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Floor Debate
March 28, 2017

[LB8 LB11 LB27 LB35 LB54 LB62 LB70 LB88 LB89 LB90 LB101 LB122 LB143 LB151
LB161 LB163 LB164 LB166 LB178 LB182 LB188 LB191 LB210 LB222 LB225 LB263
LB289 LB294 LB339 LB340 LB389 LB394 LB418 LB428 LB459 LB460 LB483 LB490
LB506 LB512 LB518A LB518 LB539 LB600 LB625 LB639 LB641 LR73 LR74 LR75 LR81
LR82 LR83 LR84 LR85]

PRESIDENT FOLEY PRESIDING

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

SENATOR HILKEMANN: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Senator Hilkemann. I call to order the fifty-fourth day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

PRESIDENT FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB225 and LB340 to Select File. I also have a gubernatorial appointment letter to the...from the Governor to the Nebraska Power Review Board. That's all that I have, Mr. President. (Legislative Journal pages 819-820.) [LB225 LB340]

PRESIDENT FOLEY: Thank you, sir. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR73, LR74 and LR75. We'll now proceed to the first item on the agenda, General File, appropriation bill. Mr. Clerk. [LR73 LR74 LR75]

CLERK: LB518A by Senator Williams. (Read title.) [LB518A]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

PRESIDENT FOLEY: Senator Williams, you are recognized to open on LB518A. [LB518A]

SENATOR WILLIAMS: Thank you, Mr. President, and good morning, everyone, and welcome back after the long weekend and to all-day debate. Today, I'm introducing LB518A. It is the A bill that accompanies LB518 which we discussed and moved from General File to Select File last week. The A bill appropriates \$3.5 million from the Rural Workforce Housing Investment Fund in fiscal year '17-18 and \$3.8 million in fiscal year '18 and '19. This matches the amendment from Senator Bolz to transfer \$7.3 million from the Affordable Housing Trust Fund for Workforce Housing Development grants. I want to remind the body that this A bill appropriates cash funds only. We are not discussing General Funds. I encourage you to support LB518A. Thank you, Mr. President. [LB518 LB518A]

PRESIDENT FOLEY: Thank you, Senator Williams. Debate is now open on LB518A. Seeing no members wishing to speak, Senator Williams, you're recognized to close. He waives closing. The question before the body is the advance of LB518A to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB518A]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB518A. [LB518A]

PRESIDENT FOLEY: LB518A advances. (Doctor of the day introduced.) Proceeding now to General File, 2017 committee priority bills. Mr. Clerk. [LB518A]

CLERK: LB210 by Senator Watermeier. (Read title.) Introduced on January 10, referred to the Executive Board for purposes of public hearing, advanced to General File. There are committee amendments pending, Mr. President. (AM113, Legislative Journal page 401.) [LB210]

PRESIDENT FOLEY: Senator Watermeier, you're recognized to open on LB210. [LB210]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraska. Before I get to the specific provisions, I'd like to explain that as former Chairman of the Legislative Performance Audit Committee, introduced this bill on the committee's behalf because the new committee had not yet been created, but the new committee has prioritized this bill. LB210 was heard by the Executive Board which voted it out on an 8-0 vote with one amendment. There is no cost to this bill. LB210 would make two changes to the Legislative Performance Audit Act. One relates to the government auditing standards of our Legislative Audit Office is required to follow, and the other relates to when the Audit Office is allowed to provide draft audit reports to agencies in tax incentive performance audits. First, the government auditing standards require that each member of the staff must complete 40 hours of continuing education every year and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

that the Audit Office has an outside review of its work every three years. LB210 would change our state law that requires the Audit Office to meet the government auditing standards in order to allow the Performance Audit Committee and the audit staff to decide how many continuing education hours the auditors have to receive each year and how often we peer review of the office. I want to be clear that LB210 is in no way intended to remove the requirements for continuing education or outside review. Instead, the bill gives the committee and staff flexibility to meet the requirements in a way that is more appropriate to the size and function of our Audit Office. Regarding continuing education hours, currently each auditor must earn 40 hours each year. Audit staff have informed the Audit Committee that it is difficult to find relevant, free, or low-cost activities that many hours...for many hours, and the committee believes that a reduced number of hours is reasonable. For comparison, I would note that, in Nebraska, attorneys are required to obtain only ten hours of continuing education each year. Regarding the periodic peer review of the Audit Office, the standards require a peer review every three years and audit staff have told us that this may be more frequent than is really necessary. Peer reviews cost the Legislature between \$6,000 and \$8,000 each time we have one. These changes would save a small amount of state dollars and allow the Audit Office to be more efficient without reducing the quality of the office work. The Executive Board has proposed an amendment to LB210 which is AM113, and I'll speak a little bit on my opening if that's okay, Mr. President. AM113 requires at each start of the biennium, the Legislative Auditor will draft a plan for how these requirements would meet, and file that plan would be with the Audit Committee. The Audit Office has already drafted such a plan which would require each staff member to earn at least 15 continuing education hours each year, and to require the office to have a peer review at least once every five years. Audit staff have spoken with the Government Accountability Office, which is known as the GAO, which publicizes the auditing standards. The GAO confirmed that only additional step the Audit Office will need to take if LB210 is adopted is to note in the beginning of each audit report how the standards are being met. The other provision of LB210 will allow the Legislative Audit Office to give its draft tax incentive audit reports to the agency that runs the audited program before giving a report to the Audit Committee and fiscal analysts. Under current law, the Audit Office has to give the draft report to the agency, the committee, and the Fiscal Office at the same time. By giving the draft report to the agency first, will allow the agency to make a final check to ensure that the draft contains no confidential taxpayer information before anyone outside the Audit Office reviews the draft. I thank you, Mr. President, for allowing me to introduce LB210. [LB210]

PRESIDENT FOLEY: Thank you, Senator Watermeier. As the Clerk indicated, there are amendments from the Executive Board. Senator Watermeier, did you have additional comments regarding the...you may proceed. [LB210]

SENATOR WATERMEIER: On AM113? [LB210]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

PRESIDENT FOLEY: Yes. [LB210]

SENATOR WATERMEIER: All right. Thank you, Mr. President. As I mentioned during my opening, the Executive Board proposes AM113 which simply requires the Legislative Auditor to create and file with the Performance Audit Committee a plan relating to the number of continuing education hours Audit Office staff must obtain every year and how often the office will be subject to external peer review. If there are questions, I'd be happy to answer them about AM113. Thank you, Mr. President. [LB210]

PRESIDENT FOLEY: Thank you, Senator Watermeier. You have heard the opening on LB210 and the committee amendment. Senator Krist. [LB210]

SENATOR KRIST: Good morning, Mr. President. Thank you. And good morning, colleagues. I wondered if Senator Watermeier would yield to a couple of questions. [LB210]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB210]

SENATOR WATERMEIER: Yes. [LB210]

SENATOR KRIST: Having been on the committee for several years and associated with the folks in Performance Audit, I seem to recall that they are qualified to go out and participate in other state's audit functions or to audit them as other states are to us. Does this change in the Performance Audit Act change any of that relationship across the board? [LB210]

SENATOR WATERMEIER: No, it doesn't. The only thing is, the cost is borne on us when we have our internal review. When we're asked to go out and help another state do an audit of theirs, that cost is borne by the state. And this really came about this summer when obviously we had talked about cutting back. This is one of the things that the Director of the Performance Audit Committee decided that we could do, and we were actually...difficult to find enough hours anyway, so this is one of the two steps that we decided to take. [LB210]

SENATOR KRIST: And does the reduction of the time spent make our auditors any less competent or efficient in terms of a United States-wide function? [LB210]

SENATOR WATERMEIER: No, I don't believe it does. We went over that with the GAO Office as well. [LB210]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR KRIST: With which office, I'm sorry? [LB210]

SENATOR WATERMEIER: The Government Accountability... [LB210]

SENATOR KRIST: GAO. [LB210]

SENATOR WATERMEIER: GAO, yeah. [LB210]

SENATOR KRIST: Okay. All right. Thank you, and thank you for your courtesy. [LB210]

PRESIDENT FOLEY: Thank you, Senators Krist and Watermeier. Senator Kuehn, you're recognized. [LB210]

SENATOR KUEHN: Thank you, Mr. President. That's kind of a signal right away to start a week out, first thing. Thank you, Mr. President, members of the body. I do want to encourage support of AM113 as well as LB210 as current Chair of the Performance Audit Committee. The Performance Audit Committee prioritized LB210 and we appreciate Senator Watermeier's leadership in introducing it on behalf of the committee, as we believe the changes to both the auditing standards and the process for releasing draft tax incentive reports are reasonable and will improve the overall efficacy of the performance auditing process. For the tax incentive performance audits, it simply makes sense that the agency is provided with a draft report before giving it to the Audit Committee and to the Fiscal Office. We want to make sure that we can do everything possible to protect and preserve taxpayer confidentiality while giving the agency a final review before sharing the report with anyone outside of the agency. With regard to the government auditing standards, I appreciate Senator Krist's comments and questions and Senator Watermeier's thoughtful response. The committee does agree that our audit staff needs to participate in continuing education activities as well as be subject to that outside peer review. Both are important processes in ensuring the integrity of Performance Audit here in the Nebraska Legislature. However, we understand that the current existing requirements are excessive. We want to make sure that the emphasis on continuing education for members of the Performance Audit staff beyond activities that are truly relevant to the performance audit process. And so, that means it's not really an efficient use of our staff time to simply meet a 40-hour annual standard if those 40 hours are not activities that relate directly to the performance auditing process and enhance the abilities and skill set of our Performance Audit staff. We also believe as a committee that it is essential for the Audit Office to undergo these peer reviews as that process helps those of us as policymakers have confidence in our Audit Office and make sure that they are doing their work in an independent and unbiased manner. We are confident as a committee that the confidence can be maintained with less frequent reviews, such as once every five years than once every three years. And our Performance Audit staff continues to participate

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

with other states as members of peer review teams to gain that additional expertise. With Executive Board's AM113, the Audit staff will continue to work closely with the committee to develop policies and implement those auditing standards changes. As Chair of the committee and as the other members of the committee who are here today, we do take seriously the responsibility to ensure the overall integrity of the performance audit process and ensure that the policies drafted by the Audit staff are sufficient in protecting this very important legislative function. With that, I would like to thank Senator Watermeier for his continued leadership on this issue and hope you will all join me in supporting AM113 and LB210. Thank you, Mr. President. [LB210]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Seeing no other members wishing to speak, Senator Watermeier is recognized to close. He waives closing. The question before the body is the adoption of the committee amendments, AM113, to LB210. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB210]

CLERK: 42 ayes, 0 nays on adoption of committee amendments. [LB210]

PRESIDENT FOLEY: Committee amendments are adopted. Returning to debate on LB210, as amended, seeing no members wishing to speak. Senator Watermeier waives closing. The question before the body is the advance of LB210 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB210]

CLERK: 43 ayes, 0 nays, Mr. President, on the motion to advance the bill. [LB210]

PRESIDENT FOLEY: LB210 advances. Proceeding to the next bill. Mr. Clerk. [LB210]

CLERK: Mr. President, the next bill is LB182. (Read title.) Introduced on January 10, referred to Natural Resources, advanced to General File. At this time I have no amendments to the bill. [LB182]

PRESIDENT FOLEY: Senator Hughes, you're recognized to open on LB182. [LB182]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. Last fall the Nebraska Association of Resources Districts passed a resolution at its annual conference to request that the state's Drinking Water State Revolving Loan Fund statute be amended to clarify eligibility requirements for funding. Created under the federal Safe Drinking Water Act, the Drinking Water State Revolving Loan Fund is a financial assistance program to help public water systems meet health protection objectives in the act. Federal funds with a 20 percent match by

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

the state are granted through a state revolving fund. Statute 71-5322 currently authorizes the Department of Environmental Quality to grant this assistance, including loan forgiveness, to public water systems operated by political subdivisions with populations of 10,000 inhabitants or less that can demonstrate serious financial hardships. This statute was amended in 2007 that altered the language making eligibility to use the Drinking Water State Revolving Fund based on population of the political subdivision rather than the population served by the public water system. Political subdivisions that wanted to be eligible reviewed the federal guidelines and found that the intent of the federal program was that participation be based on population of the public water system being served. LB182 would make the clarification that the qualified applicants, the applicant is a public water system that serves a population of 10,000 or less operated by a political subdivision and can demonstrate serious financial hardships. This wording reflects the intention of the federal law that the population requirement apply to those served by the public water system rather than the population of the political subdivision. Thank you, Mr. President. I would urge my colleagues to vote green on LB182. [LB182]

PRESIDENT FOLEY: Thank you, Senator Hughes. Debate is now open on LB182. Seeing no members wishing to speak, Senator Hughes, you're recognized to close. And he waives closing. The question before the body is the advance of LB182 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB182]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB182]

PRESIDENT FOLEY: LB182 advances. Next bill, Mr. Clerk. [LB182]

CLERK: Mr. President, LB339. (Read title.) The bill was introduced on January 12, referred to the Transportation Committee, advanced to General File. There are Transportation Committee amendments, Mr. President. (AM314, Legislative Journal page 607.) [LB339]

PRESIDENT FOLEY: Senator Friesen, you're recognized to open on LB339. [LB339]

SENATOR FRIESEN: Thank you, Mr. President. I would like to open on LB339 which I've introduced at the request of the Governor. The purpose of the bill is very simple. If enacted, LB339 will merge the Department of Aeronautics and Roads and rename the resulting agency the Nebraska Department of Transportation. The new Department of Transportation will be led by the Director-State Engineer of the Department of Roads who will be retitled the Director-State Engineer of the Department of Transportation. The Director of the Department of Aeronautics will be the director of the Division of Aeronautics within the Department of Transportation. You can see from the fiscal note that there is no fiscal impact within this bill to the General Fund. The only impact identified is that two accounting positions currently funded

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

from aeronautics-related funds will instead be funded from the Roads Operation Cash Fund, an increase in expenditures from the Roads Operation Cash Fund of approximately \$93,000 per year, and a like savings to the Aeronautics Cash Fund. The fiscal note states that the savings to the Aeronautics Cash Fund could be reallocated to additional airport aid, and subsequent conversation with the administration has indicated that operational savings generated by this bill will be directly put back into aviation projects. I believe we're the last state to not have a specifically designated Department of Transportation. I believe this is an important time to consider and discuss this idea and the opportunities it presents, and an opportunity for us to continue to look for efficiency savings, to discuss the appropriate organization and management of state government administrative functions, and to have a conversation with all interested groups and individuals about the most appropriate way to structure state administration and accountability for all transportation-related activity. The bill makes no changes in the composition, role, or duties of the State Highway Commission. The Legislature and this committee have invested a lot of time and energy in the past few years on accelerating and achieving long-wanted and long-needed transportation goals for Nebraska. I look forward to the discussion on this bill and the role it can play in achieving transportation-related needs and desires that Nebraskans have expressed throughout the past several years. That will conclude my opening on LB339, Mr. President. At this point, I would like to turn to the consideration of the Transportation, Telecommunications Committee amendment. [LB339]

PRESIDENT FOLEY: Thank you, Senator Friesen. As the Clerk indicated, there are amendments from the Transportation Committee. Senator Friesen, as Chair of the committee, you're recognized to open on the committee amendments. [LB339]

SENATOR FRIESEN: Thank you, Mr. President. The committee amendment would propose five changes to the bill, most of them are technical in nature. First on page 35, lines 5 and 6, a drafting error is corrected. References to "Aeronautics" and "Department of Transportation" were transposed. The amendment corrects the language. Section 54 is replaced with new language. This section addresses and clarifies the transfer of appropriations from the Department of Aeronautics to the new Division of Aeronautics within the Department of Transportation, and also directs the payment of valid encumbrances after the effective date of the legislation, which is July 1, 2017. Number three, this change along with remaining amendments were brought to the committee by outside parties, such as the Aircraft Owners and Pilots Association, and focus on the bill as it affects the aviation side of the house in the proposed consolidation. Language is added which clarifies that the director of the Division of Aeronautics shall report directly to the Director-State Engineer of the Department of Transportation. Item four clarifies, in addition to advising the Director-State Engineer of the Department of Transportation regarding the appointment of and the ongoing performance of the director of Aeronautics Division, the State Board of Aeronautics shall also advise the Governor on the general status and state of aviation in the state of Nebraska. And finally, the number five amendment provides that funds received by

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

the Division of Aeronautics for the hourly lease of state aircraft that are set aside into preventative maintenance reserve shall only be used for that purpose. Mr. President, that would include my opening and conclude my remarks on the committee amendment. I'd be happy to answer any questions. [LB339]

PRESIDENT FOLEY: Thank you, Senator Friesen. Debate is now open on LB339 and the committee amendments. Senator Krist. [LB339]

SENATOR KRIST: Thank you, Mr. President, and sorry for my tardiness. I wondered if Senator Friesen would yield to a few questions. [LB339]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB339]

SENATOR FRIESEN: Yes, I would. [LB339]

SENATOR KRIST: Senator Friesen, you and I and legal counsel have had conversations off the mike prior to the bill coming to the floor and prior to it coming out of committee about my concerns, and I think you shared some of the concerns. What is to say...many of you will remember what happened with Senator Grassley on the federal level several years ago in transposing and using taxes on fuels in different ways that they were intended to be used. He wanted aviation fuel, for example, to build roads, and succeeded until it was amended. What prevents the department now of transportation from fusing monies that should be solidly in the pocket of aeronautics versus roads and construction? [LB339]

SENATOR FRIESEN: If I remember our discussions correctly, I think there is federal law that prohibits us from diverting some of that money, but we have also tried to build in as many firewalls as possible that that don't happen. I think the same concerns were addressed basically by the Department of Roads, thinking maybe we could divert money there. So we want to...we tried to in the bill keep it as separate as we could and address those issues. [LB339]

SENATOR KRIST: And what functionally do we gain? I have to tell you, I'm suspect that this is going to produce major savings or even efficiencies. What do we get from this new Department of Transportation? [LB339]

SENATOR FRIESEN: As you heard, there were really no fiscal impact at all. I think down the road there was some efficiencies to be gained by they could share equipment. One of the examples was when they stripe the runways, they could use the state Department of Roads' vehicles, which do paint highway lines and stuff like that, so small efficiencies like that. But

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

overall I think it was just to try and bring everything in line and operate under the same general principles as most other states do. I don't think they're going to see any major changes in how we operate. [LB339]

SENATOR KRIST: Then the Department of Aeronautics, as it exists right now, would have a division within Transportation, so that department head would no longer be a department head who is...we would confirm and the Governor would appoint? This is going back to the Department of Transportation to appoint, and we would then confirm, or is there any confirmation process left at all? [LB339]

SENATOR FRIESEN: I don't believe there would be any confirmation for the Division of Aeronautics. He would be appointed by the Director-State Engineer. [LB339]

SENATOR KRIST: Okay, I do have...colleagues, I do have major concerns with the Department of Aeronautics division chair or person not being confirmed by the state of Nebraska...by the Legislature of the state of Nebraska. I will also tell you...and between now and Select File, I'll be talking to legal counsel as well as the current director of Aeronautics. I'll also tell you that the Department of Aeronautics has not been, I would venture to say in my opinion...and let me qualify that for just a second. Most of you know I have 15,000 hours-plus flying. I've been involved with aviation. I basically wrote the piece of legislation to buy the airplane a few years ago. I have introduced several pieces of legislation to confirm clear zones around airports, so it's not something that I don't understand. Fifteen years ago, the Department of Aeronautics was actually handing out \$1.2 to \$2 million across the state to different airports. [LB339]

PRESIDENT FOLEY: One minute. [LB339]

SENATOR KRIST: They were doing that because they qualified for federal funds and because they were managing those airports and airport authorities throughout the state. Last year...and I'll have to check on the data, but last year I think they gave away less than \$200,000 helping those airports out. Now, every one of you, I'm sure, has a grass strip or a huge piece of concrete, and you should be concerned about how this actually works. And if you want to get the up-close and personal viewpoint, talk to Senator Wishart, who just finished as an airport authority member, elected airport authority member for the Lincoln Airport Authority. I'll have more to say on this bill either now or on Select File. Thank you, Mr. President, and thank you, Senator Friesen. [LB339]

PRESIDENT FOLEY: Thank you, Senator Krist and Senator Friesen. Continuing debate, Senator Kolowski. [LB339]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR KOLOWSKI: Thank you, Mr. President. I want to thank Senator Friesen for bringing this bill forward. It's an important bill that has been discussed in a number of committees over the years, with five years in the Natural Resources Committee. Even in there we had comments and discussions about the possibility of this happening over these last years, and seeing this come to, hopefully, to fruition now is a very good move in every way, we believe. The discussions should be good. This is something that all of the states have moved to, and it's about time we get ourselves caught up with them, and it will be a very positive move for Nebraska. Thank you. [LB339]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator McCollister. [LB339]

SENATOR MCCOLLISTER: Thank you, Mr. President. Good morning, colleagues. I rise in support of AM314 and LB339. As I travel around the country to various government conferences, most all states in the country have this kind of arrangement, so it's certainly not unusual, and it's something we should all support after Senator Krist resolves the issues that he may have. Thank you, Mr. President. [LB339]

PRESIDENT FOLEY: Thank you, Senator McCollister. Seeing no other members wishing to speak...correction. Senator Chambers, you're recognized. [LB339]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when a bill like this comes, ordinarily I would just listen to the discussion and let it go. But in view of the fact that Senator Friesen is the Chairperson of the committee from which this bill emerged, I would have to ask a question or two if he would yield. [LB339]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB339]

SENATOR FRIESEN: Yes, I would. [LB339]

SENATOR CHAMBERS: Senator Friesen, to date, have I questioned you about any bill that came from your committee? [LB339]

SENATOR FRIESEN: I don't think you have. [LB339]

SENATOR CHAMBERS: And did you feel kind of neglected and left out because of that? [LB339]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR FRIESEN: I do. My feelings were hurt. [LB339]

SENATOR CHAMBERS: Can I mend that hurt by asking you a question or two this morning? [LB339]

SENATOR FRIESEN: I feel better already. (Laughter) [LB339]

SENATOR CHAMBERS: Thank you. Senator Friesen, this bill merges the Department of Aeronautics into the Department of Roads, and then this would be known as the Department of Transportation, correct? [LB339]

SENATOR FRIESEN: That's correct. [LB339]

SENATOR CHAMBERS: Why could not the Department of Roads be merged into the Department of Aeronautics, and the new name be the same? [LB339]

SENATOR FRIESEN: Well, because, you know, we like the Department of Roads more than we like Aeronautics, I guess. It would be the bigger division of the two, I guess, when you look at the manpower and some of the things that they do, so they are the larger division. [LB339]

SENATOR CHAMBERS: Would you say that big is always better? [LB339]

SENATOR FRIESEN: No, not always. [LB339]

SENATOR CHAMBERS: Now, here's where I have a question. Is the purpose of this amendment sinister or is it straightforward, and will do only what has been discussed so far? [LB339]

SENATOR FRIESEN: The amendment is very straightforward. [LB339]

SENATOR CHAMBERS: So the overall purpose of this bill is not to engineer a back door entry into Nebraska of a firm that's going to seek tax credits for the manufacture, development and manufacture of flying automobiles? [LB339]

SENATOR FRIESEN: Not that I know of. [LB339]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR CHAMBERS: And there is no intent to label certain highways for the purpose of emergency landing by airplanes in trouble? [LB339]

SENATOR FRIESEN: That has not been any part of our discussions. [LB339]

SENATOR CHAMBERS: With those assurances, I'll support the bill. Thank you very much. [LB339]

PRESIDENT FOLEY: Thank you, Senator Chambers and Senator Friesen. Senator Krist, you're recognized. [LB339]

SENATOR KRIST: So, the...thank you, Mr. President. So legal counsel has informed me that there are some firewalls built around how, if we decide to tax and at what level we tax aviation fuel, the federal law allows us to only spend it on very certain things, so there's a firewall built around spending there. I will reiterate, I have...let's say...let's just use the example of the Chief Medical Officer for the state of Nebraska. That is actually within the Department of Health and Human Services, and we do confirm positions below the director level. I'd like to see an amendment drawn up on this one that the Legislature does indeed confirm that person. I would also like to ask Senator Friesen a couple more questions if he would yield. [LB339]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB339]

SENATOR FRIESEN: Yes, I would. [LB339]

SENATOR KRIST: Would that kind of an amendment be a friendly amendment, Senator Friesen? [LB339]

SENATOR FRIESEN: I would have to look at it. I guess, I...my original reaction is I don't see a need for it, but I would consider anything if there has a...if it serves a purpose. [LB339]

SENATOR KRIST: Okay. We can probably talk between now and Select. But I do think it's an important position, and a position that once that person is hired within the structure and confirmed, they're responsible not only to the director...the new Director of Transportation, but also to us in terms of oversight, and I think it's an important change that needs to be put in place, again using the model of HHS. Do you have any idea why the Department of Aeronautics has not been able to subsidize and help fund those small airports across the state in the last 10 or 15 years? [LB339]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR FRIESEN: No, I do not. [LB339]

SENATOR KRIST: Okay. I think that's an important part, and a part of our discussion because that's the money that's being used to develop instrument approaches, to keep the airport structures up to code in term of what the FAA requires of us. Also, you're aware that the state of Nebraska owns three airports and manages them and pays for them in the state of Nebraska? [LB339]

SENATOR FRIESEN: I did not know that. [LB339]

SENATOR KRIST: Yeah, I think we need to talk about that as well. What is the utility of actually owning World War II vintage hand-off airports and why are we spending millions of dollars maintaining those runways when the structure and the actual utility is for the local use of that airport? And so those couple of questions, I think, need to be addressed and put on the record. As we combine these two organizations, obviously the bigger of the two will take control over the smaller. Also, I don't know if you know, but is the aircraft being...the money for the aircraft being put into a preventative maintenance fund so that we can continue the airplane use in Nebraska? [LB339]

SENATOR FRIESEN: Yes, that was specifically addressed, and that money can only be used for that purpose. [LB339]

SENATOR KRIST: Okay. That's a very good thing. When we bought it, it was under warranty for seven years. And as we've used it, we're putting money away so that we can sustain the operation of the airplane when it comes out of warranty. So I think that's an important thing for us to differentiate. So, in summary, for this time on the mike and probably throughout General File, I would say that, first of all, I think we need to reserve the right to confirm the appointment and the hiring of the director or division chief, I'm sorry, for Aeronautics. And I guess just one other thing to put on the record. Mr. Mitchell, who is the current director, wanted to do a study that the Federal Aviation Administration advises and needs us to do every ten years. We're overdue for that study. He tried to... [LB339]

PRESIDENT FOLEY: One minute. [LB339]

SENATOR KRIST: ...put \$35,000 in his budget this year and the FAA was going to contribute the balance of the \$350,000 to complete that study. That study, colleagues, is important because that is the basis by which we draw down federal funds, and we're overdue for that study. We're overdue for that study. I tried early on last year to make that very clear to Mrs. Kintner and to the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

administration and tell them that we absolutely needed to do that study. We're overdue. So those kind of priorities are out there and they need to be administered by someone who understands the FAA restrictions, understands the importance of air travel throughout the state. And I guess I would like to talk one more time on that, so I'll punch my button again. [LB339]

PRESIDENT FOLEY: Senator Krist, you may continue. [LB339]

SENATOR KRIST: Thank you, Mr. President. Colleagues, several years ago Senator Hadley brought to this body a major investment in a telecommunications business moving into the Kearney area. Number two or number three on that list for that major company to make an investment in Kearney, guess what that was? Air travel, connectivity to the world through the place that they were going to put their center. If Senator Stinner would yield to a question, please. [LB339]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB339]

SENATOR STINNER: Yes, I will. [LB339]

SENATOR KRIST: If you want to travel from your home district to Omaha on air travel, how do you need to proceed? [LB339]

SENATOR STINNER: I have to get a flight from Scottsbluff to Denver, Denver to Omaha. [LB339]

SENATOR KRIST: Isn't that wonderful? We have to go outside the state to come back inside the state. Essential air travel is part of a development, an economic development plan that needs to go forward in the state. Thank you, Senator Stinner. You make the case. We need to spend more time on our economic development of our air travel and our aerodromes around Nebraska because it is key to economic development. I think by merging these two, we will de-emphasize...my prediction is we will de-emphasize what we already need to emphasize within the Department of Aeronautics. And I hope they prove me wrong. I probably won't be here...well, I won't be here in two years, but I probably won't be here to see that prediction come true or not come true. We're merging Department of Aeronautics into the Department of Roads, and we're going to call it something different with no real efficiencies on the horizon. I don't think I can support this unless the amendment is put on that at least reserves the right for us to confirm that person. And I think that you should think about, colleagues, whether or not we should study this. Why not an interim study that looks at the efficiencies, looks at how we can save money and be more efficient in terms of how we do business? Once we get an FAA survey

Floor Debate
March 28, 2017

done for both the economics and the management of our airfields across the state, which is sadly overdue as I have said before, once we look at why we're not funding our small airports through our Department of Aeronautics through the money from the FAA, once we take a little bit of time and a breath to say, this is what needs to happen, then I think we can move forward. I see Senator Wishart's light is on, and I know we had a discussion over...off the mike and I know that needs to be repeated, and I hope you will. But I think we need to slow down. Thank you, Mr. President. [LB339]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Schumacher, you're recognized. [LB339]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. We're talking a little bit about air service to areas outside of Omaha and Lincoln basically. And what you will find is that the state has got probably 80, 100 really good, small airports and they really take a lot of money to maintain. You got to keep the lights lit up, you got to have the transmitters working so people can talk back and forth, turn the lights on and off when you're getting ready to land. And they are really, when you get particularly out west of Grand Island, nice to have. But there's a problem, and the problem is access to aircraft. Now, 20, 30 years ago there were a lot of things called fixed-based operators. And those folks had an aircraft or two, and they had a pilot or two, and they were available to rent for a very reasonable price. And it was efficient to get on an airplane in Fremont or Columbus and head out to Scottsbluff. And it was really, really a thing that helped business. Since then, insurance costs, other costs have put those fixed-based operators out of business. And it is sky high in order to be able to rent an airplane to do anything. You probably have to rent one out of Omaha or Lincoln if you're sitting out in Central City or Columbus or Grand Island in order to have an aircraft. And that is just immensely expensive and the business decision breaks in favor of driving instead. Now, some companies are large enough to own their own aircraft, but those are very few in comparison to the folks who could use aircraft if they were effectively priced and available. And clearly, you have to have some type of air transportation that is more than one flight out a day or night and when you maybe go to Denver or Kansas City or someplace in-between time to get to a sister city even here in Nebraska. You have to have more than that. That just doesn't work. We even find that I think folks flying in and out of Lincoln and Omaha find not enough direct flights, small aircraft in and out, and those are tremendously hampering things when it comes to economic development and attractiveness to major enterprises. So as we talk about economic development and what might bring people to rural Nebraska and people to the state in general, air transportation, I think, may even be more important than fiddling with an income tax rate. And it's one of the many things that we should look at if we're indeed going to grow and develop the state. It is a hard question to answer. But the easy answers, the quick and dirty answers of tax gimmickry or some...throw some money at an economic development program are not working, have not worked. And again, this thing, when it comes to aircraft transportation in rural Nebraska, we need to do

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

something to take advantage of those airports. Otherwise, you know, only a very tiny percentage of the population gets benefit from a fairly decent expenditure. Thank you. [LB339]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Wishart, you're recognized. [LB339]

SENATOR WISHART: Thank you, Mr. President. I rise today in support of LB339 with the amendment, AM314. As Senator Krist pointed out, I served, before I came to the Legislature, for six years, almost six years, on the Lincoln Airport Authority Board, and it was really an incredible experience. I got to learn the inner workings of the airport industry, and it's a very impressive industry. I am rushing to get my colleagues a map of the airports that Senator Schumacher was referencing. There's just this really incredible map that will show all of the airports that you have in your district. These airports are used for industry purposes. They're used for law enforcement. People use these airports to fly into rural areas of the state to go hunting. They're a very important part of our state. I support this bill because I think it's time that the Legislature, in recognizing that we are not just a Department of Roads, that we have a variety of forms of transportation in this state and it's important that we invest in those and the infrastructure to support those forms of transportation. So with that, I'll yield the rest of my time to Senator Krist. [LB339]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Krist, 3:30. [LB339]

SENATOR KRIST: Thank you, Senator Wishart, for your courtesy. Thank you, Mr. President. Please understand that this model that's being suggested is working very well in many other states. And obviously, I'm not trying to be a stick in the mud here, but I want you to understand that absorbing this creates a larger organization. And my concern is that there will be some mix-matching of priorities in terms of what direction we go. There is an appointed board that helps Mr. Mitchell in terms of making his decisions, and in canvassing them, these were appointed by the Governor, in canvassing them, they are skeptical as well. I can't say unequivocally that they are against the issue. As Senator Wishart says, there's some utility in terms of someone developing an entire plan instead of having these silos out there doing what needs to be done for economic development, for essential air travel, etcetera. And Senator Stinner actually came up to me afterwards and said, you know, we used to have two of those routes, essential air travel, and the hubs were developed across the state. And the reason that was the case is because the FAA, in terms of looking at what we have in the state, helped in terms of putting some of those together. Essential air services do not just exist. You just don't materialize them. There's a demonstrated need within those studies that says, by the way, you've got over 30,000 people a year that are going to Denver to get to Omaha, or going to Omaha...from Omaha to Denver to get to Scottsbluff. That's how those essential air travel, essential air services are established and are

Floor Debate
March 28, 2017

maintained. So, I am not against conceptually the idea of merging these two. I think there's a danger in how we do it. I'm a little less anxious about it after legal counsel told me about the separation of funds. But I'm still concerned that that combination will de-emphasize the things that are already de-emphasized and need some work. I still believe we should confirm the person who sits at the helm of the Division of Aeronautics within the department. [LB339]

PRESIDENT FOLEY: One minute. [LB339]

SENATOR KRIST: Thank you, Mr. President. I still believe we should maintain some oversight. I do believe that the advisory group that assists in these, which are citizens who have great knowledge of aeronautics, aviation in general, needs to continue to exist and I hope that exists at well...exists...continues to exist as well. On that note, I will simply tell you that I probably will vote for the amendment because I think it makes it better. I just will not vote for LB339. And between now and Select File I'll be talking to Senator Friesen about that amendment that we spoke about on the mike. Thank you, Mr. President. [LB339]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Hilkemann, you're recognized. [LB339]

SENATOR HILKEMANN: Good morning, Mr. President. I rise to...this is an issue that I thought for a long time that we should have just a Department of Transportation and not necessarily have the Department of Aeronautics. I am a pilot, but certainly not to the level that Senator Krist is, and I've had actually some of my pilot friends come to me and said, this is really a bad idea because Nebraska has been doing very well in its small airports and so forth. So I am very appreciative of the discussion and the conversation that we're having. I'm not saying that I'm against this amendment. I think that I would like to hear more discussion. I'd certainly like to hear from the people of aviation if this is a good idea, and I plan to talk with more of them going forward. This is the opening round of this. But at either rate, again, I always thought this is exactly what we should be doing. Now that the bill is here, I'm getting some feedback from people who I respect very much in this, that we need to take a look at that. So I would urge members of the body, if you have people who are active in aviation and pilots, that you discuss with them, do you think that we should put this together as the Department of Transportation, or should we continue the present situation of having the Department of Aeronautics? And with that...want any more time? I'll surrender the rest of my time to Senator Krist. Thank you. [LB339]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Four minutes, Senator Krist. [LB339]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR KRIST: Thank you, and I won't take all that, but Senator Wishart was kind enough to let me know that the...our own Appropriations Committee did fund that study that critically needs to be done, and for that, Senator Stinner and members of the Appropriations Committee, kudos, good judgment. Thank you for doing that. I appreciate that. It will pay dividends in the long run in terms of how we manage air traffic and our airports across the state of Nebraska. Thank you, Senator Hilkemann, for yielding the time. Thank you, Mr. President. [LB339]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Friesen, you're recognized to close on the committee amendment. [LB339]

SENATOR FRIESEN: Thank you, Mr. President. Well, it was...it's a good conversation to have because it is a large bill, and it affects a large number of employees and the departments that are very important to the state of Nebraska. When I, as a rural senator, I mean when I look at our transportation needs, I think the state does need to do a comprehensive look at how we develop that. And as we try to bring more economic development to the rural parts of the state, I think our airports out there are going to serve a very real need. It is essential that we have that service for corporate jets or whoever may fly in. So, I look forward to the I discussion of how we can be more efficient as we look at developing our transportation needs, and I think that the Department of Transportation can very well incorporate that into an overall master plan. With that, I urge you to vote green on AM314 and LB339. [LB339]

PRESIDENT FOLEY: Thank you, Senator Friesen. Members, the question before the body is the adoption of the committee amendments, AM314, to LB339. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB339]

CLERK: 40 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB339]

PRESIDENT FOLEY: AM314 is adopted. Seeing no members wishing to speak on the bill, Senator Friesen, you're recognized to close on the advance of the bill. The question before the body is the advance of LB339 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB339]

CLERK: 40 ayes, 0 nays to advance LB339. [LB339]

PRESIDENT FOLEY: LB339 advances. (Visitors introduced.) Proceeding now to the next bill. Mr. Clerk. [LB339]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

CLERK: Mr. President, LB539 was a bill introduced by Senator Krist. (Read title.) Introduced on January 18 of this year, referred to the Executive Board for public hearing. The bill was advanced to General File. I do not have committee amendments, but I do have other amendments filed to the bill, Mr. President. [LB539]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Krist, you're recognized to open on LB539. [LB539]

SENATOR KRIST: Thank you again, Mr. President. Good morning again, colleagues, and hello, Nebraska. LB539 advanced from the Executive Board on a 9-0 vote at the committee hearing last month, February 8. No one testified in opposition to LB539. I want to thank Chairman Watermeier and the members of the Executive Board for advancing the bill and selecting it as a priority bill for their committee. In 2015, the Nebraska Legislature adopted the Office of Inspector General of the Nebraska Corrections System Act through the passage of LB598. The act outlined the many duties of this office and mirrors many of the provisions found in similar act of the Office of Inspector General of Nebraska Child Welfare system. Since the act went into effect, the Inspector General for Corrections has identified some major potential changes to the act that would assist him, Mr. Koebernick, Mr. Doug Koebernick, in carrying out his duties in his office. These changes are found in LB539. The first change would amend the definition of serious injury. Currently the Department of Correction Services must report all serious injuries or deaths take place in the state correctional facilities to us and to the public. The current definition of serious injury is, quote: an injury or illness caused by malfeasance or malfeasance (sic--misfeasance) which leaves a person in critical or serious condition, end quote. In working with the department on this reporting requirement, the Inspector General learned that the department currently reports serious injuries of inmates to the Association of State Correctional Administrators. The definition that they use for this report is the one that is found in LB539. It is a less-narrow definition that would provide the Inspector General with additional information on injuries that take place within the department. And let me say for the record that those who are on the JRICC and JROC Committees of the Justice Reinvestment understand that one of the things, one of the barriers that we have to getting things done is actually speaking the same language across departments and across agencies in the state using the same definitions, and this goes a long way to helping in that effort. In addition, LB539 clarifies that the department would also report any serious injuries or deaths of employees when the employee is acting in capacity as an employee of the department. There has been a question regarding whether or not the existing language required that this would make sure that this is reported in the future in the correct way. The most significant change in the bill relates to the Inspector General's ability to interview witnesses to an incident within the department. Currently the act says, "Under no circumstance shall the Inspector General interview any person who has already been interviewed by a law enforcement agency in connection with a relevant ongoing investigation of a law enforcement agency." This mirrors the Inspector General of Child Welfare language, except that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

language only applies to minors in the case of child welfare. In the case of the Inspector General of Child Welfare, it makes sense to limit the children from repeated interviews. However, we're talking about adults. The change in LB539 would allow the Inspector General to conduct such interviews with the consent of the prosecuting attorney. With that said, since we...since this bill came out of committee, there have been two other amendments that have come to mind for the Inspector General, and I've asked and consulted with two other senators to bring those amendments forward. They are both extremely important and I think, rather than going back to the well several times and trying to fix this act, the other two amendments that follow along with the basic bill, LB539, will update the Inspector General for Corrections and we will leave him alone for a while rather than continuing to dabble and change things. So with that, I would ask for your support of the two following amendments and LB539. [LB539]

PRESIDENT FOLEY: Thank you, Senator Krist. Mr. Clerk. [LB539]

CLERK: Mr. President, Senator Chambers would move to amend with AM649. (Legislative Journal page 821.) [LB539]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your amendment. [LB539]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, in order that the record is clear, I want to tell you what this amendment does. On page 3 of the bill, in lines 21 through 25, there is new language in the original bill. This is that new language: The Inspector General shall not interview any person who has been already interviewed by a law enforcement agency in connection with a relevant ongoing investigation of a law enforcement agency without the consent of the prosecuting attorney. This amendment would strike that language. There is a valid reason for this. The bill itself was introduced before the disturbance, as some people call it, the riot that others call it, at Tecumseh. There were some horrendous actions that took place and an investigation was being undertaken by the State Patrol. Now, the Legislature's Inspector General could not conduct any interviews during that investigation without the consent of the prosecuting attorney. That is an unreasonable restriction because it doesn't apply to anybody else. The...in fact, there was a group from the National Institute of Corrections and it is conducting a review of the incidents that took place that day and it is interviewing inmates and others, which would be the staff. So, if a reporter, for example, were enterprising enough, that reporter could also take interviews. So all that this amendment does is to strike that restriction which prohibits the Legislature's Inspector General from conducting interviews with inmates and staff while the State Patrol is conducting an investigation. I want to emphasize other entities and individuals are allowed to conduct interviews during such an investigation. The law, the rule applies only to the Legislature's Inspector General. So what this will do is put the Inspector General on the same

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

footing as others who are allowed to conduct such investigations, conduct interviews while such an investigation is going on. I hope you will adopt this amendment. Thank you. [LB539]

PRESIDENT FOLEY: Thank you, Senator Chambers. Members, you've heard the opening on LB539 and AM649. Senator Scheer, you're recognized. [LB539]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Would Senator Krist yield? [LB539]

PRESIDENT FOLEY: Senator Krist, will you yield, please? [LB539]

SENATOR KRIST: Yes, of course. [LB539]

SPEAKER SCHEER: Senator Krist, it's your bill. You're asking us to support the amendment. Just for clarification, can you tell us your thought pattern in relationship to changing the original bill as introduced to this amendment? [LB539]

SENATOR KRIST: Absolutely. The original bill was in coordination with Mr. Koebernick prior to the incident at Tecumseh. And then he came back...he came back about two weeks ago and said, you know, as long as we're changing it, I really have had a great deal of problems collecting data and getting an assessment, real-time assessment of what's happening when we have a real-world issue. I, of course, talked to the other JROC members, which Senator Chambers is one, and the next amendment, which Senator Ebke is also one, and in talking with them, I felt that I needed to have some buy-in in order to make sure that this would happen. So the original bill again was between Mr. Koebernick and I. Mr. Koebernick came back and offered me the opportunity to amend this bill twice more, but I felt that I needed to have JROC and the JRICC members also weigh in on this, so that's my thought pattern. [LB539]

SPEAKER SCHEER: Thank you, Senator Krist. Thank you, Mr. Lieutenant Governor. [LB539]

PRESIDENT FOLEY: Thank you, Speaker Scheer and Senator Krist. Seeing no members...no other members wishing to speak, Senator Chambers, you're recognized to close on AM649. He waives closing. The question before the body is the adoption of AM649. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB539]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB539]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

PRESIDENT FOLEY: AM649 is adopted. Mr. Clerk. [LB539]

CLERK: Senator Ebke would move to amend with AM748. (Legislative Journal pages 821-822.) [LB539]

PRESIDENT FOLEY: Senator Ebke, you're recognized to open on AM748. [LB539]

SENATOR EBKE: Thank you, Mr. President. And this has been...this has been referred to a couple of times. AM748 would update the Office of Inspector General Correction System Act by making it more in line and modeled more on the IG for child welfare statute. It would facilitate quicker, more efficient reporting following incidents at any of our correctional facilities and it would also provide for a level of protection against...for those who may have...may have provided some information to the Inspector General. I would urge your adoption. This update should put us in pretty good stead for the next little while on this particular act. Again, this was a 2015 act and we have been tweaking it for some time. So with that, I would be happy to answer any questions. [LB539]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Krist, you're recognized. [LB539]

SENATOR KRIST: And for clarification, I do support Senator Ebke's amendment, and Mr. Koebernick again brought this to us. The point I guess is that there was no language consistent with the Whistleblower's Act that it is in the child family services or the child IG, family IG. This will make that consistent with that. And as well, it will do something that we did earlier last month with another one of my bills which allows them to report immediately when these things happen, as opposed to having to wait for an annual report. So with that, I would ask you for your green vote on AM748 and LB539. Thank you. [LB539]

PRESIDENT FOLEY: Thank you, Senator Krist. Seeing no other members wishing to speak, Senator Ebke, you're recognized to close on your amendment. She waives closing. The question before the body is the adoption of AM748. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB539]

CLERK: 35 ayes, 0 nays on adoption of the amendment. [LB539]

PRESIDENT FOLEY: AM748 is adopted. Continuing debate on LB539. Seeing no one wishing to speak, Senator Krist waives closing. The question before the body is the advance of LB539 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB539]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB539. [LB539]

PRESIDENT FOLEY: LB539 advances. Items from the record, Mr. Clerk? [LB539]

CLERK: Thank you, Mr. President. An amendment, Senator Vargas to LB163 to be printed. I have an explanation of vote from Senator Krist (re LB8 and LB11). Education Committee, chaired by Senator Groene, reports LB428, LB490, and LB512 to General File with amendments attached. Senator Wayne offers LR81. It's a study resolution. That will be referred to the Executive Board. And I have a hearing notice for confirmation hearing from the Health and Human Services Committee, Mr. President. That's all that I have. Thank you. (Legislative Journal pages 822-825.) [LB163 LB8 LB11 LB428 LB490 LB512 LR81]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing on with the agenda, General File, 2017 Speaker priority bills. Mr. Clerk.

CLERK: LB166 is a bill by Senator Kolterman relating to controlled substances. (Read title.) Introduced on January 10, referred to the Health and Human Services Committee, advanced to General File. There are committee amendments, Mr. President. (AM143, Legislative Journal page 544.) [LB166]

PRESIDENT FOLEY: Senator Kolterman, you're recognized to open on LB166. [LB166]

SENATOR KOLTERMAN: Good morning, Mr. President and fellow colleagues. I'm here to ask for your support on LB166 and AM143. I would also like to thank Speaker Scheer for designating LB166 a Speaker priority bill. LB166 advanced out of committee unanimously and does not carry a fiscal note. LB166 was introduced at the request of the Nebraska Pharmacists Association, and was also supported by the Nebraska Hospital Association, the Grocery Industry Association. LB166 updates pharmacy practice laws. While the statutes have evolved and been updated over the years as pharmacy practice has evolved, the regulations that govern pharmacy have not been updated since 2005 and 2007, but were recently set for hearing this past December. In review of those regulations, the NPA found several references that needed to be put into statute for consistency and harmonization. LB166 updates a provision in the Controlled Substances Act to mirror federal law with regard to partial fills for controlled substances which was passed in July of 2016. Finally, LB166 adds provisions to the Health Care Facility Licensure Act to add provisions to statute that clarify the process for hospitals, particularly those in rural and underserved communities, to provide medication to patients who are discharged who need medication when the local pharmacies are not open. This is particularly important for patients who visit the emergency room at a critical-access hospital. Thank you and I appreciate a green vote for LB166 and AM143. [LB166]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

PRESIDENT FOLEY: Thank you, Senator Kolterman. As the Clerk indicated, there are amendments from the Health and Human Services Committee. Senator Riepe, as Chair of that committee, you're recognized to open on the committee amendments. [LB166]

SENATOR RIEPE: Thank you, Mr. President and colleagues. AM143 is a technical amendment to clarify concerns raised at the committee hearing. LB166, as amended by AM143, came out of committee with a 7-0 vote. The amendment adds language about emergency situations. An example of an emergency situation is if a nursing-home patient needs a medication from the emergency drug box immediately, and with the approval of the prescriber the meds may be given to the patient with a follow-up medical order to document the medication. AM143 also addresses concerns of the Nebraska trial attorneys new liability immunity language regarding filing reports of misconduct for pharmacy technicians. The department had concerns regarding the definitions of, quote unquote, practice agreement, and quote unquote, written protocol. And in Section 20, the amendment clarifies concerns raised by the Nebraska Hospital Association regarding administration of drugs in the hospital and the ability for hospital personnel to provide unused portions of the drug to patients upon discharge. Thank you, Mr. President and colleagues, and I ask for your green vote for AM143 and the underlying bill, LB166. Thank you. [LB166]

PRESIDENT FOLEY: Thank you, Senator Riepe. (Visitors introduced.) Debate is open on LB166 and the amendment. Seeing no members wishing to speak, Senator Riepe, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of the committee amendment, AM143. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB166]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of the committee amendments. [LB166]

PRESIDENT FOLEY: AM143, committee amendments are adopted. Continuing debate on LB166 as amended. Seeing no members wishing to speak, Senator Kolterman, you're recognized to close. He waives closing and the question before the body is the advance of LB166 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted? Record please, Mr. Clerk. [LB166]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB166. [LB166]

PRESIDENT FOLEY: LB166 advances. Proceed to the next bill. Mr. Clerk. [LB166]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

CLERK: LB35 is a bill by Senator Harr. (Read title.) Introduced on January 5; referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. I have no amendments to the bill, Mr. President. [LB35]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on LB35. [LB35]

SENATOR HARR: Thank you, Mr. President, members of the body. LB35 is the third in a trilogy of Model Business Act bills that I have brought. The original was brought in 2014, LB749, which made major revisions to the Model Business Code (sic--Corporation) Act. Then last year in 2016, I brought LB794 which made technical changes to the act, after consulting with the Nebraska Bar Association. What we have here today was brought to me by committee counsel, Mr. Marienau, in conjunction with the Nebraska Bar Association. All have signed off on this. I want to thank Mr. Marienau for all his hard work on this bill. And with that, I would ask for your support on LB35. [LB35]

PRESIDENT FOLEY: Thank you, Senator Harr. Debate is now open on LB35. Seeing no members wishing to speak, Senator Harr, you're recognized to close. He waives close. The question before the body is the advance of LB35 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB35]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB35. [LB35]

PRESIDENT FOLEY: LB35 advances. We'll proceed to the next bill. Mr. Clerk. [LB35]

CLERK: LB151 was a bill originally introduced by Senator Stinner. (Read title.) The bill was introduced on January 9; referred to the Government, Military and Veterans Affairs Committee; advanced to General File. There are committee amendments, Mr. President. (AM334, Legislative Journal page 557.) [LB151]

PRESIDENT FOLEY: Senator Stinner, you're recognized to open on LB151. [LB151]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, LB151 was introduced as a bill that would provide additional oversight to the investigative process as conducted by the state Auditor's Office. Under current statute, any entity that is audited is required to cooperate with the Auditor as the process is conducted. However, it is not uncommon for an agency to disregard those reports after completion. It is my intent to ensure that there is appropriate follow-up throughout this process to demonstrate what, if any, corrective action is being taken to alleviate the concerns raised throughout the audit. It is imperative that the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

Legislature initiate a more substantive review process by maintaining contact with state agencies that have been subject to an audit. Postaudit reviews are an important part of the quality assurance process, and LB151 improves that process throughout its provisions. Under LB151, an entity that is audited must provide a detailed written description of any or all corrective action taken or to be taken as a result of the audit on or before six months after the Auditor's final report. It gives the Auditor's Office the authority to investigate the corrective action stated and requires the Auditor to report these findings to the Legislature, the Governor, and any representative or respective standing committees. The Auditor also is responsible for ensuring that the report is delivered to the Appropriations for entry into the record during the budgeting process. This added incentive ensures responsible stewardship of taxpayer dollars. LB151 was advanced from the committee with AM334. If adopted, the amendment will make a number of changes to the original bill as well as adding additional provisions from other related bills. To the initial bill, AM334 revises language to clarify that entities being audited are not responsible for expenses incurred as part of a corrective action audit. This will ensure that further costs are not incurred on agencies at a time when many of them have had to make cuts. The amendment also excludes the University of Nebraska and state colleges from the provision of the bill. Due to the reoccurring nature of the audit cycles for the University of Nebraska and state colleges, corrective action reviews would produce duplicate efforts contrary to principles of efficient management practices. Other changes included would be a provision included under my bill, LB101, which would put limitations on state agencies and the purchasing bureau at the Department of Administrative Services from extending any contract for a period more than 50 percent of the initial contract term, with only one such extension being allowed. The amendment also includes provisions from LB27, LB89, and LB90, which will be elaborated upon in the opening statement for the committee amendment. Most of these changes relate to the internal operating policies within the Office of the Auditor of Public Accounts, requirements for governing bodies in their interaction with the Office of the Auditor and public, and provides for penalties and oversight to governing bodies. You'll notice that I've also introduced AM428 which provides clarifications requested by the Supreme Court. AM428 would specify that any sealed or confidential court documents would be subject to record requests by the Auditor...would not be subject, excuse me, would not be subject to record requests by the Auditor's Office. LB151 advanced from the committee on an 8-0 vote with no one testifying in opposition. I would appreciate your green vote. Thank you, Mr. President. [LB151 LB101 LB27 LB89 LB90]

PRESIDENT FOLEY: Thank you, Senator Stinner. As the Clerk indicated, there are amendments from the Government, Military and Veterans Affairs Committee. Senator Murante, as Chair of that committee, you're recognized to open on the committee amendments. [LB151]

SENATOR MURANTE: Thank you, Mr. President; members, good morning. AM334 and LB151, by a brief way of legislative history, you may recall that this Legislature adopted last year a series, an omnibus bill on behalf of the state Auditor. It was placed on the Governor's desk

Floor Debate
March 28, 2017

and the Governor vetoed that bill. The Governor vetoed the bill because he had concerns about a change that that omnibus Auditor bill made as it related to per diems. At that time, the state Auditor, the Governor's Office, and the members of the Legislature agreed not to take up a veto override but rather to proceed this year with a new bill which placed all of the omnibus Auditor provisions that were sent to the Governor's desk that were...the Governor did not find objectionable. And that is what LB151 and AM334 contain. So basically what we're doing here is the bill that was passed last year with a few additional provisions but that do not contain any of...do not contain the provisions which the Governor found objectionable. AM334 amends LB151 to exempt state colleges and the University of Nebraska; eliminate the requirement that the investigation and evaluation be at the expense of the entity. It also makes LB151 the omnibus bill for bills concerning the Auditor of Public Accounts. It includes the following bills: LB27. The first provision of LB27 relates to certain annual reports governing bodies are required to file with the Auditor of Public Accounts. Current statute directs each governing body to provide the Auditor annually with requested information. Although the law requires the governing body to make such information available to the Auditor on or before September 20, no penalty exists for failure to comply. Under LB27, a \$20 daily penalty, not to exceed \$2,000 per delinquency, would be withheld from the next state aid payment to any noncompliant governing body for each 30 days past the December 31 deadline that the entity's requested information is delinquent. The withholdings would begin after the Auditor provides notice to the governing body of the delinquency and a 30-day grace period has passed. Any governing body that fails to make a timely filing of the information required would also be subject to discretionary audit by the Auditor and be responsible for the cost of any such audit. A 14 percent per annum interest rate would be assessed from the dates of billing on delinquent payments for any fees for audits and services owed to the Auditor unless paid within 30 days from the date of billing. For an entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, the participating public agencies would be jointly and "severably" liable for any fees and interest owed to the Auditor if such entity should be defunct or unable to pay. The second provision of LB27 allows the Auditor to appoint more than two assistant deputies. The third provision changes the requirement that the Auditor of Public Accounts serve on the Suggestion Award Board. The bill would require the Auditor, or his or her designee, to serve on the board rather than the Auditor specifically. It also allows the Auditor of Public Accounts to share working papers with the IRS, Tax Commissioner, FBI, NADC, and a law enforcement agency at the Auditor's discretion during an ongoing audit or after a final audit is issued. The Auditor may share the same information other than the personal information and telephone records with the Legislative Council at the Auditor's discretion subject to the same timing restrictions. The fourth provision prevents state agencies and the state purchasing bureau from amending contracts to extend in duration for more than 50 percent of the initial contract term and prevent more than one permissible contract duration amendment. It does not prohibit the exercise of a renewal option expressly provided in the original contract. LB89 clarifies the number of days before a public hearing on a proposed budget statement that a governing body, including fire protection

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

districts, must give notice of the public hearing from five days to four calendar days. And LB90 states that when any employee of the Auditor of Public Accounts conducts an audit or examination of any public entity, the public entity shall provide suitable accommodations for such employee of the Auditor at the location where the requested information and records are kept or stored. Such accommodations shall include desks or table and chairs, electrical outlets, and Internet access if such access is available. I want to be clear that the Auditor's Office does not intend to have a permanent office in every city, county, and state agency, nor do they want the entities to have to buy any new furniture or amenities. They just want to be able to have a space to work when they go in and do an audit near where the records are kept. When auditors go out to an entity, especially the small ones, they may be there for only one or two days. The Auditor's Office also understands that small entities may have a limited amount of space. The key component of this bill is for the auditors to be located close to the records that they need, even if that means just a folding table and a chair. The reason for this is to save the Auditor's Office time, which saves money when conducting an Auditor examination. If the auditors are given a work space in a different location than where the records are kept, there's a significant amount of wasted time going back and forth from location to location. I've been told by the Auditor's Office that this does become an issue more often than one would think. And we believe this is a very common-sense bill to help the Auditor's Office be more efficient in the work that they do. As was stated, the Government, Military and Veterans Affairs Committee advanced this bill out unanimously. It was supported overwhelmingly by the Legislature last year; and I encourage your support of AM334 and the advancement of LB151. Thank you, Mr. President. [LB151 LB27 LB89 LB90]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Murante. Mr. Clerk, there's amendment to the committee amendment. [LB151]

CLERK: Senator Stinner would move to amend the committee amendments with AM428. (Legislative Journal page 816.) [LB151]

SPEAKER SCHEER: Senator Stinner, you're welcome to open. [LB151]

SENATOR STINNER: Thank you, Mr. President. I'm struggling right now, I don't have anything written on AM428, so I think I presented the entire package. So I think I'll pass on my comments. How is that? What is AM428? Okay. I can read what is here. It says: The Auditor of Public Accounts shall not under the authority granted in this subdivision reveal sealed or confidential court records contained in the work papers. This came from the Supreme Court. I'm

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

sorry. I addressed it in my initial remarks. And I should have been prepared for AM428 and I beg forgiveness of the Legislature. Thank you. [LB151]

SPEAKER SCHEER: Senator Stinner, you have nine minutes left if you would like to use some of that to find your material. (Laughter) [LB151]

SENATOR STINNER: I'll just pass. [LB151]

SPEAKER SCHEER: Thank you, Senator Stinner. Those waiting in the queue: Senator Chambers, you're recognized. [LB151]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask...I suppose I should ask the Chairperson of the committee, which would be Senator Murante, a question or two. [LB151]

SPEAKER SCHEER: Senator Murante, would you please yield? [LB151]

SENATOR MURANTE: Yes. [LB151]

SENATOR CHAMBERS: Senator Murante, did the committee decide to add portions of others bills to this bill to turn it into what has been referred to as an omnibus bill? [LB151]

SENATOR MURANTE: Yes, the committee voted unanimously to do that. [LB151]

SENATOR CHAMBERS: And I'm doing this for the sake of the process and procedures. Was each one of these bills added a priority bill? [LB151]

SENATOR MURANTE: No. [LB151]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I think you should pay attention to what is happening here this morning. If a committee is sympathetic, you don't have to worry about it now because that action has been done. People don't have to prioritize bills. They can arrange with somebody to allow a nonpriority bill to be attached to a priority bill. I'm not opposed to what is in this original bill. But I'm going to oppose what has been done. I need to know what amendment we're dealing with, so I'm going to ask now another question of Senator Murante if he will respond. [LB151]

Floor Debate
March 28, 2017

SPEAKER SCHEER: Senator Murante, are you still willing to respond? [LB151]

SENATOR MURANTE: Yes. [LB151]

SENATOR CHAMBERS: Senator Murante, is the amendment that we're looking at now the one that would add these other bills to the underlying bill? [LB151]

SENATOR MURANTE: No. [LB151]

SENATOR CHAMBERS: Will it come up later? [LB151]

SENATOR MURANTE: Yes. [LB151]

SENATOR CHAMBERS: Oh, okay. I will wait until that amendment. And I think you ought to pay attention. It is not incumbent upon one person to be concerned about the Legislature and the processes. But with all of the other things that I'm working with and working on, I try to look at what is happening to our processes and our procedures. There are people who will sit back and wait for me to do all of the dirty work. If my hands are not filled with other things, I'll do it; and even if they are, I'll do what I can, but I cannot do everything. There's a bill that Senator Pansing Brooks has which will maybe come up today since we're all day on these bills. When that bill was being voted out of the Judiciary Committee, I was not voting because I saw and still see problems with the bill. So not wanting to hold it up in committee, which I couldn't have done anyway, because everybody was going to vote to send it out here, it would have been a waste of time for me to go through all of the difficulties that I saw with the bill, especially since at that time I had not had the opportunity to thoroughly evaluate the bill. It has to do with sex trafficking, a subject that most people are not going to want to do anything about. But because of how sentencings have created a hodgepodge in the criminal code and whatever is the fad of the day, I'm not saying that being concerned about sex trafficking is a fad, but whenever there is a lot of publicity given to a particular offense, legislatures all over the country will jump on the band wagon and even Congress... [LB151]

SPEAKER SCHEER: One minute. [LB151]

SENATOR CHAMBERS: ...and bring in all kinds of bills that simply increase punishments without looking at whether or not there is law enforcement activity that will apprehend the culprits. The unwary may be taken when you convert reckless conduct into criminal conduct carrying a high-grade felony. I'll get into that later. But this bill, I just became aware of it this morning because I'm trying to read about these bills as they come up. So rather than go over my

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

time, I'm going to punch my button again because the process is what I am discussing and I need a bit more time to do that. Thank you, Mr. President. [LB151]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Krist, you're recognized. [LB151]

SENATOR KRIST: Thank you, Mr. President. Would Senator Murante yield? [LB151]

SPEAKER SCHEER: Senator Murante, would you please yield? [LB151]

SENATOR MURANTE: I would. [LB151]

SENATOR KRIST: I do remember this bill...thank you, Senator Murante...I do remember this bill from last year and part of the...the parts that have been removed, I understand, were contentious. So my question to you, in the amendment, AM334, the way you have described it, there seems to be some teeth, if you will, in the Auditor's movement moving forward at the municipal level, the lower level, lower than the state level, let's just put it that way. What is the penalty or what statute would we look to see the penalty if those entities would not comply with the statute? [LB151]

SENATOR MURANTE: So, under the bill, what we have provided is that there would be a \$20-day daily penalty when they don't comply, not to exceed \$2,000 per delinquency. [LB151]

SENATOR KRIST: So it is all financial? It's all monetary? [LB151]

SENATOR MURANTE: Yes. [LB151]

SENATOR KRIST: Is there any ultimate penalty in terms of any criminal or civil action that can happen as a result of those fines? [LB151]

SENATOR MURANTE: I don't believe so, Senator Krist. [LB151]

SENATOR KRIST: So not to play devil's advocate, but if I didn't want the Auditor in my pocket, I would just write a check for \$2,000 and not comply. Is that your understanding? [LB151]

SENATOR MURANTE: If...if members of the governing boards of political subdivisions wanted to look at it that way, I believe under the bill they would have the ability to look at it that way. [LB151]

Floor Debate
March 28, 2017

SENATOR KRIST: Okay. Thank you. And thank you for your courtesy. Thank you, Mr. President. [LB151]

SPEAKER SCHEER: Thank you, Senator Krist and Senator Murante. Senator Chambers, you're recognized. [LB151]

SENATOR CHAMBERS: Thank you. And I will, after this time, wait until the amendment that is going to add those other bills. At the end of the session, for the new senators, they have what they call the process of Christmas treeing bills. You hang everything on it that you can. When senators had been here for a longer period of time, there would be more than one set of eyes watching those types of matters. So maybe one of the Christmas trees was proceeding without my evaluation because I'm looking at another one that is behind it. And once attention is called to one of these attempts to add another bill, then I can focus on that; and if I disagree with it, I can make my comments known. But I want it clear that I don't have the time to read and analyze every bill that comes before us. Look at the process. If you are in favor of ending the system of priority bills, you may not vote automatically against a nonpriority bill being attached to a priority bill, but you should pay very careful attention to it. The public will look at the chart that is presented that will list all of the city...I meant the committee priority bills, all of the Speaker priority bills, all of the individual senators' priority bills. But with all the talk of transparency, there is a sub rosa, or invisible type of prioritization. And that's where bills that have not been prioritized, in which some people may have a concern, but since they're not on the priority list the persons interested may not follow every bill that comes up. And lo and behold, the nonpriority bill is given priority status in this manner. And the public, who had an interest in some of those bills, perhaps opposing them, will not contact the senators, will not even be aware of it. So I think from the standpoint of policy, maybe it's in the Speaker's lap, I'm not going to say. But to the extent that I can become aware of these matters, I'm going to talk about them. Then others will at least be warned. I'm not opposed to this bill itself. Maybe the nonprioritized bills standing alone would not elicit any objection from me. I'm looking strictly at the process. There are a lot of people who call themselves conservatives and Republicans. Those are the people who believe in maintaining, they say, smaller government, transparency, openness with the public. A lot of them talked when we were discussing the rules about letting the public know how you're going to vote for a leadership position in the Legislature. So then those same people are going to conceal the fact that nonpriority bills can be given priority status without the public being made aware of it. How do those two things square? [LB151]

SPEAKER SCHEER: One minute. [LB151]

SENATOR CHAMBERS: Doesn't it make any of you any difference? I'm not going to try to clean up everything that is wrong with this Legislature. It's not even my Legislature. But as I've

Floor Debate
March 28, 2017

said before, since I voluntarily became a member, I cannot avert my eyes from everything that is going on which I think is not in keeping with the way the Legislature ought to function. Suppose I have a nonpriority bill and somebody with a priority bill is willing to allow me to attach it? If that is the process that we're going to agree to, then don't slam the door when I attempt to do it. Don't suddenly have a come-to-Jesus meeting and you're now converted and you don't want to pervert the system. Thank you, Mr. President. [LB151]

SPEAKER SCHEER: Thank you, Senator Chambers. Seeing no others in the queue, Senator Stinner, you're welcome to close on AM428. Senator Stinner waives closing. The question before us is adoption of AM428. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB151]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of Senator Stinner's amendment. [LB151]

SPEAKER SCHEER: AM428 is adopted. Returning to discussion, Senator Crawford, you're welcome. [LB151]

SENATOR CRAWFORD: Thank you, Mr. President. I just had a question, please, for Senator Murante, please. [LB151]

SPEAKER SCHEER: Senator Murante, would you please yield? [LB151]

SENATOR MURANTE: I would. [LB151]

SENATOR CRAWFORD: Thank you. I was just looking over the committee amendments and I believe it includes LB27 that was not voted out by the committee, so I couldn't see a committee statement on LB27. I did call down and find out that some folks had testified in a neutral capacity: DAS, the League of Municipalities, and Nebraska Fire Chiefs. So I wondered if you would just identify what concerns were raised in that neutral testimony, and any considerations that the committee had in deciding to include LB27 as part of this package. [LB151 LB27]

SENATOR MURANTE: Well, with...part of the discussion that happened subsequent to the public hearing was that they...there was concern beyond the letter of the law of the legislative intent and what the state Auditor had as his intent, how he plans on implementing these laws, which is why my...you may have noticed my opening was much longer winded than normal and that was because we had sat down with the interested parties. And what they had stated to me was as long as our legislative intent was read into the record and it was discussed exactly, what I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

would say, verbatim beforehand that there would not be any objections to the bill at that point. [LB151]

SENATOR CRAWFORD: Excellent. Thank you. I appreciate that. [LB151]

SPEAKER SCHEER: Thank you, Senator Crawford and Senator Murante. Seeing no one else in the queue, Senator Murante you're welcome to close. Senator Murante waives closing. The question before us is adoption of AM334. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB151]

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of the committee amendments. [LB151]

SPEAKER SCHEER: AM334 is adopted. Returning to debate on LB151. Seeing no one wishing to speak, Senator Stinner, you're welcome to close. Senator Stinner waives closing. The question before us is adoption of LB151 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB151]

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to advance the bill to...Mr. President. [LB151]

SPEAKER SCHEER: LB151 is advanced to E&R Initial. Next item, Mr. Clerk. [LB151]

ASSISTANT CLERK: LB639 was introduced by Senator Bostelman. (Read title.) The bill was introduced on January 18 of this year, referred to the Business and Labor Committee. That committee placed the bill on General File with committee amendments. (AM280, Legislative Journal page 551.) [LB639]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Bostelman, you're welcome to open. [LB639]

SENATOR BOSTELMAN: Thank you, Mr. Speaker. Good morning, Nebraska. LB639 was unanimously voted out of committee. And I want to thank the Speaker for selecting LB639 as a Speaker priority bill. LB639 is a bill that would extend the existing state law hiring preference for veterans in two ways. First, the bill grants a preference to the spouse of an active duty service member during the term of service and for up to 180 days after the ending service date. This language is an attempt to give more stability to military families who face the transient nature of military assignments. A 180-day period after service specifically assists those military families who must decide where to reside after service. And this bill would help them to make the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

decision to stay in Nebraska after service, or to move to Nebraska after service. Second, the bill would change current Nebraska law which assists veterans with initial employment at a state agency or a political subdivision by expanding the eligibility to give veterans a preference if they have left public employment but want to return to employment with the state or political subdivision. This would apply to all veterans, unless they were terminated from employment for disciplinary reasons. This bill has no fiscal impact. There are approximately 143,000 veterans in Nebraska that possibly could benefit from this bill. I would say in 2016, there was approximately 567 active duty service men and women who voluntarily sent their discharge from active duty service notice to Nebraska. (Inaudible) say employment is one of the leading factors that active duty military members and veterans use to decide where to reside. This bill continues a trend of making Nebraska more military and veteran friendly. LB639 has the unanimous support of the Nebraska Veteran's Council, which represents more than 60,000 veterans in the state of Nebraska. I ask for your support and for your green vote on LB639. Thank you. [LB639]

SPEAKER SCHEER: Thank you, Senator Bostelman. As the Clerk stated, there are amendments from the Business and Labor Committee. Senator Albrecht, as Chair of the committee, you are recognized to open on those amendments. [LB639]

SENATOR ALBRECHT: Thank you, Speaker Scheer. AM280 makes one change. It allows a spouse of a service member to be preference eligible while the service member is serving on active duty, as well as up to 180 days after the service member's discharge or separation from service. AM280 received the full support of the committee and was adopted 7-0. I would ask for your support of AM280. Thank you. [LB639]

SPEAKER SCHEER: Thank you, Senator Albrecht. Seeing no one wishing to speak, Senator Albrecht, you're welcome to close on the committee amendments. Senator Albrecht waives closing. The question before us is the adoption of AM280 to LB639. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB639]

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of committee amendments. [LB639]

SPEAKER SCHEER: AM280 is adopted to LB639. Going back to the discussion on LB639, Senator Crawford, you're recognized. [LB639]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of LB639 and I thank Senator Bostelman for bringing the bill to our committee, and the work of the committee to get it out of committee with unanimous support. This is an important way for us to support those military spouses who land in our state, and many of them reside in my district. And so this is an

Floor Debate
March 28, 2017

issue that is critically important to many of the people who are in our state of Nebraska while their spouse is serving our military and the spouse is here in our state and this, I think, is an important accommodation that we can make to try to help provide an opportunity for that spouse to have employment while their spouse is serving in the military in our state. And so I appreciate Senator Bostelman's work on this bill. And I urge your support of LB639. Thank you, Mr. President. [LB639]

SPEAKER SCHEER: Thank you, Senator Crawford. Seeing no others wishing to speak, Senator Bostelman, you're welcome to close on LB639. [LB639]

SENATOR BOSTELMAN: Thank you, Mr. Speaker. Veterans and their families do so much for our state and our country. LB639 helps to aid these individuals in providing employment opportunities in our state. Military families face unique challenges as they move from duty station to duty station. Finding a job can be difficult. LB639 provides an opportunity for both veterans and their spouses during critical times in their lives, be it when moving back home after being discharged from the military or when they're newly assigned to our state, opportunities in finding a job that will help a family make ends meet and provide them financial stability. We will make a difference for veterans, their families, and Nebraska by voting green on this bill. By providing these employment preferences, opportunities to our veterans and their spouses, we will continue to grow Nebraska and be a military-friendly state. Join me in voting green on LB639. Thank you. [LB639]

SPEAKER SCHEER: Thank you, Senator Bostelman. The question before us is the advancement of LB639 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish? Please record, Mr. Clerk. [LB639]

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB639]

SPEAKER SCHEER: LB639 advances to E&R Initial. Next item, Mr. Clerk. [LB639]

ASSISTANT CLERK: LB506, introduced by Senator Albrecht. (Read title.) The bill was introduced on January 18, referred to the Health and Human Services Committee, placed on General File with committee amendments. (AM464, Legislative Journal page 639.) [LB506]

SPEAKER SCHEER: Senator Albrecht, you're welcome to open on LB506. [LB506]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR ALBRECHT: Thank you, Mr. Speaker. LB506 is an intensely personal bill for me. As prenatal testing becomes increasingly routine, diagnosis methods have improved significantly over the last few years. More fetal anomalies are being detected. And in these very rare but tragic circumstances, parents can be given minimal options. No parent prepares to hear the news that the child that they are carrying is going to die or shortly thereafter the birth. Families in this heartbreaking situation leave their doctor's office in shock with no help, no hope, and feeling that they have nowhere to turn. Perinatal hospice is an innovative and compassionate model of support for families who find out a pregnancy has a life-limiting condition. The support helps parents embrace whatever life their baby might be able to have, and also enables families to make meaningful plans to honor their child. This care begins at diagnosis and continues through the baby's birth and death. Unfortunately, many parents faced with the horrible situation find themselves adrift without a raft and having to find out for themselves what resources there are. This bill asks the Department of Health and Human Services to host on their Web site information that medical professionals may share with the parents. The purpose of this bill is to raise awareness of perinatal hospice care and provide readily available information to help women and families through one of the most difficult stages. Over the last few months, I've had wonderful, eye-opening and emotional conversations with experts, medical professionals, and families. I want to thank them for their input as we put this legislation together. LB506 advanced unanimously from committee with no opposition at the hearing and received support from the medical association and others. There is a committee amendment with some language changes and clarification that my staff worked with the committee counsel on. The most challenging situation faced by mothers should be met with the most readily available information, compassion, and care. That is what this bill is all about. This small change can make a world of difference for many families. Thank you, and I'd be happy to answer any questions. [LB506]

SPEAKER SCHEER: Thank you, Senator Albrecht. As the Clerk stated, there are amendments from the Health and Human Services Committee. Senator Riepe, as Chair of the committee, you're recognized to open on those amendments. [LB506]

SENATOR RIEPE: Thank you, Mr. President and colleagues. AM464 is a technical amendment to clarify concerns raised at the committee hearing. LB506, as amended by AM464, came out of committee with a 7-0 vote. The testimony was compelling, emotional, and these were very brave mothers. AM464 adds nurse practitioners to the list; strikes "parents," and inserts "pregnant women." AM464 removes the mandate on practitioners and strikes the word "palliative care." Thank you, and I ask for your green vote for AM464 and the underlying bill, LB506. Thank you. [LB506]

SPEAKER SCHEER: Thank you, Senator Riepe. Senator Riepe, you're next in line. Are you wishing to speak again? Thank you. Senator Kolterman, you're welcome. [LB506]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR KOLTERMAN: Thank you, Mr. President. I rise in support of LB506, as well as AM464. There isn't anybody in this body that hasn't probably been affected by a premature death of a baby. Mothers and fathers need this support. It's important that...this is really just a way for people to find out that there is help available if you have lost a child. It's compassionate legislation that we need to promote, and there are people out there that are willing to help. I'd just encourage people to give both of these a green light. Thank you. [LB506]

SPEAKER SCHEER: Thank you, Senator Kolterman. Senator Hilkemann, you are recognized. [LB506]

SENATOR HILKEMANN: Thank you, Mr. President. I want to thank Senator Albrecht for bringing this legislation. This is important legislation, and it will help a lot of people. You just never know when you're the person that this may well help. As the grandfather of a micro-mini baby, one that weighed less than 1 pound and 2 ounces at birth, this is a roller coaster for families to go through like you had never been through before. And my granddaughter was one of the only ones to survive at that birth. I was with her this weekend at a wedding. She is now nine years old and perfectly healthy, and you would never know that she spent six months in an ICU getting started with her life. And I'm glad that you've offered the nurses in this amendment. Through that period of time that my family...we had many times when the word was out that Emma would not make it through the night and we made lots of trips to Meriter Hospital in Madison, Wisconsin, thinking that Emma would probably not be alive when we got there. But Emma survived. And the people who helped my daughter and my son-in-law the most were those NIC Unit nurses who had so much compassion and love. I mean, when you're...until you...if you've never seen one of these micro-mini babies, it is absolutely incredible. I mean, I remember when I walked in and saw Emma in this bassinet, I thought, my! Her head is not even as big as a softball. I thought, no, no, no, it's too big for a softball. It's...maybe it's a baseball. No, it's too big for a baseball. It was about the size of a tennis ball. Her ears were not even off of the...had not even developed completely yet. It was absolutely amazing to see how she survived. And so this is...we are so appreciative of the care that she got, and she's an absolute miracle. And thank you that you're going to bring legislation that will help other families go through this trial. We were one of the very fortunate ones that we have a happy ending. Many of them don't have that happy ending. And so therefore, they need a lot of comfort and consolation as well. So this is good legislation. And I want to again thank you for bringing it. [LB506]

SPEAKER SCHEER: Thank you, Senator Hilkemann. (Visitors introduced.) Senator Blood, you're recognized. [LB506]

SENATOR BLOOD: Thank you, Mr. President. Senators, friends all, and I sincerely mean friends all today, I stand in support of AM464 and LB506. I support this bill because we, as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

mothers and fathers and brothers and sisters and grandparents, we know that life is important. We talk all the time on this floor about how all life has intrinsic value. We have to make sure that when we use those words, the words compassion go along with that sentence, because unless you've been in that position you can never understand the decisions and the day-to-day activities that go along with having a child that you know is going to be born ill. And by stepping up to the plate and supporting legislation such as this, we're saying that we do understand this, that we do believe that all life has intrinsic value, and that we need to do everything in our power to make sure that these mothers have the support...and families have the support that they need. So well done, Senator Albrecht. I was proud to be one of the first people to sign on to your bill. And I hope that everybody votes green when we get to your bill. Thank you. [LB506]

SPEAKER SCHEER: Thank you, Senator Blood. (Visitor introduced.) Seeing no one wishing to speak on AM464, Senator Riepe, you're welcomed to close. Senator Riepe waives closing. The question before us is adoption of AM464 to LB506. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB506]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB506]

SPEAKER SCHEER: AM464 is adopted. Returning to discussion to LB506. Seeing no one in the queue, Senator Albrecht, you're welcomed to close on LB506. [LB506]

SENATOR ALBRECHT: Thank you, Speaker Scheer. I just want to thank my colleagues for giving some of their stories. I do have one myself, but it's too difficult to talk about. So if you'd like to know more about it, I'd like to do it off mike. But I thank you all for your support of LB506. I hope to see a green light. Thank you. [LB506]

SPEAKER SCHEER: Thank you, Senator Albrecht. The question before us is adoption of LB506 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB506]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB506. [LB506]

SPEAKER SCHEER: LB506 is advanced to E&R Initial. Next item, Mr. Clerk. [LB506]

CLERK: LB641 is a bill by Senator Morfeld. (Read title.) Introduced on January 18; referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. There are committee amendments. (AM560, Legislative Journal page 674.) [LB641]

Floor Debate
March 28, 2017

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Morfeld, you're welcome to open on LB641. [LB641]

SENATOR MORFELD: Thank you, Mr. Speaker. LB641 creates a new bioscience program under the Business Innovation Act. Similar to the value-added agriculture program under the act, this program will utilize the existing financial assistance programs under the Business Innovation Act but create a specific program for bioscience-related, early start-up businesses. I want to thank Senator Lindstrom and Baker for cosponsoring this legislation. I also want to emphasize from the outset that the dollars this program uses are leftover federal funds that need to be used for the purposes of assisting small businesses. One of the number-one issues in our state is the recruitment and retention of young Nebraskans. These types of programs make Nebraska more competitive and provide those opportunities to tech start-ups and small businesses. LB641 is the next step in developing Nebraska's innovation and entrepreneurship ecosystem. In 2001, the Nebraska Business Innovation Act, as introduced by then-Speaker Hadley, was created to provide \$7 million of financial assistance to the state's early stage businesses. This legislation was ultimately approved unanimously by the Legislature and signed into law by the Governor. Administered by the Department of Economic Development, these programs provide for various types of funding to early stage companies with unique innovation solutions or intellectual property. The results from these programs are remarkable given that the Business Innovation Act was implemented just five years ago. In 2016, the independent economic impact analysis conducted by Dr. Eric Thompson of the UNL Business (sic--Bureau) of Business Research with data from the Nebraska Department of Economic Development found that participating businesses receiving support under the Business Innovation Act have raised \$6.72 of follow-up capital for every \$1 of state funding. Participating businesses earned \$7.21 in revenue for every \$1 of state support under the Business Innovation Act. This is far greater than the \$2.32 in revenue that was estimated in the 2014 analysis of the programs. Also, participating businesses have added 468 new direct jobs with the state with an annual wage of \$56,325. The total annual state economic impact is \$188 million a year. There are five different options to provide financial assistance under the current Business Innovation Act: first, prototype grants; second, academic R&D grants; third, matching grant for business receiving a federal SBIR/STTR grant; and the value-added ag program. LB641 would add the bioscience as an option under the current Business Innovation Act and direct these funds to these start-ups. As the Chair of the Nebraska Legislature's Bioscience Steering Committee last year, we heard repeated testimony about the importance of financing options for early stage biosciences businesses. Although the biotech industry is a small part of Nebraska's economy currently, there is great potential for statewide growth through our development of our core industry strengths in the bioagriculture and biomedical sectors. These biotech companies are evenly dispersed throughout the state and pay approximately 50 percent more than the average Nebraska wage, or about \$68,000 annually. The growth of these high-wage, high-skilled jobs in high-demand sectors are key to expanding Nebraska's high-tech economy, but in order for this sector to grow Nebraska must advance

Floor Debate
March 28, 2017

priorities that support innovation and entrepreneurship. As noted in the beginning of my opening, the committee amendment would fund this bioscience program with non-General Funds, and I'll give you a little background on this. In 2011, the Nebraska Department of Economic Development received funding from the U.S. Department of Treasury as stimulus funding under the State Small Business Credit Initiative. At the time the federal purpose of providing these funds was to offset the difficulty that small businesses had in receiving adequate credit after the tightening of bank regulations after the recession. The department provided loans to companies in coordination with bank loans, often taking second position to the bank. The issue now is that these funds are paid back to the state of Nebraska and the federal program ceases to exist on March 31 and there is no mechanism to use these funds for small businesses, as was intended by the federal legislation. The committee amendment would create a fund whereby the loans are paid back to the states and then they would be deposited into this fund for biosciences. That fund would then support the small start-ups in the biosciences program under the current Business Innovation Act which is proven. It is expected that the state will receive \$2.4 million over the next three years of recycled federal loan funds. I also have an amendment to the committee amendment that would change this date so that the law goes into effect October 1, 2017. The reason for this is that the DED let us know that the federal government would be doing an end of the year audit on the program and their fiscal year ends September 30. Using non-General Funds during a downturn in our economy would continue to stimulate our entrepreneurial and innovation economy in the bioscience sector through the Nebraska Business Innovation Act, a program that has clearly demonstrated effectiveness for the state's economy. I urge you to support our small businesses and tech start-up community and support LB641. Thank you. [LB641]

SPEAKER SCHEER: Thank you, Senator Morfeld. As the Clerk stated, there are amendments from the Business (sic--Banking), Commerce and Insurance Committee. Senator Lindstrom, as Chair of the committee, you're recognized to open on that amendment. [LB641]

SENATOR LINDSTROM: Thank you, Mr. Speaker. The committee amendments to LB641 would do three things. First, the amendments would eliminate provisions which would establish legislative intent that \$2 million be appropriated from the Bioscience Innovation Cash Fund to the Department of Economic Development for financial assistance awards each year for fiscal years 2017 through '18 and 2018 and '19. It appears these provisions form the basis for the fiscal note. Second, the amendments would provide that the State Treasurer shall credit the Bioscience Innovation Cash Fund such money as is received by the Department of Economic Development as repayments of loans from the Nebraska Progress Loan Fund as authorized by the federal State Small Business Credit Innovation (sic--Initiative) act of 2010. This would be a new source of funds for the Bioscience Innovation Cash Fund. Third, the amendments would insert the emergency clause. Those are the committee amendments. I would urge your adoption of the amendment and the underlying bill, LB641. Thank you, Mr. Speaker. [LB641]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SPEAKER SCHEER: Thank you, Senator Lindstrom. Mr. Clerk, there's an amendment to the committee amendment? [LB641]

ASSISTANT CLERK: There is, Mr. President. Senator Morfeld would move to amend with AM747. (Legislative Journal pages 826-827.) [LB641]

SPEAKER SCHEER: Senator Morfeld, you're recognized to open on your amendment to the committee amendments. [LB641]

SENATOR MORFELD: Thank you, Mr. Speaker. As I noted in my testimony...or, excuse me, on my floor speech here, October 1, 2017, that's all this does is it changes the date of the effectiveness of this program to October 1, 2017, so that the federal audit can be done and this would start with a new federal fiscal year. Thank you, Mr. Speaker. [LB641]

SPEAKER SCHEER: Thank you, Senator Morfeld. Going to floor discussion, Senator Schumacher, you're recognized. [LB641]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. Will Senator Morfeld yield to a question? [LB641]

SPEAKER SCHEER: Senator Morfeld, would you please yield? [LB641]

SENATOR MORFELD: Yes. [LB641]

SENATOR SCHUMACHER: Senator Morfeld, has the committee formed under last year's LB1093 filed its strategic plan? [LB641]

SENATOR MORFELD: It's not required to until the end of the session and we have not yet. [LB641]

SENATOR SCHUMACHER: Thank you. It has not. Do you remember when I said I'd filibuster everything when you asked me if I would? [LB641]

SENATOR MORFELD: I do remember that. [LB641]

SENATOR SCHUMACHER: Thank you. Members of the Legislature, this bill gives me some heartburn, and I voted against advancing it out of committee. This entire process is flawed. Last

Floor Debate
March 28, 2017

year a special interest group representing a segment of industry, one of our many segments of industry in the state, approached the Legislature and got a bill introduced and passed that looked fairly harmless on its surface. It was LB1093, and it authorized the formation of a committee of senators to review the biotech industry and come up with a strategic plan. And we held hearings all over the state, and it was in connection with the hiring of a nonprofit outfit to do this study of the industry and help us. And there was, I think it was, up to \$50,000 that could be spent without going out to bid, and we spent \$30,000-\$40,000 of it to hire this outfit, which was an outfit that was suggested by the industry, and to follow up on an earlier study of this particular industry. Now one would suspect that the conclusion of that would be favorable for the Legislature giving some bonus money to this particular industry, and so in the big picture what we did is use taxpayer money to form a study that could be used to lobby the Legislature--pretty slick move, saves you the expense of hiring a lobbyist. And so...and that was done twice last year in two different study groups. So for those of you that are going to be around a few years longer than I'm around, remember, when you authorize a study of an industry or a special thing and you authorize money to be spent on it, look behind the scenes because you may be authorizing state money to be formed, spent on a nonprofit at the direction of the industry that brought the idea to begin with. It is no surprise that this recommendation was, gee whiz, biosciences is a great thing and we should spend money on it, and for every penny that goes in you get a gazillion dollars back. We've all seen those studies and almost every industry could come up with it. Well, as a result of all this, this particular industry stepped up and this bill that is not part of a strategic plan which has not yet been filed, not yet really even been discussed very much, suggests that this industry get some of this recycled money from the federal government. Now I think that we might expect that the electronics industry could make a similar argument of how what kind of a great investment it is; the computer sciences and services can make a similar argument; that the energy industry can make an argument; that light manufacturing and heavy manufacturing can make a similar argument; that the advisers of financial products can make... [LB641]

SPEAKER SCHEER: One minute. [LB641]

SENATOR SCHUMACHER: ...a similar argument. It leads us to a question, which I may press my button here again to continue on, of just how we are getting ourselves involved in the subsidy of businesses who should be funding their own investment in entrepreneurial and basic-level activities. This particular business, at the hearings that we had, is composed of big companies, tens of millions, hundreds of millions--there might be one that's a billion dollars--and yet we're being asked initially for \$2 million now to recycle some other money and to give it priority to this particular industry. We're being asked... [LB641]

SPEAKER SCHEER: Time, Senator. [LB641]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR SCHUMACHER: Thank you. [LB641]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Williams, you're recognized. [LB641]

SENATOR WILLIAMS: Thank you, Mr. Speaker, and good morning again, colleagues. And oftentimes on the issue of business incentives I have to point out that Senator Schumacher and I don't always agree. We agree on a lot of things. This is one of those areas that we find some difference. Like Senator Schumacher, I had the opportunity to serve on the LR1083 study that was done last summer that included...under the watchful eye of Chairman Dan Watermeier, Senator Kolterman, Senator Stinner, Senator Schumacher, and myself participated in that group, and of course the idea was to do this study. And we did hire a group called Invest Nebraska, led by Dan Hoffman, who organized and constructed the conferences that we held. And we held town halls in Omaha, Lincoln, Columbus, Kearney, and Alliance, and we consistently did hear about the bioscience issue and growing that industry in our state and the ability of those companies, or, I should say, the lack of ability of some of those companies, to get that kick-start on the front end. You know, oftentimes on the floor of this Legislature we have significant debate on tax policy, funding education, health policies, and where we're going to go, and I am always reminded that one of the underlying solutions is to continue finding ways to grow our state. And I would submit that this rather small investment of \$2 million of existing cash funds is that type of small investment that can lead to larger benefits in the future. We have the opportunity, many of us, to see what goes on at Innovation Campus, and there are several of these biotech companies that are doing very interesting things, a couple of them actually from my legislative district that are doing things at Innovation Campus. And they are the kind of jobs that are high paying, but they also are the kind of jobs that are high risk and generally very capital intensive on the front end. I would encourage us to think about this process, think about where we make these limited dollar investments. I'm fully supporting the two amendments and the underlying bill, and I think this carries forward to the goal and the intent of the LR1083 study that was done last summer. So I encourage you to think about how do we grow our state? Where do we take these opportunities of dollars to invest? I certainly don't disagree with Senator Schumacher that we have to be very careful and planned in this. I do not have the same level of suspicion that Senator Schumacher has of this concept that happened this time. I don't think Invest Nebraska itself is involved with the biotech industry. So I would encourage your green votes on these amendments and the underlying LB641. Thank you, Mr. Speaker. [LB641]

SPEAKER SCHEER: Thank you, Senator Williams. Senator Morfeld, you're recognized. [LB641]

Floor Debate
March 28, 2017

SENATOR MORFELD: Thank you, Mr. Speaker. I just want to address a few of Senator Schumacher's concerns. First, the funding that was used to commission the study I believe was around \$40,000 or \$50,000. I'll double-check with my legislative assistant. But the \$40,000 or \$50,000 that was used to fund this study was actually leftover funds from a 2010 report that was done much more comprehensively on the biosciences industry that led to a lot of different initiatives and strategic investments by the state. So we used those leftover funds for this and what we did was we commissioned a Nebraska nonprofit that was focused on the biosciences to then commission the Battelle folks to commission the study. And the Battelle folks did an independent study on the state of Nebraska's biosciences sector based on the 2010 report, so, what did we accomplish; what didn't we accomplish; and what do we need to accomplish moving forward? And so we did this process; we held several different hearings over this last interim. And based on the Battelle report and based on the hearings from what we were hearing from people, we came up with three or four recommendations. And some of these strategic investments were a part of those recommendations. Now that report, as required by the enacting legislation last session, is not due to be submitted to the Legislature until the end of the session. Like many of you, I introduced 19 or 20 bills and I don't have separate committee staff for the Bioscience Steering Committee, and I don't expect to, but we haven't submitted that report because it's not due until the end of the session. But this was one of the recommendations that there was consensus on with the committee, with the exception of Senator Schumacher. And we note that in the report that Senator Schumacher does not like the process, does not care for this type of thing. But I want to note that the organization that was hired to do this is the Battelle folks, and they do a lot of independent studies, and they were simply just looking at, based on the 2010 report that the Legislature had commissioned, how far had we come along in biosciences and where do we need to go moving forward in the future? And so I think it's very prudent for this body to look at the investments that we make based on previous reports and see if they're actually working, see what's going on with the industry, follow up and see where we need to go and where we haven't gone. I think that's only prudent investment of our funding. These are funds that, again, are federal funds that will be coming back to the state of Nebraska. The federal program is expired, but we do need to use them for the original purpose of the federal intent of the funds, which is to support small businesses. It's been proven time after time that these biosciences tech industry jobs are very high paying, 50 percent more than the average wage, and it's a prudent investment. And I urge your support of both amendments. Thank you, Mr. President. [LB641]

SPEAKER SCHEER: Thank you, Senator Morfeld. Senator Schumacher, you're recognized. [LB641]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. This is basically what happened, and Senator Morfeld just confirmed it. The committee that was formed by legislation prompted by this particular interest group, the committee commissioned that group to

Floor Debate
March 28, 2017

commission a study, or a follow-up study, that resulted in a recommendation that it be given--the industry, the group--be given money. Okay. Granted, \$2 million isn't a lot of money in the scheme of things. Now it is, supposedly, when we're starting to cut all kinds of social programs. It's a big deal then. A few hundred thousand dollars is a big deal. But this is from an industry that is very well-heeled. If it is highly profitable in order to invest in this type of low-level activity and entrepreneurship and whatever, then they should do it. And they have the capacity to do it and they admitted they have the capacity to do it. They should not be trained to come to the state of Nebraska and the taxpayers to see if it can find a little fund here or a little diversion of money here to come up with a few million dollars of extra money. And it should not be first come, first served, if you're the first one to think of this way of getting extra money you get some extra money. One of the things we learned in reviewing the Advantage Act was that a bill that passes out government money should have certain benchmarks; it should have certain review processes; it should have a mechanism for which a future Legislature can determine whether or not it's doing its job or not and not have to rely on some study that industries are very good at getting that says they're very, very good things to investment in, for the taxpayers to invest in at least. This bill has none of that. It is not part of a strategic plan. It is a thing that was thrown out there to get some money into the hands of an industry that has plenty of money to begin with. What are we doing when we're training businesses that the first place they should stop for a little extra boost is at the Legislature? There was a study just recently. I think Bartel (phonetic) or something like that was the guy's name, a professor. He basically said the one thing with business incentives that is most predictable of anything is that they are correlated to the height of the previous year's business investments. Once you start feeding the beast, the beast comes back for more and more and more, even though the beast doesn't necessarily produce any meat or milk. This bill is not part of a plan. This bill does not give fair and equal treatment to other industry sectors in the state coming for this money. This is one industry that has plenty of money of its own; and if it needs research and development and to throw in a little bit of tax deductible money toward helping spawn smaller companies under its wing, it has the capacity to do it. This is simply training business that they should come here for free money. That's wrong. It'll probably pass. I'm not going to filibuster it today. But this is not the way to grow a state. If the industry needs regulations changed to make life easier,... [LB641]

SPEAKER SCHEER: One minute. [LB641]

SENATOR SCHUMACHER: ...to get agencies out of its hair, fine. If it needs access to some facilities on college campuses or whatnot where the state has some control, fine. But to come to a wealthy industry and give it money because it happened to think of a unique way of lobbying the Legislature and getting the Legislature to pay for its lobbying is simply wrong. It does not have auditable standards. It is simply sloshing some money out that direction. I think the process is flawed. Watch for such a process in the future. Make sure that it's structured so that this doesn't

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

happen again. And the expenditure is unnecessary and discriminatory toward other industries. Thank you. [LB641]

SPEAKER SCHEER: Thank you, Senator Schumacher. Seeing no one wishing to speak on AM747, Senator Morfeld waives closing. The question before us is adoption of AM747. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB641]

CLERK: 30 ayes, 5 nays on adoption of the amendment to the committee amendments. [LB641]

SPEAKER SCHEER: AM747 is adopted. Moving on to AM560, seeing no one wishing to speak, Senator Lindstrom waives closing. The question before us is adoption of AM560. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB641]

CLERK: 30 ayes, 5 nays, Mr. President, on the adoption of committee amendments. [LB641]

SPEAKER SCHEER: AM560 is adopted. Moving forward to LB641, Senator Chambers, you're recognized. [LB641]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I was looking at other issues, but I caught a bit of what Senator Schumacher was saying. So I would like to ask Senator Morfeld a question or two to improve my education on this bill. [LB641]

SPEAKER SCHEER: Senator Morfeld, would you please yield? [LB641]

SENATOR MORFELD: Yes. [LB641]

SENATOR CHAMBERS: Senator Morfeld, is there any money involved in this bill? [LB641]

SENATOR MORFELD: Yes. [LB641]

SENATOR CHAMBERS: Where will the money come from? [LB641]

SENATOR MORFELD: It is coming from a federal loan program that goes back to the state of Nebraska. [LB641]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR CHAMBERS: And to whom...why does it take this legislation to get that money from that...let me back up. What is the purpose of that federal loan program? [LB641]

SENATOR MORFELD: The purpose of the federal loan program was to provide small businesses loans to survive the economic crisis in 2011. That program is now expiring, and the funds need to be used somewhere, but they need to be used for small...purposes of supporting small businesses. So that's why we need legislation for this. [LB641]

SENATOR CHAMBERS: So somebody saw that this money is going to be available, and they decided to take this approach to divert it to this activity rather than the small businesses that the fund originally was intended for? [LB641]

SENATOR MORFELD: Senator Chambers, originally, in the original bill I allocated \$2 million from the General Fund. But I realized that we don't have \$2 million in the General Fund. So I began looking for other sources of revenue that have to be used for a specific purpose, that can't just be used from the General Fund, and I saw that these funds would be coming back to the state and that we needed to reallocate them for small businesses. [LB641]

SENATOR CHAMBERS: Those funds you said are coming back to the state. What does that mean? [LB641]

SENATOR MORFELD: Well, what it means is the federal funding came from the U.S. Department of Treasury for the state of Nebraska through the Department of Economic Development to give out loans with banks to these small businesses that might be struggling during the recession. And then what happens is the money comes back to the state of Nebraska, because they're loans, and those funds then have to still be used for some kind of small business purpose, even though the federal program is expiring. [LB641]

SENATOR CHAMBERS: Is this bill dealing with small businesses? [LB641]

SENATOR MORFELD: Yes, it is, through the Department of Economic Development. [LB641]

SENATOR CHAMBERS: I heard Senator Schumacher's comments. Could you give me an example of one of these small businesses? [LB641]

SENATOR MORFELD: Yeah, so one of the small businesses...there's several different examples of testimony of start-ups. So there's somebody with a good idea. I can't remember the exact names of the businesses. I'd have to look at the committee testimony. But, for instance, one

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

individual, he was a young man, went to the university here, went to Stanford for graduate school, came back, had an idea for a biosciences tech start-up, qualified under some federal programs, qualified under the state program, but he said that this would be something that would put them over the edge in terms of being able to get their idea through and turn it into a viable business option. So that's an example, but I can get specific names for you if you'd like. [LB641]

SENATOR CHAMBERS: But there's no business that he has right now that's functioning. Is that true? [LB641]

SENATOR MORFELD: He does have a business that's functioning. I just can't remember the name of it, Senator. [LB641]

SENATOR CHAMBERS: And what...how does this money help that business? [LB641]

SENATOR MORFELD: Well, the money helps get them over the hump in terms of having the investment necessary to do the research, to put it into a marketable idea. [LB641]

SENATOR CHAMBERS: So it's not in a marketable form now, or stage. Is that true? [LB641]

SENATOR MORFELD: Well, some of them might be marketable but...some of them might be marketable, but obviously the more investment and the more capital you have, the easier it is for you to be able to make it more marketable sooner or not leave the state and go somewhere else where there are available investment capital. [LB641]

SENATOR CHAMBERS: That business, though, is not making money right now. Is that correct? [LB641]

SENATOR MORFELD: I don't know. I'd have to ask that individual. I don't have their specific details of their business. [LB641]

SENATOR CHAMBERS: And if that money that is going into this program that you're creating...is this bill creating a new approach or a new program? [LB641]

SPEAKER SCHEER: One minute. [LB641]

SENATOR MORFELD: Actually it's not. It's under the Business Innovation Act that's already been in place, I believe, since early...since 2000...from several years ago. I think it was seven

Floor Debate
March 28, 2017

years ago. So it's just adding another category under the four or five existing categories under the Business Innovation Act. [LB641]

SENATOR CHAMBERS: If this were Congress, would they call this earmarking this money? [LB641]

SENATOR MORFELD: No, they wouldn't, because we're not earmarking it. They have to apply through the current Business Innovation Act for basically it's kind of like a grant fund through the Department of Economic Development which has a pretty rigorous process. [LB641]

SENATOR CHAMBERS: And if this bill dies, what happens? [LB641]

SENATOR MORFELD: Well, I think that we're less competitive in ensuring that we have viable start-ups and small businesses in the biosciences industry which is proven to have high-wage, high-paying jobs. [LB641]

SENATOR CHAMBERS: Well, if this area or this field is so successful, so forward moving, and so much in demand, why is... [LB641]

SPEAKER SCHEER: Time, Senator. [LB641]

SENATOR CHAMBERS: Thank you, Mr. President. [LB641]

SPEAKER SCHEER: But you are next in the queue, Senator, so you may continue. [LB641]

SENATOR CHAMBERS: Why is this money necessary to be funneled there if it's already a viable, forward-moving activity? [LB641]

SENATOR MORFELD: Well, I think we want to provide more...I don't think. I want to provide more resources for more tech start-ups to start and be able to be even more viable than they are now. [LB641]

SENATOR CHAMBERS: How many start-ups are you aware of that are in process now? [LB641]

Floor Debate
March 28, 2017

SENATOR MORFELD: Well, we...I'd have to ask the Department of Economic Development how many applications, but I know that the demand exceeds their resources under the current Business Innovation Act. [LB641]

SENATOR CHAMBERS: Are there more than three? [LB641]

SENATOR MORFELD: There's definitely more than three, yes, Senator. [LB641]

SENATOR CHAMBERS: How do you know there are more than three? [LB641]

SENATOR MORFELD: Because I just...I know that there's more than three, but I don't want to put a specific number when I don't know the specific number. [LB641]

SENATOR CHAMBERS: No, I'm asking how you know there are more than three. [LB641]

SENATOR MORFELD: Because I've talked to Department of Economic Development and they have a lot of people that apply for these grant funds and they don't have enough grant funds as it is. [LB641]

SENATOR CHAMBERS: I don't mean applications. So an application is considered a start-up program? Anybody who applies for the money is considered a start-up? That's all you have to do is put in an application and that qualifies as a start-up activity? [LB641]

SENATOR MORFELD: I'll get the application process for you, Senator. It's definitely much more rigorous than that. [LB641]

SENATOR CHAMBERS: Who brought you the bill? [LB641]

SENATOR MORFELD: Senator Mello, former Senator Mello came and talked to me. He was the person that originally started the conversation in 2010 with the original biosciences bill. And he said that since he's term limited he'd really like me to do a follow-up, see where the industry is, see where we could do a little bit better, and go from there. [LB641]

SENATOR CHAMBERS: Do you agree with the scenario laid out by Senator Schumacher in terms of how this all started, then through some convoluted activities an industry was financed and it, in turn, lobbied for itself, more or less? You don't say that happened? [LB641]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR MORFELD: That's not what happened in this case. Senator Mello came to me and said, I've been working on advancing the biosciences industry which has high-paying jobs, which is good for the state and the economy, and I would like you to take the mantle after I'm term limited, introduce this bill, do a follow-up study that is independent, see where the industry is and see where we can do better. [LB641]

SENATOR CHAMBERS: Thank you, Senator Morfeld. Mr. President, I'd like to ask Senator Schumacher a question or two if he would respond. [LB641]

SPEAKER SCHEER: Senator Schumacher, would you please yield? [LB641]

SENATOR SCHUMACHER: Yes, I will. [LB641]

SENATOR CHAMBERS: Senator Schumacher, now that you've heard the exchange between Senator Morfeld and myself and you can see that I'm not really grasping everything, could you go through what you went through earlier and put your professorial hat on and explain it so that it's so clear that even a fool cannot err? [LB641]

SENATOR SCHUMACHER: Would this be with respect to how the study was set up? [LB641]

SENATOR CHAMBERS: Yes, and then from there on. [LB641]

SENATOR SCHUMACHER: Okay, basically the Legislature passed a bill last year that set up this study group, has I think five senators on it. And there was some money--I think it was up to \$50,000--allocated to this particular project. And, as Senator Morfeld explained before, his exchange with you, the group hired...the study committee hired the group, commissioned the group to do a study and it, in turn, subbed the study out to this Battelle outfit. And the Battelle outfit then of course said glowing things about the biotech industry in the limited... [LB641]

SPEAKER SCHEER: One minute. [LB641]

SENATOR SCHUMACHER: ...context of its study. That study has not resulted in a committee recommendation. Instead, Senator Morfeld brought this bill to try to get \$2 million funneled to this particular industry segment that was praised by the study that it commissioned. [LB641]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR CHAMBERS: So this is something like they say the right hand washes the left hand, but both hands are attached to the same body, and it's the entity washing its own hands, in a manner of speaking? [LB641]

SENATOR SCHUMACHER: With the Legislature's soap. [LB641]

SENATOR CHAMBERS: Thank you, Senator Schumacher. Members of the Legislature, I listen to things that occur on this floor, and I watch the senators who bring various things on this floor. But always in my mind are the... [LB641]

SPEAKER SCHEER: Time, Senator. [LB641]

SENATOR CHAMBERS: ...last, the least,... [LB641]

SPEAKER SCHEER: Time, Senator. [LB641]

SENATOR CHAMBERS: ...and the lost. Thank you, Mr. President. [LB641]

SPEAKER SCHEER: Thank you, Senator Chambers, Senator Morfeld, and Senator Schumacher. Senator Schumacher, you're recognized. [LB641]

SENATOR SCHUMACHER: Thank you, Mr. Speaker and members of the body. Whatever dollars are going to the biotech industry under this particular proposal are dollars that are coming or would be available to other tech industries who did not have the cleverness to engineer a study paid in their behalf by taxpayer dollars. They did not have the chance to have taxpayers make their argument that they are the place that this found money should be placed, that energy might have a better return, that manufacturing or electronics or the financial market training might have a better return. They did not have that opportunity, nor is this part of a strategic plan, nor is this part of a program that has internal audits and benchmarks so we know whether it truly is doing any good or not. The little businessman that Senator Morfeld referred to, I believe that's the individual who got \$170...or \$47,000 of money, and he has a San Francisco partner. Now if that little biotech company takes off, where do you guess the probability is it's going to end up when it becomes big, if it becomes big? San Francisco has a lot of things going in the biotech sector. It's a center of activity, as is Boston. Where's that partner going to want to see his business grow at? What is Nebraska doing besides sloshing \$147,000 at his young partner? What's Nebraska doing to keep that business here? This is not part of a consistent strategic plan. It is diverting \$2 million away from other businesses to this particular sector, not that this sector is a bad sector. No, it is a good sector, but it is a sector that has plenty of ability to finance its own young men or

Floor Debate
March 28, 2017

women and invest in their businesses if those people need \$147,000. I think they can get up to \$500,000 out of this particular program, plus a \$50,000 exploratory grant on the front end. These are things we haven't looked through. And we are being selective here in saying, okay, this segment gets money that would otherwise be available for other segments by virtue of bootstrapping itself with taxpayer money to a conclusion in a study that has yet to be adopted as part of any strategic plan. Consider it with your best judgment. And after all, it's only \$2 million, right? Thank you. [LB641]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Harr, you're recognized. [LB641]

SENATOR HARR: Thank you, Mr. President, members of the body. So this is an area that I know a little bit more than most about, still not a lot. But biosciences and bio jobs in Nebraska, there have been a lot of companies that have wanted to come to Nebraska. And it's not about capital. It could be numerous other reasons, something as obscure as an FAA ruling that prohibits people from starting jobs in Nebraska in the biosciences. I've seen it personally. Capital is not a problem. There is so much money flowing into the biosciences right now, you can have billion-dollar companies that have yet to make a dime. If we want to start something here I don't have a problem with that, but go at it, as Senator Schumacher said, the way the other businesses and start-ups have to do it. We have a process. This may not be technically an earmark, but we're saying \$2 million of that \$5 million is going to this area. I want to see more bio jobs. I have no problem with that. But do we have the work force here? I don't know. I think we have to come at it with a full strategy. If we create a bunch of jobs here, will they just move to somewhere else? Everyone loves Hudl. Hudl is great. Hudl was a start-up. Where are their businesses? Where are their offices? Where are more employees, in Nebraska or outside Nebraska? Think about it. They can't get the critical mass here. Now this is the old chicken and the egg argument you could make. Well, it's you got to have the job...you got to...you know, what comes first, the jobs or the people? And they have to build off each other. And I agree with that. But I don't think this is the right way to go about it. It's a good bill. It's a good intention. I want to see bio jobs here. They are high paying. They are high-skill jobs. These are jobs that will not be imported, necessarily, or exported to other countries. This is the future of the economy. But should we be looking at where do we already have a market advantage? And if we do in bio, where is it? It's probably in bio ag, and so let's make it specific to bio ag. And it's probably something related to something at UNMC, so let's...if we are going to focus this, let's focus it where we have the competitive advantage. Let's just not say bio, whatever that is. So I will continue to listen to the debate on this. I do want to see new businesses. I do want to see growth here. We're going hear this afternoon in Revenue we have an amendment to get rid of angel investment, which is exactly what Senator Morfeld is talking about. How do we incentivize new businesses? How do we find funding to provide new businesses? It's a good question and it is a combination of capital and workers. And we got to have the workers. But I'm not sure that this is the right way to do it. As

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

Senator Schumacher said, it's not part of a grand plan. If I had a...if I knew this was part of a bigger plan and we had an idea of where it was going and we weren't just enriching a couple of people that I don't know who they are or how many they are, I'd be more like...apt to agree to this. But at this point I think it needs a little more thought. Thank you. [LB641]

SPEAKER SCHEER: Thank you, Senator Harr. (Visitors introduced.) Mr. Clerk for announcements. [LB641]

CLERK: Mr. President, Senator Baker offers LR82; Senator McCollister, LR83. Those will both be laid over. Communication from the Governor (read re LB62). Name adds: Senator Brewer to LB389, Senator Riepe to LB506. (Legislative Journal pages 827-829.) [LR82 LR83 LB62 LB389 LB506]

Mr. President, Senator Clements would move to recess the body until 1:30 p.m.

SPEAKER SCHEER: Colleagues, you've heard the motion to recess until 1:30. All those in favor say aye. All those opposed say nay. The ayes do have it. We are in recess until 1:30.

RECESS

SPEAKER SCHEER PRESIDING

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

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

SPEAKER SCHEER: Thank you, Mr. Clerk. Are there any items for the record?

CLERK: I do. I have an amendment to be printed by Senator Krist to LB339; and a communication from Senator Watermeier as Chair of the Special Committee on the Election Challenge with a document. That is all that I had, Mr. President. (Legislative Journal page 830.) [LB339]

SPEAKER SCHEER: Thank you, Mr. Clerk. We'll proceed to the first item on this afternoon's agenda.

Floor Debate
March 28, 2017

CLERK: Mr. President, returning to LB641, a bill by Senator Morfeld. The body considered the bill this morning. An amendment to the bill and the committee amendments were adopted. The motion pending is to advance the bill, Mr. President. [LB641]

SPEAKER SCHEER: Thank you, Mr. Clerk. Moving to the queue, Senator Brasch, you're recognized. [LB641]

SENATOR BRASCH: Thank you, Mr. Speaker, and good afternoon, colleagues. I did want to rise in support of LB641. And questions were asked earlier by our good friend/colleague Senator Schumacher about the businesses that may benefit from this most likely, I believe were his questions, staying in Nebraska. Well, I wanted to address that specifically because in 2012 Senator, also Speaker, Hadley had introduced a bill for the biochip industry and I had prioritized that bill. And the story behind that was that two students at the university had created a biochip to track genetics of livestock and it became very successful. And they went to an incubator facility. They grew this business, not just in Nebraska but across the country and I also believe some international clients, and they did, upon graduation, start their own Nebraska-based company. And they pay royalties to the university because that is where they received their education, even though they weren't native Nebraskans. And they continued working and creating a business. And at the time that they came to the Legislature was because opportunities had opened up in two other states that did not tax biochips specifically. I have learned that following our legislation, and I believe it was last year that...and perhaps the year before, that they had opened a new facility, they have grown in Nebraska, that our legislation has helped them stay and want to stay in Nebraska. Then I also wanted to mention specifically that in District 16 I did receive an e-mail this morning from the general manager at Novozymes in Blair and supporting this legislation because he said that he represents an organization that is always looking for ways to continue our growth while supporting the needs of ag biotechnology companies. He was writing in support and he said that I believe that this bill will assist the growth of early stage biotech companies and create innovative job opportunities in Nebraska. And upon that I did do a search. If you pull up an article written by the Journal Star in 2012 it talks about Novozymes. "Novozymes looked at sites as far away as China and Uruguay but eventually chose 'a sweet spot for us' in eastern Nebraska for a \$200 million plant that makes enzymes for the ethanol industry." Along with Cargill, there are other companies like this that are located on their bio campus. And so I do stand in support of this bill because in these next generations that follow us in innovation, that the biotechnology industry is going to make us competitive. And Nebraska is a great place for this business because we do have the products here and easy access to it. I need to get to the Revenue Committee but I will yield the rest of my time to Senator Williams. [LB641]

SPEAKER SCHEER: Senator Williams, 1:05. [LB641]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR WILLIAMS: Thank you. And thank you, Senator Brasch, for yielding me a little bit of time. First of all, I wanted to just clear up an area of disgust, I guess, or distrust, if that would be a better word, between Senator Schumacher and myself. The two studies that we're talking about are two different studies. The innovation and entrepreneurship study that was LR1083 was the one that I was specifically talking about this morning that had a provision in it that had to do with biotech. He is talking about a different study that was done which was concluded and Senator Morfeld was involved with. When I am back on the mike in a little bit, I would like to talk about the funding for this and clear up some issues with Senator Morfeld. But please remember that this was voted out of committee nearly unanimously. Senator Schumacher was the only dissenting vote. It was supported by the State Chamber, the Lincoln Chamber, and the Omaha Chamber. And, Senator Chambers, that was the State Chamber, just to be sure that you've got that. [LB641]

SPEAKER SCHEER: Time, Senator.

SENATOR WILLIAMS: Thank you, Mr. President. [LB641]

SPEAKER SCHEER: Thank you, Senator Brasch and Senator Williams. Senator Kolterman, you're recognized. [LB641]

SENATOR KOLTERMAN: Thank you, Mr. President. I, too, like Senator Williams, wanted to visit a little bit about...there was talk this morning about a Battelle study that was...I think that was done in 2010 before I was here even. And that had nothing to do with the Innovate (sic-- Innovation) Nebraska Task Force that met this past summer. And we actually attended, as Matt Williams, or Senator Williams said, five different locations throughout the summer and talked to different people that had been involved in these types of start-up programs. And many of them have been very successful, as you just heard from Senator Brasch. So, and you can find that study. Senator Watermeier has a copy in his office. It's 96 pages. And there were some strong recommendations in there about what we need to do from an innovative perspective as a Legislature. But I voted to support this bill coming out of committee simply because there were unused federal dollars that were coming back to us that had to be allocated somewhere and, quite honestly, Senator Morfeld was innovative enough to pick up on that and figured that he'd apply it to this. So this is a good bill. It's money that's going to be well spent. And I know that there's always some dispute about that. But just this past summer, as well, I had a small company that came to Seward, were looking for start-up venture capital. And they had a scanning device that they wanted to produce. Who knows? They were looking for \$50,000 to partner with them. And had we had that \$50,000 available, it could have created another eight jobs in Seward, high-paying jobs. So that's what this bill is all about. It's not money that we're taking away from

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

anybody else. It's not going to impact the federal...or our state budget. And I just hope we can support this bill and move down the road. So thank you. [LB641]

SPEAKER SCHEER: Thank you, Senator Kolterman. Seeing no one else in the queue, Senator Morfeld...excuse me. Senator Williams. [LB641]

SENATOR WILLIAMS: Thank you, Mr. President. And I would like to just very briefly talk about the financial impact of LB641. Senator Morfeld, would you yield to a question? [LB641]

SPEAKER SCHEER: Senator Morfeld, would you please yield? [LB641]

SENATOR MORFELD: Yes. [LB641]

SENATOR WILLIAMS: Senator Morfeld, it's the intent, I assume, from the bill that there is no General Fund impact in the first year of the endeavor. [LB641]

SENATOR MORFELD: Yes, Senator. There is no General Fund impact at all. [LB641]

SENATOR WILLIAMS: Is it also the case that with the amendment there becomes no General Fund impact in the future also? [LB641]

SENATOR MORFELD: That is correct. [LB641]

SENATOR WILLIAMS: So there would not need to be any clearing up of anything through a further amendment to make sure on the General Fund potential impact of the legislation. [LB641]

SENATOR MORFELD: That is correct. [LB641]

SENATOR WILLIAMS: Okay. Thank you, Senator Morfeld. I had an opportunity this noon to spend some time with Senator Schumacher and he asked me to be sure that we would clear up that fact. And that took away most of the reservations that Senator Schumacher has about this legislation. I am sorry that Senator Schumacher is not here this afternoon to say these things himself, but there is a Revenue Committee hearing going on. But I would again encourage everyone to vote green on LB641. Thank you, Mr. President. [LB641]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SPEAKER SCHEER: Thank you, Senator Williams. Seeing no one left in the queue, Senator Morfeld, you're welcome to close. [LB641]

SENATOR MORFELD: Thank you, Mr. Speaker. Colleagues, I've talked to several of you. I think that we've cleared up a lot of the confusion. I have also assured Senator Schumacher that the intent of this legislation is only to extend to the federal funds as they are recaptured by the state of Nebraska and then put into the biosciences projects and grant applications that they deem to be credible and qualifying for this program. So I think that we have eliminated Senator Schumacher's major concerns. In addition, I want to point out that these are funds that are not state funds. They are federal funds coming back. They are unallocated, however, they must be allocated to a small business purpose. And this is an industry after several years of study that has shown to pay dividends in terms of investment of state dollars and federal dollars. And that's why we decided to do this. And we decided to do it not just because we like a certain industry but because we have studied this. The 2010 Battelle report was extensive; it showed a lot of opportunity. The state made investments. We came back and we did another study over the interim and it showed that those investments had paid off. They had been prudent. And that we should make further investments, whether it be through STEM education or some of these targeted dollars. These are unallocated federal funds. The program will end once those funds come through and they are expended by the Department of Economic Development. I urge your green vote on LB641. Thank you, Mr. Speaker. [LB641]

SPEAKER SCHEER: Thank you, Senator Morfeld. The question before us is advancement of LB641 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB641]

CLERK: 31 ayes, 2 nays, Mr. President, on the advancement of LB641. [LB641]

SPEAKER SCHEER: LB641 is advanced to E&R Initial. Next item, Mr. Clerk. [LB641]

CLERK: Mr. President, LB161 is a bill by Senator Friesen relating to the Nebraska Advantage Act. (Read title.) Introduced on January 9, referred to the Revenue Committee, advanced to General File. There are Revenue Committee amendments, Mr. President. (AM141, Legislative Journal page 403.) [LB161]

SPEAKER SCHEER: Senator Friesen, you are welcome to open on LB161. [LB161]

SENATOR FRIESEN: Thank you, Mr. President. I am here today to introduce LB161, a bill to update Tier 6 of the Nebraska Advantage Act. This bill was heard in Revenue Committee on

Floor Debate
March 28, 2017

January 25; and I appreciate Senator Smith designating this as his priority bill. Tier 6 is known as a super advantage tier. This tier is reserved for companies that make significant capital investments in Nebraska and create high-paying jobs. Wages must exceed 150 percent of the state average weekly wage or 200 percent of the county average, whichever is higher. Tier 6 companies currently have a one-year carry-over period to use any tax credits that were earned but not used during the entitlement period. This has the adverse effect of reducing the incentives for Tier 6 companies to keep investing and adding jobs in the later years of their Tier 6 project because they will never get the chance to use those credits. In contrast, Tier 2 and Tier 4 projects for expansions with much lower paying jobs have had up to eight years carry-over period. So those companies are incented to keep investing and adding jobs. Committee amendment, AM141, reduces the carry-over period from 20 to 16 years, and I will provide more details on that when I open on the committee amendment, AM141. LB161 does not involve any new incentives. It simply allows a company that has met the thresholds on investment and the creation of high-paying jobs to utilize the performance-based incentives it has earned. It encourages the company to bring more investment and more high-paying jobs to our state. LB161 does not have a current fiscal note, as this bill simply allows companies that would have already earned incentives the opportunity to realize those benefits. The Nebraska Advantage Act program operates on a pay-for-performance basis, which means that in order to receive any tax credits under the program, companies would have already made the investment and created the jobs. In addition, if a company does not maintain the required level of employment and investment during the program entitlement period, that is ten years for companies impacted by LB161, Nebraska has a clawback provision requiring a payback of a portion of the incentives earned. LB161 does not change any approval or auditing criteria under the Department of Revenue or Economic Development. Companies seeking an application for a Tier 6 project would still follow the same statutes, rules and regulations, and guidelines as currently provided for under the Nebraska Advantage Act. As most of you know, I am not a fan of the Nebraska Advantage Act, and I still feel strongly that we need to address the audit report that was just completed. I do think we need to have the discussion about how our numerous tax incentives work and how we could remove or consolidate them to make them more effective. As we work to grow our economy, I would hope that this type of company, the Tier 6, we would like to attract to grow our state. When I look at economic development in this state, and we've talked about the property tax issue over the years, and unless we continue to grow our state in something that is different than agriculture, which is what some of these companies, especially the Tier 6 company, does. It diversifies us into a different economy, which is what we need more of in this state so we can address the ups and downs in the revenue that agriculture sees. So when I looked at the qualifications of the Tier 6 and when I saw what they had done and invested in this state, these are the types of companies, I think, that down the road we should be looking at to see how we can get them here, whether it's through a tax incentive proposal or whether it's some other method. But we need to have the discussion. But at this time, this company has earned these credits. All it does is open up the opportunity to let them use them. It was unfortunate, I guess,

Floor Debate
March 28, 2017

that when the program was designed that this wasn't taken into account. Therefore, I ask your support for LB161. Thank you. [LB161]

SPEAKER SCHEER: Thank you, Senator Friesen. As the Clerk stated, there are amendments from the...committee amendments from the Revenue Committee. Senator Friesen, as Vice Chair, you are welcome to open on the amendment. [LB161]

SENATOR FRIESEN: Thank you, Mr. President. The Revenue Committee did make one small change to LB161 and that was to take the allowable carry-over length from 20 years to 16 years. Tier 6, known as a super tier, was added separately to the Nebraska Advantage Act in 2008. From what we have been able to determine from legislative history, this tier was passed into law to attract an out-of-state company that never panned out. The bill was put into effect, and until Kiewit received its qualification letter from the Department of Revenue in June of 2016, no company had actually qualified for a super tier project. As such, this 2017 Session was the first opportunity to amend the current carry-over time from one year to something more appropriate for the required hiring and investment threshold. While provisions like the Nebraska Net Operating Loss Forward and other similar federal tax credit programs have a 20-year carry-over period, we wanted to ensure that the time frame the committee advanced to General File was really in line with Nebraska's way of doing business. What we found is that no other tier had a one-year carry-over like Tier 6, but there were also no other tiers that were as long as 20 years. The change to 16 years was agreed upon along the following premise. Other tiers in the Advantage Act allow for up to eight years as a carry-over period for actually using the earned credits, even with investment levels at less than half of what a Tier 6 project. In addition to requiring significant capital investment, Tier 6 requires wage thresholds that more than double and sometimes more than triple the requirements of the other tiers. Thus, companies approved for a Tier 6 project should be allowed at least twice the time to use the credits earned under their thresholds. This change to 16 years would be line with this rationale. AM141 provides the necessary changes to ensure that companies who bring high-paying, high-demand jobs to Nebraska are able to use the credits they have been promised under the Tier 6. While Kiewit is the only company to qualify to date, I firmly believe that AM141 and LB161 will be valuable tools for encouraging others to invest and grow and partner with Nebraska. For this reason, I'm asking you to support AM141. Thank you, Mr. President. [LB161]

SPEAKER SCHEER: Thank you, Senator Friesen. Senator Krist, you are recognized. [LB161]

SENATOR KRIST: Thank you, Mr. President and colleagues. Good afternoon, Nebraska. AM141 and LB161 are examples of good legislation. We see the Advantage Act worked in many areas. We saw the performance audit that said the Advantage Act had some issues, and this is, I think, a good action to make sure that the Advantage Act, in principle, is working as it should be.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

These are not start-up companies. This is not an example of trying to attract someone here or trying to bribe them to stay here. These are 100-year, founded businesses that have been here, that have done the job, that have attracted good business; and in some cases they are worldwide, as is in the case with Kiewit. I strongly support AM141 and LB161 because it is in essence that upper tier...an example of the upper tier working in the Advantage Act. Thanks to Senator Friesen for bringing LB161. Please vote green on both AM141 and LB161. Thank you, Mr. President. [LB161]

SPEAKER SCHEER: Thank you, Senator Krist. Seeing no others in the queue, Senator Friesen, you're welcome to close on the committee amendment. He waives the closing. The question before us is adoption of AM141. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB161]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB161]

SPEAKER SCHEER: AM141 is adopted. Returning to LB161. Seeing no one in the queue, Senator Friesen, you are welcome to close. Senator Friesen closes on LB161. The question before us is adoption to E&R Initial of LB161. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB161]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB161. [LB161]

SPEAKER SCHEER: LB161 is advanced to E&R Initial. Next item, Mr. Clerk. [LB161]

CLERK: LB122, a bill by Senator Pansing Brooks. (Read title.) Introduced on January 6, referred to the Judiciary Committee, advanced to General File. There are Judiciary Committee amendments pending, Mr. President. (AM223, Legislative Journal page 475.) [LB122]

SPEAKER SCHEER: Senator Pansing Brooks, you are welcome to open. [LB122]

SENATOR PANSING BROOKS: Thank you, Mr. President and members of the body. I'm proud and grateful to open today on LB122, which is designed to help family members remain connected to one another when one of them becomes ill or incapacitated. Specifically, LB122 creates a process whereby family members may petition a court when they are arbitrarily denied visitation with another family member. This bill will help family members guard against abuse, receive access, protect one another, and provide comfort when one of them is sick, has Alzheimer's or dementia or is facing an end of life situation. Under this bill, a caregiver, whether related or not, may not arbitrarily deny visitation between an adult resident of a home healthcare

Floor Debate
March 28, 2017

facility or residential dwelling and family members of that resident. If a family member is being denied visitation with a resident, the family may petition the court to compel visitation with the resident. The court will have the power to compel visitation unless it finds the resident, while having the capacity to evaluate and communicate decisions regarding visitation, expresses a desire not to have visitation with the petitioner, or if the court determines that visitation is not in the best interest of the individual. So the court will act as a safeguard for cases that fall into these categories. This bill really resonated with me because my mother, Lu Pansing, lived with us the last ten years of her life. When I heard about this bill, I realized that I, too, could have stopped my siblings and other family members from visiting my mom. I can assure you, there would have been nothing more detrimental to my mom's life in the last years of her life. Truly, my mother would rejuvenate from the love surrounding her whenever the family would visit. I remember hearing several years ago that Casey Kasem, the famous Top 40 TV host, was denied visitation by his children and thinking how wrong that seemed. I was surprised that there was not a process already in place to protect family members seeking to visit and take care of loved ones. It just seemed like common sense to me. So when Genenne Gibson Didier, a Lincoln resident and childhood friend, told me her own story of visitation denial, I felt this was an issue that we needed to address in Nebraska statutes. We decided to get in touch with the Kasem Cares Foundation and we learned about the work they have done to bring this legislation to other states. The Kasem Foundation was started by Kerri Kasem, the daughter of Casey Kasem. Kerri came all the way to Nebraska to testify at our hearing on February 9. Julie (sic--Kelly) Rooney, the daughter of the late Mickey Rooney, also joined to tell her personal story. They both do honor to the lives of their fathers, and I want to thank them for their advocacy and for helping bring this issue to our attention in Nebraska. Right to visitation has gained...legislation has gained momentum over the last few years due to increased attention to this issue. Eight states now have visitation laws, including Iowa, Texas, Louisiana, Virginia, and Alabama. I have provided a map for your information from Kasem Cares which shows which states have right-to-visitation laws. Wisconsin unanimously passed its own right-to-visitation bill last year and Governor Scott Walker signed it into law. LB122 is modeled after this bill with just a few changes to conform to current Nebraska statutes. I've passed out a copy of a news article from Wisconsin highlighting this bill's signing last year. These bills are getting traction because so many of us know firsthand what it is like to have a family member that is incapacitated or ill. When my own mother lived with us, we did not have a family dispute over visitation, thankfully, but what about cases where that does occur, where one sibling with a power of attorney or a stepparent may arbitrarily deny visitation? What if that individual isn't receiving the care that they need? The thought of someone in a position of power denying access to our own family member would be nearly unimaginable to most of us. Yet, as we heard from local testifiers at our hearing, it is something that happens far too often. This is particularly troubling because studies show that family relationships have a profound impact on life, longevity, and health. LB122 was advanced to General File on an 8-0 vote with no opposition testimony. I urge you to advance LB122 and its committee amendment and help families living under these heartrending situations. LB122 is

Floor Debate
March 28, 2017

ultimately about the opportunity to support loved ones at the end of their lives. And I would like to give my wholehearted thanks to Senator Baker for prioritizing this bill. And I yield the remainder of my time to him. [LB122]

SPEAKER SCHEER: Senator Baker, 4:45. [LB122]

SENATOR BAKER: Thank you, Mr. President. Colleagues, I decided to prioritize LB122 for several reasons. There were two of my bills that I wanted by design to carry over into next year, and there were a couple of other bills that needed some work over the summer, and a couple of bills are making their way through anyhow. So I chose LB122 because I was present at the committee hearing and I found the testimony to be some of the most compelling testimony I have ever heard in my time here in the Legislature. It seems that in every story there was some common denominators. There was a vulnerable adult, and sometimes involving some dementia. It was often a person with assets, and sometimes a lot of assets. And it seemed to evolve into an isolation, either by a family member or an attorney or guardian or someone, who began isolating that person and in many cases taking advantage of them financially. So I'm going to...I wish you could have heard the same testimony that we heard. That is not possible, but I'm going to just read a couple of those to you of people who testified at the hearing: My name is Elizabeth Smith. I'm here today in support LB122. This bill would have helped my Uncle Charlie, who passed away June 7, 2010. My father, who is still living today, and Charlie were brothers. My father is 86 and has lived with Parkinson's dementia for over ten years. We have taken care of him in his home. I believe my uncle would be alive today if he had been given the same care as my father, but he was taken away from us by abuse and negligence. I received a call from my uncle's stepdaughter, who had assumed physical custody and control of him. She stated that he was brain dead and could no longer eat or swallow, that we should visit him while we could. When I went to visit him, I was disturbed. He was very thin, face sunken. His appearance was unkempt. His fingernails were long and dirty and there was a distinct smell of urine. He was in a bed in a dark sunroom, a dirty blanket on him, as well as a dirty ceiling fan running above him. I visited the next day with my sister and his conditions were still the same. We decided to call his grandson in Virginia so he could hear his voice. My uncle was coherent and called his grandson by his nickname, which totally denied her claim that he was brain dead. We realized that she had been listening in to our conversation with a baby monitor. As she had come into the room, she seemed upset and cut the call short. As my sister and I were leaving, her children approached our car to tell us that they had numerous concerns about her care of my uncle, including that she was not feeding him. Then more relatives called each other with their concerns; a family meeting was arranged. After meeting, we learned from each other that numerous calls had been placed to various agency but had not gotten the help our uncle needed. So we decided to put our money together, hire an attorney in hopes of getting an emergency protection order, which was granted. There was another one, it was...yeah, request. I'll leave the last name off of this: Friday, September 16, 2016, is Beth's birthday. Cheryl, Karen, and Mary went to take Helen and Beth

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

out to a lobster or shrimp dinner. Cheryl and Karen, who are relatives, request this visitation. [LB122]

SPEAKER SCHEER: One minute. [LB122]

SENATOR BAKER: Please advised. A two-word answer came back from the attorney who was apparently in control of this person, said request denied. Another person: I wanted you to know why this bill means so much to me. The loss of a loved one is so painful and when the responsibility of caring for them falls on another relative, the stress and emotions can be exhausting. In many cases, there are the usual disagreements in care and who is going to do what to help them. I've seen that firsthand. In the case of my husband's uncle, that's where this bill comes into play, and would have prevented the devastation our family experienced. The person who cared for him blocked visits from people who questioned her care of his uncle. Grandchildren, nieces and nephews, and close friends one by one were increasingly told they could no longer visit. [LB122]

SPEAKER SCHEER: Time, Senator. [LB122]

SENATOR BAKER: I believe there had been a...I'm sorry, did you say time? [LB122]

SPEAKER SCHEER: Time, Senator. [LB122]

SENATOR BAKER: Thank you. [LB122]

SPEAKER SCHEER: Thank you, Senator Pansing Brooks and Senator Baker. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Ebke, as Chair of the committee, you're recognized to open on that amendment. [LB122]

SENATOR EBKE: Thank you, Mr. President. AM223 just clarifies the definition of a family member among and who is able to petition the court. It's a half...14-line amendment and it was sent out by the committee. [LB122]

SPEAKER SCHEER: Thank you, Senator Ebke. Moving to discussion on the floor, Senator Krist, you are recognized. [LB122]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues, again, and good afternoon, Nebraska. This is a good bill. If you think it's just happening to the Rooney family or

Floor Debate
March 28, 2017

to the Casey Kasem family or to somebody outside the state of Nebraska, it is not. It is happening right here in Nebraska, and it is sad when it happens to be a rift between families because of visitation, because of a number of reasons. During the committee, I made a statement that in the case of a couple of our visitors and our testifiers, that I would look into their particular situation and visit nursing homes that were accused and guardians who were accused of doing this same kind of thing. I have. And I can tell you that the attention that is paid from outside and from you, from you, colleagues, you have the right to visit any penitentiary, any prison system, any detention facility, and in the case of intervening, at least asking questions in those facilities that are licensed by the state of Nebraska to carry out the welfare of our citizens. At least make some inquiries; it makes a difference. I'm not saying that you're going to be able to fix every situation, but if you think it's happening someplace else besides Nebraska, think again. Elder abuse and this kind of chasm built between an individual and their children or their relations is horrific. And with that, I would yield the balance of the time to Senator Baker if he would like to continue to read from his scripts. [LB122]

SPEAKER SCHEER: Senator Baker, 3:20. [LB122]

SENATOR BAKER: Thank you, Mr. President. Thank you, Senator Krist. Continuing on: I believe, had there been a law in place that prevented isolation and allowed others to access information about his medical condition, then more opportunities may have been available which would have prevented him suffering what he experienced. By the time I received a call from his granddaughter saying she thought her mother was killing her grandpa, other agencies and family had been notified, at which time it was too late. The abuse and neglect had taken its toll. Advanced renal failure was irreversible. Whether it is caring, loving, feeding, administering meds, or knowledge of medical information, the more hands and eyes on deck would have resulted in better care of an elderly man. The prevention and blocking someone from seeing their loved one is very cruel and should never be allowed by law. Thank you for considering this bill and giving a voice to those who can't speak for themselves. End-of-life care should include all that person's family and friends surrounded by love. One more: Mother of member Wendy Ferrari (phonetic), the conservatorship was solely in the best financial interest of the attorneys and conservators who feasted off mom's estate as they poisoned the court against me for my efforts to protect her from predators. Skipping to the last paragraph: The attorneys and conservators rationalized their exorbitant fees, hundreds of thousands of dollars, proclaiming to be representing my mom's best interest against me, and the court rubber stamped their every request. They had done an excellent job of setting the stage for mom's financial cleanout by maligning me and blaming me for their continued litigation. I think I'll stop there, Mr. President. Thank you. [LB122]

SPEAKER SCHEER: Thank you, Senator Krist and Senator Baker. Senator Walz, you are recognized. [LB122]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR WALZ: Thank you, Mr. President. I stand in favor of LB122. Every once in a while, over the last couple of months, I've tried to go into some committee hearings just so I can learn more about the issues and what is going on in Nebraska. And this is one that I distinctly remember listening to. Senator Baker, thank you for the stories that you told, first of all. Anyway, this is a committee hearing on making visitation possible for families. I can't even imagine being barred from seeing my mom or somebody else in my family. I want to thank Senator Pansing Brooks for bringing this very important legislation here today and urge you all to vote yes on this bill to protect individuals and families. Thank you. [LB122]

SPEAKER SCHEER: Thank you, Senator Walz. Seeing one else in the queue, Senator Ebke, you are welcome to close. Senator Ebke waives closing on AM223. The question before us is adoption of AM223. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB122]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB122]

SPEAKER SCHEER: AM223 is adopted. Moving back to discussion on LB122, seeing no one in the queue, Senator Pansing Brooks, you are welcome to close. She waives closing. The question before us is the adoption of...the advancement of LB122 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB122]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB122. [LB122]

SPEAKER SCHEER: LB122 is advanced to E&R Initial. Next item, Mr. Clerk. [LB122]

CLERK: Mr. President, LB222 is a bill by Senator Stinner relating to tourism. (Read title.) Introduced on January 10, referred to the Government Committee, advanced to General File. I do not have committee amendments. I do have an amendment to the bill, Mr. President. [LB222]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Stinner, you are recognized to open on LB222. [LB222]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, I first want to thank Senator Clements for prioritizing this bill. LB222 is part of a longstanding effort to integrate oversight measures into the structure of the Nebraska Tourism Commission. When I first came to the Legislature in 2015, I became aware of a few key oversight deficiencies in the commission throughout my work as a member on the Appropriations Committee. Many of those

Floor Debate
March 28, 2017

oversight deficiencies were fiscal in nature. One such deficiency was the lack of fiscal controls on expenditures of the commission's funds. This resulted in a deficit request during the appropriations process. In many organizations, the expenditures of funds must progress through elevated levels of approval, often passing through four or five hands before the expenditure of funds may take place. Ultimately, they get approved by the board of directors. As a result of the Appropriations Committee discussion with the Tourism Commission, we came to an agreement that the commission would voluntarily transfer some of its accounting responsibilities to the Department of Administrative Services. This management practice has worked quite well, both for the state and the commission. It not only allows for the responsible expenditures of the commission's funds but has relieved it of administrative tasks related to transacting of those funds. However, as you all are aware, the fiscal situation at the commission came to a head when its director was fired in May of 2016 for misuse of state appropriated funds after a scathing audit report was released by the Auditor of Public Accounts in April of 2016. I'd like to take a moment, however, to acknowledge the corrective action the commission has taken and to say that I am proud of the work it does for a vital industry in Nebraska. The commission has already begun work on developing a policy handbook which would address some of the previous mentioned oversight issues. This item is addressed in the bill. LB222 would codify a number of changes in response to these issues. The primary change the bill would bring about is the restructuring of the board. The intent behind this restructuring is to diversify the board by including professionally qualified board members. Due to the multifaceted nature of tourism business, this bill institutes a district system based upon geography and lodging revenues. It would include 11 districts in total with the requirement for four of those representatives have professional experience sitting on other boards of directors. And I have included an exhibit that you can look at, how this districting actually happens in the state of Nebraska. These could include a variety of businesses, nonprofit and other governmental entities. In addition to the restructuring of the board, LB222 would also clarify the definition of tourism industry for the purpose of specifying to which industry oversight the board would apply. It implements other provisions that would transition the board to a new structure, stipulates the adoption of procedures regarding the use of appropriated funds, clarifies the rules regulating the use of contracts by the commission, and clarifies guidelines for the commission's innovative grant program. The fiscal note for the bill, as you see, includes an estimated \$10,000 in cash fund expenses to cover travel reimbursement costs for two additional board members. This could be absorbed easily by the commission's existing spending authority. All other changes related to its innovative grant program could also be absorbed by existing state aid. In the spirit of Nebraska's tradition of fiscal responsibility, I am confident that the previously mentioned changes to the commission and the passage of this bill will accomplish the oversight objectives discussed and keep tourism, which is our third largest industry, independent. Thank you, Mr. President. [LB222]

SPEAKER SCHEER: Thank you, Senator Stinner. Mr. Clerk. [LB222]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

CLERK: Mr. President, Senator Blood would move to amend the bill with floor amendment, FA49. (Legislative Journal page 831.) [LB222]

SPEAKER SCHEER: Senator Blood, you are welcome to open on your amendment. [LB222]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, I offer a friendly amendment because I stand in full support of Senator Stinner's bill and I praise the work that's been done on this bill. But as we all know, Lewis Carroll once wrote that if you don't know where you're going, any road will take you will there. I rise today to amend LB222 as follows: strike the words "shall develop" in line 15, page 8, and insert instead "may review, amend, or replace provisions of the statewide strategic plan to cultivate and promote tourism in Nebraska." As many of the senators on floor know, who have participated in strategic planning, strategic plans are fluid. They are living, breathing documents. The way that the statute reads now, it offers antiquated language that really pertain to what we were instructing the tourism department to do at the time that the original bill was written. Once you have a strategic plan, you have a foundation. And so it is your job not to constantly rewrite the strategic plan but to revisit and amend as necessary. I look at senators like Senator Albrecht, who sat on the county board, and Senator McDonnell, who worked with the Omaha Fire Department. I am hoping that others will stand that have had experience with strategic plans, understand the importance of changing this language. And again, it is a friendly amendment. And I want to remind you that the average cost for strategic plans is \$17,000 to \$25,000. But in my hand I hold Nebraska's, which cost us \$109,000. So I ask Senator Stinner if he would yield to a question. [LB222]

SPEAKER SCHEER: Senator Stinner, would you please yield? [LB222]

SENATOR STINNER: Yes, I will. [LB222]

SENATOR BLOOD: Would you consider this a friendly amendment, Senator Stinner? [LB222]

SENATOR STINNER: I hope so. You and talked a little bit before, but I had a hearing in Revenue, so I was running back and forth. I have not had a chance to take a look at the amendment, and I apologize for that. I just got back. What was discussed with me was that you wanted to change the word "shall," which directs them to do a strategic plan, to "may." And in my estimation, that changes really the directive of what I wanted to get done with the people who had worked on this, and the people in the industry. We want them...we want to direct them to get a strategic plan done and, obviously, I also agree with you it has to be a living document that continues to evolve and change as the industry does. But I think this bill...after I discussed it with industry people and everybody that has looked at it thought that this could get done what we initially wanted to get done. So I need to look at your amendment to really kind of...if you are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

changing "shall" to "may," I would say I would be objectionable of that because I think we have to direct them to get this done. [LB222]

SENATOR BLOOD: It actually...what it changes to is exactly what you just said. It's a living, breathing document; and since it is a living, breathing document, it gives them the ability to revisit, to amend, and to change if necessary. And when Mr. Ricks came to my office, I discussed the strategic plan with him, and explained that I would be doing this. And he did not take issue with it. And I think the thing that is really important, again, is that we hired Mr. Ricks at \$102,000. And again, the strategic plan cost \$109,000. Part of being fiscally responsible is understanding how strategic planning works and know that we don't throw the baby out with the bath water. This is an excellent strategic plan that the only thing wrong with it is that staff did not implement it. And with that, I would ask that you consider it a friendly amendment because it does not change the intent. And that we give them the directives that are needed to take the strategic plan that taxpayers paid \$109,000 for and actually implement it, revisit it as necessary, amend as necessary, and let's get our money's worth out of it. Thank you. [LB222]

SPEAKER SCHEER: Thank you, Senator Blood and Senator Stinner. Senator Baker, you are recognized. [LB222]

SENATOR BAKER: Thank you, Mr. President. Members of the body, I rise in support of LB222 and I thank Senator Stinner for bringing that forward. He took care of some issues that I have been aware of for some time. I know it's been...there have been some problems with representation in the district that I represent. And I thank Senator Clements for prioritizing the bill so that it gets a chance to be heard here. I particularly like that the 11 districts representing the geographic areas, diversifying the board. I think this strengthens Nebraska Tourism Commission. With regard to Senator Blood's amendment, I would defer to Senator Stinner as to whether he thinks that would be a good thing or not. Thank you. [LB222]

SPEAKER SCHEER: Thank you, Senator Baker. Senator Clements, you are recognized. [LB222]

SENATOR CLEMENTS: Thank you, Mr. President. I'm standing in support of LB222 and I believe that amendment, FA49, does not hurt the intent of this bill, so I'll support it. I prioritized this because I see that the tourism industry is a major industry in our state and we had a problem with this commission that needed attention. If it didn't get dealt with this year, it might not get dealt with properly after another year went by if it got forgotten. I like the fact that we have the statewide representation. That was another reason I was interested in supporting that, and also to have some business people on the committee...the commission that would look over the finances especially. I am also president of a foundation in Elmwood called the Aldrich Foundation, and

Floor Debate
March 28, 2017

we have received small grants for tourism. We're a very low-budget foundation, and it's helped us quite a bit to help tourism come to our county, to help draw people. And so I think this is a good step to be taking and to improve the effectiveness of tourism in Nebraska. Thank you. [LB222]

SPEAKER SCHEER: Thank you, Senator Baker. Senator Murante, you are recognized. [LB222]

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. I rise in support of LB222 but, respectfully, in opposition of FA49, and I will explain a little bit why. In hearing and in our Executive Session, Senator Blood ably, as she did on her introduction, pointed out the evolution of strategic plans. But the way this amendment is drafted, I believe, goes further than perhaps she intends, and I may ask her a couple of questions. But I'll go over what the law is and what we're changing with LB222. First of all, the law as it exists states that the Tourism Commission shall develop a strategic plan. Fair enough. The law then states what needs to be contained within the strategic plan. That's the existing law. LB222 doesn't change the language about whether or not the Tourism Commission shall develop a strategic plan. That language remains the same. But it makes fundamental changes to what needs to be contained within that strategic plan. And when we change the word "shall develop" to "may review, amend, or replace" provisions of the strategic plan we are making everything that is...all of the mandates that currently exist in statute become permissive. They don't have to do it anymore. They are just suggestions. They don't even have to have a strategic plan if the amendment is adopted. They can abolish it. When you switch from "shall" to "may," all we're doing is taking...what we are telling the Tourism Commission to do is we say, you have to have a strategic plan, the strategic plan has to contain the following items. And that is located on page 8 and 9 of the green copy of the bill, what all needs to be contained within that strategic plan. So it goes beyond simply the...to me what Senator Blood is focused on is the difference between developing a strategic plan and reviewing, amending, or replacing provisions of the strategic plan. And I respect that. I see where she is coming from. In a practical level, I don't think it really makes a difference in how the Tourism Commission is going to operate or going to make decisions. But when you switch the "shall" to a "may," what we're doing is taking a mandate on how the Tourism Commission functions and then gives them the discretion on whether they're going to do it. We are saying all of the things that we're changing, they are merely suggestions. You don't have to do it. You don't want to have a strategic plan anymore? You don't have to a strategic plan anymore. I don't think...would Senator Blood yield to a question? [LB222]

SPEAKER SCHEER: Senator Blood, would you please yield? [LB222]

SENATOR BLOOD: I would gladly yield to a question. [LB222]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR MURANTE: Thank you, Senator Blood. Senator Blood, is it your intent with this amendment to make the policy change that I had suggested in my statement? [LB222]

SENATOR BLOOD: I have to be very frank. I asked for a senior senator's assistance and I was told that the word "may" would be less intrusive than the word "shall," and that I would have a better chance of getting my amendment passed if I switched it to "may." [LB222]

SENATOR MURANTE: Okay. [LB222]

SENATOR BLOOD: So to be quite frank, I would still be open to changing it to the word "shall." The importance for me is that there is an understanding that, again, a strategic plan is a living, breathing document. And we differ on opinions that it's going to change how they run things, because it will because it is the foundation of how they do business. With that said, I think it's important that we don't leave it as is because we're basically saying, hey, you shall have a strategic plan and let's see that in the budget every year or every two years... [LB222]

SENATOR MURANTE: Thank you, Senator Blood. I thank you; I think I understand where you are coming from. I do think that...I don't agree with the assessment that if we continue to leave language in the statute that just says they shall develop a...that they shall develop a strategic plan that that somehow is a mandate for them to develop strategic plans on a regular basis going forward. But if it... [LB222]

SPEAKER SCHEER: One minute. [LB222]

SENATOR MURANTE: ...we aren't changing a law, we aren't changing law. And the bill, as it currently exists, does not change that particular language. It doesn't change the verbiage. Therefore, they don't have to do anything different. If they already have a strategic plan, they don't have to develop a new one, it's just...because we're not amending that particular statute. So I will work with you off the microphone, Senator Blood, and with Senator Stinner to hear what he has to say on the subject. But at the moment, I remain in opposition to FA49. Thank you, Mr. President. [LB222]

SPEAKER SCHEER: Thank you, Senator Murante and Senator Blood. Seeing no one else in the queue, Senator Blood, you are welcome to close on your amendment. [LB222]

SENATOR BLOOD: Thank you, Mr. President. I know sometimes when you are not involved in strategic planning that this just seems like a really simple, do nothing change. But I take issue with giving any department carte blanche and I feel leaving the language that way is exactly

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

what we're doing. I respect my fellow senators and however they choose to vote today, but one of the things that you're going to find that you hear from me a lot is that when we have antiquated language that no longer applies, it's time to change that language. And with that, I ask for your support on AM49...excuse me, I can't see that far...what is the letters in front of my numbers? [LB222]

CLERK: Floor Amendment 49. [LB222]

SENATOR BLOOD: Thank you. FA...I ask for your support. It does not change the intent of the bill in any way. All the good things that are going to happen because of Senator Stinner's hard work are still going to happen. Thank you. [LB222]

SPEAKER SCHEER: Thank you, Senator Blood. The question before us is adoption of FA49. All those in favor please vote aye; all those opposed please vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB222]

CLERK: 10 ayes, 20 nays, Mr. President, on the amendment. [LB222]

SPEAKER SCHEER: FA49 does not pass. Moving back to LB222, seeing no one in the queue, Senator Stinner, you are welcome to close. Senator Stinner waives closing. The question before us, adoption of LB222. All those in favor please vote aye; all those opposed vote nay. [LB222]

SENATOR KRIST PRESIDING

SENATOR KRIST: Please record, Mr. Clerk. [LB222]

CLERK: 32 ayes, 1 nay, Mr. President, on the advancement of the bill. [LB222]

SENATOR KRIST: LB222 advances. Next item. [LB222]

CLERK: LB600, offered by the Agriculture Committee. (Read title.) Introduced on January 18, referred to the Agriculture Committee, the bill was advanced to General File. There are committee amendments. (AM605, Legislative Journal page 714.) [LB600]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Brasch, as the Chair of the Agriculture Committee, you are recognized to open on LB600. [LB600]

Floor Debate
March 28, 2017

SENATOR BRASCH: Thank you, Mr. President, and good afternoon, colleagues. LB600 is brought in conjunction with the Nebraska Brand Committee. On October 14, the Agriculture Committee, then under my predecessor Senator Jerry Johnson, asked the Brand Committee to appear before it to speak to any internal policies, procedures, and controls implemented or contemplated to address or to avoid issues, and implement recommendations identified in an audit of the agency. The committee invited the Brand Committee to offer recommendations regarding any statutory revisions that may be useful in that regard, as well as any other updates to the brand law. LB600 arises from that statutory review and the Brand Committee's efforts to assess changes in policies and staffing to operate the agency. The most significant provision of LB600 is found in Section 4 revising subsection 54-192 of the brand law which prescribes certain staffing requirements of the Brand Committee. Currently 54-192 directs the Brand Committee to employ a director who is designated as the head of the Brand Committee for administrative purposes and is also designated by statute as the chief investigator. LB600 continues the designation of the director as chief executive officer to the agency but adopts permissive language that the director is simultaneously assigned the duties of chief investigator or inspector. The other matter directly addressing an audit issue is found in Section 7, which inserts express authority for the Brand Committee to register brand leases and prescribes a recording fee. The recording of brand leases is a longtime practice of the Brand Committee conducted as implied authority under the Brand Committee's general authority to register brands. In his audit of the agency, the Auditor questioned whether the Brand Committee had sufficient authority to record brand leases and recommend that legislation be sought to codify the practice. LB600 would also repeal the registered dairy program. Currently there are no participating dairies, and the program has not been utilized since its enactment in the year 2000. There have been discussions between the Brand Committee and dairy industry representatives to craft an inspection program to lessen barriers on dairies located within the brand area, and this remains an unresolved matter that the committee may wish to devote attention to as an interim project. The remainder of the bill contains a series of statutory updates and statutory maintenance changes as prescribed in the section-by-section summary of the bill included in the committee statement. I'd be happy to elaborate if there are any questions, but I would like to spend the remainder of my opening by providing some background. In addition to its brand recording and inspection functions, the Brand Committee is a law enforcement agency which enforces violations of the brand law, as well as investigating livestock theft. Subsection 54-192 of the Nebraska brand law prescribes that the Brand Committee shall hire a director who, in addition to being the administrative head of the agency, is also designated chief inspector and chief investigator. Investigators, as defined by the brand law, are state deputy sheriffs with arrest and investigative authorities. The Brand Committee currently employs three field investigators. The Brand Committee has traditionally hired internally, elevating a senior investigator to the director position when an opening occurred. The Brand Committee followed that tradition when longtime director Steve Stanec retired in 2013, naming investigator Shawn Harvey as its director. As I am sure everyone may be aware, the audit of the Brand Committee released last summer found a

Floor Debate
March 28, 2017

series of disturbing lapses in internal procedures and controls within the agency that resulted in failure to adhere to state statutes and the Brand Committee policies in a number of incidences during the audit period. The audit eventually led to Shawn Harvey resigning. In the response to the audit, the Brand Committee assessed that the skill set of persons advanced to the director from the inspector position do not necessarily match the skill set needed to administer a state agency with over 100 full-time and contract employees, and a budget in excess of \$5 million. The Brand Committee emphasized administrative acumen in selecting a new director when Mr. Harvey resigned. The Brand Committee broke with tradition and engaged in a nationwide search for a new director, selecting William Bunce, past-director of the New Mexico Livestock Board, the state agency which oversees brand inspection and the state veterinarian's office in New Mexico. Mr. Bunce began his position in mid-December. While Mr. Bunce brings ample experience as administrator of a state agency that employs law enforcement personnel, Mr. Bunce himself does not possess law enforcement credentials. By virtue of the definition of the term, and I quote, "investigator" in the brand law, his designation as chief investigator is a law enforcement appointment, even though recent directors of the Brand Committee have performed little, if any, direct law enforcement work in the field. The director's duties with respect to law enforcement functions are primary, if not exclusively, supervisory and managerial. (Statute Section) 81-1414 provides that a person assuming a law enforcement appointment who does not possess necessary law enforcement credentials shall have one year from the date of employment to complete certification requirements. This would require Mr. Bunce to enroll in Law Enforcement Training Center in Grand Island for a 16-week training course that begins in August. This would take Mr. Bunce away from overseeing the agency during a critical period for the agency. As I mentioned previously, LB600, as introduced, changed from prescriptive to permissive that the director's duties include acting as chief investigator. The Brand Committee asked for this change for two reasons. First, the Brand Committee would like Mr. Bunce to be able to devote full-time attention to implementing the committee's information technology programs and implementing internal policies to administrative procedures and controls during his first year. They will be moving from a paper office to a more electronically stored data agency. Secondly, the Brand Committee would like to provide flexibility to organize itself administratively. The Brand Committee will be initiating a process this spring to review its staffing needs, particularly staffing to optimize its new information technology program, to reassign supervisory and managerial duties in order to enable the director to concentrate on agency management, to relieve its current investigators of some personnel management duties, to provide additional training and assistance to inspectors, and expand the number of law enforcement... [LB600]

SENATOR KRIST: One minute. [LB600]

SENATOR BRASCH: ...certified personnel. One of the changes contemplated is to name one of three area investigators as chief investigator to supervise and coordinate law enforcement staff,

Floor Debate
March 28, 2017

which position would report to the executive director. Thank you, Mr. President. Thank you, colleagues, for your patience on this important matter. [LB600]

SENATOR KRIST: Thank you, Senator Brasch. And as the Clerk stated, there are amendments, committee amendments. Senator Brasch, you are recognized, as the Chair, to open on AM605. [LB600]

SENATOR BRASCH: Thank you, Mr. President. The committee amendment would retain the brand law that the director shall assume the title and duties of chief investigator, but the amendment provides that the director would have two years to complete certification. A harmonizing revision is made in 81-1414. We agreed, and stakeholder organizations agreed, that it would be beneficial for the committee and the livestock industry that Mr. Bunce not be pulled away from directing the agency over a period of four months while critical IT upgrades are being implemented, and to oversee implementation of any organizational restructuring and internal policies to correct and avoid deficiencies that were uncovered during the audit. While it is not necessary for persons who supervise law enforcement staff and direct an agency's law enforcement program to be certified law enforcement officers, the committee felt that there is still value in the director having direct oversight of the agency's law enforcement activities and staff, and that having law enforcement training would enhance the effectiveness of the director. While the committee was uncomfortable at this time delegating greater discretion in assigning law enforcement supervision to someone other than the director, we do not preclude the Brand Committee from considering changes within its internal organization and staffing that would better utilize Mr. Bunce's administrative skills as well as to improve the committee's operations and service to the industry. The Brand Committee did not come to the hearing prepared to present a reorganizational plan. It was unclear how its law enforcement oversight would be accomplished. It was also evident that the Brand Committee needed to agree with and gain some buy-in from the livestock industry. I encourage the Brand Committee to engage in planning and industry outreach, and perhaps we could consider allowing the Brand Committee greater discretion in staffing assignments if deemed necessary to accomplish improvements on how it organizes itself. The committee amendments also relocate authority for the Brand Committee to record evidence-based brand leases. State Auditor noted that the committee's authority to record brand leases and to collect a recording fee was unclear. Section 7 of LB600, as introduced, amends 54-1,102 by inserting a new subsection (5) to establish express authority for the Brand Committee to collect a filing fee for recording leases of brands. The amount of the recording fee is in current practice. The committee amendment relocates this provision to 54-1,100. That section provides that, "Any instrument of writing evidencing the sale, assignment, or transfer of a recorded brand shall be effective upon its recording with the Nebraska Brand Committee." Recording brand leases has been a long withstanding activity and service utilized by the industry and thought to be an implicit authority of the Brand Committee under this section. In addition to relocating the brand lease recording authority to place it in more logical context with the brand

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

law, the amendment reconciles the conflict with the current fee and with the fee provisions that is already in that section. And finally, the committee amendment inserts into 54-191 express dates for the beginning and end of terms of the Brand Committee. (Statute Section) 54-191 establishes the Brand Committee designates its membership and method of selection. LB600 strikes obsolete text inserted by LB422, enacted in 2007, that made changes to the makeup of the committee. The stricken text facilitated the transition to the new membership but no longer serve any function. Prior to LB422 in 2007, 54-191 did not designate when the Brand Committee terms began or ended. By tradition, and likely due to August 28 being by chance the date that the first employments...appointments to the Brand Committee were completed, the Brand Committee terms have begun on August 28. The committee amendments will codify the current practice. Thank you, Mr. President. And thank you, colleagues. [LB600]

SENATOR KRIST: Thank you, Senator Brasch. I understand there is an amendment to the committee amendment. Mr. Clerk. [LB600]

CLERK: Thank you, Mr. President. Senator Brasch would move to amend with AM613. (Legislative Journal page 716.) [LB600]

SENATOR KRIST: Senator Brasch, you're recognized to open on your amendment. [LB600]

SENATOR BRASCH: Thank you once again, colleagues and Mr. President. As revised in AM613, the revisions accomplish the purpose of the committee amendment in a manner that avoids the need to place a special exception for the Brand Committee within 81-1414. The committee amendment retains that the director assumes the title of chief investigator upon date of hire but provides an exception to the provisions of 81-1414 that would otherwise require the director to obtain certification within one year. A harmonizing revision to 81-1414 in the committee amendment is made by the insertion of a new Section 13 to the bill. As revised by AM613, the director shall assume the title of chief investigator but provides that if a director lacks law enforcement certification at the time of hire, he or she will have two years to complete such certification but only assumes the actual title of chief investigator upon completion of the certification. Thus, the committee amendment, as amended by AM613, would avoid any actual conflict with Chapter 81, Article XIV, because the director does not assume a title that by definition in 54-182 is a law enforcement commission until such time as the director meets the associated qualifications. Thus, the exception within 81-1414 inserted by the committee amendment becomes unnecessary. Please keep in mind that even if the title of chief investigator, the director is not anticipated to be utilized as an officer in the field. In the process of writing the committee amendments, my office had conversations with Mr. William Muldoon of the Law Enforcement Training Center who stated in an e-mail exchange that if the director's tasks with respect to the agency's law enforcement functions were confined to supervisory and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

administrative functions then he would not fall within the requirements of a law enforcement officer, pursuant to Chapter 81, Article XIV. Quoting Mr. Muldoon, "It is not necessary for an agency head who conducts administrative tasks for the Brand Committee to be law enforcement certified himself in order to supervise its law enforcement inspectors. Only when considering 54-182 do I see an issue. If he were acting as a law enforcement officer enforcing laws, stopping and inspecting vehicles on the road, then I would see by his actions that he should be fully certified. If in an office performing traditional administrative duties, I don't see that as a requiring certification." Please note that the committee amendments provides that during the period before the director obtains necessary certification, the director's duties shall not be within the authority of a chief of a deputy sheriff commission. And in other words, he won't be out making arrests, executing searches, or making highway stops. That provision is not affected by AM613. Colleagues, I would encourage you the adoption of AM613 and the committee amendments as amended for the advancement of LB600. The bill was advanced out of committee with all members in favor of this bill. Thank you, Mr. President and colleagues. Please vote green for the amendments and the bill. [LB600]

SENATOR KRIST: Thank you, Senator Brasch. Colleagues, you've heard the opening on AM613 and AM605 and LB600. Floor is now open for debate. Senator Erdman, you are recognized. [LB600]

SENATOR ERDMAN: Thank you, Mr. President. Good afternoon, Nebraska. I was wondering if I could ask Senator Brasch a question or two. [LB600]

SENATOR KRIST: Senator Brasch, will you yield? [LB600]

SENATOR BRASCH: I will yield. [LB600]

SENATOR ERDMAN: Senator Brasch, I see in the amendment, AM605, it says in there that one can lease a brand. Has the provision ever been before in statute? [LB600]

SENATOR BRASCH: I am going to refer to my counsel, but I believe it has been. It is a typical practice that has been in place where a family member or one may be holding cattle for a period of time,... [LB600]

SENATOR ERDMAN: Well, in the green copy... [LB600]

SENATOR BRASCH: ...if my memory serves me correctly. [LB600]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR ERDMAN: Okay. But in the green copy, it shows that area underlined, which means new language. Is that correct? [LB600]

SENATOR BRASCH: It would. [LB600]

SENATOR ERDMAN: Okay, that...the leasing part... [LB600]

SENATOR BRASCH: Our discussion...okay. [LB600]

SENATOR ERDMAN: ...is underlined, so my question is this. So I lease from Senator Chambers his brand for one year. I brand my cow. Then Senator Chambers' lease is up on his brand. Five years later I go to sell my cow in town and the sale barn inspector examines my cow and finds that it has Senator Chambers' brand on it, and I have no longer the lease on the brand. Whose cow is it? [LB600]

SENATOR BRASCH: Would that be the cougar brand you're leasing? (Laugh) [LB600]

SENATOR ERDMAN: You see what I'm saying, that leasing the brand... [LB600]

SENATOR BRASCH: All right. [LB600]

SENATOR ERDMAN: ...doesn't make any sense to me. But anyway, colleagues, just as I read through that, that's an unusual provision that I've never seen before. A brand can be leased for a period of time and it says not to exceed the expiration date of the brand, but it doesn't make any sense. So then once you have leased that brand and it no longer is yours in a leasing form, then you have to sell your cows? I mean, this doesn't make any sense why you'd want to lease a brand. So maybe Senator Brasch can look that up and give me the answer. Thank you. [LB600]

SENATOR KRIST: Thank you, Senator Erdman and Senator Brasch. There is no one else in the queue. Would you like to answer Senator Erdman's questions or would you like to close on AM613? [LB600]

SENATOR BRASCH: I believe I will have my staff show him the answer as it has been there in the past. It's reinserted into a different section, and we do have a sheet of a complete explanation that I believe I've spent a lot of time reading here. So if he would oblige me, we'll address him directly. And I will waive closing. [LB600]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR KRIST: Okay. Thank you, Senator Brasch and Senator Erdman. Question before you is the adoption of AM613. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB600]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB600]

SENATOR KRIST: AM613 is adopted. Seeing no one else in the queue, Senator Brasch, you're recognized to close on LB600. Senator Brasch waives closing. The question is the adoption of AM605. All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LB600]

CLERK: 36 ayes, 0 nays on adoption of committee amendments. [LB600]

SENATOR KRIST: AM605 is adopted. Seeing no one in the queue, Senator Brasch, you're recognized to close on LB600. Senator Brasch waives closing. The question is advancement of LB600 to E&R Initial. All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LB600]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB600]

SENATOR KRIST: LB600 advances. Next item. [LB600]

CLERK: LB263, offered by the Transportation and Telecommunications Committee. (Read title.) Bill was introduced on January 11, referred to the Transportation Committee, the bill was advanced to General File. There are committee amendments, Mr. President. (AM538, Legislative Journal page 716.) [LB263]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Friesen, once again as the Chair of Transportation and Telecommunications, you are...want to open on LB263. [LB263]

SENATOR FRIESEN: Thank you, Mr. President. LB263 was introduced by members of the Transportation and Telecommunications Committee and was designated by the committee as one of the committee's 2017 committee priority bills. When we move to the standing committee amendment, you will see that the committee also incorporated several other bills for consideration as well. LB263 was heard on February 7. There were no opposition to the bill. As legislation that was requested by the Department of Motor Vehicles and the bill is part of the ongoing process that revises the existing statutory provisions as a part of the DMV's project to implement a new vehicle titling and registration computer system. That system is under development and will be operational in the next couple of years. The primary change proposed

Floor Debate
March 28, 2017

by the bill is the authority granted to the department to implement an electronic dealer services system. This will be a voluntary option for licensed dealer, as well as for individuals purchasing vehicles. The dealer services system would allow a vehicle dealer to provide titling and registration services when a vehicle is purchased. Again, this is a voluntary service on the part of the dealer as well as the customer. If a customer chooses, they will still be able to title and register vehicles at the county treasurer's office. The committee amendment adds language providing that a dealer may charge a fee of up to \$50 to provide this voluntary service to their customers. LB263 also changes from the 15th of the month to the 20th of the month when counties are to deposit title fees with the State Treasurer, and from the 25th of the month to the 20th of the month when registration fees must be deposited with the State Treasurer. Also, a vehicle owner may have the address noted on the registration updated prior to the expiration of the registration period. LB263 also authorizes all categories of license plates to be delivered through the U.S. mail rather than requiring the plates to be picked up at the county treasurer's office. In addition, it provides that a vehicle with tax situs in Nebraska can be issued a title and registration by any county in the state. Mr. President, that would conclude my introduction on LB263 as the bill was introduced by the committee. I would be happy to take any questions. Otherwise, I will move on to an explanation of the standing committee amendment. [LB263]

SENATOR KRIST: Senator Friesen, please continue--there is no one in the queue--with the committee amendment. [LB263]

SENATOR FRIESEN: The committee amendment was AM538. The committee amendment makes the following additions to the bill: number one, provides that the owner of a vehicle over 30 years old, which has not been issued a title, may apply to the DMV for a title when the vehicle has had no major component part replaced and the department records show no title has previously been issued; number two, amends the provisions of LB54 as introduced into the bill. This is Senator Schumacher's bill that updates the Rules of the Road requirement regarding parked vehicles. The section is amended to exclude any vehicle equipped with keyless ignition from the duty to lock and remove the key from the ignition when parked. Number three, amends the provisions of LB70 as introduced by Senator Pansing Brooks, sections related to the offense of driving during a period of license revocation. The amendment provides that an individual, when convicted of a first-offense driving on a revoked license, may at the court's discretion avoid an additional one-year period of revocation. Number 4, the provisions of LB143 are added through the amendment. Last year, the Legislature authorized a public power district license plate. The amendments clarify where registration certificates are to be kept at the headquarters of the power district and allows any current class of trailer owned by the power district to be registered with the public power district license plates. Number 5, amends the provisions of LB294 into the bill. This is Senator Smith's bill which authorized the director of Motor Vehicles, at the discretion of the director, to enter into reciprocal agreements with foreign countries for the mutual recognition and reciprocal exchange of operator's licenses. Number 6, amends provisions

Floor Debate
March 28, 2017

of LB460 into the bill. This is Senator Smith's bill that addresses the regulation of transportation services provided by the Department of Health and Human Services. All of the legislation that had been incorporated into the committee amendment had no opposition at the public hearing on the bill except for this one. The regulated transportation companies did appear at the public hearing and opposed this bill in part. Since the public hearing, there's been discussion with transportation service providers, Senator Smith, and DHHS, and an amendment has been drafted that all parties are in agreement upon. When the amendment is considered, there will be further discussion on this portion of the committee amendment. Number 7, amends the provisions of LB164 into the bill. This is Senator Geist's bill that amends a number of provisions related to vehicle titling and registration and eliminates the use of the defined term "cabin trailer," clarifies disqualification of commercial driver's license, allows motor vehicle accident reports to be transmitted electronically, and it provides that title and registration records for all-terrain vehicles, utility vehicles, snowmobiles, and minibikes shall be handled in the same manner as other motor vehicles. Number 8, amends the provisions of LB483 into the bill. This is Senator Hilgers' bill that provides for the purpose of granting or denying a petition for intervention in a matter before the Public Service Commission. The commission shall be exempt from the provision of the Administrative Procedures Act related to intervention. Amends the provision of LB418 into the bill. This is Senator Briese's bill, which is the annual update of references to federal law and regulations that have been incorporated into state law. All references have been updated to those provisions of law that were in existence and effective on January 1, 2017. And finally, item 10, amends the provisions of LB459 into the bill. This is the Senator Smith's bill that amends the provisions of the One-Call Notification (System) Act. Clarification is made regarding the State Fire Marshal to certify the one-call center. Most significantly, it provides that the Fire Marshal, in concert with the state one-call board, may adopt regulations that prescribe the best practices to be followed and by underground facility operators and excavators for marking, locating, and providing notification of proposed excavation subject to this act. These are the various component bills added through the committee amendment. As I mentioned earlier, all of the bills being added through the amendment were not opposed at public hearing with the exception of LB460, and there will be an amendment which follows that addresses the opposition that was raised on that bill at its public hearing. I would also note, there are no provisions of law repealed outright by the committee amendment. This concludes the opening of my committee amendment, Mr. President, and I would be happy to take any questions. [LB263 LB54 LB70 LB143 LB294 LB460 LB164 LB483 LB418 LB459]

SENATOR KRIST: There is no one in the queue, Senator Friesen. Senator Friesen, did you...I'm sorry, Senator Vargas, you are recognized. [LB263]

SENATOR VARGAS: Thank you very much. I just had a question, Senator Friesen, if you would yield. [LB263]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR KRIST: Senator Friesen, will you yield? [LB263]

SENATOR FRIESEN: Yes, I would. [LB263]

SENATOR VARGAS: This is just to get a little bit more clarification on LB460, to Senator Smith's bill, or a part of the amendment package. Could you tell me a little bit about why the management of these routes has been changed from one agency to another, to HHS, or if you could speak to that? [LB263 LB460]

SENATOR FRIESEN: I would wish that Senator Smith was here. He was more involved with that, but from my understanding during the discussion, during the committee, there was a need for transportation providers to have more options. So I don't know the details of how they are relegating that, but I do know this opens it up to other transportation companies to serve as transportation for individuals dealing with Health and Human Services. [LB263]

SENATOR VARGAS: Okay. The reason why I ask is because I know there is an audit conducted by...in 2006 by our Auditor and there was some question around the adequate management of our transportation brokers and whether or not it should even live within HHS. So that's the reason why I was asking that question. I didn't know if you had the answer. I will go talk with Senator Smith. But I appreciate that. [LB263]

SENATOR FRIESEN: I think I would rather have Senator Smith address your question rather than me trying to address it. [LB263]

SENATOR VARGAS: Of course. Thank you very much. [LB263]

SENATOR KRIST: Thank you, Senator Vargas and Senator Friesen. Senator Bostelman, you are recognized. [LB263]

SENATOR BOSTELMAN: Thank you, Mr. President. I would like to speak in support AM538. AM538, which is included here, pertains to applying for obtaining a certificate of title. I have worked with the Department of Motor Vehicles on this amendment to help create more streamlined process and solution for individuals and car enthusiasts who struggle to search or apply for a certificate of title for certain vehicles. This amendment includes a provision to help streamline the process for searching for and/or applying for a certificate of title for a vehicle manufactured more than 30 years prior to the application which has not had any major component parts replaced. This amendment also provides a process for vehicles which have not had a certificate of title issued and designates a fee for doing so. This amendment is intended to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

aid those individuals who are car enthusiasts and who acquire or work on assembling antique and classic motor vehicles by providing such individuals a more straightforward process for searching for or applying for a certificate of title. Currently the process for searching for or obtaining a title is very laborious and at times unclear. This amendment streamlines the process and sets out a fee of \$25 for each title application which shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. I rise in support of these provisions, this amendment, and the underlying bill. Thank you. [LB263]

SENATOR KRIST: Thank you, Senator Bostelman. Senator Crawford, you are recognized. [LB263]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of LB263. My main questions and concerns were related to LB460, which is a part of the committee amendments. And I have heard in Senator Friesen's statement on the amendment that there is an amendment coming on that bill that will change those provisions. So I'm just rising, for the record, to say that I'm concerned to make sure that as that bill...that section of the bill is amended, that we are sure that we have careful oversight and attention to this nonemergency Medicaid transportation. And so that is my concern is to make sure that we have a strong oversight of that and both the Public Service Commission and the department have roles to play in making sure that happens. My understanding, from speaking to legal counsel, is that there have been conversations between carriers and the Public Service Commission and the Department of Health and Human Services coming together to agree on the best structure for that. And as this bill is on Select File, I will be watching for that amendment and wanting to make sure that we do have careful oversight and attention to the transportation for these, some of our most vulnerable citizens, who need access to care, and need to make sure we have efficient and effective transportation for them to make sure they can get that care. And so with the caveat that those provisions will likely be changed in Select File, I intend to support this bill through General File and be watching for those provisions when LB263 reaches Select File. Thank you, Mr. President. [LB263 LB460]

SENATOR KRIST: Thank you, Senator Crawford. Seeing no one else in the queue, Senator Friesen, you are recognized to close on AM538. [LB263]

SENATOR FRIESEN: Thank you, Mr. President. And there will be an amendment coming and we will...once that is brought forward, we will put it on, on Select File, and I look forward to working with anyone that has a problem. So thank you, Mr. President. [LB263]

SENATOR KRIST: Thank you, Senator Friesen. You have heard the closing on AM538 to LB263. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB263]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

CLERK: 34 ayes, 2 nays, Mr. President, on the adoption of committee amendments. [LB263]

SENATOR KRIST: AM538 is adopted. Mr. Clerk. [LB263]

CLERK: Mr. President, Senator Bostelman had printed AM156, but I have a note, Senator, you wish to withdraw that amendment at this time. [LB263]

SENATOR BOSTELMAN: That is correct. [LB263]

CLERK: I have nothing further on the bill, Mr. President. [LB263]

SENATOR KRIST: Without objection so ordered. No one else is in the queue. Senator Friesen, would you like to close on the bill? Senator Friesen waives closing. The question is the advancement of LB263 to E&R Initial. All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LB263]

CLERK: 32 ayes, 2 nays, Mr. President, on the advancement of LB263. [LB263]

SENATOR KRIST: LB263 advances. Next item. [LB263]

CLERK: LB625 is a bill by Senator Larson. (Read title.) The bill was introduced on January 18, referred to the Urban Affairs Committee, advanced to General File. There are committee amendments pending, Mr. President. (AM224, Legislative Journal page 631.) [LB625]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Larson, you are recognized to open on LB625. [LB625]

SENATOR LARSON: Good afternoon, colleagues; and thank you, members. LB625, relating to the Property Assessed Clean Energy Act, expands the creation of the clean energy district by providing an option for counties to participate. In 2016, the Legislature passed and the Governor signed LB1012 into law. LB1012, sponsored by former Senator Mello and heard last session by the Urban Affairs Committee, created the Property Assessed Clean Energy Act authorizing PACE financing in Nebraska. PACE allows owners to finance energy efficient project improvements with a fixed-rate, long-term loan repaid in the form of special assessment on the improved property. In order to use PACE, a city must pass the ordinance established by a PACE district and structured under the PACE program as administrated. LB1012 was passed last session with input from the League, city of Lincoln, bankers, LIBA, and PACE Sage LLC, and

Floor Debate
March 28, 2017

Renovate America. Nebraska is 1 of more than 30 states that have adopted PACE legislation. The primary reason I introduced LB625 was to ensure that PACE financing would be accessible beyond city limits and available to Nebraska's farmers, ranchers, and agribusinesses as well. As introduced, LB625 allows counties to approve resolutions authorizing PACE financing within a county, but not within city limits, thereby leaving that authority to cities. Furthermore, agricultural property is added to the definition of eligible property. As drafted for introduction, we heard from stakeholders who suggested other changes intended to improve the mechanics of PACE. Three of those suggestions were incorporated and introduced in LB625. First, the requirement for ongoing measurements of energy savings is stricken. This collection of data will serve as an unnecessary, ongoing cost and burden for property owners. Second, lenders for commercial PACE loans would be permitted to collect annual assessments directly from property owners with the approval of the city or county. And third, annual reporting requirements for local governments are simplified. LB625 was introduced. Discussions with stakeholders have led to consensus around a couple of additional changes which are in the committee amendment. As mentioned by...as mentioned...Senator Wayne will mention the amendment strikes definition of agricultural equipment from page 4, lines 3 and 4. The existing definitions of eligible energy efficiency improvements are expected to cover potential ag-related issues. AM224 also clarifies a city's PACE district may include its ETJ and the county's PACE district may not include territory within the city's ETJ. Finally, AM224 provides that there is the direct collection of the annual assessment for commercial PACE loan; then the lender will be required to notify the local government within three business days of any delinquency. This last change will allow for the city or county to meet the obligation to file a lien within 14 days of the annual assessment becoming delinquent. It is my understanding that a handful of cities are considering the adoption of PACE ordinances within the next several months, if not weeks. I also understand that the commercial real estate developers projects within Omaha, La Vista, Papillion, Lincoln, and Grand Island are actively considering PACE financing. While the PACE Act was enacted in 2016 provides adequate framework for establishing PACE program, the changes offered in LB625 and committee amendments, AM224, offer important improvements to PACE that will increase eligibility and efficiency of PACE financing in Nebraska. I would like to thank the Urban Affairs Committee for prioritizing this important piece of legislation and ask for your support in the advancement of LB625 to Select File. Thank you, Mr. President. [LB625]

SENATOR KRIST: Thank you, Senator Larson. As the Clerk stated, there are committee amendments from the Urban Affairs Committee. And, Senator Wayne, as the Chair, you are recognized to open on your committee amendment. [LB625]

SENATOR WAYNE: Thank you, Mr. President, and good afternoon. Members of the Legislature, this committee amendment, AM224, makes several changes to the green copy of the bill to address the concerns that were brought to Senator Larson by the League of Nebraska Municipalities and the State Bankers Association. First, the amendment strikes the language

Floor Debate
March 28, 2017

regarding the installation, replacement, and modification of agriculture machinery. Second, the amendment clarifies that municipalities are the political subdivisions with the authority to create PACE districts within the extraterritorial jurisdiction and the counties are prohibited from creating PACE districts in the ETJ. Third, the amendment requires that any third-party lender that collects annual assessments directly from the owner of the qualifying property notify the municipality within three business days if any annual assessment becomes delinquent. I ask for your support on adopting AM224. And thank you, Mr. President. [LB625]

SENATOR KRIST: Thank you, Senator Wayne. The floor is now open for discussion. Senator McCollister, you are recognized. [LB625]

SENATOR McCOLLISTER: Thank you, Mr. President; good afternoon, colleagues. I became aware of this bill just recently and some of the issues therein. Would Senator Larson yield to a few questions? [LB625]

SENATOR KRIST: Senator Larson, will you yield? [LB625]

SENATOR LARSON: Yes. [LB625]

SENATOR McCOLLISTER: Thank you, Senator Larson. It is my understanding that the way this bill is drafted, that a county would simply send out this assessment on a single taxpayer's property tax statement. Is that correct? [LB625]

SENATOR LARSON: If they require...if they've gotten a PACE loan, I think so, yes. [LB625]

SENATOR McCOLLISTER: I think that the NACO objection is that they would...it would require major changes in the software in order to comply with this request. And I think what NACO is suggesting, as this bill moves forward, that we consider sending out a separate tax statement for this assessment. Would you be agreeable to that kind of change? [LB625]

SENATOR LARSON: Senator McCollister, NACO is objecting to something that's in current law. They did not come to the testimony last year. They did not participate in LB1012 which was passed last year, which you voted for, as did many of the members of this body. So, you know, as working through the stakeholders of this, they did not participate last year in the process. [LB625]

SENATOR McCOLLISTER: Thank you. [LB625]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR LARSON: And many of the stakeholders are opposed to...to what NACO is attempting to do. So if they wanted a change, they should have participated last year when this was passed. [LB625]

SENATOR McCOLLISTER: Thank you, Senator Larson, thank you very much. I would suggest that they aren't philosophically opposed to this bill, not at all. They simply need to have a little flexibility in implementing it. And as this bill moves forward, I would hope you would consider that, Senator Larson. Thank you, Mr. President. [LB625]

SENATOR KRIST: Thank you, Senator McCollister and Senator Larson. Senator Wayne, you are recognized. [LB625]

SENATOR WAYNE: Thank you. Throughout this process, we became aware of the issues that NACO presented to us, Senator McCollister. And we talked at great length with them and the Bankers Association and the League of Municipalities. But quite honestly, it is already in statute, and it has been in statute for a year, and we just couldn't come to an agreement. And we believe, at least I believe, and most of the Urban Affairs Committee believes that this is a good thing for people who cannot afford, necessarily, to redo some home improvements that would provide savings. This is a way for them to finance, if they choose to do so. And the mechanism of which it was done by is unique and that's why last year this Legislature overwhelmingly supported it because it gave those people who needed to provide upgrades, residential or commercial, the ability to do so that they might not otherwise have. And all we are doing is doing some cleanup language and extending it beyond the municipalities in the sense that now the counties can do it and some other people can do it. But I think it is important we give all Nebraskans the opportunity and the ability to modernize their home, whether it is a furnace, windows, those kind of things; the same for businesses. So while we tried our hardest to work with NACO, sometimes you can't get an agreement, and the reality is, is this has already been on the books for over the year, which again, most of this Legislature, if not all here today, have supported in the past. We think it is a good bill. We think it modernizes our ability to have commercial and residential be able to provide financing to get things done. And with that, I would urge you to support the amendment and the underlying bill. [LB625]

SENATOR KRIST: Thank you, Senator Wayne. Seeing no one else in the queue, Senator Wayne, you are recognized to close on AM224. Senator Wayne waives closing. The question before you is the adoption of AM224 to LB625. All those in favor, aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB625]

CLERK: 31 ayes, 0 nays on adoption of committee amendments. [LB625]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR KRIST: AM224 is adopted. Seeing no one in the queue, Senator Larson, you are recognized to close on your bill. [LB625]

SENATOR LARSON: Thank you, Mr. President. I will be short. To accommodate what NACO wants would cause a breakdown amongst the rest of the stakeholders, including the bankers, those that are offering the PACE financing, and a number of other interested individuals, as well as if we did what NACO wants, it is my understanding, on a residential level we would be violating federal law. So, what NACO wants isn't necessarily feasible; nor can we do it. So I would urge the body to advance LB625, and we can continue moving on this PACE financing for counties. Like I said, cities already have it. This will allow our agricultural producers that want to use this type of financing for whatever agriculture, whether it is pivots, whether it is equipment, or anything of this...of that nature, will be able to use this for their land. And I think that's good for the Nebraska agricultural industry. Thank you, Mr. President. [LB625]

SENATOR KRIST: Thank you, Senator Larson. The question is the advancement of LB625 to E&R Initial. All those in favor, aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB625]

CLERK: 36 ayes, 0 nays on the advancement of the bill, Mr. President. [LB625]

SENATOR KRIST: LB625 advances. Do you have any items, Mr. Clerk? [LB625]

CLERK: I do, Mr. President, thank you. Enrollment and Review reports LB88 to Select File with E&R amendments attached. And a confirmation report from Health and Human Services Committee, signed by Senator Riepe. That's all that I have. (Legislative Journal page 832.) [LB88]

SENATOR KRIST: Thank you, Mr. Clerk. Next item.

CLERK: Mr. President, LB289, a bill by Senator Pansing Brooks relating to crimes and offenses. (Read title.) Bill was introduced on January 11, referred to the Judiciary Committee. The bill was advanced to General File. I do not have committee amendments. I do have other amendments to the bill, Mr. President. [LB289]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Pansing Brooks, you're recognized to open on LB289. [LB289]

Floor Debate
March 28, 2017

SENATOR PANSING BROOKS: Thank you, Mr. President. Members of the body, I am proud and grateful to open today on LB289, which will better protect victims of human trafficking and bring justice to those who engage in this abhorrent practice. The United Nations defines human trafficking as the recruitment, transportation, harboring, or receipt of persons by improper means, such as force, abduction, fraud, or coercion, for an improper purpose, including forced labor or sexual exploitation. The human trafficking of women, men, and children for sexual or labor purposes is the epitome of our modern-day slavery. Lucretia Mott said, quote: I have no idea of submitting tamely to injustice inflicted either on me or on the slave. I will oppose it with all the morals with which I am endowed. I am no advocate of passivity. Like Ms. Mott, I also am no advocate of passivity. That is why I come before you today to ensure that we send this strong message to those who engage in trafficking. Nebraska will no longer tolerate your inhuman violations of our people. And your punishment will reflect the heinousness of your actions. We must do everything we can to stop this continued sale and abuse of human flesh. While it seems impossible to most that Nebraska...to most Nebraska citizens to believe that human trafficking is present in Nebraska, facts clearly show the contrary. Law enforcement agencies agree that the existence of Interstate 80, coupled with Internet sex advertising and the proximity of the casinos across the river, makes Nebraska especially vulnerable to human trafficking. There's plenty of evidence that trafficking is a common occurrence at events like the College World Series, Nebraska football weekends, the State Fair, and even the annual Berkshire Hathaway shareholders meeting. Because human trafficking takes advantage of a reusable commodity--just think of that, human flesh as a reusable commodity--it is a very profitable criminal activity, second only to drug trafficking. When I came to Nebraska...the Nebraska Legislature, human trafficking quickly became a top priority for me. I have been aware of this issue of human trafficking due to the work of our daughter Avary, who led a human trafficking group at Lincoln Southeast High School for four years. After being sworn in, I met with Attorney General Doug Peterson, who asked me to sign on to the human trafficking bill being carried by now-Speaker Scheer. After that, I attended national conferences which were focused on stopping trafficking within states rather than federally. At those conferences, Attorney General Peterson and I agreed that we need to...what we need to do was to initiate a sea change of understanding about the issue of human trafficking. We needed to start helping people understand that those being arrested for prostitution in human trafficking cases were actually victims, and what we needed to do was to stop the supply and demand. Last year we made significant progress toward protecting victims of trafficking through the passage of LB843--my bill to grant legal immunity from prostitution charges to any person proven by law enforcement to be a victim of labor or sex trafficking. This bill, which the Legislature passed without opposition, was an important step in establishing and clarifying that human trafficking victims are victims and not criminals. Law enforcement had had trouble getting victims to report on their traffickers because they had been treated like criminals and had only had their traffickers to depend on to release them from jail. With only minor penalties being imposed on the traffickers, the victims had very little incentive to report on the traffickers to law enforcement. Last year in Judiciary a young woman testified

Floor Debate
March 28, 2017

that she had been arrested 156 times and her trafficker had never been arrested, nor, to her knowledge, any of the purchasers and solicitors. That brings us to LB289, this year's bill which deals with our second goal--stopping the supply and demand. Under current law, most individuals convicted of human trafficking offense may receive light sentences, including only probation. Under current law, something so minimal as probationary level findings can be imposed upon those guilty of trafficking a minor and trafficking an adult with use of threat or force. Can you imagine that? Someone trafficking a minor for commercial purposes and being penalized with probation? When you consider the horrors of this crime, probation is nothing more than a slap on the wrist. LB289 imposes tougher sentences on both traffickers and solicitors, i.e., the purchasers of trafficking victims, by increasing the felony classifications for an array of offenses. I have handed out a fact sheet put together by the Women's Fund and their partners that compares the current and proposed regulations and the possible penalties now and what would happen under LB289. I will go through a few of these. LB289 increases felony classifications for sex trafficking of a minor from IIA to class...Class IIA to Class IC; trafficking of a minor with use of threat of force from Class II to a Class IB; trafficking an adult with use of threat of force from Class IIA to Class ID; and trafficking of an adult from a Class III to a Class II. In addition, pandering goes from a Class III to a Class II in order to remain consistent with other charges and reduce the ability to plead down. Solicitation of a trafficked adult goes from no regulation to a Class II. The change in classifications would result in convicted traffickers being sentenced to at least one year in prison and, for the most egregious offenses, up to life in prison. We have thought long and hard about the seriousness of these penalties. We have not made the decisions lightly or in a vacuum. I have spent clearly most of my time in the Legislature working hard to avoid increasing penalties in most instances. However, we are not talking about nonviolent drug crimes which are currently clogging our prisons. We are talking about one of the most heinous crimes, short of murder, to be imposed on a victim. In addition, to continue our work to recognize victims, LB289 also establishes that victims of trafficking cannot be prosecuted as participants in other's trafficking ventures. This is because many of the victims are also forced into recruiting others into the trade. We want to make sure that those additional victims are recognized, defined in statute as victims, and given proper and full protections. Additionally, the bill aligns Nebraska with federal law which defines the crime of solicitation of a minor as sex trafficking. These increased penalties are important because every month 900 individuals are sold for sex, often multiple times in Nebraska, according to the most recent report from the Women's Fund of Omaha titled "Commercial Sex Market in Nebraska." This report shows that human trafficking is a statewide problem with victims coming from all races. One thing that struck me was the high number of African American victims. While African Americans represent 5 percent of our population in Nebraska, they make up half of all the individuals sold for sex in this state. Also, one out of every ten individuals sold for sex in the state are too young to buy alcohol, yet buyers are purchasing them for sex. Human trafficking is a violent crime. We heard sickening and heartrending stories at the hearing on this bill. Sexual abuse at a young age sets these young women and men up for prostitution by desensitizing them

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

from the experience. They come to believe that this is the sum total of their value and that this is what is expected of them. Statistics tell us that the average age when a child is first commercially sexually exploited is 13, 13, colleagues. Another excellent survey of the report funded by the Women's Fund has been completed by two Nebraska professors, Sriyani Tidball and Dr. Shireen Rajaram, called "Nebraska Sex Trafficking Survivors Speak: A Qualitative Research Study." The Omaha World-Herald ran an editorial on...in February backing LB289, saying, quote:... [LB289]

SENATOR KRIST: One minute. [LB289]

SENATOR PANSING BROOKS: ...The coercion of young adults and children into prostitution is an especially abhorrent crime. In addition to testimony at our LB289 hearing, we also heard from academic experts, members of faith-based community, child advocates, law enforcement officials, those who want to provide services to victims of trafficking, and others who support the bill. Want to again thank them from the bottom of my heart for showing up and telling their stories. I especially want to thank Attorney General Peterson for his determination and vision in helping Nebraska make this change to our law. LB289 has the potential to save countless people from the tragedy and horrors of human trafficking. And I have an amendment that will come later on. It's filed after some other things that are going on here where I have worked with Senator Chambers on his concerns about the consecutive nature of the...of the crime, and so we've taken out that the penalties can be imposed consecutively. And we also took out "recklessly" in one of the provisions of the definition. [LB289]

SENATOR KRIST: Time, Senator. [LB289]

SENATOR PANSING BROOKS: Thank you so much, Mr. President. [LB289]

SENATOR KRIST: Thank you, Senator Pansing Brooks. As the Clerk stated, there are amendments to LB289. [LB289]

CLERK: Mr. President, Senator Ebke would move to amend with AM599. (Legislative Journal page 832.) [LB289]

SENATOR KRIST: Senator Ebke, you are recognized. [LB289]

SENATOR EBKE: Thank you, Mr. President. To be clear, AM599 should have been the committee amendment. However, we dropped the ball and sent LB289 out before attaching the amendment to it. So, careful consideration was given by the committee to ensure that the bills that would make up this package--and this is part of the committee omnibus bill--that this

Floor Debate
March 28, 2017

package would be substantially related to one another. This resulted in a much smaller omnibus bill from the Judiciary Committee than we've seen in the past. AM599 would retain all of the human trafficking and sex trafficking provisions of LB289 but would add provisions of the following four bills that are related to violence against women as well: LB178, as amended by AM523, by Senator Bolz, that would provide for the issuance of sexual assault protection orders and provide for appropriate penalties for the violation of such an order. LB178 was heard in committee and saw opposition from the Nebraska Trial Attorneys only. Actually it was neutral...neutral testimony from the Nebraska Trial Attorneys, and their only issue was a desire to standardize the length of a sexual assault protection order with the lengths of other protection orders. The bill advanced to General File, with AM523 attached which fixed those lengths, with a unanimous vote. LB188, and I'm going to have all of the other senators who introduced these bills say a few words about them. LB188, as amended by AM527, by Senator Howard, that bill emerged from committee on a 7 to 0 with 1 not voting vote. That would change provisions related to paternity and parental rights when a parent of the child is convicted of a sexual assault that results in conception of the child. LB188 was heard in committee again and was...received a 7-0-1 vote. The committee amendment, AM527, cleans up references in the bill, ensures gender neutrality in the application of the standards for termination of parental rights, and addresses a concern regarding the effect the stay of a paternity action might have on a child...on child support and the exercise of parental rights. LB191 by Senator Pansing Brooks was a bill that would provide for renewals of domestic violence protection orders. LB191 was heard in committee, saw no opposition, and was advanced to General File without amendment by unanimous vote. And then LB394 by Senator Morfeld that would change provisions relating to the possession of a deadly weapon by a person subject to a domestic violence protection order. LB394 was heard in committee and saw no opposition. It was advanced to General File by a vote of 7-0 with 1 abstaining. An amendment to this amendment, to AM599, has been filed by Senator Morfeld. That would...that would be an amendment that has been negotiated with him with the National Rifle Association folks and other gun owners, and at the appropriate time I would request that it be adopted as well. Again, this package was kept lean in an effort to both ensure we kept the subject matter of each bill substantially in line with one another and to move these important bills forward, given their lack of opposition. If you have any questions, please feel free to ask me or one of the other senators who will hopefully be getting up to give a little more detail on their own bills that were rolled into this committee amendment. [LB289 LB178 LB188 LB191 LB394]

SENATOR KRIST: Thank you, Senator Ebke. (Visitors introduced.) Mr. Clerk. [LB289]

CLERK: Mr. President, Senator Morfeld would move to amend the Ebke amendment with AM786. (Legislative Journal pages 832-833.) [LB289]

SENATOR KRIST: Senator Morfeld, you're recognized. [LB289]

Floor Debate
March 28, 2017

SENATOR MORFELD: Thank you, Mr. President. As Senator Ebke indicated, the purpose of LB394 was to align our state statute with federal statute dealing with domestic violence protection orders and the possession of firearms. This will make our state law conform also with federal law and ensure that people that are being accused of domestic violence and have protection orders against them cannot have possession of a firearm during that time of the protection order. That being said, I wanted us to mirror federal law, and the National Rifle Association brought to my attention that it actually doesn't mirror federal law, that there needs to be a due process requirement so that somebody can get a court hearing and contest this if they would like. I talked to the NRA. I agreed to introduce this amendment, because I talked to some other groups that I was working with and they were also fine with the amendment because, again, it follows federal law. That being said, the NRA was then in support of my amendment and the bill, and so I think that we cleared this up. It will mirror federal law which will make it consistent, and I think that there shouldn't be any other problems beyond that. If you have any questions, I'd be more than happy to answer those. And with that, I'd yield my time to Senator Geist, who also worked with me on this amendment. Thank you. [LB289 LB394]

SENATOR KRIST: Thank you, Senator Morfeld. Senator Geist, you have 8:42. [LB289]

SENATOR GEIST: Yes. Thank you, Senator Morfeld. Thank you. And thank you, Mr. Speaker. And I also rise in support of this amendment. And I do want to thank Senator Morfeld for working with me and to adapt the language to the federal law which allows due process. It also requires notice and an opportunity to appear before the court. So I just appreciate the opportunity we had to work together, and I stand support in his...I stand in support of his amendment and encourage a green light on his amendment. Thank you. [LB289]

SENATOR KRIST: Easy for you to say, Senator Geist. Thank you, Senator Geist and Senator Morfeld. Floor is now open for discussion. Those wishing to speak: Senator Harr, Howard, Pansing Brooks, Morfeld, and Bolz. Senator Harr, you're recognized. [LB289]

SENATOR HARR: Thank you, Mr. President, members of the body. You know, seems like just a couple weeks ago we were sitting around, chewing the fat, talking about how bad mandatory minimums were. Matter of fact, I kind of remember reading an article today in today's World-Herald from a good friend of mine, Newt Gingrich and Grover Norquist. And I tend to agree with them. And yet here we have a bill that takes mandatory...or it takes our sentences and increases them and adds mandatory minimums. I'm not sure I can go with that, not because I don't think these people don't deserve it. I can't imagine a judge in the world who would give probation in this situation. If they did, it would have to be pretty darned extraordinary. And if it was so extraordinary, maybe that's why we don't have mandatory minimums. But here we are. Who wants to stand up for someone who does sex trafficking, who abuses our children? And the

Floor Debate
March 28, 2017

answer is, not me. But this is about principle. We have prisons that are overflowing. We two years ago initiated new legislation that lowered the sentences and we said we got to do something. And we did something. And we said we'd ratcheted up our sentences too much. So we had to take a breath and we had to step back and we reassessed. Well, here we are, folks. This is the first break in the dam. Do we want to start raising sentences? And when you do, where do you stop? What's next? It gets easier and easier. I have no sympathy for people who do what they're accused and convict of. But I do have a problem with these mandatory minimums. I can't support a bill that increases to this level and to this degree. We have a handout from the Women's Fund which shows you, you know, pandering, enticing someone goes from a minimum of one year to a maximum of...well, excuse me, goes from a maximum...minimum of none to a minimum of one year. I can live with that. But then you have sex trafficking of a minor--again, terrible. You can punish that person up to 50 years if they're so bad. But what if they aren't? Well, under this proposed legislation all we do is we don't change the maximum. We just change the minimum. We're up to five years. I don't agree with that. Trafficking of a minor with the use of force or if a minor is under 16, we go from 0--which, again, if you're doing that I can't imagine a judge in the world who would give it--maximum of 20, to a IB, minimum 20 to life. Right? We've gone from a maximum of 20 to a minimum of 20. Where do we stop, folks? Where do we stop? I'm going to listen to the debate here. I'm going to probably be coming with an amendment to eliminate these upgrades in felonies, because while these people are terrible people, and make no mistake, I do believe they are terrible and what they have done is terrible, but we got to do something different. We can't continue to throw people in jail without consequences. Is Senator Pansing Brooks available for a question? [LB289]

SENATOR KRIST: Senator Pansing Brooks, would you yield to Senator Harr for a question? [LB289]

SENATOR PANSING BROOKS: Yes, I'd be happy to. [LB289]

SENATOR HARR: Thank you, Senator. You know, I recall you were someone who got up and testified against mandatory minimums. Is that correct? [LB289]

SENATOR KRIST: One minute. [LB289]

SENATOR PANSING BROOKS: Absolutely. [LB289]

SENATOR HARR: Okay. And how do you justify the increase in mandatory minimums in this bill? [LB289]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR PANSING BROOKS: This isn't an argument, colleagues, about mandatory minimums. This is about setting sentences for a heinous crime. And a child, as you see trafficking of a minor with use of force, we had a story about somebody raped with a hot iron... [LB289]

SENATOR HARR: Okay. Thank you. [LB289]

SENATOR PANSING BROOKS: ..to force them to do what they're supposed to do, and that had no penalty. [LB289]

SENATOR HARR: But...and I'm looking here because I see sex trafficking of a minor, including solicitation, it goes from 1 to 50, to 5 to 50. So all you're doing is raising the mandatory minimum. We are not increasing the amount of time the person has on the top end. We're just raising mandatory minimums, that's it. And yet I hear mandatory minimums are evil, mandatory minimums are bad. Again, my buddy Grover, my buddy Newt, that's what they say. [LB289]

SENATOR KRIST: Time, Senator. [LB289]

SENATOR HARR: Thank you. [LB289]

SENATOR KRIST: Thank you, Senator Harr and Senator Pansing Brooks. Senator Howard, you're recognized. [LB289]

SENATOR HOWARD: Thank you, Mr. President. Good afternoon, colleagues. My bill, LB188, is included in this package from the Judiciary Committee, and I would like to thank Senator Ebke and the members of the committee for including it in AM599. This is a really interesting and odd issue that the body hasn't dealt with since 2009 when we allowed for an automatic termination of parental rights when a child has been raped and another child is conceived therein. I first learned about this issue when I was contacted by a young woman last summer named Noemi who had been the victim of a sexual assault and had given birth to a daughter as a result. And when Noemi applied for Medicaid benefits with the state of Nebraska, they contacted the child's father about making child support payments, which would have impacted her Medicaid eligibility. Once the father was contacted, he requested and received visitation with the child that had been conceived from his sexual assault. Because he is her biological father and there are no protections in the state of Nebraska, the court ordered Noemi to allow her daughter to visit this man and even today he continues to have visitation rights. He's on the verge of getting overnight visitation with his daughter, conceived from a sexual assault. Noemi continues to be forced to co-parent her daughter with the man who raped her. LB188 provides that if a person is convicted

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

of a sexual assault, the victim may ask the court to terminate the parental rights of the perpetrator if it is in the best interests of the child. This is not an automatic termination. This is an avenue for termination for victims. The bill also sets forth that if a person is convicted of any of the above-mentioned crimes, they are not considered part of the family for reunification purposes or granted custody or visitation without the consent of the custodian or guardian. Changes to the green copy of the bill, which you can look at on-line, include clarification that a finding of guilt in a criminal proceeding has no impact on biological findings of paternity in a civil proceeding. It amends the language to maintain gender neutrality. It ensures compliance with ICWA, the Indian Child Welfare Act, and includes first-degree sexual assault. Thirty-four states and the District of Columbia have enacted legislation regarding the parental rights of perpetrators of sexual assault. And I would like to take a moment to--and I know she's not in the room--but to thank Senator Brasch. She introduced a bill earlier this year that was very similar to mine. And after we spoke, she withdrew her bill and has been very supportive of LB188. Again, I would like to thank Senator Ebke and the Judiciary Committee for including LB188 in this amendment. I would urge a green vote on AM599 and LB289. Thank you, Mr. President. [LB289 LB188]

SENATOR KRIST: Thank you, Senator Howard. Senator Pansing Brooks, you're recognized. [LB289]

SENATOR PANSING BROOKS: Thank you. And I think...I thought I was adding my amendment. Do I add the amendment? Oh, okay. Thank you, Mr. President. I'm done. [LB289]

SENATOR KRIST: That was quick. Senator Morfeld, you're recognized. [LB289]

SENATOR MORFELD: Thank you, Mr. President. First, I rise in support of LB289. I also rise in support of the Ebke amendment and obviously my amendment. I think that for all of the reasons that Senator Pansing Brooks brought up, this is a horrific crime. We do not have strong enough penalties for this type of crime. I also believe that Senator Harr does bring up some interesting points about mandatory minimums. And I still am opposed to mandatory minimums, but I think that that's another bill. It's another issue that we need to address. I think that we'll be addressing it fairly soon, maybe on Select File, and it's an issue I will continue to advocate for eliminating. That being said, I'm in support of LB289 and the committee amendments, and I urge you to support those as well. [LB289]

SENATOR KRIST: Thank you, Senator Morfeld. Senator Bolz, you're recognized. [LB289]

SENATOR BOLZ: Thank you, Mr. President. I just wanted to briefly thank Senator Ebke and the Judiciary Committee for including my bill, LB178, into the package. This bill addresses a gap in civil protection orders for victims of sexual assault. Currently we have civil protection orders for

Floor Debate
March 28, 2017

individuals who are survivors of harassment and domestic abuse, but those protection order opportunities would not cover individuals who are the survivors of a sexual assault. LB178 is modeled after existing protection orders, so it aligns with the other protection order statutes. It addresses the gap and it would allow a person who is sexually assaulted the opportunity to file a protection order to keep the alleged perpetrator from communicating with the victim. I think this is good public policy for the protection of individuals and the prevention of sexual assaults. I thank, again, the committee for their support and encourage the body to support LB178 as a part of the package of bills that are moving forward as amendment to LB289. Thank you, Mr. President. [LB289 LB178]

SENATOR KRIST: Thank you, Senator Bolz. Senator Chambers, you're recognized. [LB289]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I was going to wait until these other amendments had been handled one way or another and then talk about the bill in the same vein as Senator Harr. I've talked to Senator Pansing Brooks and let her know that I don't like the bill. Here is what happens. I've been here 42 years. Whatever the fad of the day is, is what will lead people to jump on the bandwagon, not Senator Pansing Brooks. Not saying that nobody was concerned about trafficking, but there was not that much concern. Then when it became popular, as an issue, the only thing that could be done was to create harsher sentences. This is not going to work the way the people who advocate it say that it will. Fifty years is already there on some of these offenses. All that it will do is let prosecutors plea bargain down. That's what you're doing. You're going to let them plea bargain to something entirely different from what they're charged with. You all don't know how the sentencing structure works. And the Attorney General went with this because he knows what the prosecutors will do. In the same way the death penalty is used to coerce confessions, even from innocent people, all the prosecutor has to do is say, I'll charge you with this and we'll let you roll the dice. Is that what you want to do, or do you want to make a deal? And somebody may not have even done anything wrong. This is one of the worst drafted bills I have seen. You know what it would do? There may be some changes. I've told Senator Pansing Brooks I will talk to her and work with her to the extent that I can, but if there are not significant changes I will not support bill. I'm not going to vote to advance it. I don't go to strip joints. I don't think they ought to be, but they are. They're legal. People can do what they want to do when they're adults. Under the literal language of this bill, commercial sex is when you pay somebody or promise to pay them for a sexual act. And that doesn't just mean intercourse, anything that pertains to sex or performance. You go to a strip club. A woman strips or a man strips, and then you put some money in the thong or whatever is there or give it to them. That makes you guilty under this bill of trafficking if the person who is performing is being trafficked. You don't have to know it, and nobody is going to tell you. These places are open. There are practices that take place in these places. The way the law is now, the bill is now, the way it was drafted with the Attorney General, before you have a serious crime, the person has to knowingly and intentionally commit the crime. That is the formula. Under this,

Floor Debate
March 28, 2017

recklessness is criminalized. It's criminalized for very serious new offenses with horrendously steep penalties. You didn't know that somebody was being trafficked. You would not support trafficking. But under the language of this, people who have no knowledge of it whatsoever can find themselves being charged with trafficking. And I'm not going to go through all of the weaknesses that I see in the bill, but I shared them with Senator Pansing Brooks. I was working on other matters and didn't realize that this bill would come up today. There was no opportunity to craft any amendments. But I think the best thing for the bill the way it is now is to kill it. What good would it be... [LB289]

SENATOR KRIST: One minute. [LB289]

SENATOR CHAMBERS: ...to say somebody will go to jail for 3,000 years and you never catch the person you're going to put that heavy sentence on? We who have been here a long time, those who have worked in prosecuting, the criminal justice system, and are not skewed like the current Attorney General and others like him, know that when you throw the sentencing structure out of kilter it's going to mess up in years to come. Earlier it was crack cocaine, horrendous sentences, mandatory minimums. Now even the federal government is saying that was wrong. That's what you're doing here now. So I'm going to oppose it when it gets to Select File. I'm not going to vote for it here. Senator Pansing Brooks says she'll try to make some changes, but I'll stop now and turn on my light. Thank you, Mr. President. [LB289]

SENATOR KRIST: Thank you, Senator Chambers. Senator Pansing Brooks, you're recognized. [LB289]

SENATOR PANSING BROOKS: Thank you, Mr. President. First, I fully support the mandatory minimum reform, but this isn't about nonviolent drug offenses. This is about protecting children in the commercial sex market. And federal law does have an intent element that includes, quote, reckless disregard of fact, unquote. So that is, I believe, synonymous with recklessly. So that's how we got to that point and agreed to it. Now I'd like to give information regarding LB191, which ensures that any survivor of domestic violence may file a petition and affidavit to renew a protection order 30 days before expiration of their previous protection order. We have a problem right now and gap in our laws where survivors of domestic violence benefit from protection orders because it gives...it increases their safety and gives them peace of mind knowing that their perpetrator can suffer legal consequences if they choose to violate the protection order. And survivors often find there's a need for the protection order to go beyond the one-year time frame currently designated by Nebraska Revised Statute 42-924. So under the current law, the protection order must expire before a petitioner can file for a new protection order, leaving the petitioner vulnerable. So what this bill does is allow victims to file for an extension or a new protection order if they are...if they are were worried about the perpetrator being dangerous and

Floor Debate
March 28, 2017

at risk of more domestic violence. So LB191 would adequately close the gap and ensure that there's no lapse for protection order for survivors. Let's see, protection orders are extremely important, as the data from Center for Disease Control and Prevention estimates one in four women will experience domestic violence and one in seven men have experienced severe physical violence by a intimate partner. On a typical day, domestic violence hot lines nationwide receive approximately 20,800 calls, and domestic violence accounts for 15 percent of all violent crime, according to the National Coalition Against Domestic Violence. In 2015, every domestic violence program in Nebraska participated in a one-day count by the National Network to End Domestic Violence of adults and children seeking domestic violence services. Within that day, 153 victims resided in shelters; 319 adults and children received counseling assistance and/or legal advocacy; and 222 crisis hot line calls were answered. LB191 is a practical way to avoid an unnecessary and unreasonable gap in protection and ensure these victims have added peace of mind for themselves and their children in dangerous and heartbreaking circumstances. So I ask that you support AM599 and also Senator Morfeld's amendment, AM786. Thank you, Mr. President. [LB289 LB191]

SENATOR KRIST: Thank you, Senator Pansing Brooks. Senator Schumacher, you're recognized. [LB289]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I would have to share Senator Harr's concern regarding the mandatory minimums. That is a bad thing. Would Senator Pansing Brooks yield to some questions? [LB289]

SENATOR KRIST: Senator Pansing Brooks, will you yield? [LB289]

SENATOR PANSING BROOKS: Yes. [LB289]

SENATOR SCHUMACHER: Senator, looking at page 13 of AM599, which I think is the critical language with reference to your trafficking portions, it says, "Any person who knowingly or recklessly solicits a trafficking victim to engage in commercial sexual activity," that's one thing, "sexually explicit performance," that's the second thing, "or the production of pornography commits solicitation of a trafficking victim," and that solicitation can occur through any means or intermediary. So the first question is, would you define what you mean by "solicit"? [LB289]

SENATOR PANSING BROOKS: Solicitation is the purchaser. [LB289]

SENATOR SCHUMACHER: So you have to exchange money to solicit? [LB289]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR PANSING BROOKS: It doesn't...it isn't specific on what solicitation is, but usually, yes, it is with money. [LB289]

SENATOR SCHUMACHER: Well, if you're going to be charged with a thing that has a humongous penalty and mandatory minimums and all this, we should have a pretty straight answer as to what we mean by "solicit." [LB289]

SENATOR PANSING BROOKS: It says solicitation through any means and through any intermediary in the bill. [LB289]

SENATOR SCHUMACHER: No, the critical language says a person who knowingly or recklessly solicits. What does "solicit" mean? [LB289]

SENATOR PANSING BROOKS: But we clarify that in the bill on page 6, lines 1 through 4...or 2, 1 through 2. [LB289]

SENATOR SCHUMACHER: Oh, page 6, line...this isn't...I don't see that in the amendment. [LB289]

SENATOR PANSING BROOKS: It's not. It's not in the amendment. It's in the bill. The amendment is regard...the amendment is an addition that comes on. We're not dealing with that in that amendment. Your amendment, you're looking at the domestic violence additions and the... [LB289]

SENATOR SCHUMACHER: I'm looking at AM599. It begins, "Strike the original sections and insert the following." Then I find this particular subject matter on page 13. I don't see--and if it is in the amendment, please point it out--what the word "solicit" means. Secondly, let's go to another question since it's ambiguous. How does a person know that the person he or she is soliciting is a trafficking victim? [LB289]

SENATOR PANSING BROOKS: They are...they know it in the testimony through lots of...they're requesting obvious... [LB289]

SENATOR SCHUMACHER: How would one know, yes or no, whether the person, one, is about to solicit for a sexually explicit performance? We'll talk about that in a minute. How would one know whether this person is a trafficking victim or just an ordinary person? What's the difference? How much knowledge do they have to have? [LB289]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR PANSING BROOKS: They have to have knowledge that, especially on a child, that this person has been...somebody else is in charge of them and now handling them. [LB289]

SENATOR SCHUMACHER: I'm not talking a child. I'm talking the situation, 21 years old in a bar in a kind of shady neighborhood. How does the person know that the person about to be solicited is a trafficking victim? Let's be fair. This... [LB289]

SENATOR PANSING BROOKS: If they don't, if they don't know then they won't...then they will be able to say we had no idea, and tell these circumstances. [LB289]

SENATOR SCHUMACHER: Okay. So in establishing legislative history here... [LB289]

SENATOR KRIST: One minute. [LB289]

SENATOR SCHUMACHER: ...the person must know that the person is a trafficking victim before criminal liability attaches. Is that correct? [LB289]

SENATOR PANSING BROOKS: Yes, they must know that. [LB289]

SENATOR SCHUMACHER: Okay. Then I guess we're running a little bit out of time here. Let me summarize, maybe get back on the mike again. When I was in law school the big thing of the day was, what is pornography? Okay? The Supreme Court even had a theater built into the Supreme Court Building so it could know it when it saw it. This talks about pornography. We need to define what we mean or we'll be in that unconstitutional quagmire they were back in the 1970s. This is a very overbroad bill, I think at this time. We'll have to flesh that out with further questions of the senator. As it is, this paints with a much broader stroke than I think what is intended or what is wise. And the penalties are extreme if it's as broad a stroke as it appears to be at first glance here. Thank you. [LB289]

SENATOR KRIST: Thank you, Senator Schumacher and Senator Pansing Brooks. Senator Chambers, you are recognized. [LB289]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I refer to Senator Pansing Brooks as my goddaughter, but goddaughters don't always please their godfathers, and godfathers don't always please their goddaughters. But you don't have to have knowledge to be charged with soliciting, and there is no definition of "soliciting" in this bill. I read it over and over. I read all the definitions. There is no definition for the word "soliciting." That is just a term that is attached to certain conduct, but it doesn't tell you what conduct merits

Floor Debate
March 28, 2017

that term. But you don't have to know, and that's what I was talking about. On page 6 (sic--5), starting in line 29, "Any person who knowingly or recklessly." If you know then you know. But to put another word, it means that you don't know. So how are you going to say that somebody who doesn't know is reckless in doing something? Crimes require knowledge and intent. You have to know. You can pass any bill you want to. Legislators have brought bills, Legislatures have passed them, and the bills have been struck down for being vague, overbroad, ambiguous, especially criminal laws. Criminal laws are narrowly construed based on what the Supreme Court has said. Any doubt goes to the accused. This is one of those instances where you have a very horrendous punishment because people find the offense they're dealing with to be horrendous, but that doesn't mean everything is to be thrown aside. You do not have to know. And you can be guilty of soliciting if the sex act consists of a performance. That's why I told you about these strip joints. How many men go to where women are or women go where men are and they sit in there watching somebody disrobe and they're saying, I wonder if I ought to check and find out if that person is being trafficked? You supposed to go question the person? And you'd get thrown out. This is not realistic. This is some of that trash that the Attorney General brings because he has no respect for this Legislature, and he knows he can get a lot of good publicity for what he's doing. He's the one who wants mandatory minimums. He's the one who wants the death penalty. He's the one who advised the director of Corrections to try to get illegal drugs sent to this country, knowing that it would violate federal law. Senator Pansing Brooks just hitched her wagon to a bad horse. These other amendments are being attached. Maybe these amendments constitute good bills on their own. Did you say time? Oh. [LB289]

SENATOR KRIST: No. [LB289]

SENATOR CHAMBERS: I'm not going to support this bill. See, I know better. There are others who is do too, but on an issue like this they are afraid to say what they know needs to be said. They're afraid to do what they know needs to be done because they say, well, people will think that I'm this, that, or other. I don't care what people think about what I do when I'm doing what I know is the right thing to do as a legislator. Running in here, they could probably say, you hold somebody down and drive a six-penny nail through the head. And people would say, yeah, that's really good, that's what they deserve. I would say, no, it's not. That's not what you do. [LB289]

SENATOR KRIST: One minute. [LB289]

SENATOR CHAMBERS: This is supposed to be a civilized society. And when uncivilized people do uncivilized things, the Nebraska Supreme Court has even said: While we punish the person who has committed an atrocious act, we must not replicate the atrociousness of the act done by the one we're punishing. This flies in the face of all this so-called reforming we're doing of sentencing and properly categorizing offenses. See, you don't have to do anything here.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

Solicitation. You didn't do anything. You didn't cause the trafficking. You did not participate in the performance, but you did something that would solicit it. So I see somebody, I'll say, hey, let's go to bed and I'll give you \$100. Well, I've solicited, and if that person is being trafficked I now run the risk of 50 years as a maximum. [LB289]

SENATOR KRIST: Time, Senator. [LB289]

SENATOR CHAMBERS: Thank you, Mr. President. [LB289]

SENATOR KRIST: Thank you, Senator Chambers. Senator Bolz, you're recognized. [LB289]

SENATOR BOLZ: Thank you, Mr. President. I would like to interrupt your regularly scheduled debate for a public service announcement from an Appropriations Committee member, and that public service announcement is, forgive me and give me your patience, but a quick description of the difference between General Funds, cash funds, and federal funds, and revolving funds, and the other things that you might see in a fiscal note. I've been asked the question: Hey, Kate, I thought that this bill didn't have a fiscal impact, but I see a reference to \$95,000 in this fiscal note. What's your story? Well, the story is that the funding source for this amendment as it relates to the original bill, LB178, is a cash fund, and in this specific situation it's the Court Automation Cash Fund, which is a cash fund that collects fees, collects court fees, for the purposes of keeping up our automated systems related to court proceedings. So in the case of this bill there would need to be an update to the automation system for our court proceedings, and that would be paid for through those existing cash funds. And in the case of this bill, the ending balance of '14-15, which is the most recent cash fund book that I have available, was \$2.1 million. So the cash fund that was created for this purpose has more than enough funds in it to pay for the expenditure related to the automation updates that are needed related to LB178 that's now a part of the LB289 package. But I rise and try to draw your attention to my comments because as we move through the session and as we move through these priority bills, you'll see fiscal notes that have General Fund impacts, and those are the ones that we'll be paying special attention to this legislative session, given our significant budget deficit. You'll also see other cash funds, and you will want to look at those fiscal references and make sure that the cash fund is an appropriate utilization in the legislation. You also see federal funds, which generally means that there are matching funds that we get a match from the federal government for purposes such as Medicaid and certain environmental purposes and policies, public health, those kinds of things. You may also see a reference in your budget package to revolving funds, which is when one agency pays the Department of Administrative Services for certain functions. So if you have any questions, the Legislative Fiscal Office or any of the Appropriations Committee members would be more than happy to help you understand what exactly your fiscal note is referencing. But I did want to rise and assure you that this amendment that is a part of the LB289 package has only a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

cash fund impact and that there are sufficient cash funds in an appropriate cash fund pool for this purpose and we can move forward. So thank you for your time and attention, colleagues, and thank you, Mr. President. [LB289 LB178]

SENATOR KRIST: Thank you, Senator Bolz. Senator Schumacher, you're recognized. [LB289]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Continuing on with trying to see what this means, would Senator Pansing Brooks yield to a question? [LB289]

SENATOR KRIST: Senator Pansing Brooks, will you yield? [LB289]

SENATOR PANSING BROOKS: Yes. [LB289]

SENATOR SCHUMACHER: Thank you, Senator Pansing Brooks. Trying to find out what's legal and illegal here, I believe we've established so far that the...it's your intent that the person who is to be charged with a crime know that the person solicited is a trafficking victim. Is that correct? [LB289]

SENATOR PANSING BROOKS: Yes. That is correct. [LB289]

SENATOR SCHUMACHER: Okay. [LB289]

SENATOR PANSING BROOKS: And I have created an amendment that takes out "recklessly." [LB289]

SENATOR SCHUMACHER: Okay. So if we get to working on an amendment, we know what the intent is here. To engage in commercial sexual activity, commercial sexual activity does have a definition on page 10 of the amendment. It means any sex act on account of which anything of value is given. By sex act do you mean penetration? [LB289]

SENATOR PANSING BROOKS: Not necessarily. [LB289]

SENATOR SCHUMACHER: Okay. Do you mean fondling a sexual body part? [LB289]

SENATOR PANSING BROOKS: It depends, yes, possibly. [LB289]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR SCHUMACHER: Okay. Well, I mean, if someone is about to do this, how do they know what the "depend" is? What can they do and not do? [LB289]

SENATOR PANSING BROOKS: You know, you mentioned pornography and... [LB289]

SENATOR SCHUMACHER: No, let's concentrate on this. [LB289]

SENATOR PANSING BROOKS: Okay. [LB289]

SENATOR SCHUMACHER: What can they fondle and what can't they fondle? [LB289]

SENATOR PANSING BROOKS: I don't want to necessarily say exactly what they can fondle or not fondle. [LB289]

SENATOR SCHUMACHER: Okay. Can Donald Trump do his thing? [LB289]

SENATOR PANSING BROOKS: I don't...not... [LB289]

SENATOR SCHUMACHER: Okay. [LB289]

SENATOR PANSING BROOKS: ...and be charged with trafficking? [LB289]

SENATOR SCHUMACHER: Well, no, well, we're just...I'm trying to find out what you mean by a "sex act" in this bill. [LB289]

SENATOR PANSING BROOKS: What I mean is the common law definition and it's like pornography. [LB289]

SENATOR SCHUMACHER: Okay. [LB289]

SENATOR PANSING BROOKS: If there's... [LB289]

SENATOR SCHUMACHER: Would making out be a sex act, just plain old deep kissing? [LB289]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR PANSING BROOKS: It depends. If it's a child that's forced to do something... [LB289]

SENATOR SCHUMACHER: No, no, we're talking adults. [LB289]

SENATOR PANSING BROOKS: Yes. [LB289]

SENATOR SCHUMACHER: Okay. Yes, is that correct? [LB289]

SENATOR PANSING BROOKS: Okay. Well, what if it's an adult that's forced to do something? [LB289]

SENATOR SCHUMACHER: Okay. [LB289]

SENATOR PANSING BROOKS: Yes, then that could be. [LB289]

SENATOR SCHUMACHER: Okay. Well, not forced, because this doesn't require you force. This solicits a victim to commit a sex act. I'm trying to figure out what a sex act is. Is making out a sex act? [LB289]

SENATOR PANSING BROOKS: It depends and it could be. Depends. [LB289]

SENATOR SCHUMACHER: How do you know whether you're being bad or good? [LB289]

SENATOR PANSING BROOKS: Well, you know, you better be careful is what I say... [LB289]

SENATOR SCHUMACHER: Well, now... [LB289]

SENATOR PANSING BROOKS: ...because there are a lot of people that are hurt by this... [LB289]

SENATOR SCHUMACHER: Okay. Okay. [LB289]

SENATOR PANSING BROOKS: ...and you should hear what the FBI agents say about this. [LB289]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR SCHUMACHER: All right. Let's go on here. A movie we have a lot of money in for incentives, a Hollywood movie company comes to town. They bring the movie stars. The movie stars are getting paid. It's certainly commercial. And they have one of these hot and deep sultry scenes with all kinds of fondling and kissing and everything else. [LB289]

SENATOR PANSING BROOKS: Now you're going too far, Senator Schumacher. [LB289]

SENATOR SCHUMACHER: No. No, guilty is what these producers of this movie is. Let's go on to the next thing. A sexually explicit performance, is that a performance on a Broadway show comes to town and performs? Is that what you mean there? [LB289]

SENATOR PANSING BROOKS: Not with trafficking it isn't what I mean. [LB289]

SENATOR SCHUMACHER: This doesn't say with trafficking. It says what it says. [LB289]

SENATOR PANSING BROOKS: Okay. [LB289]

SENATOR SCHUMACHER: Okay. [LB289]

SENATOR PANSING BROOKS: This...and you... [LB289]

SENATOR SCHUMACHER: Knowingly solicits a trafficking victim--supposedly that's somebody that has a history of being trafficked--into sexually explicit performance. The producer of a Broadway show, this reformed sex "trafficker" is now on stage, and is doing a very sultry performance on stage. Guilty or not guilty? [LB289]

SENATOR PANSING BROOKS: Senator Schumacher,... [LB289]

SENATOR KRIST: One minute. [LB289]

SENATOR PANSING BROOKS: ...it depends on the facts. And, by the way, "solicitation" is defined under 28-801.01, since you asked me that. [LB289]

SENATOR SCHUMACHER: And can you read me that definition? [LB289]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 28, 2017

SENATOR PANSING BROOKS: Well, it's a long one. We don't have time with the minute, but... [LB289]

SENATOR SCHUMACHER: Well, what was that statute number then? [LB289]

SENATOR PANSING BROOKS: 28-801.01. [LB289]

SENATOR SCHUMACHER: Okay. [LB289]

SENATOR PANSING BROOKS: And you look at Black's Law... [LB289]

SENATOR SCHUMACHER: Now that's "solicitation." It's not "solicits." Two different words: "Solicitation" is a noun; "solicits" is a verb. [LB289]

SENATOR PANSING BROOKS: Yes, they're a form of each other. They are...one is a form of the other. [LB289]

SENATOR SCHUMACHER: I will check the language in the statute you quoted in a second. I'm running out of time on this round, but this is so broad, so undefined that the fundamental obligation of criminal law is defied, and that is that you know what's a crime and what's not a crime so you can make your decision whether you want to do it or not. This... [LB289]

SENATOR KRIST: Time, Senators. Thank you, Senator Schumacher and Senator Pansing Brooks. Senator Pansing Brooks, you're next in the queue. [LB289]

SENATOR PANSING BROOKS: I'm waiving. [LB289]

SENATOR KRIST: Senator Chambers, you're recognized, and this is your last time. [LB289]

SENATOR CHAMBERS: Maybe I should say thank goodness, but that won't get us off this bill. Members of the Legislature, I know very few are listening, but I'm going to say something anyway. There's a word called "proportionality" when you come to sentencing. There has to be, first of all, a punishment that fits the crime. Then people similarly situated are to be treated in a similar fashion. That's where the proportionality comes in also. But these solicitations and so forth carry a sentence harsher than certain homicides: Manslaughter, 0 to 20. The maximum of these are all 50. Child abuse resulting in death, 0 to 20; child abuse resulting in death, 0 to 50. Soliciting has a minimum and then 50. Motor vehicle homicide, and there are gradations, 0 to

Floor Debate
March 28, 2017

20, 0 to 3, 0 to 1, but nevertheless there is a homicide committed and the person is found to be culpable. Performing an illegal abortion, 0 to 2 years. These punishments are harsher than that. Assisting suicide, 0 to 2 years. Harsher than that. But remember, it's harsher than manslaughter. Then to talk about 20 years to life is preposterous. This gives the opportunity to make it look like something important is being done. These are what you call traps for the unwary. Those who would engage in this activity will know how to navigate around everything that's in this bill, but there are other people who won't. And I gave the example where a man approaches a woman on the street or a woman approaches a male prostitute, she thinks, and tries to set up an arrangement, and that person who is grown is being trafficked, and you don't know that. You don't have to know. And the word "performance," what does that mean? Criminal laws have to be precise. You have to know before you do something that what you're doing violates the law and you can be punished. When those who are offering the bill cannot even tell you what conduct will carry punishment, how will the people on whom this law can have an effect even if they're not involved in trafficking? We don't know what it means. We don't have definitions. And you think this is good legislating because you're dealing with something we all find abhorrent. But there's something we as lawmakers have an obligation to do, and that's to not get swept away by emotion and forget all of the standards that we are supposed to follow when we enact criminal punishments or create offenses. To take conduct which can be totally innocent and criminalize it, because you say, well, some people use that for criminal purposes, then you put a stick in the hands of prosecutors. And I don't trust prosecutors. More and more examples are coming out now of people being let loose because they were coerced into confessions, evidence was withheld that would exonerate them, and they're being let out. Sometimes they'll get \$2 (million) or \$3 million, but having served 30 years in prison that doesn't mean very much. [LB289]

SENATOR KRIST: One minute. [LB289]

SENATOR CHAMBERS: And that is happening, and you're putting these kind of sticks into the hands of these prosecutors. It was an Attorney General who got away with that one-third rule, which meant that the minimum could be no more than one-third of the maximum. Don Stenberg and Senator Pirsch, not the son but the mother, they collaborated on putting a repealer in the repealer clause, and the law they repealed outright had nothing to do with the bill itself. So that's how they got rid of that one-third rule. And when it was called to their attention they said they knew what they were doing, but they were not going to change it. And there are articles where all of that was described. And now you've got an Attorney General bringing something like this to the floor of the Legislature and we're supposed to swallow it and go along with it. I won't. I cannot. [LB289]

SENATOR KRIST: Time, Senator. [LB289]

Floor Debate
March 28, 2017

SENATOR CHAMBERS: Thank you, Mr. President. [LB289]

SENATOR KRIST: Thank you, Senator Chambers. Senator Pansing Brooks, you're recognized, and this is your third time. [LB289]

SENATOR PANSING BROOKS: Thank you, Mr. President. Well, I stand to be bold about what we are doing. I am willing to talk in-between General and Select about the penalties, but there's no question, my friends, that these penalties need to be increased. We have stories about children who have been tortured. We cannot accept this in Nebraska. They are not arresting the purchasers and the traffickers. They're not. It's just not happening across Nebraska. So it is more, and I just...I want to take some of the blame on this. This was not just the Attorney General who brought this all forward. I've gone to a number of human trafficking seminars across the country. We are in line with what is being done across the country. The states that have imposed harsher sentencing have stopped trafficking within their state because the traffickers find out it's much more easy to go to the states that don't have high penalties. And you should look in the face of a person who was trafficked as a minor and say, oh, well, you know, that's really nothing; somebody should be able to be in for a year on that or six months or get probation. Which is what's happening now. That, it doesn't even align to our child abuse statutes. So Senator Schumacher can talk about the fact that solicitation isn't in the statutes. We have solicitation of prostitution: Any person who solicits--which is a form of the verb and of the word "solicitation," any...which he was concerned about. Any person who solicits another person not his or her spouse to perform any act of sexual contact or--contact--or sexual penetration, as those terms are defined in section 28-318, in exchange for money or other thing of value commits solicitation of prostitution. So, number one, solicitation is in there. Sex trafficking and trafficking victims are defined in 28-830. The definitions are clear. These are attempts to hijack the whole discussion. I have an amendment coming that speaks to the recklessly, the word "recklessly" which Senator Chambers asked me to bring, which I did, and I also have an amendment so that they are not consecutive sentences. And I'm willing to talk and work with people, but I am telling you Nebraska needs to take a stand on this. And, yes, we are trying to solve the issue of prison overcrowding, but to do so on the backs of children who are being abused and tortured? If you heard the testimony that we heard, they are being tortured and abused and forced into sexual acts, so if you're comfortable with that. When we're talking mandatory minimums we're talking about nonviolent drug crimes that we're trying to take out. This, my friends, does not have anything to do with nonviolence. Even forcing an adult to commit human trafficking and sexual slavery is inappropriate. You should hear the discussion, and unfortunately, the...we don't have the transcript from that committee hearing or you could see the heartrending testimony. So are the penalties harsh? Yes, they are. But we've never dealt with this issue because people haven't even realized it's happening in Nebraska. And it's different than prostitution and it's clear in the statutes that it is different than prostitution. So if somebody wants to be a prostitute and some other person wants to... [LB289]

Floor Debate
March 28, 2017

SENATOR KRIST: One minute. [LB289]

SENATOR PANSING BROOKS: ...have sex with that person, that's a different charge. It's a different crime. We are talking about the commercial sale of human flesh across our state, and the harsher penalties deal with children, and if you don't have the stomach to protect children then that's fine. We can vote up or down on that. But I, as one, if a child is abused or tortured in this act I'm going to throw the book at them. I see no problem with that. And I understand that prosecutors do come out and use it as a threat, and we've got to deal with that issue, but that issue doesn't discuss or deal with handling protecting our children in this state. Thank you, Mr. President. [LB289]

SENATOR KRIST: Thank you, Senator Pansing Brooks. Senator Wayne, you're recognized. [LB289]

SENATOR WAYNE: Thank you. First, I'm going to start off with an apology to Senator Pansing Brooks as I was joking with her earlier about a bill. So when I checked on the agenda I saw this bill on the agenda on-line, but when I got here everybody knows the first page it's not on, so I thought it was removed to the next day. So I was actually talking about LB122 and I was going to get up and talk and mess around on that bill, but I was joking with her. I didn't realize it was going to be one of these bills coming up that was actually going to be discussed, not quite filibustered. But I wanted to say I wouldn't have joked about it if I would have known it was that one, so I do apologize for that. With that, though, the more I read this bill the more confused I get as a practicing defense attorney. What we're essentially doing is creating another strict liability crime. So Senator Chambers is correct that most of the crimes have to have intent, except for a narrow exception. That narrow exception usually arrives around children, like in this case. Statutory rape is one that intent is not required. If you are over the age of 18 and you are involved with somebody under the age of 16, regardless of whether they lie to you about their age, showed you a false identification, it is a strict liability crime and it's statutory rape. That kind of law, which has never been updated because people are afraid to deal with the topic, like we're dealing with today, has caused huge problems, particularly kids in high school who get threatened with statutory rape charges who are 18 years old and dating a freshman. And so with statutory...with those kind of strict liabilities, I'm very concerned about. But some of the arguments that I heard here today, I don't know how we can come back and argue for mandatory...against mandatory minimums later. So the mandatory minimum bill that we just passed the first round, not passed in legislation, reduces mandatory minimums for the drug dealer who is selling to possibly kids out of school. So we don't have a mandatory minimum for them, but we do in this particular case. But what really caught my attention--and I kept hitting my button and taking it off--and Senator Krist can tell you that I kept pushing my button and taking it off--but what really got me going was when I heard Senator Morfeld say how heinous this crime is. And it got me thinking about the night that I had to go to...at 3:00 in the morning I

Floor Debate
March 28, 2017

got a call. Had a young lady who was killed and I knew her mother very well. Takes me back to the day that Calvin Cotton, a kid that I coached, was killed, 15-, 16-year-olds. What we are arguing, the same people who are arguing for mandatory minimums here were arguing against the mandatory minimums for guns on the other side. And that's where I'm having a hard time understanding how can we put those two in my head. Because that person who has been a victim of sex trafficking and the mother and father that I've talked to who have kids who have went through this, whether quite honestly it's in our foster care system or actual across state lines, the pain that I see in those kids and the pain that I see in those parents is just as comparable or less than the pain that I see in the parents of a 14-year-old kid gunned down in the street. So we got to be consistent. Either we're going to say the mandatory minimums is not going to happen and we're against them, or we can't say because of this, and it makes us feel so bad, we have to have a mandatory minimum. Because when you talk to the parents of a 12-year-old who's shot in Omaha, they can't tell the difference between sex trafficking and that kid dying and being murdered. [LB289 LB122]

SENATOR KRIST: One minute. [LB289]

SENATOR WAYNE: The pain is real and the pain is still the same. So I don't want to get into the habit of picking and choosing as a Legislature. I don't have all the evidence before me. That's where a judge comes in. That's where the best evidence comes in, in a courtroom, and I want that judge to decide what should that sentence be. I understand the reality of how heinous and sick these crimes are, but we've actually created a mandatory minimum that is greater, if this passes, than a habitual criminal. They can go out and rob a store three times and the maximum they'll get is ten-year mandatory minimum. According to the sheet that I see in front of me, this creates a 20-year minimum prison sentence. I think we need to be careful about how we craft this because we are putting value on what crimes we think are worse than the other. And while sex trafficking is awful... [LB289]

SENATOR KRIST: Time, Senator. [LB289]

SENATOR WAYNE: Thank you. [LB289]

SENATOR KRIST: Thank you, Senator Wayne. Senator Hilgers, you're recognized. [LB289]

SENATOR HILGERS: Thank you, Mr. President. I want to thank Senator Pansing Brooks for bringing this bill and focusing on what is a scourge in Nebraska and is an incredible, in my view, human rights violation with sex trafficking. At the same time, one of the most powerful and important and weighty responsibilities that the Legislature has is determining what laws the violation of which will put people into prison. And I think the conversation that we're having on

Floor Debate
March 28, 2017

the floor this morning is...or this afternoon--sorry, I'm still used to half days--is incredibly important to make sure that we're tailoring the language the right way and not capturing things that are beyond the scope that we intend. And so with that, I would yield the rest of my time to Senator Chambers. [LB289]

SENATOR KRIST: Senator Chambers, you're yielded 4:15. [LB289]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Hilgers. And I'm going ask my goddaughter a question or two, if Senator Pansing Brooks would yield. [LB289]

SENATOR KRIST: Senator Pansing Brooks, will you yield? [LB289]

SENATOR PANSING BROOKS: Yes, I will. [LB289]

SENATOR CHAMBERS: Senator Pansing Brooks, I've heard you say over and over and over that traffickers are just not arrested; that a woman was arrested 100-and-something times, but her trafficker was never arrested. Is that true? [LB289]

SENATOR PANSING BROOKS: That's what she testified last year, yes. [LB289]

SENATOR CHAMBERS: Now suppose the sentence for that trafficker would be 300 years but he's not arrested. What have you done? You don't have to answer that. I wanted to get that on the record. Will you all please listen? What good does it have...do to have a harsh punishment but you don't catch the one who did the crime? Isn't there a link missing somewhere when these people can come from other states and tell people in Nebraska, you must up these sentences, you must make these punishments harsher, at the same time saying, but the traffickers are never arrested? But here's what you've done. You've created many traps for the unwary, people not involved in trafficking. I heard what Senator Pansing Brooks said about definitions of prostitution, definitions of this, that, and the other, and they're different. She believes that prosecutors are honorable people. Maybe some are. Here is what can be done, and it is done. A person solicits prostitution--a misdemeanor. The prosecutor doesn't like this person and says, I'm going to charge you with trafficking. And he gets the woman who he was soliciting to say that she was being trafficked, and all she has to do is say, but I'm not going to tell you the trafficker. Because, remember, they don't get arrested. Well, to get a break all she has to do is say, I was being trafficked and he knew it. And now the prosecutor has somebody under a heavy hammer, knowing that there was no trafficking involved here at all, but he finally got his clutches on somebody he wants to get. And I know people who have had things like this happen, not through trafficking but under the ordinary course of what prosecutors call doing their job. Some people

Floor Debate
March 28, 2017

should be off the streets and they'll do anything, stretch any law, tell any lie, drum up any charge to get that person. You are giving a horrendous club with this bill. Terms are vague. Some have no definition, and people on the floor cannot tell you what this language means. [LB289]

SENATOR KRIST: One minute. [LB289]

SENATOR CHAMBERS: You make soliciting somebody to give a performance the same as somebody who has actually done something wrong. When you put a string of things together and each one qualifies as the bad thing, ask yourself, is each one of these things as bad as the worst in this group? And if it's not, why should they all be lumped together? To give the prosecutor everything he wants. You all are not going to pay attention. You're not going to listen. But I want the record to show that I tried to explain how some of these laws work when the system itself is corrupted. And you had an Attorney General who is advising the Governor to enter a deal to buy illegal drugs. That's drug dealing. And the Attorney General was involved in it with the Governor. You don't bother them. If they were involved in trafficking would you say, well, that's the Governor, don't bother him? [LB289]

SENATOR KRIST: Time, Senator. [LB289]

SENATOR CHAMBERS: Thank you, Mr. President. [LB289]

SENATOR KRIST: Thank you, Senator Chambers. Senator Wayne, you're recognized. [LB289]

SENATOR WAYNE: Thank you. Actually I'm going to...Senator Schumacher just pointed out something that as a criminal defense attorney I would have a heyday with in this bill. And I will yield the rest of my time for Senator Schumacher to tell everybody what he discovered, and I think it's legit and I think it raises a very concerning immunity that we might have here. [LB289]

SENATOR KRIST: "Professor" Schumacher, 4:30. [LB289]

SENATOR SCHUMACHER: Gee, thanks, Senator Wayne. (Laughter) I thought I was done for the day. What I did point out appears on page 13, line 12, "Any person, other than a trafficking victim." Now, remember, a trafficking victim could have been a victim a long, long time ago, 20 years ago. I don't think there's a limitation on how long ago you have to be a trafficking victim before your victimizing expires. And just as an aside, last year we passed a bill on this topic that gave a local policeman the ability to grant, to somebody that the local policeman believed was a trafficking victim, immunity from prosecution. That was historic. Up to that point only county attorneys and judges could do the immunity thing, and U.S. Attorneys and Attorney Generals.

Floor Debate
March 28, 2017

But now a local cop can do it. But in this particular law: Any person, other than a trafficking victim, who knowingly or recklessly--and "recklessly" may be going away, I understand--benefits from or participates in a venture which has, as part of the venture, an act that is in violation of this section is guilty of a felony. Well, this creates two classes of people. Let's suppose the trafficking victim clearly was a trafficking victim at one time in her life or his life, now is a trafficker--I guess that's trafficker and "trafficker"--but was a trafficker. That person, that trafficker, because at one time it was a "trafficker," is immune, is not guilty of a Class II felony. Don't think that's what is intended, but that's what the law says. And then is that equal protection? Suppose we just decided for the heck of it that any person other than one who was born underweight or one who got paddled in school for misbehaving is guilty but...is not guilty but everybody else is. That's not equal protection under the law. The rational relationship is missing. In order for a law to be a good law when it comes to putting people in jail or fining them or making felons out of them, the party must know and be able to understand with reasonable ease what it is that is illegal. This fails this test. Now that doesn't mean there are other provisions of AM599 that are not very good, and that's a problem we all face. There's some good stuff in this bill, and with probably a little bit of cooperation from the various senators on the floor who have some experience and knowledge of criminal law, even this trafficking provision can be made sound and accomplish... [LB289]

SENATOR KRIST: One minute. [LB289]

SENATOR SCHUMACHER: ...the public need that may exist. But let's not be so foolish as to get caught up in the stickiness of the moment and pass bad law. Ask yourself would one of our former members on his Skype session who asked somebody to show him something be guilty of violating this law, particularly if there was a 99-cent charge on-line? We got to know what is illegal before we pass it. It is unfair for a prosecutor to be able to pick and choose for you not to be able to know whether or not you are being legal or illegal on something of this magnitude, 50 years in the penitentiary or some... [LB289]

SENATOR KRIST: Time, Senator. [LB289]

SENATOR SCHUMACHER: Thank you. [LB289]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Hansen, you're recognized. [LB289]

SENATOR HANSEN: Thank you, Mr. President. And good afternoon, colleagues. This is my first time speaking on the bill, and I'm glad to support the package that the Judiciary Committee put together as embodied in Senator Ebke's AM599 and Pansing Brooks's underlying LB289.

Floor Debate
March 28, 2017

And I am appreciative that Senator Schumacher conceded that there is some good public policy elements in prohibiting buying prostitution and sex from a trafficked and kidnapped child. I appreciate kind of the law school debate we've had this afternoon. And I'm genuinely appreciative of if there are missing definitions or ways to better and have a more distinct bill or an accurate bill that does what we want in the state of Nebraska is to treat trafficking and related sex crimes appropriately with the appropriate harshness. And I know Senator Chambers has gotten up and disputed whether or not this is the appropriate harshness, and I think that's a fair argument and something we could get into. But I just wanted to (inaudible) back, we've been kind of...we've been talking a lot about various hypotheticals, and that's fair. And we can talk about what situation we want to apply to, but we're getting up here and saying, are we being too harsh? What if people don't know it's illegal to pay to have sex with a child? Are we being too harsh on those folks? I just want to make sure we're reframing the debate. I wish more of you could have joined us in the Judiciary Committee and hear some of this testimony to hear what is going on and to hear what happens. You know, sometimes we put too bit of a sterile a name on human trafficking. We call it human trafficking. It's this weird, new subset of case law. We don't have a great understanding what it is, when in reality we'd be very well off just calling it kidnapping and rape. That's what we're talking about here, folks. That's what we're talking about. And in many of these instances that's what we're talking about, to children. Let's have a debate. Let's get it accurate. Let's get it appropriately written. Let's do what we need to do to get consensus on it. But let's not lose sight of what we are trying to do here today. We are trying to make it clear that when you go on the Internet and you search for 15-year-old to have sex with that we think that's very illegal and something that could be very condemned by the state of Nebraska. Now let's have a, you know, if some of the definitions, if we don't...if we, the state of Nebraska, have forgotten what the word "solicit" means, let's have a discussion. Let's bring an amendment. Let's get that done. But I wanted to make sure we reframe the debate and step back from there. And then going to what initially made me click on my light was Senator Wayne's comments about mandatory minimums. My thought on that was I was obviously somebody who supported the repeal of mandatory minimums out of committee and supported it on the floor. And I was told, kind of by the body, by not...by limiting and changing that bill that that was not the direction we wanted the state of Nebraska to move, that was not something we wanted to do. And specifically sometimes in the debate it was said we wanted to leave those for the really bad guys. We're going to make sure the really bad guys know it's wrong; we're going to send them to prison. Well, colleagues, trafficking of a minor, prostitution with a minor, sex trafficking a minor, all the various definitions, if we were going to have mandatory minimums for some crimes I'm going get up and make sure that's the case these are the crimes that we should be having mandatory minimums for. I also, like Senator Wayne, don't want to look at a parent and say, this crime was more heinous than that. That's something I don't relish doing, it's something I don't want to do. But if we're going to have crimes of violence prohibited and we as a state want to continue the act of mandatory minimums, I think raising some of these sex trafficking provisions

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Floor Debate
March 28, 2017

to that threshold makes sense. And since I referenced Senator Wayne, I'll yield my balance of time to him. [LB289]

SENATOR KRIST: Senator Wayne, you've been yielded one minute. And you're next in the queue. [LB289]

SENATOR WAYNE: Thank you. Okay. I was going to yield my time to Senator Chambers. So, Senator Chambers, I'll yield his time to you. Oh, I can't? Well, then I'll talk for a minute. I'm glad I just learned that. Again, my issue is just consistency. And I have a hard time with strict liability crimes in general. And I just want to be consistent because another debate is going to come before this floor and drugs...you mentioned--and I'm talking off the cuff--you mentioned kidnapping and rape. Those crimes are on the books, and those crimes can already be punished on the books. We're creating new or harsher elements, I think, and I'm not sure that's necessary. And that's where I struggle with. I'm not saying I'm against the bill. I'm still trying to listen things out. But I want to voice my concerns where we're at, and I just think there's some concerns about creating a mandatory minimum that is harder and harsher than a habitual criminal, which is three felonies. I struggle with that a lot. And I think we have to think about the exceptions. That's part of the problem is we don't think about the exceptions, and those exceptions come back to bite us. And so when I think about the exceptions and I think about strict liability crimes, I think about many of the kids that I work with and I just...it's just there's some issues that I have. Especially the language about...that Senator Schumacher talked about, I think as a criminal defense attorney I can use that, and appeal that to the Supreme Court and I would win; that whoever I'm representing, because they're a part of or were a victim of trafficking, would have immunity. At least if they started trafficking people within a certain time frame, one or two years,... [LB289]

SENATOR KRIST: Time, Senator. [LB289]

SENATOR WAYNE: Thank you. [LB289]

SENATOR KRIST: Thank you, Senator Wayne and Senator Hansen. Mr. Clerk for announcements. [LB289]

CLERK: Mr. President, new resolutions: LR84 offered by the Urban Affairs Committee, and that will be laid over at this time...I'm sorry, that will be referred to the Executive Board for interim study purposes; and LR85 also by the Urban Affairs Committee, also calling for an interim study. Enrollment and Review reports LB518A, LB210, and LB182 to Select File. I have an amendment to be printed by Senator Pansing Brooks to LB289. (Legislative Journal pages 833-834.) [LR84 LR85 LB518A LB210 LB182 LB289]

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Transcriber's Office

Floor Debate
March 28, 2017

Mr. President, Senator Walz would move to adjourn the body until Wednesday morning, March 29, at 9:00 a.m.

SENATOR KRIST: You heard the motion. All those in favor, aye. Opposed, nay. Even with my sensitive ears I can tell. We are adjourned until 9:00 tomorrow morning.