that happened and believe me, they did. They definitely did. And now we're being asked to renew the appointment of one of the people that helmed that process. And at the same time, the same person is at the helm of yet another quagmire of a bid, using poor judgment, rushing the process through. We don't have to rush through our managed care organization renewal contract. We don't. We-- even today, today, DHHS and DAS could pull back that contract and say we are going to rebid it. Today they could do that. Jason Jackson could send out an email to all of us right now and say, you know what? That's right. That was poor judgment. I want to prove to you, I want to prove to you that I'm better than what you think I am. We're going to use good judgment. We're going to pull this back, which would essentially mean that we wouldn't have a lawsuit anymore. We're going to rebid the process and we're going to make sure that we are using the best judgment possible. But he is choosing not to do that and DHHS is choosing not to do that and we are choosing to reappoint him. Why? Why? Everyone who has spoken in favor of Mr. Jackson this morning has acknowledged his failures. Every person has acknowledged the mistakes of the Department. Every person who has spoken in favor of Mr. Jackson has acknowledged his shortcomings. Why are we reappointing this person? Because the job pays not great, let's increase the salary and get somebody who's more competent. How much time do I have?

**KELLY:** 1:42.

**M. CAVANAUGH:** Thank you. I've been trying to find-- unfortunately, my digital folder on Saint Francis Ministries is extensive. I've been trying to find the emails back and forth around the scoring in Saint Francis Ministries, where there were questions from those who were scoring, who asked, specifically asked DAS if they should take into consideration the feasibility of the ability of Saint Francis to deliver on what they were saying they could do and they were told no. Take them at face value.

**KELLY:** One minute.

**M. CAVANAUGH:** I-- gosh. I just love this state. I love Nebraska. I moved away and I moved back and I moved away and I moved back. Now I have three children, a house, a wonderful spouse. I love this state. And I show up here every day to try and make the state the best it can possibly be. And Mr. Jackson is not the best that we can possibly be. And I know, I know there's nothing I say that will ever change anyone's mind in here to do anything other than go with the flow. But I keep trying because if I don't, I don't know what else to do. I love this state too much not to try. I'll get back in the queue. Thank you.

**KELLY:** Thank you, Senator. Senator Fredrickson has guests in the north balcony, 20 members of the League of Women Voters from Omaha, Nebraska. Please stand and be recognized by your Nebraska Legislature. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. When we appoint-- you know, I don't know how I'm going to vote on Jason Jackson. He came to my office and we spoke. And what I told him is that I didn't think he'd have any trouble getting confirmed, which is, you know, not the same as giving my support, but that's true. When we can't get the best person in the job or we have people in the job who aren't doing the type of work that we expect for the public, even though it's very difficult to get people to work in the, in the public sector, we just have to provide more oversight. So that's the remedy for-- [MICROPHONE MALFUNCTION] like Saint Francis Ministries or-- and that's the remedy for what happened with TestNebraska. But the frustrating thing is, the remedy for that is oversight, but the Legislature is also continually hampered and held back from providing that oversight. When the government has to FOIA the government to find out what the government's doing, we've got a problem. When-- when state senators and lawmakers can't get information from agencies, from Jason Jackson

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about what's going on in their-- in their agency and department without filing a Freedom of Information request, we've got a problem. And then you file it and you wait and wait and wait for weeks to-- to hear back from them. They don't send you everything you asked for. It's a runaround. Or something happens to you like what happened with Senator Machaela Cavanaugh. Would Senator Machaela Cavanaugh yield to a question?

**KELLY:** Senator Machaela Cavanaugh, will you yield to a question?

**M. CAVANAUGH:** Yes.

**HUNT:** How much was that bill you got?

**M. CAVANAUGH:** \$64,000.

**HUNT:** I was going to say \$60,000. Thank you. OK, \$64,000 to get government records from the government so the government can provide oversight to the government. Get real. That is such a dumb joke. It's so stupid. On LB461, which Senator-- which Speaker Arch brought up, this is a-- you know it was heard in the Government Committee. I sit on that committee and I-- I was there for that hearing. LB461 is trying to provide some additional oversight to fix some of the problems that happened in DAS. And what Senator Arch said, what Speaker Arch said, was that the statute, as it exists, did not support good decision making because we had a thing in statute that said bids had to be reasonable, but it didn't say that they had to be rational. So it said-- it-- it was more about the lowest cost and not about if it was actually enough money to do the job. But to me, there is nothing more emblematic of conservatism today than this blind allegiance to authority and saying, well, our hands were tied by this statute, so we had to hire this really crappy outfit to do the work for the state and the people, because the-- the statute really tied our hands. Colleagues, you all have a brain. Everyone in that department has a brain. And I think that better judgment could have been made. Anyway, I-- I wasn't going to say all that, but talking about LB461 brought that up for me. You know, if-- if we want to remedy a problem by saying-- passing a law, a law in the literal statute to say, well, it has to be reasonable and it has to be rational, I think that we can do that without there being a law. But that's not what we've done in the past, so maybe if we have to say that and mandate it and put it in statute, that'll fix it. But if people don't just use their best judgment--

**KELLY:** One minute.

**HUNT:** --we can never pass a law to make them use their best judgment. Returning to the article that I shared on the floor, talking about how the rates of depression has skyrocketed for girls and for LGBTQ teens and adolescents. The article continues: The researchers also analyzed the data by race and ethnicity, finding that black and Hispanic students were more likely to report skipping school because of concerns about violence. White students, however, were more likely to report experiencing sexual violence. The increase in sadness and hopelessness was reported across all racial groups over the last decade. Though black students were less likely to report these negative feelings than other groups, they were more likely to report suicide attempts than white, Asian or Hispanic adolescents.

**KELLY:** Thank you, Senator. That's your time.

**HUNT:** Thank you.

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

**DUNGAN:** Thank you, Mr. President. I rise today for-- for a number of reasons. I think it's important that we all take a moment and appreciate what exactly we're talking about here. The things that we've heard other senators discuss, and chiefly Senator Machaela Cavanaugh with regards to Saint Francis Ministries, are incredibly important. For those who don't know, I served as a public defender for a number of years, and I worked in juvenile courts working with youth who oftentimes were justice involved or foster involved or occasionally both. And the fact that many of them were placed in situations, as we've heard about, that were incredibly dangerous is not something we should take lightly. And so I think the things that we're talking about here are important. And you heard Senator Vargas speaking about the importance of having these conversations and that these aren't a waste, and I think that that's incredibly important that we get up and make sure people understand our concerns. And-- and regardless of whether or not ultimately this confirmation occurs, I think these are important questions to ask, and I don't believe we're just wasting time or other things I've heard people talk about. When it comes to whether or not your voice matters or whether or not you get up and speak, I was actually inspired by the League of Women Voters who walked in here today with their yellow roses on. I don't know for sure if this is what your yellow rose means, but this is what it meant to me. Brief history lesson for those, if you'll indulge me:

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Back when the 19th Amendment was trying to be passed-- am I on-- am I on point there? The 19th Amendment was going to be passed. Yellow roses became the symbol for the suffragists, and the anti-suffragists would wear red roses. I think it's fitting we're talking about roses on Valentine's Day. And when the 19th Amendment was going to the states for ratification, it needed one more state to be ratified, and that state was Tennessee. And weeks and weeks of lobbying and weeks and weeks of drama had gone down, and there were people wearing yellow roses and people wearing red roses, and it seemed like it was going to be deadlocked. And despite the years of work that had gone into that, despite the months of lobbying and efforts on behalf of the suffragists, there was a concern that ultimately the 19th Amendment giving women the right to vote was not going to pass and it was going to die right there. And even legislators at that point in time were wearing on their lapels red roses, yellow roses to signify how they were going to vote. And based on the roses, on the petals, there was, again, a concern that it wasn't going to pass because the youngest member of the Tennessee Legislature had a red rose on his lapel. And what people didn't know is that inside of his jacket he had a telegram, he had a note from his mother, and the note from his mother-- and I think this is important-- said to him: Hurrah and vote for suffrage. Don't keep them in doubt. I noticed some of the speeches against. They were bitter. I have been watching to see how you stood, but have not noticed anything yet. That person, who had the red lapel on his-- or the red rose on his lapel, immediately voted for the passage and that's essentially how we got the 19th Amendment. It came down to one vote on the Tennessee Legislature, and it was because the people who walked in with the yellow roses encouraged that vote to happen, and his mother encouraged that vote to happen. It specifically was them saying to him, we're waiting to see how you stand and we're waiting to see what you say. And so on these days when we're talking about these issues and when we're talking about things that seem like foregone conclusions and when we're talking about confirmation appointments that, yeah, we all know is probably going to happen, it still matters what you stand up and say and it still matters what you do, and there's people watching, and so that's why I think it's important to raise these questions. That's why I think it's important to have these hard conversations and talk about Saint Francis, talk about the Y--

**KELLY:** One minute.

**DUNGAN:** --thank you, Mr. President-- talk about the YRTC in Geneva, talk about whether or not accountability is something that we're going

to have as a Legislature. And similar to what Senator Hunt said, I believe in second chances. I don't think anybody should always be held responsible for the worst decision they've ever made. But I do think that we should be able to discuss as a body the things that have happened. I do think we should be able to, on the mike and with our colleagues, have these tough talks about whether or not somebody should be held accountable for mistakes that were made. And so I similarly don't exactly know how I'm going to vote yet on this. I've talked to colleagues of mine who believe that the director is-- is genuine in his efforts to fix this problem and that he's going to make efforts to make sure this never happens again. But I do think that the talk that we're having about this is important, and I just urge my colleagues to remember it always can come down to one vote and people are always watching.

**KELLY:** That's your time, Senator.

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

**KELLY:** Thank you, Senator. Senator Jacobson has guests in the north balcony, members of the Young Bankers of Nebraska, 25. Please stand and be recognized by your Nebraska Legislature. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Is this my last turn or--

**KELLY:** This is-- you have one after this.

**M. CAVANAUGH:** OK. Thank you. OK, on October 8, 2021, LR29 Committee, this is the transcript. It's page 109, if anybody wishes to look at it. The legal counsel says, what did you-- She's asking Mr. Jackson, what role did your DAS Materiel Division play in developing the RFP itself that ultimately resulted in the award to Saint Francis? Mr. Jackson: I think that a previous testifier testified to that DHHS, our customer agency would have developed the RFP. That's generally consistent with our expectations when an agency engages us for a service contract. They are the subject matter experts in terms of what they need from the procurement. It wouldn't be typical for our Materiel Division to provide an agency with some sort of-- it wouldn't be atypical to provide an agency with some sort of template or kind of, you know, just general outline of an RFP just to give them a guidepost or a jumping-off point for their own technical development. But the predominant-- preponderance of the RFP development would work-- would have work occurred with-- at the agency level, at the

DHHS, as in-- counsel: At DHHS in this instance? Mr. Jackson: Correct. Counsel: And what is your understanding in 2019 about which agency bore the ultimate responsibility for the fairness and legality of that RFP process? Mr. Jackson: If the question is to the process itself, that's the responsibility of DAS. What is the basis for this understanding? Mr. Jackson: I think state law dictates that DAS is generally vested with responsibility for process around state procurement generally, and that's our expectation. In his own words, he acknowledges that it is his responsibility, it is his department, his agency's responsibility, yet here we are again, just a few short years later, battling it out again with our managed care organizations. And I would like to state that this is what my \$64,000 bill is about. I requested information about the procurement process for the managed care organizations, and I received a \$64,000 bill. So I don't understand why people, again, think that this is a great way for us to be working. Now I'm not going to ask the Legislature to pay that \$64,000 bill. I'm going to get creative in how I get this information, and I think most people who have served with me, at least those of you that have served with me for all four years, know how relentless I can be in the pursuit of information and transparency. And I am going to be relentless, and I'm going to find a way to get the information without asking this body to pay \$64,000. Also concerned that the Department of Administrative Services came in opposition to my bill to create an inspector general of procurement. If everything's going so wonderful over at DAS around procurement, why are they opposed to the Legislature having oversight, oversight, mind you, that would take it out of Senator Machaela Cavanaugh's hands, because when an inspector general is providing oversight, like child welfare and Corrections, they have access to far more information than we do and they don't share it unless it is approved by the committee chair and the agency.

**KELLY:** One minute.

**M. CAVANAUGH:** So you would be taking a lot of work off my plate and a lot of my eyes on information that I'm guaranteed the agencies don't want me to have, because I love nothing more than transparency and making sure that the people of Nebraska know what the government is doing for them, on behalf of them, or against them. One minute. OK. There's a lot to say here about Mr. Jackson. I've got 30 pages of transcript from that hearing. So Mr. Jackson was asked about his experience as director of DAS. Has he overruled the recommendation of the bidding agency? He said he has. That speaks to the protest

process, which I also introduced a bill around the protest process, which DAS opposed.

**KELLY:** That's your time, Senator. Senator Blood, you're recognized to speak.

**BLOOD:** Thank you, Mr. President. Fellow Senators, friends all, those of you making \$12,000 a year as a state senator, pay attention. We keep hearing how hard it is to hire staff. It's not har-- hard to hire staff that is outside the union. These supervisors are not making bad wages. It's the employees that are the boots on the ground making the bad wages. We can't keep saying that when we're at the mike. Just for giggles, I looked up Mr. Jackson's pay. The most recent one I could find, because this is public information, was from 2019. He is making \$162,641, probably more now, \$162,641, which was 202 percent higher than the median salary of other people who had the same job that he does in Administrative Services. So if you believe that we're having a hard time hiring positions here in Nebraska, where we know what the average median wage is, for people making six digits, I want to live in your world, because-- let's put it in perspective-- even with the big raise that the union, thank goodness, negotiated for at-- online employees, a social service worker who goes from step four to step five with good performance evaluation is going to go to \$18.97 an hour. They'll be making \$37,642 a year for working with our most vulnerable citizens. Let's put things in perspective. I have great respect for Senator Cavanaugh, because from the very time she-- the moment she walked into this body, she started fighting for Nebraska's most vulnerable, and because of that, sir, I'd like to yield the rest of my time to Senator Cavanaugh.

**KELLY:** Senator Cavanaugh, you have 2:58.

**M. CAVANAUGH:** Thank you, Senator Blood. Thank you, Mr. President. OK, so I was reading part of the transcript. So this is Mr. Jackson. I would answer the question this way. I would-- so I said 25 percent of protests get sustained, right? So when a protest, and generally you could do the numbers, and 6 to 7 percent a year out of 200 contracts come to DAS for review. OK. If those contracts initially or the evaluators at the agency would have selected somebody other than who protested, and in 25 percent of the time, we say we look at the losing bidder who's bringing the protest and say, hey, there's some merit to your protest here. Now, the reason there's some nuance to the response to your question is that doesn't necessarily mean we're overruling them, right? It means-- it just means that there's a defect in the

process, in which case there's a lot-- there's a number of remedies that are available to us, support whatever the agency's aspirations are, but still protect the integrity of the process. That might be an indicator-- if that's where you're going with the question, that might be an indicator, but I'm not aware of personally any incidents in which state procurement has gone back to an agency and said, no, you're wrong, our judgment is better than yours with respect to what program is and what you need and, as a consequence, you need to subordinate your judgment about your program and your needs to that of us as procurement professionals. This is testimony two years after Saint Francis Ministries' award. This is in the middle, the thick of it all.

**KELLY:** One minute.

**M. CAVANAUGH:** There's already been a lawsuit. The child-- the cases have been transferred from PromiseShip to Saint Francis Ministries. This is October of 2021 and Mr. Jackson is still saying, in his role, as director of procurement, that he would not question the judgment of the other agency. And we want to reappoint him? This is one of the greatest failures of this state in recent history and he is essentially saying, yeah, but it's not really nice to question the judgment of another state agency, even if the judgment of another state agency is resulting in fraudulent contracts with the state and another entity. We want to reappoint somebody that doesn't have the--

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** Thank you.

**KELLY:** Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Hello? Oh, there we go. Thank you, Mr. President. I apologize. I was sitting in the back, and I didn't realize I was coming up that soon. So I appreciate the discussion on this. I've been out of the room. I had a couple of meetings, so I haven't been able to engage, but I wanted to circle back to some of the stuff. I think I saw Senator Hunt handed out this teen girls report record level of sadness, CDC finds, and-- so generally, I guess, I've been listening, and I would generally, I guess, oppose or support the motion to recommit, is what I'm rising in support of and in opposition to the reappointment of Mr. Jackson. But the reason that this made me want to talk was, I was thinking about everybody saying, we gotta move on, we have more important things to do, we have-- you know, we-- we're sort

of spending too much time on these conversations, and things around here need to take as long as they take. And we've had a couple of really contentious hearings in the last couple of weeks, and I've stayed here late every night until the end of those hearings, even though I wasn't on the committees that heard them, so that I could talk to the folks that were here and see what was going on. And I would tell you, without fail, those contentious hearings had people leaving who didn't feel heard, who were sad, crying, and looking for comfort because these bills are incredibly important to them and they didn't get their opportunity to be heard. And so we all understand-- we get paid \$12,000 a year. We all understand we have other things going on. I was just in meetings myself for other things. We have a lot of commitments and we're try-- and we're pulled in a lot of directions, and sometimes we want things to go faster because we want to get on to the thing that we-- that we personally have put as a higher priority and that's more interesting or we want to hear about. But we need to remember that (1) we all worked really hard to get here and that we are invested by the people of the state of Nebraska to do the job; and (2) not all parts of this job are glamorous and fun, right? Some of them are just tedious. And that can be these long, drawn-out discussions about what's the right thing we should be doing and who should be in charge of spending a huge portion of our budget. But ultimately, aside from all that, we have to listen to the people. And when the people come to talk to us, we should do it. We should spend the time to hear all of them. We had a long hearing in General Affairs last night, and I don't know exactly how long it went, but we got through everybody who wanted to testify. And I don't-- I'm not going to lie and say I wasn't happy when Senator Lowe, Chairman Lowe, asked if there were any more testifiers and nobody raised their hand. But everybody who came got to be heard, and that was important. All those folks, some people came from as far away as Scottsbluff, and they came, they wanted to be-- address the Legislature, and tell us how important that particular bill was to them and how it would affect their lives. And so I think that we need to recalibrate our perspective on these conversations, on all of these issues. We have a limited amount of time here, yes. There are 800-and-some bills, of course, but every one is important to somebody, and the people who come to talk on it deserve to be heard. And so we are doing damage to this institution and to the people who participate in democracy and to the second house--

**KELLY:** One minute.

**J. CAVANAUGH:** --thank you, Mr. President-- by not taking the time to hear everybody, and we do a disservice if we just rush through all of these. Like I said, I've tried to talk-- I have talked on every appointment that's come out of a committee that I sit on because I think that we just need to have some kind of at least broader context. It doesn't-- not all of them need hours of debate. Some of them can be a pretty quick conversation, but we need to at least give everything its due and have the level of conversation that is required of that subject matter. So, yes, you want to move on to the next thing because there's something else you care more about, but everything requires a little bit more conversation. I guess I'll push my light because I didn't get to the last thing I want to talk about, but it was something on the last bill or the-- the last extended debate we had where I didn't get to talk again because we cut off debate even though I had my light pushed. So I will push my light again and continue the conversation. Thank you.

**KELLY:** Thank you, Senator. That's your time. Senator Machaela Cavanaugh, you're recognized, and you will have your close after this.

**M. CAVANAUGH:** Thank you, Mr. President. Yeah. I would like to acknowledge there's only a couple of people in the queue. See, this is what happens when we just organically let that floor debate happen is that it organically happens and it organically closes. I have no intention of blocking Mr. Jackson's appointment. My intention is to build a record. Because there has been a pattern of behavior under Mr. Jackson's leadership, I want to ensure that it-- there is a record built and that it is clear-eyed to everyone what we are doing when we vote for Mr. Jackson. I myself will be present, not voting. I have stated before, I am-- I think it is a big deal to not vote or to vote against a gubernatorial appointment. I do not take that lightly and I do not agree with Mr. Jackson's reappointment, but I will not vote against it. I just won't vote. It is incumbent upon this body to give him 25 votes for him to be confirmed. I will not be participating in that 25 votes. I will, however, vote against CEO Smith's reappointment, and I will have a lot to say, a lot to say. I hope that the body doesn't cut off debate when it comes to CEO Smith's appointment. If the body does, then I will take my debate on other things to get the record built. So that's just a foreshadowing for you all. Do with it what you will. In July-- July or June, July 8 of 2022, there is an article in the Nebraska Examiner: Senators express hope that state picks Medicaid managed care providers based on service, not least cost. Here's a spoiler: I'm quoted in this article. Sorry, now I have to scroll down to where that is. Senator John Arch of La Vista

said he was encouraged that five bids were received for the Medicaid managed care contract. Quote: What we're looking for are companies that demonstrate that they can improve the health of the population that they are managing, Arch said-- end quote, Arch said, and not because they are the, quote, cheapest bid. He said he was very encouraged by the procurement process so far. Omaha Senator Machaela Cavanaugh, who led criticism of Saint Francis contracts, said she hopes that the state focused on picking the dozen-- isn't focused on picking the lowest bid, but by considering which services will be covered and not covered at the cost they're offering. I don't want another situation of an underbid that hurts people, Cavanaugh said. So one of my other concerns that was not highlighted in this was that the procurement process hadn't changed since Saint Francis Ministries; and since it had not changed since Saint Francis Ministries, I was concerned that the agency was going to hide behind that lack of change in process as a reason for why they would not necessarily take the strongest bids for the contract. And at that time, I was not aware that CEO Smith was the reference for the contract-- the new contract that was awarded. Additionally, and I'll dig into this more again when we get to CEO Smith's confirmation, but additionally, one of the contracts that was re-awarded was also in a-- I-- I might have the number wrong-- \$28 million, I think it was \$28 million, settlement with the state of Nebraska over--

**KELLY:** One minute.

**M. CAVANAUGH:** --overcharging us for prescriptions. So we didn't renew one contract. We rushed through the contract process. We renewed a contract with somebody who just had a settlement of \$28 million with the state for overcharging the state for prescriptions. And we went for a new contract that is out of state, has no state presence, and had the CEO and the Governor's chief of staff as references, and the CEO also managed the dispute process, so just, again, foreshadowing what is to come in these gubernatorial appointments. And these are really important. Gubernatorial appointments are really important because these are the people that are running the business of the state. And they-- as Senator John Cavanaugh said, we should not be rushing through this. We should be talking about these things, so I won't be voting for Mr. Jackson today. I won't be prohibiting him from being voted on.

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** Thank you.

**KELLY:** Senator Blood, you are recognized to speak.

**BLOOD:** Thank you, Mr. President. Fellow Senators, friends all, I stand in support of the recommit to committee. And I want to talk really briefly. Prior to being in the Legislature, I served on the Bellevue City Council for eight years, and what you may or may not know is that, although Bellevue is the third largest city in Nebraska, it is what is called a weak mayor system, which means the legislative power is in the council, which is why I never ran for mayor, by the way. And knowing that, one of the things that was really important was government contracts. And one of the things that we worked really hard on when we came onto the council our first four years were the contracts, because what we found were often the city would take the lowest bid. And then what we saw were several layers of people that would come into that contract. And often whoever is at the bottom of the tier would end up oftentimes not getting paid by the contractor in charge of that contract. And what we often found is that, even the labor would come in maybe with a little bit higher bid, they would not come back to us for more money, as many of the other organizations did. The reason I'm talking about that is because that's what we're ultimately discussing today, the importance of contracts, not only when it comes to the taxpayers, but when it comes to the state's most vulnerable. When it comes to your wants and needs as a taxpayer, this is all about how we contract within our state. And so this is very important, and I really wish that more people were engaged in this instead of saying, well, we have 800 bills that we have to address. Well, we always have 800 bills and we always get them addressed, and I think we're going to be fine. And the fact that people are trying to create fear is kind of silly because they know better. We'll get it done because we want to get it done. You're going to help people get their bills moved forward so you can get to your bill. That's how it works. Don't let people get in your head. Make your own decisions and things will happen a lot faster. Be your own person. With that, I would yield any time I have to. Senator McCavanaugh-- Machaela Cavanaugh.

**KELLY:** Senator Machaela Cavanaugh, you have 2:52.

**M. CAVANAUGH:** Can we just say "McCavanaugh" from now on? Maybe that's-- it's much shorter than saying "Machaela Cavanaugh" every time. I blame-- I blame Senator John Cavanaugh for the fact that we have to say "Machaela Cavanaugh" all the time. Not really. Just kidding. I love you. Happy Valentine's Day. OK, so I do want to speak to the article, as well, that Senator Hunt passed out. It's been a

rough couple of weeks in committee hearing, and I don't mean because it's been long days, all-day hearings. It's been rough because of the topics. And-- and I'm sorry to the people of Nebraska. I feel like we as a Legislature are failing when it comes to these committee hearings. One of the great and unique things about the Nebraska Legislature is that every single bill gets a hearing. And every bill, no matter how wonderful or terrible, every bill gets a hearing, and the intention is to give the public the opportunity to weigh in on what the work is that we're doing. And we have started a pattern of behavior that is, I-- in my view, reckless in that we are limiting the public's voice in committee hearings. I could be wrong. Maybe we have to finish committee hearings the same day by 11:59 p.m. I'm not aware if that's the-- the truth or not. But when I'm going home at 9:00 p.m. and there's 100 people waiting to testify, three minutes at a time, I don't feel like I'm doing my job.

**KELLY:** One minute.

**M. CAVANAUGH:** And that's really disappointing because I might feel like I'm hearing the same thing over and over again. But to the person sitting in that chair, that is their view, their story, their opportunity to speak to their Legislature, and so that's my job, is to sit there and listen, and maybe send a text message to my husband to see how the kids are doing, if they're giving him a fight, going to bed, etcetera. I know people like to comment on-- on whether or not I'm paying attention. I am paying attention to what people are saying. We all pay attention in different ways. But it is my job to listen to the people of Nebraska, and it's all of our jobs to listen to the people of Nebraska, and I just wish that we would be doing a better job of that. It is not our job to go home at 9:00. It is our job to stay until the job is done. We have not been doing that, and that honestly breaks my heart.

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** Thank you.

**KELLY:** Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. Lieutenant Governor. Senator Cavanaugh's right. We have not been doing a good job in our hearings, making sure that people can be heard. Another thing that has been both highly unusual and abnormal, but detrimental to our democratic process, that's been happening in hearings is that committee chairs have been portioning

equal time for each side of the debate. Now that sounds fine, right? People say, Megan, what's wrong with that, give everybody equal time. The problem with that is that there are not an equal number of proponents and opponents. When we hear a less controversial bill, a bill that had some people on both sides, but maybe the hearing only goes an hour or two, which we all have in our different committees, sometimes we'll have a bill that has 8 proponents and 20 opponents or 20 proponents and 4 opponents. We don't say, OK, let's make sure that we give both sides equal time, so, proponents, you're going to get 20 minutes and, opponents, you're going to get 20 minutes, and then you go, oh, we gave everybody equal time and everybody got heard. When you do that-- what I'm talking about specifically is on all of the anti-trans bills, all of the anti-gay bills, all of these really hateful things that our colleagues have brought to the people of Nebraska, acting like anybody actually wants this, committee chairs have gone, OK, we're going to do three hours for proponents, three hours for opponents, and three hours for neutral, as if there's three hours of neutral testimony, and then they go, oh, we really did a good job making sure everybody could be heard. Then, when we get our committee report, our committee statement, and we go and look at who all testified on the bills, it looks to us like there's an equal amount of proponents and opponents when that actually doesn't reflect the way Nebraskans feel at all. It doesn't reflect the dozens and dozens of dozens of crying Nebraskans in the hallways who got here at 1:30 and stayed until 8:00 or 9:00 p.m., and then were sent home without having their voices heard, again and again and again on all of these different bills. We ask Nebraskans to engage with us civically, we ask Nebraskans to pay attention to what we're doing here, and then when they actually do that and show up to tell us what they think about our work, we punish them by turning them away. And then in a couple of weeks, when we debate these hateful, anti-family, anti-- you know, I can't overstate how much I freaking hate these bills, but when we have these for-- up for debate on the floor, we're going to have a committee statement that makes it look like there was an equal amount of proponents and opponents. And supporters of these hateful, hate-filled, bigoted bills are going to say, well, there's actually about equal support and opposition, when that actually doesn't reflect what happened at all. So that is the undemocratic work that you are all doing in committee. I want to talk about TestNebraska and Jason Jackson under this appointment, but we will have all session to talk about how you have chosen to mess up the committee process, you have chosen to corrupt the information that we are getting in our committee reports that don't accurately reflect how the committee actually went,

because you'd like to get home for dinner. You gotta work 90 days a year here for not much money. But let me tell you, your job is pretty cushy. It's not too hard for you to stay a little bit longer to allow these people to be heard. It's a shame and it's an embarrassment to the people on those committees who didn't stand up for those kids to have their voices heard in committee. And this article I passed out are youth, especially girls, and queer youth are in a mental health crisis.

**KELLY:** One minute.

**HUNT:** And addressing it needs to be at the top of every policymaker's priority list. But when states propose laws against your very existence and elected officials and leaders publicly speak about you like you're subhuman, like Senator Kauth does, what do you expect? Girls and queer youth are the targets of state legislatures all over the country for harassment, for exclusion, for discrimination. And it is shameful of adults like us to not help these kids in need, and it is. I mean, like, you're really going to turn these kids away? The same people who pass all these bills about civics education and learning about George Washington and Thomas Jefferson, and we make them learn all this stuff in school, and then they come and tell us, hey, I'm queer, please don't discriminate against me, and we turn them away. Well, these things have mental health effects--

**KELLY:** That's your time, Senator.

**HUNT:** --on Nebraskans. Thank you, Mr. President.

**KELLY:** Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. President. If Senator Hunt wants more time, I could yield her some of my time. I wanted to rise again and talk about-- in favor of the motion to recommit. But the part I wanted to get to from my last comments I didn't finish was saying about the value of these conversations. And I guess it goes hand-in-hand with the thing I was saying about, so today is Valentine's Day and, you know, so I looked it up to see Saint Valentine, you know, is the patron saint of courtly love, I guess, is what they call it, and-- but in addition, Saint Valentine is the patron saint of beekeepers. And I thought that was pretty interesting on a day where we're having this conversation, where Senator Blood was doing a great job of talking about the catastrophe in Mead, and one of the effects of that catastrophe, of those neonicotinoids, are their effect on bug species

like bees. We have, you know, pollinators collapse across-- well, really across the world and the country. But in Nebraska, we have a pollinator-- decrease in pollinators, and they're an essential part of our ecosystem. And so I just thought it was fitting to have part of that conversation while-- on the day of the patron saint of beekeepers. So I just appre-- thought Senator Blood would appreciate that. But the reason that I-- that-- that I was thinking of this is, in that conversation, I talked-- I-- I said my piece, which I think I spoke four times about my issues with Mr. Macy. But one of the things I didn't talk about was his role in the Environmental Trust, sitting on the Environmental Trust Board, which has been a-- historically a problem I have had with him and conversation I've had with him and others. And in the course of that conversation, Senator Blood brought that up and talked about the Environmental Trust. And when she did that, I went and I pushed my button to get in the queue and said, oh, but that reminded me of-- of an issue and wanted to get on the con-- the mike to talk about it. I never got a chance to talk again because we called the question, we went to the end and all that kind of thing. But my point is, in-- this brings-- these floor conversations have a value in the sense that even if it's something you have previously thought about a lot, engaged in, you might not be thinking about it all the time until somebody brings it up in floor debate and you have an "Aha!" moment and say, oh, I hadn't thought of it that way or I didn't remember that or, oh, I'm going to look at that. So there's a value in floor debate, even for people who already knew about something or thought about it. It's not just an appeal to those who are on your side or if you're, you know, trying to browbeat people. So I just thought that was an important point to make, is that there is great value in these conversations that we're having. And again, so I think it's-- we need to take the time that it takes to have a conversation, talk about these issues. And Senator Hunt was here talking about the TestNebraska. I had moved on from TestNebraska. In my mind, it was one of those things that was such a top-of-mind issue for a very long time. And so I appreciate Senator Hunt bringing that up and Senator Machaela on talking about procurement. And this is such an important issue. And again, this is the ex-- example, Saint Francis is an example of ways in which we have failed as a state, and it was a good example of ways in which we should go forward. And I know there are bills, and I heard part of Speaker Arch's bill in Government last week about how to change procurement going forward. And so hopefully we learn from our mistakes, we learn from our-- our lessons, and one of those lessons can be to not have the same person in charge of a department who made so many mistakes.

**KELLY:** One minute.

**J. CAVANAUGH:** Thank you, Mr. President. And so I think it's important that we continue engaging in these debates. I've [SIC] learning a lot just from listening, and I will continue to listen, so I appreciate those who are more knowledgeable on the subject, at least educating me. So if-- if you don't think anybody else is listening, I'm-- I'm listening. Thank you.

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

**CONRAD:** Thank you, Mr. President. Good morning, colleagues. And just wanted to take a step back and rise not necessarily in regards to anything substantive for the nominee that is before the body, but I-- I didn't get a chance to talk when we were talking about the-- the issues that we started with this morning, because the-- the question was repeatedly called. And I just want to take a step back and-- and talk a little bit about kind of the history and-- and how we got here, not from, you know, a long, drawn-out kind of perspective, but just kind of a top-lines perspective. So remember, the Nebraska Legislature is the only statewide deliberative body in the state of Nebraska because we're a unique, nonpartisan, Unicameral Legislature. So for a great deal of our history, because of that dynamic, there wasn't a cloture rule. There wasn't the same sort of opportunities to limit or end debate so that we could strike the right balance between majority rules and minority rights and ensuring that, you know, it's not about us, again, but it's about ensuring a strong voice for the people who sent us here that we represent back home, that those Nebraskans weren't silenced as their senators were trying to figure out how to navigate through the discrete or global issues before the body. So over the years, the process evolved, and in particular to, I think, try and suppress the strategies and substance from Senator Chambers, of course. And so the body came together and there was, I'd say, a rather involved debate to create a cloture rule to try and limit debate, which previously had-- had not really been subject to those kinds of limits. So as part of that compromise, as part of that process, our predecessors came together and said, OK, we're going to create a cloture rule to shut down debate, to arbitrarily stop debate on-- on specific issues, because we-- we want to tip the scales in favor of efficiency instead of deliberation, so that was the decision that folks made. But-- but, colleagues, and you'll remember this from where we started earlier in the session, they said there's a couple of exemptions to that. There's a couple-- it's a-- it's a rule with a star and asterisks. They said there-- we're not going to impose a

cloture rule on rules debates, we're not going to impose a cloture rule on committee reports, and we're not going to impose a cloture rule on gubernatorial nominees or appointments. So, you know, the-- the reason those were really carved out was because they-- they rise to such a level of importance in terms of setting our individual rules of engagement for how we chart the process together each biennial session, for allowing a robust, dynamic debate to happen, for key reports emanating from our subject-matter jurisdictional committees, and to recognize the key oversight function of the legislative branch when dealing with gubernatorial nominees. So I say that, colleagues, because I think that's important, that particularly new members kind of think through that context and that history, but also because, when there is a continual effort to call the question, to stifle debate, it flies in the face of that institutional history, and that institutional history isn't just there because it-- we're nostalgic about it or it's nice or, you know, a walk down memory lane or the good old days. It's there because it's grounded in policy. And-- and the policy is--

**KELLY:** One minute.

**CONRAD:** --thank you, Mr. President-- giving precedence, saying these issues, rules, reports, nominees, we shouldn't stifle debate on those. We shouldn't stifle debate on those like we do for other rules. So we've already agreed they're not subject to cloture, but a continual calling of the question to effectuate the same result really undercuts the institution yet again, and I think that's disappointing. I also think it's ineffective because, if individual senators or a group of senators wanted to continue debate on rules, reports, or nominees, there's almost infinite numbers of motions to file and to debate and to reconsider. So it would actually be much more expedient to just let the debate happen, rather than trying to stifle it, which is counterproductive in terms of our history and in terms of an expedient process. So thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Hunt, you're recognized to speak and this is your last time.

**HUNT:** Thank you, Mr. President. I got all wound up on how you've messed up the committee hearings that hurt all these kids that I didn't get time to talk about TestNebraska, which I think I've stood up three or four times on this appointment and meant to get to it each time. My concern about TestNebraska from the beginning was, you know, the red flag went off for me at first because when-- when TestNebraska

was announced, this was in the heat of COVID; this was, of course, before any vaccines, anything like that, and we just needed testing. This was the most desperate thing for people. This was in the time where people couldn't find toilet paper or hand sanitizer. And our-- our wonderful friends and partners in the private sector were, you know, helping, to-- to come up with all these supplies and helping to manufacture things to help people, and we were desperate for testing. In that desperation, there was one company, based in Utah, that saw the opportunity in the desperation and used it to take advantage of states who were looking for testing. This company had no pharmaceutical experience. It had no experience in the healthcare field. It's a tech company in Utah, and one of their investors is Ashton Kutcher, famous Iowa boy. So Iowa boy Ashton Kutcher asked Governor Kim Reynolds in Iowa to take up this TestNebraska thing from this startup that he's invested in. Kim Reynolds tells Pete Ricketts about it. The word spreads and all of the states-- you know, we've got Test Iowa, Test Kansas [SIC], TestNebraska, Test Utah, Test Tennessee [SIC], all of these things. And what set off alarm bells for me in the first place was that they announced TestNebraska.com and not TestNebraska.gov, and that told me that there was a private company behind this that we in the Legislature had not been made aware of or had the opportunity to provide any-- any oversight about. Now, of course, as I said, at that time, things were desperate. You know, I understand the need to move fast and sometimes having everything have a hearing or having oversight on everything slows things down to a point that you don't want in an emergency. But my concern with TestNebraska all along the way, at every step of the way, were realized and made valid by the poor performance of that tech company that, once again, was not a healthcare company. And all of this was under the oversight of Jason Jackson, and that is the cornerstone of my quibble, my qualm with his nomination to return to the Department of Administrative Services. With TestNebraska, Nebraskans were asked to submit their personal information and data without knowing that that data could be aggregated and sold to other companies. It could be used by the state for different purposes and it could also be sold, and Nebraskans weren't made aware of that before they submitted their information to TestNebraska to sign up for a test. This is the opportunism of a crisis, right? We gave a \$27 million contract to a private company in Utah who promised the world, and what they got was a bunch of data from Nebraskans that we don't know what they did with. I was trying to figure out what they were doing with that data, so I tried to get a copy of the contract that the state signed with TestNebraska, and the department refused--

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**KELLY:** One minute.

**HUNT:** --to give it to me. Jason Jackson refused to show me the contract that the state signed with TestNebraska. I had to FOIA it. A million years later, I got it to look at and, sure enough, the contract says that it would allow Nomi, which was the-- the name of the tech company, to sell the de-aggregated data of users of TestNebraska. None of this was disclosed on the website. None of this was made evident to users of the website. It was so irresponsible to take advantage of desperate Nebraskans who, you know, were really in a-- in a crisis and not be transparent with them about how this system is working. You know, I understand that testing and tracing was the only way to get ourselves out of this mess, and I raised the concerns when TestNebraska was introduced. And, you know, in the Salt Lake Tribune, they reported that the tests--

**KELLY:** That's your time, Senator.

**HUNT:** --they had weren't even accurate. Thank you, Mr. President.

**KELLY:** Senator Blood, you're recognized to speak. This is your final time.

**BLOOD:** Thank you, Mr. President. Fellow Senators, friends all, I'm going to build on-- on Senator Hunt's wise words when she talks about TestNebraska. What many of you may or may not have known, that also the website that was put up was not accessible to Nebraskans with certain disabilities, and they were allowed to do that because they were a dot-com and not a dot-gov, because the government is required to make their-- their websites accessible to people with disabilities, because people with disabilities are taxpayers too. But to make things worse, their testing sites weren't accessible. And some of the senators came in on a Zoom where we had people with disabilities that came to talk to us and told us that not only was this in Nebraska, but it was in Iowa as well. And since many people with disabilities were unable to drive themselves and would have to take an Uber or would have to take a bus; they couldn't walk into the locations and be tested if they took a bus; they couldn't Ubered and be tested if they took an Uber; if they didn't drive themselves or they were in a disability van that would require someone to enter the van, they couldn't get tested. So we were not inclusive when it came to that contract, and we brought it to the attention of the executive branch and nothing was done about it. Absolutely nothing was done because it's a small percentage of Nebraskans and, if we ignore it-- gee, it

kind of sounds like Mead, Nebraska. If we ignore it long enough, people are going to forget about it, the media is going to move on, and nothing's going to move forward. We do that a lot in Nebraska and we wait until things fester and we throw money at it. But to make things worse, we gave the same company the COVID transport contract, or at least one of them. There may have been more than one. I was only aware of this one because I had a family member during the pandemic languishing in a small-town hospital, in the emergency room, and we couldn't get to Omaha. And I started talking to the nurses and I started talking to the doctors, who were constantly calling to find out was there a bed available in the Omaha metro area. And finally, I called one of the hospitals and I'm like, hey, I'm really trying to get my son back home, he really needs to see a neurologist, we've got some really serious stuff going on, and I found out that although hospitals had waiting lists, that this company that we hired to not only do TestNebraska, but also to do patient transport, was just calling to see if there was beds and there wasn't a real waiting list. So imagine being that doctor or that nurse is, I need transport, I need transport, I need transport. Well, there's not a real waiting list. And I found that out because the hospitals asked me, well, what waiting list is he on? Well, he was not on anything. So not only do we have a nursing and a doctor shortage and a healthcare shortage, but now we are willing to waste their time because we have a bad actor that we continue to pay tens of millions of dollars to. And I remember, because I was sitting in that emergency room late at night and I was mad and I posted it on Twitter about what was going on, and like within seconds, the lobbyist for this organization, this well-paid lobbyist, gave me a call. He had the nerve to call me while I was in the hospital with my sick son. Oh, yeah, I don't think this is what's going on. I think, you know, you might want to reconsider your statements. You might want to readdress this. I certainly did not want to readdress it. I did not want to reconsider what I posted because they did a crappy job, and I found out that people died as a result of it, at least that was the interpretation that I receive from the healthcare professionals. It's all about the money. It's not about the service. And who suffers? Our most vulnerable. Patient transport was something that was of paramount--

**KELLY:** One minute.

**BLOOD:** --importance to get people the help that they needed during the pandemic. Whether you believe the pandemic happened or not, I'm not here to debate that. I'm here to tell you what I saw, and what I saw were people that were suffering that needed to go to bigger healthcare

facilities that couldn't because the company that we contracted to do transport couldn't do their jobs and do it well. But, heck, we sure paid them. And who oversees those contracts from TestNebraska to transport? I want you to think about these things when you vote. I want you to think about these things when things go south again, because they will, because that's kind of what we do in Nebraska. And then we'll have this discussion about we told you so, which is really a hard discussion to have. I don't want to have that discussion. I want you to pay attention to what's going on. It's not happening. It's almost lunchtime. There's lots of chattering, but now we have it on record. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Machaela Cavanaugh to close.

**M. CAVANAUGH:** Thank you, Mr. President. Colleagues, I appreciate those that engaged in the conversation today. I think that a lot of important things were discussed. Again, I remain not in support of Mr. Jackson's nomination. I really do think that the people of Nebraska deserve better when it comes to how we are running our state agencies, that we are wasting a lot of money on bad process and procedure and poor judgment. And so I will not be voting for Mr. Jackson. Of course, it is incumbent upon this body to give him 25 votes. With that, I would withdraw my motion to recommit. Thank you, Mr. President.

**KELLY:** So moved. No one else is in the queue. Senator Brewer, to close.

**BREWER:** Mr. President, I'd like to do a call of the house.

**KELLY:** There's been a request for a call to the-- call of the house. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 30 ayes, 2 nays to place house under call.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Brewer, you may continue with your close.

**BREWER:** Thank you, Mr. President. All right, just as a quick refresher, we are on the reappointment of Jason Jackson to lead the Department of Administrative Services. Just so everyone understands that we had the-- the committee hearing. There were a number of

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individuals that came in and spoke on his behalf, to include directorates of other agencies. No one spoke against him. No one spoke in the neutral. There were no letters in opposition, and there was no letters in the neutral. So with that, I would ask your support of Jason Jackson to be appointed to the Department Administrative Services. Thank you, Mr. President.

**KELLY:** Thank you, Senator Brewer. We're missing Senators Wishart, Linehan and Dover. Senator Brewer, would you like to continue? Senator Brewer says yes. The motion before the body is the adoption of the committee report. All those in favor vote aye; all those opposed, nay. Record, Mr. Clerk.

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

**KELLY:** Committee report is adopted. Mr. Clerk, next item. Raise the call. Mr. Clerk, items?

**CLERK:** Thank you, Mr. President. Your Committee on Judiciary, chaired by Senator Wayne, reports LB315 to General File. Additionally, your Committee on Health and Human Services, chaired by Senator Ben Hansen, supports LB78, LB123, LB124, LB261, LB337, LB345, LB548, and LB572 to General File. Committee report from the Health and Human Services Committee concerning certain gubernatorial appointments. Notice of committee hearing from the Health and Human Services Committee and the Appropriations Committee and the Banking, Commerce and Insurance Committee. Communication from Senator Slama designating LB343 as her personal priority. Motion to be printed from Senator Halloran to withdraw LB781. Name adds: Senator Day to LB4; Senator Vargas to LB52, LB278, and LB323. Notice: the Executive Board will meet in Room 1524 upon adjournment; Exec Board, 1524, upon adjournment. The Agricultural Committee will meet in Executive Session this afternoon after the public hearing, Agriculture, Executive Session, after the public hearing. And the Government Committee will hold an Executive Session tomorrow after the hearing, Government Committee, Executive Session, tomorrow after the hearing. Finally, Mr. President, priority motion. Senator Ibach would move to adjourn the body until Wednesday, February 15, 2023, at 9:00 a.m.

**KELLY:** You've heard the motion to adjourn. All those in favor say aye. Those opposed say nay. We are adjourned.