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Floor Debate
April 10, 2017

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-second day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Pastor Phyllis Dunlop, First Christian Church in Elwood, Nebraska, Senator Hughes' District. Please rise.

PASTOR DUNLOP: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor. I call to order the sixty-second 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: Mr. President, your Committee on Enrollment and Review reports LB9, LB88, LB92, LB161, LB195, LB225, LB271, LB339, LB340, LB506, LB539, LB600, LB625, and LB641 as correctly engrossed. Amendments to be printed: Senator Smith to LB461. Your Committee on Education reports LB409 to General File with amendments. Health Committee reports LB223, LB578, LB596 to General File with amendments. And Revenue reports LB640 to General File with amendments. I have an appointment letter from the Governor to be referred to Reference. And a communication from Mr. John Hilgert, Division of Veterans' Homes, regarding a proposed gift to the state. That's all that I have, Mr. President. (Legislative Journal pages 957-972.) [LB9 LB88 LB92 LB161 LB195 LB225 LB271 LB339 LB340 LB506 LB539 LB600 LB625 LB641 LB461 LB409 LB223 LB578 LB596 LB640]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Clements, for what purpose do you rise?

SENATOR CLEMENTS: A point of personal privilege, Mr. President.

PRESIDENT FOLEY: Please proceed.

SENATOR CLEMENTS: Thank you. I rise to announce the birth of my granddaughter. My granddaughter, Jocelyn Marie Mayo was born Friday night to my daughter Sarah and her husband Adam. I just wanted to announce that. Thank you.

PRESIDENT FOLEY: Congratulations, Senator. (Doctor of the Day introduced.) We'll now proceed to the next item on the agenda, General File, 2017 Senator priority bill. Mr. Clerk.

CLERK: Mr. President, LR6 is a proposed resolution offered by Senator Ebke calling on the Legislature to apply to Congress on the provisions of Article V of the Constitution of the United States for the calling of a convention of the states. Senator Ebke's resolution was introduced on January 9, referred to the Government Committee, advanced to General File. I do not have committee amendments. I do have other amendments, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Ebke, you're recognized to open on LR6. [LR6]

SENATOR EBKE: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. This morning it's my privilege to introduce LR6. I want to thank Senator Halloran for prioritizing this resolution and I want to thank Senators Bostelman, Brewer, Clements, Erdman, Friesen, Groene, Halloran, Kolterman, Larson, Lindstrom, Watermeier, and Williams for cosponsoring this resolution. For those who are new to the legislature, LR6 is the One Hundred Fifth Legislature's version of LR35. I will not go into great detail about the 45 town halls I've held in virtually every part of the state on this topic in or nearly all of your districts since the summer of 2015. What I want to do in my introduction to this resolution is lay the groundwork for the debate and discussion which will follow. LR6 would serve as Nebraska's application for a convention of states to consider amendments which might be proposed to the constitution. The authority for this is found in Article V of the U.S. Constitution which provides two means for proposing amendments to the constitution: One, which is by a two-thirds vote of both houses of Congress; the other is for a, quote, convention for proposing amendments on the application of two-thirds of the states, unquote. In neither case is that the last word. The states and Congress have a level of equality in the proposal of amendments if one reads the plain language of Article V of the constitution. Congress has never proposed a complete rewrite or new constitution and it

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stretches the bounds of credibility to think that a convention of the states would do so. That said, in either instance, no matter what proposal comes out of either Congress or an amendment-proposing convention, the second stage of becoming a constitutional amendment, ratification in three-fourths of the states, still has to occur. LR6 calls for a convention to consider amendments for three purposes. These limited purposes provide the boundaries of consideration but do not necessarily imply that proposals related to all of the topics would emerge from the convention. Those three purposes consider amendments which would, one, impose fiscal restraints on the federal government; two, limit the power and jurisdiction of the federal government; and three, limit the terms of office for its officials and for members of Congress. Now, we can debate the wisdom or the need for even considering any of these issues as right for constitutional amendment. And that's fair. For those who don't believe that the federal deficit of \$20 trillion is a cause for concern, it makes perfect sense for you to oppose. For those of you who believe that more power at the federal level is a good thing and that states should really just do those things that the feds let them do, opposition is fair. If you don't believe that the Congressional Budget Office's analysis that our spending and debt is unsustainable, then by all means, oppose LR6 and the possibility that there might be amendments which would try to deal with that. If you don't believe that term limits for members of Congress is even worth talking about, then oppose this resolution. But if your opposition is about the process and the fear that it will somehow go awry and turn into a runaway convention, then you have failed to read your history or the plain language of the constitution and of James Madison's notes on the constitutional convention. As the constitutional convention was wrapping up, George Mason noted that there was only one way to amend the constitution that was being proposed--through Congress. As one commentator has put it, quote, just before the end of the convention, George Mason objected that the amendment proposal would allow Congress to block as well as propose amendments, and the method was changed again to require Congress to call a convention to propose amendments on the application of two-thirds of the states. If LR6 is passed, it will join a long history of Nebraska applications for an amending convention. In 1893, Nebraska was the first state to issue an application for proposal which would call for direct election of U.S. Senators. Because there were at least three versions of that concept being proposed by other states, Nebraska filed another application with different wording to match with another application in 1903 for the same purpose. It should be noted that while there were three different versions of an application for direct election of senators, and if you had added the applications of all the states that had applied for at least one of them together, that you would have had well over the two-thirds requirement and no convention was called. This history demonstrates that both Congress and the states accept the limited purpose notion. It should be noted that as the states approach the two-thirds number for one of the versions of the application, Congress took action itself and sent a proposed amendment to the states which was ratified in 1913 and became the Seventeenth Amendment. In 1911 we were one of a number of states that filed an application for an anti-polygamy amendment to the constitution. Now I'm not sure if that was a significant concern in the country or not at the time. Utah had already been admitted to the union after an explicit anti-

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polygamy cause in their state constitution. In 1949, Nebraska was one of a dozen or so states that filed an application for an amending convention for revenue sharing. There were also two applications filed with Congress on Nebraska's behalf in 1965. LR14 dealt with apportionment and was made largely moot by the Voting Rights Act. And LR42, which would have proposed a convention to consider an amendment which would make electoral votes proportionally allocated in all states. In 1976, Nebraska filed an application for a balanced budget amendment convention. LR106 reaffirmed that in 2010...or rather, that was LR106 in 1976 and it was reaffirmed in 2010. That is an active application, and the balanced budget amendment convention has accumulated 28 states which have current applications, so they're only six away from calling the calling of a convention. Yet no one here has submitted a resolution to rescind that application. So you must be okay with a balanced budget amendment convention. In 1978, Nebraska filed an application for a convention to consider a pro-life amendment. That resolution was LR152 in 1978. There are approximately 19 states that have active applications, including Nebraska, on that issue. My point here is this, LR6 really isn't plowing new ground in Nebraska. Legislators have filed applications for a convention of one type or another every 20 to 30 years since our statehood. We will talk more about the process, I'm sure. But the process shouldn't be the reason for you voting for or against LR6. The question that we should all ask ourselves is what we really believe as state legislators, about the appropriate role of the federal government, and whether we as state legislators have the responsibility to use whatever means are at our disposal to attempt to rein in the power of the federal government and attempt to restore some level of fiscal responsibility to our national government. I look forward to the debate this morning. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Ebke. Mr. Clerk. [LR6]

CLERK: Mr. President, the first amendment I have to the resolution is offered by Senator Halloran, AM758. (Legislative Journal page 867.) [LR6]

PRESIDENT FOLEY: Senator Halloran, you're recognized to open on your amendment. [LR6]

SENATOR HALLORAN: Thank you, Mr. President, Colleagues, fellow Nebraskans. AM758 reiterates what Senator Ebke was discussing briefly and that is Nebraska has had some history of positively participating at some level with convention of states. It discusses an amendment that was passed, and to her point, has not been an effort to recall that amendment. I would like to early on...I passed around a little sheet, I wish you all could go to this Web site. It's usdebtclock.org. It would only take a minute for you to pull that up. It will lend itself information to part of the argument for calling for a convention of states. In the meantime, my LA suggested that I start reading stuff and stop ad libbing, so here we go. I am proud to prioritize...this is not a bill. It's a legislative resolution, but I'm proud to follow up on Senator

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Ebke's hard work presenting this across the state. She's conducted many meetings and she's been very dedicated to this process and spent a lot of her own personal time and effort to do this. People ask me why, Senator Halloran, have you decided to support LR6? This is the reason why. Families all across Nebraska are concerned about the future of our country. It has become clear that the size, scope, and power the United States federal government have grown irrepressibly at the expense of states' rights and individual liberty. The continued out of control spending has burdened our nation with nearly \$20 trillion of debt. If you pulled up the Web site usdebtclock.org and see how rapidly those numbers are changing. We'll have further discussion and detail on what all that Web site points out for debt. But not just the debt, but the Supreme Court has begun to legislate and make policy for the entire country through 5-4 decisions and states are continuing to lose their rights through excessive regulatory overreach and bureaucracy handed down from the federal government. Due to these reasons and many Nebraskans' shared belief in limited government, I have prioritized LR6 to discuss proposing amendments dealing with fiscal constraints on the federal government, limiting the power and jurisdiction of the federal government, and limiting the terms of office for its officials and members of Congress through an Article V convention of states. The U.S. Constitution is not broken, but government is. An Article V convention of states will aid in addressing the many serious concerns of Nebraskans by helping return our country to its original vision of limited government, at the federal level specifically, that is truly of and by and for the people. Multiple layers of safeguards are in place to ensure that...and this is going to be commonly discussed today and I'm open for this debate, looking forward to it. But there are multiple layers of safeguards in place to ensure that a runaway convention does not take place. Among these safeguards are the requirements that 34 states must pass the same application, having an agreed upon scope and subject for which the convention is called. Commissioners, often referred to as delegates, but technically they will be commissioners appointed by each state, selected for the convention are bound to vote as directed by their state legislature. And any amendment that advances from the convention must be ratified by three-fourths of the states. That is a huge hurdle. It should be huge. It's 38 states. That hurdle was put in place by our founding fathers because amending the constitution should be a challenging and arduous process, one that takes time. We should proceed cautiously, but the time is right to use the tools our founders have given us to strengthen our constitution with meaningful amendments that would restrict the power of government from interfering with the rights and liberties of individuals in our states. Nebraska should be part of the movement to reestablish constitutional limited government and the efforts to secure the blessing of liberty for future generations. Now, that all being said, we tend to, I included, we tend to make things that are relatively simple very complicated. If we read Article V, and that will be dealt with here in a minute or two, but if we read Article V, it's a very straightforward article to the constitution. It clearly spells out that there are two methods of proposing, and I want to emphasize the word proposing, proposing amendments to the constitution. That's all we're doing here is proposing amendments to the constitution. Historically we've done this through Congress, through the two houses, where two-thirds of the houses had to agree on a proposal to the constitution. Did it stop

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there when Congress does that, does it stop there? No, it does not. It moves on to the states. The same ratification process is in place for the states to ratify. Takes three-fourths of the states. So nothing willy-nilly can come from Congress in the form of amendment and pass that kind of scrutiny of our country of their respective legislatures. It's respect for the states that the founding fathers set it up this way. It's respect and confidence in the states to be the authority over Congress, over federal government and to make sure that they have equal at least, equal authority to propose amendments to the constitution. Now we've seen numerous proposals, numerous amendments to the constitution through the more traditional route of Congress. We're comfortable with that. We should be just as comfortable with having the confidence in our state and all the other states to make sure that it passes the scrutiny of three-fourths of the states to ratify. So I stand in support of AM758. Obviously it's my amendment, which just emphasizes the fact that we have passed a balanced budget amendment in the past from the state of Nebraska. And obviously I stand in support of LR6. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Halloran. Debate is now open on LR6 and the pending amendment. There are 15 senators in the speaking queue. Senator Morfeld, you're recognized. [LR6]

SENATOR MORFELD: Thank you, Mr. President. I rise in strong opposition to AM758 and LR6 for several different reasons. And I want to go through some of the points that were brought up by Senator Halloran and Senator Ebke. First, everything that they just mentioned, we can already do those things and address it under our current structure and framework. Right now the Presidency and both houses of Congress are in control of the Republican Party, the party that has said time after time they're for limited government and that they plan to bring and impose limited government to the United States and to balance the budget. Let that play out. The people have spoken. They've elected majorities in both houses. They've elected a Republican President. Let them balance the budget. Let them do what they've told the American people. And, colleagues, it wasn't that long ago that we had a balanced budget. It's not as if this was 100 years ago that we had a balanced budget...that we didn't have a deficit. It was in the late 1990s. I think even early 1990s...excuse me, early 2000s. It wasn't that long ago. This is not a constitutional crisis. It does not require for us to call a constitutional convention and rewrite the constitution. Now, a few points were brought up. Senator Ebke said don't be afraid of the process. I'm not afraid of the process. I'm afraid of the consequences of what will happen if we open a constitutional convention. Now, this isn't the 1700s, colleagues. If you think for a minute that the constitutional convention is going to be anything like it was in the 1700s in this day and age with technology, with money in politics, just wait until we have a constitutional convention. It's going to be a hay day for conservative and liberal interests alike that have a lot of money--it's going to be a hay day. All that money, all of those resources are going to be funneled into that convention, into influencing people, into changing the course of the convention and making sure that people's business interests are protected. And that leads me to another point. One of the great things about

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our country that distinguishes us from many other countries--and I've started traveling a little bit and been to other countries and seen their economies, talked to their people--is one of their biggest problems is instability: instability of the market, instability of their political system, instability of their constitutional framework in their system. One of the beauties of the U.S. Constitution is its stability and that people can make business decisions and rely upon the fact that number one, the courts will be respected, the constitution will be stable and respected, and they can plan for the future and make investments accordingly. If we open up a constitutional convention, that will create instability in our markets, it will create uncertainty in the markets, and quite frankly, that instability and uncertainty will lead to a lot of money going into influence the outcome of a constitutional convention. Now, a few things were brought up about a runaway convention. Number one, there is absolutely no federal precedent, absolutely no federal precedence that guards against a runaway convention--no federal precedence. I've looked at all of the convention on the states materials, gone through, they cite some court cases. What they don't note is that these court cases are state-based court cases applying and interpreting state-based law. So yes, there is a court that said that you can't have a runaway convention that can be confined to the narrow scope of... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR MORFELD: ...whatever the call for the convention is. But that's based on a state resolution and a state constitution. I'm going to be passing out a letter from the late Chief Justice Burger that talks about the folly and the danger of this and the fact that we cannot guard against a runaway convention. In addition, Senator Ebke brought up, well, we already have a balanced budget resolution. I didn't see anybody introduce a resolution rescinding that so they must be in support. That's nonsense, colleagues. There's a ton of bills and a ton of laws...excuse me, a ton of laws that I don't support. I could spend my entire eight years here just introducing legislation to rescind bad laws that I don't like. Simply because I don't introduce something to rescind something doesn't mean that I'm in support of it. Colleagues, I'll be talking a lot on this today, but I just want to say, there is no safeguard against runaway convention. Three-fourths of the states ratifying is not a safeguard, particularly with money in politics, particularly with our political climate. What we need right now is stability and what we need is to put pressure on our current structures and systems to rein in the budget if that's what we feel is necessary. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR MORFELD: Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Chambers. [LR6]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the proof that delegates cannot be controlled is that when the 1787 convention took place, the delegates were to amend the Articles of Confederation. They disregarded that. They wrote a new constitution. Just one main item--under the articles each state had one vote. Equality of voting power. That was done away with. So there is no way to control what these people do once they get there. I handed out an item that showed the last time this came before us, 15 of the people who voted to return it to committee, which in effect killed it, have returned to the Legislature. There are some new people, so my contention is that if we cannot when I offer a motion to return it to committee after there has been substantial debate, we can defeat cloture. It depends on how much time the body wants to spend on something like this, which in my opinion is nonsensical. Senator Ebke had made a comment which Senator Morfeld touched on about certain items sent to Congress by Nebraska. To make the stupidity of yesterday the orthodoxy of today is stupid. She mentioned some of the kinds of things that Nebraska asked for a convention to do. Mistakes are to be learned for, not to be lionized and made paradigms for present action. I'm not going to have a lot to say on this today because I think it would be a waste of my time, not other people's time. Who thought Donald Trump would be elected president? I didn't. Senator Ebke talks about the runaway federal budget. So does Senator Halloran. But when Donald Trump did something in his budget that made people in Nebraska very upset, then suddenly the Nebraskans are not worried about the runaway budget. They want it to continue. He said he's going to do away with these subsidies to these little airports such as the one in Scottsbluff. Do you know how much per passenger the subsidy is? Two hundred forty-two dollars in federal money to subsidize each passenger who rides that plane out of Scottsbluff. They have, according to what the Director said, 400 boardings a month, which breaks down to about 13 and one-third persons per day. That's why when you don't have these full flights, you have to get federal subsidies of \$242 per passenger. These Nebraskans are not talking about that. In fact, they're crying about it and your representatives in Congress said they're going to defeat that. They want a balanced budget? Two hundred forty dollars per passenger subsidy, what about the farm subsidies? What about those payments to people and those in Nebraska get these payments. That's a part of the runaway budget, isn't it? What about the substantial federal subsidies for ethanol? I don't hear Senator Ebke, Senator Halloran, any of these people talk about stopping receiving federal funds in Nebraska and thereby contribute practically to what you say about controlling this runaway federal budget. When Donald Trump attacked Syria, people thought it was great. Now some of those who support him are not so sure as they listen to him talk. [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR CHAMBERS: He's sending battleships toward North Korea. By the time we're over today, will there be a war with North Korea? Already Nebraska...America is in Afghanistan, Iraq, now Syria. There is a problem with Russia, a problem with Iran, and North Korea. All of those battle fronts are going to open. Do you see why somebody said, be careful whose finger

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you put on that red button? But I'm not going to have much to say on this. I will listen, but I don't think this will go anywhere. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Krist. [LR6]

SENATOR KRIST: Good morning, Mr. President. Thank you. And good morning, colleagues and Nebraska. From the mouth of babes comes incredible wisdom. I was in the Chair the other day and Carlin Daharsh was sitting next to me and I said so what do you think about this subject and she said, I just work here. And then we started talking about how she feels about different things and she gave me a quote that summarized then and I think now what we need to consider when we talk about this subject. That quote comes from a Silicon Valley source. It says American citizens are communicating with their government with twenty-first century technology and their government is responding by using twentieth century technology to give nineteenth century answers. And I think that kind of summarizes some of the things that we have to talk about at the state level in terms of modernization of how we respond to our citizens. On this particular subject, I would say, though, during the Reagan into the Clinton reigns, if you will, of the Presidency, with the help of the Newt Gingrich and the Clinton Administration, we saw a balanced budget. The elected representatives in Washington, D.C., took the tools that they had and they balanced the budget. So when this subject matter came up a couple of years ago and I had the opportunity to stand and listen and debate, I called my friend, Deb Fischer. Senator Fischer used to stand over in the corner. I had a little brass plaque made for her because it was a reserved parking spot for her as she kind of held court in different areas around the Chamber. And I said, Deb, tell me about this. And she said, bad idea. I want you to tell everyone who will listen to you that we at the federal level cannot, cannot always balance our budget when things happen. Ask them if they want to do away with Social Security. Ask them if they want to do away with some good forms of Medicare. Ask them if they want to do away with defending this country, because there are points at which a balanced budget amendment at the federal level will not work. Now, I've never been there as a representative, but I've been there as a member of the armed forces and a member of the National Guard looking at missions, looking at the potential to expand, looking at our nation's defense. And I can tell you from that perspective this will not work. Will Senator Ebke yield to a question? [LR6]

PRESIDENT FOLEY: Senator Ebke, would you yield, please? [LR6]

SENATOR EBKE: Yes. [LR6]

SENATOR KRIST: You know how much I respect you and your opinions on many issues. But on this one I'm sorry, I'm going to have to deviate. I'm particularly concerned with the process, and I have to say with the process, because Senator Halloran called them commissioners. But

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we're going to choose someone who we're going to send to these conventions who will have one vote, is that correct? [LR6]

SENATOR EBKE: The state will have one vote. It will be a state by state, which is the way most interstate...all interstate conventions are held. [LR6]

SENATOR KRIST: Okay. Senator Halloran also said that that one vote is bound to vote the way the state would tell them to vote. What in law would enforce that decree that that person would have to vote the way the state wanted them to vote? [LR6]

SENATOR EBKE: Well, some states--Indiana for one--have already created delegate binding resolutions or delegate binding laws. That's something that once we passed LR6 and once it started to look like there was a convention actually going to be held, and I would argue that with respect to the balanced budget amendment we ought to be doing this sooner rather than later since there are only six states away from holding a convention, that the states could certainly create legislation that would bind delegates to particular votes. [LR6]

SENATOR KRIST: Okay, well, I agree with Senator Morfeld's findings on some of his reading and I don't think we can confine subject matter in any way once that convention has formed--my opinion. I also would offer you this. I'll vote for this if I'm the guy who gets to go. If you can tell me I'm the vote that gets to go, I'll vote for this. Any response? [LR6]

SENATOR EBKE: Well, I'd be happy to send you, Senator Krist. The problem is that there will probably a number, a delegation that will go and...but I'd be happy to send you. Of course, I may not be in the Legislature by the time the convention is called. [LR6]

SENATOR KRIST: Well, I may not be either and I'm sure there is a group of people that would like to send me someplace but probably not to this convention. On that note, Senator Ebke, I thank you for your gracious responses. I have to... [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR KRIST: Thank you. [LR6]

PRESIDENT FOLEY: Thank you, Senators Krist and Ebke. Senator Murante. [LR6]

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SENATOR MURANTE: Thank you, Mr. President. Members, good morning. I rise in support of LR6. I think Senator Ebke has adequately articulated the need of and for a balanced budget amendment and for a convention of the states for the purposes of amending our constitution to provide for some sort of fiscal restraint in Washington. I think the fact that in the '90s one time we balanced the budget is illustrative of the fact we need a balanced budget amendment, not that we don't need a balanced budget amendment. If we've only done it once, that should indicate just how difficult it is and just how practically impossible it is without a constitutional restraint. Now with that said, I have heard the debates in the Government, Military and Veterans Affairs Committee on the convention of states issue and I'd like to address at least some of the conclusions that I have reached after listening to the debate on both sides. Because, as I've discussed with Senator Ebke, I am conflicted on the resolution because I do agree with those who have said there is nothing legally binding that we can do to narrow the scope of the convention. I believe that a majority of those commissioners or delegates, or whatever we determine to call them, can submit any constitutional amendments they want to, to the states for ratification and that there is nothing legally binding that we can do to prevent them from doing that once the convention begins. And I also see no parallel between the convention process that is articulated in our constitution versus what happened in the 1700s under the Articles of Confederation which had fundamentally different language on how to amend the Articles of Confederation. It was a fundamentally different government. They didn't even refer to themselves as a union in the sense that we consider it. They referred to themselves as a confederation. So it's comparing apples and oranges. To me, it is equally akin to comparing our constitution to a foreign government. It's simply doesn't matter. So I don't see that practical reality playing itself out. My concern, as I've articulated with Senator Ebke, is not wholesale changes like repealing the Second Amendment. I don't think there is a practical way that that is going to happen. My concern is a constitutional amendment that sounds really good, that pertains to affirmative rights, that is difficult to oppose, and that is broad. And that down the road is interpreted in a way that was not the intent of those who were writing that particular constitutional provision. That's my concern. I don't see the runaway convention getting to a point where we are seeing a submission to the states and the states ratifying something that is detrimental to the nation on its face or something that fundamentally changes who we are and how we govern. But I do think Senator Ebke is correct. We need to deal with this because there is a different convention of the states proposal that pertains to a balanced budget amendment specifically and they are but a few states away from initiating a convention of the states. And quite frankly, if you look at the states that haven't come on board and the states that are being targeted, the train is coming down the tracks and we are going to have to figure out whether and how we are going to send Nebraska's delegation to this convention of the states. Nebraska has already signed off on it. Nebraska is already on board with the balanced budget amendment. With Senator Ebke's proposal before us goes a step further and is a bit broader... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

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SENATOR MURANTE: Thank you, Mr. President--is a bit broader, but it is a practical reality that we are going to have to deal with. So I would encourage Senator Ebke, regardless of the outcome on LR6, and I will support it, we need to figure out as a state how we are going to send delegates to these conventions of the states because it is ultimately a legislative prerogative to determine how that process is going to play itself out. So it doesn't have to be members of the Legislature. But it is going to be a decision of the Legislature to determine how Nebraska's representation is going to look at this convention of the states because quite frankly, the overwhelming majority of Americans support a balanced budget amendment. The convention of the states appears...it's picking up steam at the moment to initiate a convention of the states and if we're not prepared for it and we just choose to say that's down the road, or it's just not something that we want to participate in, the train is going to leave the station and we're not going to be on board with it. And that in my view is the worst-case scenario. So I think we need to plan accordingly. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you. (Visitors introduced.) Senator Crawford. [LR6]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor, and good morning, colleagues. Good morning, Nebraska. I rise in opposition to LR6. And, colleagues, I know many of you are frustrated by federal spending and by the level of federal debt and so am I. And many of you are frustrated about some of the decisions you see in Washington and I know many people are frustrated by the power of big money and how it influences decisions in Washington and so am I. But LR6 is not the solution. As we've noted already, and Senator Krist laid it out very eloquently, in our own lifetime we have seen a bipartisan effort to create a balanced budget. It is possible. The constitution isn't broken. Congress is broken and our political process is broken. But this is not...it does not require a constitutional convention to fix it. It requires attention and mobilization of citizens to demand from Congress action, to demand wise decisions, to stand up and unmask decisions that are driven by big money. Again, with our existing constitution we've had balanced budget. And Senator Murante notes it has been one time and so he argues that's the reason we need a balanced budget amendment. But colleagues, it's important to note that the federal government has to respond in times of economic downturn. And in fact, because several of our states have balanced budget amendments, the federal government is an important counterbalance in times of economic downturn. In times of economic downturn, we as a state have received additional aid. In times of emergencies, we as a state have received federal aid. In times of conflict, the nation has to be able to defend itself. So there are times and instances when it's critical that the nation and that Congress can spend what's necessary to deal with the crisis before it. Now, it's also the case that a critical concern we should all share is the federal debt. And addressing the federal debt is not something that will necessarily be handled appropriately by having a balanced budget amendment. The federal debt requires creative restructuring of our programs and creative rethinking of the commitments that we've already made. And that's not something that a balanced budget amendment could address or would address necessarily.

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Colleagues, that's something again, that we must demand from Congress is creative and effective solutions to deal with our debt. And much of that debt is...those are commitments that are already made that need to be rethought, reconsidered in creative and effective ways. And a balanced budget amendment would not address that. Now, as has already been noted, we're already on board as a state in requesting a balanced budget amendment convention. We do not need to pass LR6 for that to move forward. As Senator Murante noted, we as a state need to be thinking about the fact that that train could leave the station and if so, we're going to have to step forward and do the work to prepare to see how Nebraska should participate in that convention. But, colleagues, those steps, that preparation, that is not part of LR6. So if you are concerned about a balanced budget convention, if you think that alone is a good idea, we're already on the list for that. Nebraska is already on the list for that. If you're concerned about preparing for that, LR6 is not the preparatory tool. We need other bills, other work to prepare for that. LR6 is much broader and LR6 puts us on a different list for a different kind of constitutional convention. And so I urge you to vote against LR6. Again, we do need to address spending. We do need to address federal power. But LR6 is not the solution. How much more time do I have? [LR6]

PRESIDENT FOLEY: Forty-five seconds, Senator. [LR6]

SENATOR CRAWFORD: All right. So in a future turn, I'll talk a bit about what gives the federal government most of the power, which is the power of strings tied to money. And we have already started working on reversing some of that power. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Friesen. [LR6]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I stand in strong support of LR6 and I will try and lead you down the path where I come from. In my community, typically politics are not talked about much in public. They're done in private, in the coffee shops, and we pretty well ignore politics, so to speak. Very few people want to run for office. So down through the years, once I was involved in some issues and it started snowballing which ended up here today. I've told my kids over and over, I don't like where our country is headed. And I don't care whether Republicans are in charge or Democrats are in charge or if we put independents in charge, we keep heading down the same path of overspending, overreach by our federal government, and no ability it seems to turn it around. We talk about sending good people to Washington to do work for us and everybody says, well, they get there and they change and flip around and pretty soon they're owned by big money. You can use the scare tactics if you want. But in the long, big picture of things, I still don't like where we're headed. We got \$20 trillion in debt. And if interest rates would even hint at doing what they did in the '80s and go to 18 percent, it would consume our entire federal budget. And everybody thinks it's okay. We've talked about our hands out here asking for more federal aid. While I was a member of the Corn

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Growers, I was one of those that advocated for ending direct payment to farmers. I think in the end, the farm bill should go away. I think that should have been our long-term goal and it might have been a difficult path, but we should have headed there. We were promised that at one time and they didn't do it. So those who prepared for an end to subsidies were penalized and those who expanded and grew continued to get their subsidies. I will argue maybe to keep crop insurance. It's important because I don't know if private industry can handle it at this time. But a goal of ours should be to end that subsidy. We cannot continue to stick our hand out asking for federal dollars and at the same time complain about our \$20 trillion debt. So we have to also say no, we don't want it anymore. It's time to stop it. We sit here as special interests and don't kill my program, don't kill this program. We talked this morning the scare tactics that are used right away, we're going to get rid of Social Security and all those other things. Let's scare the old people, yeah. The Article V convention of states...and I will go into more detail when I have another round. I was fortunate to attend the mock convention of states in Williamsburg this last summer. And we all talk about the runaway convention and I will tell you that there is nothing to fear. The convention can run away, but in the end when 38 states have to ratify that, think about it. Think about how many bodies there are that have to approve whatever comes out of there. It's almost an impossibility to think that even if we draft a good amendment it would come out of there. So I look at where we've come from and where we're headed... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR FRIESEN: ...and I see problems. And when you look at the debt, the debt alone is enough of a reason to address a balanced budget. I will tell you that whatever would come out of the convention of states would not be a simple amendment saying we must balance the budget. That discussion was had in Williamsburg. That's not what came out. It's going to be a long haul to slowly draw down to get to where we're headed. So I will be speaking further, but again, strong support for LR6. Thank you, Mr. Lieutenant Governor. [LR6]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Quick. [LR6]

SENATOR QUICK: Thank you, Mr. President. I just want to talk a little bit about consequences for our actions and I too will talk about the balanced budget because our state relies on federal money coming here. I know the city of Grand Island at one point when we had the tornadoes back in 1980 relied on federal funds to help rebuild parts of the city. And those type of things with...you know, I know that they need to bring down the debt, but somehow we still have to have options so you can bring money in for, say, a natural disaster, say, like the flooding on the Missouri River and things like that. So our schools rely on federal money to come in and lots of programs throughout the state rely on some federal money with state matching funds. We also have the option to elect people to office that will support the ideas of bringing down the debt for

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this country. And I would say if you don't like the person or they don't represent you and you don't feel like they're getting the job done, then we need to find somebody else that will. And you have that through your vote. So we need to look more closely at that because that's how I feel you can fix this without doing this resolution. And with that, if Adam Morfeld would care to have, I would yield the rest of my time to him if he cares to have it. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Morfeld, 3:20. [LR6]

SENATOR MORFELD: Thank you, Senator Quick. Colleagues, just a few things. I looked up and I'm getting the citation from the CBO. But in response to Senator Murante's comment that we've only balanced the budget once in the late 1990s, we actually balanced it four times according to the information I have: '98, '99, 2000, and 2001. And once I get that information, I'll be sure to pass it out to the rest of the body. In addition, I don't think this is just hypotheticals that Senator Friesen is talking about. In terms of what could happen, these are all things that I think we need to discuss and seriously consider. Now, these aren't scare tactics. If a balanced budget amendment is passed, there will be serious consequences for our economy. I was just looking at some of the numbers of federal aid that comes to the state of Nebraska and just listed on 10 or 12 of those agencies, there is about \$3 billion that come into the state. Now, we can talk about fiscal restraint and fiscal responsibility on the federal level. I think we should have that discussion. I think it's an important one. I like the fact that we have a balanced budget here in the state of Nebraska. But this is not the process by which to do this. We already have a process in place and it's with our elected representatives on the federal level. And I think this last election shows that people are fed up with the status quo. Whether I like that status quo or not is a totally different discussion. Let our Congress do their job. It's a more conservative Congress. We have a more conservative President in power. Let them do their job. That's what they promised to the American people. That's been the concern over the last year or two with the past constitution...calls for constitutional convention. In terms of special interests, you know, I always find it interesting when we talk about special interests. It's a special interest until it's your interest, right, until it's your federal highway dollars, until it's your farm subsidy, until it's your Medicare, until it's your Medicaid. [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR MORFELD: Thank you, Mr. President. So we can talk about special interests. We can throw them out like candy on this floor. But the bottom line is that special interests are people. There are people who rely on Medicare. There are people who rely on Medicaid. There are people that rely on Social Security. There are people all across this country that rely upon national defense. And if you look at when we've gone the most in debt, it's because of national

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defense. It's because we had to raise funding in order to protect the country or launch a preemptive strike in some cases. And we should not give away that authority and that power and that ability so easily. And that's why I'm afraid of the consequences of a constitutional convention, not the process, but the consequences of a constitutional convention. And it's something that we need to seriously consider. And it's not something that we should go, oh look, all the other states did it. This might eventually happen. And who knows? Maybe three-fourths of the states... [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR MORFELD: Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Brasch. [LR6]

SENATOR BRASCH: Thank you, Mr. President, and good morning, colleagues, and good morning to our second house. I stand in opposition to LR6 and I see there's at least three amendments that follow. I have listened closely. I've read many articles. I have had multitudes of individuals trying to convince me that it's time to call this convention of states. I believe that our second house is a house that has the ability to elect those to represent them or unelect them every four years, six years, two years, that the control of Congress belongs with our second house. And I did want to read an article for you this morning and it's an article that was written by Arthur J. Goldberg, a former U.S. Supreme Court justice. And this article appeared in The Miami Herald on Sunday, September 14 in 1986 and it was written in response...of the upcoming bicentennial of our constitution. It was...that bicentennial was forthcoming and the original was in...which was 1987, excuse me, September 17, 1987. What I want to start with is the first paragraph and it says, "As we look forward to celebrating the bicentennial of the Constitution, a few people have asked, "Why not another constitutional convention?" And this is back in 1986. And the article continues. And he writes, "Opposition to a constitutional convention at this point in our history does not indicate a distrust of the American public, but in fact recognizes the potential for mischief. We have all read about the various plans being considered for constitutional change. Could this nation tolerate the simultaneous consideration of a parliamentary system, returning to the gold standard, gun control, "...school prayer, abortion vs. right to life, and anti-public interest laws? As individuals, we may well disagree on the merits of particular issues that would likely be proposed as amendments to the Constitution; however, it is my firm belief that no single issue or combination of issues is so important as to warrant jeopardizing our entire constitutional system of governance at this point of our history, particularly since Congress and the Supreme Court are empowered to deal with these matters. James Madison, the father of our constitution, recognized the perils inherent in a second constitutional convention when he said an Article V

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national convention would 'give greater agitation to the public mind; an election into it would be courted by the most violent partisans on both sides; it would probably consist"... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR BRASCH: ..."of the most heterogeneous characters; would be the very focus of that flame which has already heated too much men of all parties; would no doubt contain individuals of insidious views, who under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union might have a dangerous opportunity of sapping the very foundations of the fabric. Under all of these circumstances, it seems scarcely to be presumable that the deliberations of the body could be conducted in harmony, or terminate in the general good. Having witnessed the difficulties and dangers experienced by the first convention which assembled under every propitious circumstance, I would tremble for the result of a second.' And that came from James Madison. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR BRASCH: Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Clements. [LR6]

SENATOR CLEMENTS: Thank you, Mr. President. I rise in support of AM758 and LR6. I'm especially concerned about the lack of fiscal restraint in our federal government and especially appreciate the resolution to impose some fiscal restraint. I also have looked at that Web site, usdebtclock.org. And yesterday I was looking at it and I see that it showed \$19.8 trillion of debt and it also has a feature where you can click ahead and ask, what's it going to be in four years? And in four years it's expected to be \$22.5 trillion which is an increase, estimate increase of \$667 billion per year. And as I looked at that I figured out how much per day that debt is increasing. It's \$1.8 billion per day. And then I was thinking about being on the Appropriations Committee and the state of Nebraska General Fund budget is \$4.5 billion for the year. Well, at \$1.8 billion a day, you spend the Nebraska annual budget in 59 hours. In other words, every 2.5 days the federal debt increases by the amount of Nebraska's annual General Fund budget. And as I was...oh, I'd like to mention that I'm wearing a pink shirt today in honor of my new granddaughter. And as I was thinking about my new granddaughter born Friday night I looked on that Web site. It also said how much debt per citizen there is. Well, per citizen there is \$61,156. So my new 2.5-day-old granddaughter has now inherited \$61,150 of federal debt, and she's 2.5 days old. This Web site also lets you project ahead. And at age 18, at the way it's increasing now, she'll graduate high school with \$85,900 worth of federal debt against her and then may have started student loans of her own. And I just am concerned that the rate of growth

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that is that it's not sustainable and something needs to be done about it. And I thank Senator Ebke for leading this resolution. And I would like to yield the rest of my time to Senator Ebke. [LR6]

PRESIDENT FOLEY: Thank you, Senator Clements. Senator Ebke, 1:45. [LR6]

SENATOR EBKE: Thank you, Mr. President, and thank you, Senator Clements. I have a question, Senator Clements, if you would be willing to answer. [LR6]

PRESIDENT FOLEY: Senator Clements, will you yield, please? [LR6]

SENATOR CLEMENTS: Yes. [LR6]

SENATOR EBKE: You're a banker, right? [LR6]

SENATOR CLEMENTS: Yes. [LR6]

SENATOR EBKE: Let's say I've got a \$40,000 a year income and I have a \$200,000 consumer debt that I'm not paying on, okay, and I have no collateral. Would you be willing to loan me some more money? [LR6]

SENATOR CLEMENTS: No. The loan committee decision would be very fast in that regard. It would be a denial. [LR6]

SENATOR EBKE: That is exactly...if you do the math, we bring in about \$4 trillion a year in revenue into the federal government, and we have a \$20 trillion national debt. That is I think a concern we all ought to have in terms of the national debt. Let me make it very clear though to my colleagues, this is not a balanced budget amendment application. This is a fiscal restraint application which is significantly different. I don't agree necessarily that a balanced budget per se is a good idea. I think that there are instances where you have problems with emergency situations where you have national circumstances where it is necessary not to have a balanced budget that you have to be in the hole a little bit for a while. But I think that we ought to be working towards a balanced budget and we ought to be working towards paying down the debt. I suspect, Senator Clements, this is what you would tell your customer...potential customer. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

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SENATOR CLEMENTS: Yes, I would. [LR6]

PRESIDENT FOLEY: Thank you, Senator Ebke and Senator Clements. Senator Craighead, you're recognized. [LR6]

SENATOR CRAIGHEAD: Thank you, Mr. President. Good morning, colleagues. I yield my time to Senator Halloran. [LR6]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Halloran, 5:00. [LR6]

SENATOR HALLORAN: Thank you, Senator Craighead. Just a few quick comments about some things that have been said. First, I don't know, Senator Chambers isn't here so I don't want to pick on him at the moment. Senator Brasch and Senator Quick and Senator Crawford have all suggested that if we just let the system work. If we just let the system work and we elect or unelect or elect someone new to Congress that we will cure the problems of deficit spending. Unfortunately, in the 2014 election Congress approval was 11 percent. What percentage of incumbents were elected would you guess? Ninety-six percent. I think the system is a little out of hand for those that want to run against an incumbent. We have senators in place that have been there for 40 years, 30 years, 20 years respectively. They're career politicians. Our founding fathers had no intent, absolutely no intent on this position as a congressman or senator being a career politician but that's what we have. Here in my estimation is what happens. When someone is elected to Congress, what do they do on the first day they walk into their office? They kick back, they prop their feet up on the desk and ask themselves a rhetorical question. What do I have to do to get reelected because there are certainly no limits on my term? What do I have to do to get reelected? Well, the simple universal answer goes something like this. I have to bring back more appropriations to my state than anyone else brings to their state. That will clearly build me a bridge to nowhere. It doesn't matter. It will look good on my resume and on my platform when I run for election. It's money. And so if they all spend money we don't have, what do we have? We have \$20 trillion in debt. We kind of take this cavalier attitude about this. It's just a figure. It's just a clock ticking away. Senator Clements is right, we're "indebting" our kids and our grandkids. I know that's been said a million times, too, and nobody cares. We'll just wait for the next election and that will fix things. Part of the question...part of the question is involving...electing new people or to come up with Senator Crawford's words and if I mistake this, please, Senator Crawford...maybe I should call on you, Senator Crawford. Would you yield to question? [LR6]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LR6]

SENATOR CRAWFORD: Yes. [LR6]

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SENATOR HALLORAN: I respect your suggestion that all we have to do is depend upon Congress to be creative and come up with creative and effective ways to balance the budget. Do you see any of those coming down the pike? Can you list some of those actions that are being taken or proposed to be taken to balance the budget? We're on a path to deficit spending one more time. The clock is ticking. [LR6]

SENATOR CRAWFORD: Right. So there have been at different times efforts by members of both parties to work together on entitlement reform, and some of those efforts, in terms of dealing with the debt in particular. And we do not see a climate that's very conducive to that right now, correct. [LR6]

SENATOR HALLORAN: Thank you, Senator. That's absolutely correct and that's part of the problem. We keep putting people in place that have been there 20, 30 years, 40 years respectively. And we think and expect things to be different. We expect people to come up with creative ways and effective ways to do the federal government's business. Ain't going to happen. It's not going to happen. That does not mean we have to have a huge turnover, consistent turnover all the time. But we have to have the opportunity for new people to come in, not have to run against an incumbent who has a 96 percent chance of winning. [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR HALLORAN: Thank you, Mr. President. Let's look at regulations. This was dated May 23, 2016, but I think it's still relevant. More than \$22 billion per year in new regulatory costs were imposed on Americans last year, more than \$22 billion per year in new regulatory costs--\$22 billion. This goes to Senator Quick's concern. Senator Quick suggested we need to have a federal government to come in and bail us out whenever we have some kind of natural disaster and that's well enough; that's true enough. But as we're spending money on regulations that are imposing cost on our own local taxpayers and our own state, the total burden for Obama years will exceed \$100 billion or has exceeded \$100 billion annually--\$100 billion. We're okay with that. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR HALLORAN: Thank you, sir. [LR6]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Bolz. [LR6]

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SENATOR BOLZ: Thank you, Mr. President. I, too, rise with severe concerns around LR6, and they relate to my role as a member of the Appropriations Committee, and in fact the pause that it took me to find my microphone this morning is because even today on the floor we continue to have difficult conversations about how we balance our budget in a downturn budget year. And so I think it's important that I remind the body that in federal year...fiscal year '15-16, federal funding accounted for approximately 31.1 percent of Nebraska's total budget. So if the convention of the states is really trying to address the deficit, and it starts to look at all of the areas of funding that flow through to the states, it puts us in a state difficult position. It adds challenges to the existing challenges that we already have, and it creates challenges in areas that I know there's deep concern for in this body as a whole. Again, in '15-16, over 23 percent of Nebraska's education budget was federally funded. Our K-12 system in 2015 received \$76 million in Individuals with Disabilities Education Act, part B special education funding, and \$66 million in Title I, aid to schools with high poverty. So the most vulnerable kids and the most vulnerable schools benefit from federal funds, which could be imperiled by a convention of the states. Further, our DHHS system, which again is vulnerable people and vulnerable systems, 52.14 percent of our budget in fiscal year '15-16 was federally funded. And so when I think about the challenges that we've had already trying to find savings in the Department of Health and Human Services and to find more efficient ways of doing things, imagining trying to care for our most vulnerable populations in nursing facilities, in hospitals, in home health, in developmental disabilities, trying to think about those folks without the reliance and stability of federal funds is an insurmountable challenge in my mind. Further, many of these funds go directly to individuals, directly to our constituents. And I can't imagine going over to the Van Dorn Villas in my district and talking to my constituents who are in that retirement housing and talking to them about potential loss Social Security benefits or Medicare benefits. The adult...per adult Nebraska in federal benefits in Social Security is \$3,436 and Medicare benefits is \$2,277. There are a number of other benefit that go directly to individuals including unemployment compensation, Supplement Nutrition Assistance, and the Earned Income Tax Credit. So, colleagues, from a budget perspective I would argue that LR6, while it is an exciting idea and it is an idea that would create dialogue and it's an idea that I understand comes from a place where people are concerned about the federal deficit, in practice could have severe fiscal implications for our state budget. And I would much rather move forward in a slow and steady wins the race kind of approach, working through Congress and trying to make sure that the deficit is addressed through our existing functions and structures than take it to a convention of the states which is much less stable and much less predictable. So from a budget perspective, from someone who has spent a lot of time trying to put a budget together in a difficult fiscal year, I encourage you not to vote for LR6. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Ebke. [LR6]

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SENATOR EBKE: Thank you, Mr. President. I have some questions I'd like to ask and I'm going to go through the list of senators. So if you're going to run, run now. Senator Albrecht, is Senator Albrecht here? I don't see her. Senator Baker, would you yield? [LR6]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LR6]

SENATOR BAKER: Yes. [LR6]

SENATOR EBKE: Senator Baker, do you believe that a 5-1 debt-to-revenue ratio is something we ought to at least be concerned about? [LR6]

SENATOR BAKER: It doesn't sound good, that's for sure. [LR6]

SENATOR EBKE: Thank you, Senator Baker. Senator Blood. [LR6]

PRESIDENT FOLEY: Senator Blood, would you yield, please? [LR6]

SENATOR BLOOD: I will yield. [LR6]

SENATOR EBKE: Same question, do you believe that a 5-1 debt-to-revenue ratio is something that we ought to at least be concerned about? [LR6]

SENATOR BLOOD: Do I think we should express concern? Yes, I feel we should express concern. [LR6]

SENATOR EBKE: Thank you, Senator Blood. Senator Bolz. [LR6]

PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LR6]

SENATOR EBKE: She left. [LR6]

SENATOR BOLZ: Sure, I'll yield. [LR6]

SENATOR EBKE: Thank you, Senator Bolz. Do you believe that we ought to at least be concerned about our 5-1 debt-to-revenue ratio? [LR6]

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SENATOR BOLZ: Certainly. [LR6]

SENATOR EBKE: And do you have any good solutions for how we solve that problem? [LR6]

SENATOR BOLZ: The last time that I saw the Congressman Fortenberry, I talked to him about this issue. [LR6]

SENATOR EBKE: Thank you, Senator Bolz. Did he get it straightened out? [LR6]

SENATOR BOLZ: (Laugh) We were at an event on the Union College campus. And I'm afraid it wasn't that in-depth of conversation. But I did raise my concern about this issue with him. [LR6]

SENATOR EBKE: Thank you Senator Bolz. Senator Bostelman? [LR6]

PRESIDENT FOLEY: Senator Bostelman, would you yield, please? [LR6]

SENATOR BOSTELMAN: Yes. [LR6]

SENATOR EBKE: How about you, do you think that we ought to be concerned about a 5-1 debt-to-revenue ratio? [LR6]

SENATOR BOSTELMAN: Certainly. [LR6]

SENATOR EBKE: Thank you, Senator Bostelman. Senator Brasch. [LR6]

PRESIDENT FOLEY: Senator Brasch, would you yield, please? [LR6]

SENATOR BRASCH: Yes. [LR6]

SENATOR EBKE: Senator Brasch, do you believe that a 5-1 debt-to-revenue ratio of the federal government is something that we ought to at least be concerned about? [LR6]

SENATOR BRASCH: I do. I'd be surprised if you find someone who is not. [LR6]

SENATOR EBKE: Do you believe that we ought to take action to solve that problem? [LR6]

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SENATOR BRASCH: We do. Every election we send someone to represent us to take care of this concern. [LR6]

SENATOR EBKE: And has our debt decreased? [LR6]

SENATOR BRASCH: At this time it has not. [LR6]

SENATOR EBKE: Thank you, Senator Brasch. Senator Brewer, is he here? How about Senator Briese? No? Senator Chambers is absent. Senator Clements. We've already talked about this, Senator Clements. [LR6]

PRESIDENT FOLEY: Senator Clements, will you yield, please? [LR6]

SENATOR CLEMENTS: Yes. [LR6]

SENATOR EBKE: How about you, do you think that a 5-1 debt-to-revenue ratio is something that we ought to be concerned about? [LR6]

SENATOR CLEMENTS: I think we should be very concerned about it. [LR6]

SENATOR EBKE: Thank you, Senator Clements. Senator Craighead. [LR6]

PRESIDENT FOLEY: Senator Craighead, would you yield, please? [LR6]

SENATOR CRAIGHEAD: Certainly. [LR6]

SENATOR EBKE: Senator Craighead, what are your thoughts about our debt-to-revenue ratio? [LR6]

SENATOR CRAIGHEAD: I think it's very frightening. [LR6]

SENATOR EBKE: Thank you. Senator Crawford? [LR6]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LR6]

SENATOR CRAWFORD: Yes. [LR6]

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SENATOR EBKE: What about you, do you think 5-1 debt-to-revenue is something we...? [LR6]

SENATOR CRAWFORD: I think it is a serious crisis. I think it is our financial crisis. Actually my member of Congress, Congressman Fortenberry, is very passionate about it and has been working hard on it, and I feel he has been working hard and it's important that he gets other allies around him to continue to work on that and it's going to take bipartisan effort to get that done. [LR6]

SENATOR EBKE: Thank you, Senator. Thank you, Senator Crawford. Senator Erdman. [LR6]

PRESIDENT FOLEY: Senator Erdman, would you yield, please? [LR6]

SENATOR ERDMAN: Yes, I would. [LR6]

SENATOR EBKE: Do you have any thoughts about our 5-1 debt-to-revenue ratio? [LR6]

SENATOR ERDMAN: It is a problem. [LR6]

SENATOR EBKE: Thank you, Senator Erdman. Senator Friesen. [LR6]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LR6]

SENATOR FRIESEN: Yes, I would. [LR6]

SENATOR EBKE: Senator Friesen, what do you think 5-1 debt-to-revenue ratio? [LR6]

SENATOR FRIESEN: I think it's an extremely serious problem. [LR6]

SENATOR EBKE: Thank you, Senator Friesen. [LR6]

PRESIDENT FOLEY: One minute, Senator. [LR6]

SENATOR EBKE: Thank you, Mr. President. Senator Geist. [LR6]

PRESIDENT FOLEY: Senator Geist, would you yield, please? [LR6]

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SENATOR GEIST: I would. [LR6]

SENATOR EBKE: Do you have any concerns about our 5-1 revenue-to-debt ratio...debt-to-revenue? [LR6]

SENATOR GEIST: I do. [LR6]

SENATOR EBKE: You do? Thank you. Senator Groene. Senator Groene is not here. Senator Halloran. [LR6]

PRESIDENT FOLEY: Senator Halloran, would you yield, please? [LR6]

SENATOR EBKE: Do you have any concerns about the 5-1 debt-to-revenue ratio? [LR6]

SENATOR HALLORAN: Very deep concerns, and I would like to respectively ask Senator Pansing Brooks the same question. [LR6]

SENATOR EBKE: Senator Pansing Brooks. [LR6]

PRESIDENT FOLEY: Senator Pansing Brooks, would you yield, please? [LR6]

SENATOR EBKE: Senator Pansing Brooks, do you have any concern about our 5-1 debt-to-revenue ratio? [LR6]

SENATOR PANSING BROOKS: I have a lot of concern about that, Senator Ebke. [LR6]

SENATOR EBKE: Do you have any solutions? [LR6]

SENATOR PANSING BROOKS: Well, I don't have all the solutions, but I do think there are different avenues to take. Thank you. [LR6]

SENATOR EBKE: Including a convention of states which would include a constitutional amendment. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

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SENATOR EBKE: Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Senator Hansen, you're recognized. [LR6]

SENATOR HANSEN: Thank you, Mr. President, and seeing that I was following...I was after Senator Halloran, yes, I, too, have concerns about our debt-to-revenue ratio. However, I do have concerns about LR6 and a convention of the states, a constitutional convention, whatever term we would like to use for it. And that stems from...in a specific situation here as we're going through Senator Ebke's exercise asking us if we have concerns, I think she's correct and most of us would share concerns, if not all of us would share concerns. In fact, earlier when somebody noted that Congress had an 11 percent approval ratio, I was surprised it was that high and wondered who thinks that we are going down any sort of path on the D.C. level that we want to emulate or do for future years. But the term that just kind of popped into my head is sometimes the cure is worse than the disease. I do not think that there's been great opportunity and great solutions being proposed from the federal level at the moment, but that doesn't mean I want to go down this path full of uncertainty, full of unproven, unknown, any sort of confusing mechanisms and arcane rules and thoughts and arguments. That just brings some hesitation for me. I have to step back and think, did my constituents send me here to give a significant group of power to a vague group of people who are going to meet at an unknown time with kind of unknown authority under unknown, at this time, rules? And I don't think that's something my constituents overwhelmingly sent me to do. I did pass out a handout. It's got my initials, and it's by Eric Berger who's a law professor that I had and it said, no to a constitutional convention. And I just wanted to point out one thing that he mentions and I won't read it word for word. But he points out there are no rules in our constitution for how a convention would be held, including whether or not states would get equal votes as been suggested on the floor or whether or not it would be some sort of proportional vote as well just reconfirming that if the rules are uncertain, the body would probably adopt its own rules and would lead to a political war from the start over the rules is the term he used. I think that's something we have to step back and consider. I think there are some alarming things that the federal government is doing. I think there are some kind of very legitimate reasons to have concern and want to do change and want to do issues, but the question is, is this the way we want to do that? Do we want to empower a group that we don't quite know how it's going to work, that we don't quite know who it's going to be, that frankly there's law professors and legal scholars on both sides arguing both ways on whether or not we can limit it, on whether or not we can't limit it. That's a pretty big vote. That's a pretty big concern, and that's something that I had concerns both this year with LR6 and last year with LR35. I was on the committee that heard LR35 and I was asking some of these questions because one of my first introductions to a constitutional convention was it was explicitly being pitched as a good idea because it couldn't be limited. That's what we needed to...the first argument I'd ever heard for an Article V convention, a constitutional convention was we need this to just completely reevaluate the system. We need this to completely overview all of our systems to get outside of the

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established framework, yada, yada, yada, and really look at it. So then when we're coming around and saying, oh, we can limit it, we can tailor it, we can limit it to limitations of federal power, limitations of the budget, whatever we want and whatever language we want, I'm not 100 percent certain we can and I don't know if I'm going to ever be certain that we can. And with that level of uncertainty I'm not sure if I want to empower such an unknown group... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR HANSEN: ...thank you, Mr. President--to go do that. One of my other things just the whole time dealing with this issue over multiple years now is if the situation and the powers that be are broken, dysfunctional, there's gridlock, we cannot get forward, I don't know how we are going to assemble a new body in America that's somehow going to work better. If we are going to empower the state legislatures and we've seen, unfortunately, some of our other states very divisive and very butting heads, how those groups of people, how those groups are going to somehow create a new body with new rules that somehow works better than our establishment in Congress. I'm not sure if that's even possible and hence my hesitation for LR6. I appreciate all my colleagues in debate today and appreciate we're having a really actually good, interesting discussion regardless of my disagreement with some of my esteemed colleagues. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Vargas. [LR6]

SENATOR VARGAS: Thank you very much, Lieutenant Governor. I rise against LR6. And I'm still looking at some of the other amendments, but I wanted to just briefly speak and then make sure that, you know, the constituents in my district that have been contacting me, that their voices are heard. I have received numerous e-mails on this issue, some many form letters in support of this and against it. The ones that I've been looking at are the ones that people seem to be...have an opinion on this and they don't think it's necessary. So I'm trying to listen to my constituents and make sure I still...I'm keeping grounded in that. The reason why they don't think it's necessary is that we have to be just very cautious about when we're calling on the...a change in the U.S. Constitution and just what is it actually going to look like when this happens. So because it seems like this is still ambiguous in nature and how it's actually going to look, and I know this is a resolution, I stand against it. I've heard enough of my constituents call me and e-mail me in response to that, and so that's why I stand against LR6. But I do want to yield the remainder of my time to Senator Morfeld to be able to continue this conversation. Thank you. [LR6]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Morfeld, 3:45. [LR6]

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SENATOR MORFELD: Thank you, Mr. President. Thank you, Senator Vargas. Would Senator Halloran yield to a question? [LR6]

PRESIDENT FOLEY: Senator Halloran, would you yield, please? [LR6]

SENATOR HALLORAN: Yes, my pleasure. [LR6]

SENATOR MORFELD: Senator Halloran, you stated on the floor that it was the intent of the founders of this country to not have career politicians. Can you provide the citation? [LR6]

SENATOR HALLORAN: (Laugh) Can you provide the citation that suggests that the founding fathers thought that exclusively that the Congress should be the only ones that can amend the constitution? [LR6]

SENATOR MORFELD: No, no, that they intended that members of Congress not be in Congress for a career, as you stated. Is there a book? Is there a founding father that made that statement? Can you provide that source? You stated on the floor that that was the intent of the founding fathers. [LR6]

SENATOR HALLORAN: If you...there are several quotes by...you know, we can get into this argument back and forth. [LR6]

SENATOR MORFELD: Okay. [LR6]

SENATOR HALLORAN: But the issue in hand is, are there any quotes by the founding fathers in regards to amending the constitution that this allows a convention of states... [LR6]

SENATOR MORFELD: Okay. [LR6]

SENATOR HALLORAN: ...or just exclusively calls for Congress to make amendments? [LR6]

SENATOR MORFELD: Thank you, Senator Halloran. See, Senator Halloran was the one that made the statement on the floor that it was the intent of the founding fathers that we do not have career politicians. And quite frankly, I've...I'm a student of history. I cannot find any intent of that nature. I've never read that from any of the founding fathers' documents, I've never seen it, so I'm interested to hear and see which founding father stated that there should not be career politicians. I think that a lot of the founding fathers were career politicians. They were individuals that had

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served their country, had served their colonies and their states very nobly and for a long time. And then there were some that were very young and had not had the opportunity yet. Colleagues, if you look at Congress, two in five lawmakers in the House and over 39 percent have served less than three years, so there's plenty of people that are new to Congress, that have had the opportunity. And while incumbency is a very powerful thing, the person that stated that incumbency is so powerful that it can't be overcome beat an incumbent. So if your ideas resonate more with your constituents, if you work hard and reach out to your constituents, you can have the opportunity to change things. Congress has the opportunity to change things. One of my friends that was in Congress was just defeated,... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR MORFELD: ...Congressman Ashford, and he was replaced by a new individual. And I'm sure that person will bring new energy and new ideas. Whether I like them or not remains to be seen. And so there is opportunity to change the system. We've changed it before. It was less than two decades ago that we had four balanced budgets. This is not a constitutional crisis. It does not require us blowing up the system and starting all over. In addition, there are serious constitutional concerns and the courts likely would not address constitutional delegates that are limited in scope. There's not a lot of actual precedence or jurisprudence that proves that that can actually happen. In fact, there might be First Amendment concerns in terms of controlling delegates that are sent to a constitutional convention. So it's important to look at what we know and what the facts are. The facts are there is no good way to limit the scope of a constitutional convention. In fact, history and the facts have proven otherwise. There is no way that we can control these constitutional delegates once this convention is formed. It's important for us to look at the facts, colleagues. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR MORFELD: It's...thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Bostelman. [LR6]

SENATOR BOSTELMAN: Thank you, Mr. President. Good morning, Nebraska. Good morning, colleagues. There's been some good debate about fiscal spending, about our budget, about how this whole process might take place, what's going to happen once we get into a convention, things will go off the rails, who knows what's going to happen. I want to ask some questions more back...I want to bring us back into a conversation a little bit about actually there was an actual convention of the states simulation that took place. And we actually had some senators that are sitting on the floor today that actually went to that simulation and took part of that. So

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I'm kind of curious, and I am in support of AM758 and LR6, and I am kind of curious as to how that process went, what their experience was, and bring that out a little bit to let you all understand, let us all understand a little bit more about what actually took place there, what they saw and what happened. And I was wondering if Senator Lindstrom would yield to some questions. [LR6]

PRESIDENT FOLEY: Senator Lindstrom, would you yield, please? [LR6]

SENATOR LINDSTROM: Yes, I will. [LR6]

SENATOR BOSTELMAN: Senator Lindstrom, you attended the convention of states simulation, correct? [LR6]

SENATOR LINDSTROM: That's right, back in September. [LR6]

SENATOR BOSTELMAN: Could you, maybe to start with, could you just give me a brief...well, your viewpoint of overall how that convention went. Was that a very collegial convention? Is it something that worked very well? Was there a lot of problems with it? How do you think that, overall, how do you think that convention was handled? [LR6]

SENATOR LINDSTROM: I think the convention was handled very well. We were tasked...so there's...all 50 states were represented there. We were broken down into three separate groups. Myself, Senator Friesen, and Senator Ebke were part of the process. I was a part of the fiscal restraint task force, if you will. And so if you could imagine this room getting together in a conference room sitting around tables and discussing different potential amendments, that is what we were tasked to do. We were tasked to come up with three different amendments. And we were only able to get two done in the matter of the time...in the time that we had there. And one of the bills or one of the amendments we were tasked to do was the balanced budget amendment, which we weren't able to even compromise on that. We had to change the name of it to a debt limit ceiling amendment. So if you could imagine this room, a lot of lawyers in there, not...which were more vocal at the time. And then we had a constitutional lawyer that was an expert and then we elected a chairman of the group. And so the discussion took place. Everybody said their piece about how we were going to go about doing this and we ended up going from three different proposals down to two because we just couldn't agree on the language. And we went piece by piece, word by word, and that really was the process. And then once we came up with those proposals, as Senator Friesen's group and Senator Ebke's group, we came together on the floor, if you will, kind of like this, and then discussed it as a body at large. So there was around 150 total members but about three from each state were represented there.

[LR6]

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SENATOR BOSTELMAN: Thank you. So to continue a couple more questions, from the discussion and those who you said were represented there as far as lawyers, constitutional lawyers, you feel that the representatives there took this task very seriously in what they were doing? [LR6]

SENATOR LINDSTROM: Oh, it was...they took it extremely seriously. This...but people worked very well together. And, you know, it's come up that this could be a runaway convention and I'll point out that we couldn't even...you know, on what I view as maybe the simplest of the amendments that we were tasked to do, which was to balance the budget, I think we can all agree that the federal government is getting more and more bloated each year. We weren't even able to come together to necessarily get that particular proposal done. So this idea that there would be a runaway convention I don't think holds a lot of water. [LR6]

SENATOR BOSTELMAN: So I take it the concern with this specific or a specific amendment language, it would be that it's not only acceptable to their constituents, their states, but it's a national implication as well to ensure that it fits into what needs to happen on a fiscal restraint area, is what I'm hearing from you. [LR6]

SENATOR LINDSTROM: That's right. And just to point out, the two...and I just want to...and I don't mean to take up all your time here. I...the two proposals that came out, one was the debt limit ceiling, and we did discuss so some of this has been discussed. If were to have, say, a financial crisis like a Great Depression, a Great Recession again, it would take two-thirds of both the House and the Senate to override that balanced budget approach...the debt ceiling limit and be able to appropriate funds. The other issue that came about was if we were to get into, say, a world war. So those are the couple...couple of the things that came up. It wouldn't take effect for three years. That actual, that vote, when we got together, was a 45 in support. The one that was interesting here was dealing more with taxation and whether or not the federal government should impose any type of taxes on income, gifts, estates. [LR6]

PRESIDENT FOLEY: Time, Senators. Thank you, Senator Bostelman and Senator Lindstrom. [LR6]

SENATOR BOSTELMAN: Thank you. [LR6]

PRESIDENT FOLEY: Senator Hilgers. [LR6]

SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. I rise in support of LR6 and I appreciate Senator Ebke bringing this. I think Article V is one of the tools that we

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have in our toolbox as citizens and as states to help control and limit the power of the federal government. I'm not going to spend much time, if any, on the merits of trying to reduce our federal debt. I think that's been well stated by Senator Clements and others. But I do want to spend some time, I think, where I can add some value, which is on some of the discussion of a runaway convention, because that is one of the concerns that I've heard from constituents. We heard it at the hearing, heard it on the floor this morning. And I've done a lot of research and had a lot of thought and spent a lot of time on this issue and I do not think those concerns are with much merit and I'll explain why. The Article V of the constitution itself provides us very significant safeguard to an Article V convention which is whatever comes out of that convention--and we can disagree as to whether the scope would be limited or if there would be runaway convention and the rules would be altered--whatever comes out of that convention has to and must be ratified by 38 states. And we've had a lot of discussion about the political discord we have in our country and how divided it is. And I would submit that in order to reach a threshold of 38, we would have to have something that had broad-based support and it would be...that it would have support across ideological divides. Now the counter to that is those that argue and say, well, the Article V convention requirement or the ratification requirement of 38 states really wouldn't apply. Now, of course, you'd have to ignore the text of the constitution to get there. And the way that proponents of that argument do so is they say, well, the original convention was a, quote unquote, a runaway convention and they ignored what actually happened and, therefore, that could happen again. And I think, colleagues, that is not accurate, and I'll give you three reasons why. The first reason is what I believe is a misstatement of the historical record, which is that the Congress called the initial constitutional convention only for the sole purpose of amending the Articles of Confederation. If you believe that and then we created a new...or the framers created a constitution, then it goes outside of the scope of what was initially called, therefore, that's exhibit A for what could happen today. That is not in line with the historical record. In fact, the constitutional convention was not called by Congress. It was called initially by the state of Virginia. And the purpose of that was after the...there was an Annapolis report that came out from sort of a quasi-convention in Annapolis. And the proposal was to have a convention not to amend the Articles of Confederation but, instead, to render the constitution of the federal government adequate to the exigencies of the union. Okay? That's an incredibly broad purpose. Virginia, the state of Virginia, called for a convention with that purpose in mind. State after state after state after state did the same thing. When it got to Congress, Congress did not call the convention. It didn't even recommend that a convention should be called. Instead, it expressed its opinion that this is a good thing to do. And I'll quote from a Law Review article that I was reading this weekend from the Florida Law Review in which the author makes this exact point. And I'm quoting, "It is, perhaps, truly extraordinary that so many writers have repeated the claim that Congress called the Constitutional Convention and legally limited its scope. First, the Confederation Congress had no power to issue a legally-binding call. If the states decided to convene, as a matter of law they—not Congress—fixed the scope of their delegates' authority. Second, the Articles gave Congress no power to limit that

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scope. To be sure, Congress, like any agent, could recommend to its principals"--that is, the state--"a course of action outside congressional authority. But this is not the same as legally restricting the scope of a convention." In other words, colleagues, the initial convention was called for a much broader purpose than to just amend the Articles of Confederation. That's point one. Point two, and this isn't a misinterpretation of the historical record, it's an omission of an important part of the historical record which are the precise commission statements given to the delegates from each individual state that went to the convention. [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR HILGERS: These are the statements...thank you, Mr. President. I'll probably have to come back on the mike to finish my remarks. But these commission statements are what bind the agents to their authority. It gave the delegates their authority to act or not act on behalf of their state. These are incredibly important to understanding the limits of the convention. And you don't have to just believe me, but this comes from James Madison in Federalist 40 in which he says, "The second point to be examined is, whether the convention were authorized to frame and propose this mixed Constitution. The powers of the convention ought, in strictness, to be determined by an inspection of the commissions given to the members by their respective constituents." These are incredibly important documents and when you look at those documents, the vast majority, almost all, not all but almost all the states provided their delegates authority with the broad powers that mirrored and matched the purpose of the convention, in other words, to bring the federal government in line with the needs of the nation at that time. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR HILGERS: Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Morfeld. [LR6]

SENATOR MORFELD: Thank you, Mr. President. And I appreciate Senator Hilgers' historical context. I actually had never heard anybody say that Congress called for a constitutional convention. And I'm not a scholar of the Articles of Confederation because we haven't had those around for a while, but it's good to know that they did not allow for Congress to call for one. My understanding was that a state called for one and I actually did not know the name of the state that called for one but apparently it's Virginia. In any case, Senator Hilgers provided absolutely no authority or no citations that shows that the scope of a constitutional convention can actually be limited. He did note that the scope for the calling of a constitutional convention at the time was maybe a little bit more broad than some people think. I would have...I'll have to go back and look at the Law Review article that he read and some of the different sources to confirm that. In

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any case, the concern still remains. No citations, no federal authority was provided by Senator Hilgers that shows that the scope of a constitutional convention can be limited. And the bottom line is that, the reason for that, is because it can't be limited. And I will tell you right now, colleagues, that if you try to bind duly sworn constitutional delegates to some scope of authority from the state, how will they be able to get any business done if they're bound by that and everything has to be double checked by the state legislature that sent them there in the first place? They wouldn't be able to get anything done. And quite frankly, as we know, we take votes. And once you take a vote and once the vote is confirmed, that's it. We don't get any do-overs once you...once roll call is called and then the vote is finalized. So, what, we're going to ratify a constitution and then suddenly the delegates are going to come back to Nebraska and we're going to say, oh, we don't like that, we're going to recall you now? The damage will have already been done. Colleagues, there is no constitutional authority that allows for the limited scope convention, only conjecture. There's some interesting Law Review articles. There's a few interesting nonbinding Attorney General's Opinions out there. I actually, much like Senator Lindstrom and Senator Friesen, I actually went to one of these three-day conventions, not the same one as them, a year and a half ago and I sat there and I listened for three or four days and read all the information and there was no authority, no precedent given to limit the scope of a constitutional convention. And if you don't think for a minute that once this constitutional convention convenes that there's not going to be horse trading and bargaining over certain rights, over others, in order to get the deal done, you better think again. And you think once that constitutional convention concludes and has a proposed constitution, that you're not going to have well-paid, well-funded interests out there pushing for it, one way or the other, throughout the country? And then the other thing that's scary, and I think it was Senator Ebke that brought this up or one of the other proponents of this measure, these things are perpetual. They can sit out there for over 100 years until all the states ratify. What takes to rescind it? Suppose the states would have to go back and rescind their ratification of whatever the constitution was that they originally supported. But it could be sitting out there kind of like a ticking time bomb for several decades until it's ratified. And as we know, the political climates and the political winds change from state to state and eventually, after 40 or 50 years, one of these things could be ratified. There is a lot of unknowns here, colleagues, and the bottom line is that our political system, while some may think it's very broken, it's not so broken that we need to go back and rewrite all the rules. There are ways to address the budget if that's what you're concerned about. [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR MORFELD: One minute, Mr. President? Thank you. There's ways to address the budget under the current political framework and structure. We can do that. We did it less than two decades ago. We can do it again. That's where our time and attention should be spent, not on blowing up the constitution and rewriting it and sending it back. And for people that say, oh, well, three-fourths of the states have to ratify, well, there's been some really interesting things

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that have happened politically that I thought would never happen over the last few years. And so I don't think that we should so easily dismiss what could or could not happen and simply see this as an interesting exercise in state and federal authority and federalism. Whatever we do, we should assume that it can be ratified, that it can be changed, and that the rules of the game can be completely changed not just for the next few years, but for another 200-250 years. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Schumacher. [LR6]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. A couple of observations, then I'll get to my main point. Modern economies require a dynamic interplay of fiscal monetary policy to minimize the risk of depression with its horrendous effects on a global economy. Under the traditional model of 5 to 1 debt ratio is concerning, but that ship has long sailed. Under the modern rules that we now must play, modern economies must contend with that fact that they are not based on stores of gold or balanced budget, but on managed flows of credit. You heard Senator Clements answer Senator Ebke that his bank would never make a loan to somebody with that 5 to 1 ratio. But his bank buys U.S. Treasuries right and left. That's the modern economy. When I was in law school we didn't spend much time in constitutional law on this particular issue because I doubt if anyone ever thought that there would be a serious effort to call this kind of wide-ranging convention that had at its core fiscal policy which just about means anything. But the conclusion was that probably you could not limit the scope of such a convention. So let's just take this particular resolution that calls for us to impose fiscal restraints on the federal government. One of the big reasons for a lack of fiscal restraint dates back to the initial constitutional convention and the great discussions of who should have more votes, big states or little states, and the great compromise with two votes per state in the U.S. Senate and by population in the U.S. House. Well, that really never has set very well with the bigger states because they really get cheated in the U.S. Senate and representation there. So if we're going to...what they find themselves with is having a proposal, putting it out there, and then having to throw a bunch of pork in it for the littler states to get those Senate votes so that the pork could be advertised as a positive thing by the candidate running for reelection, a real source of fiscal nonrestraint. And let's suppose that that's what the convention says. So let's just look at some of the states here. We have, for example, about 6.6 million people in a few states, states of the Dakotas, Idaho, Montana, Wyoming, and Nebraska. Let's just rename them as "DIMWN." And DIMWN, with 2 percent of the population of the country, has 12 percent of the Senate votes. Compare that to the largest states and the six largest states have 40 percent of the population and the same number of Senate votes. That just sounds like a legitimate point of discussion for our newly found convention. What we can do is we can take the six states of DIMWN, which are all contiguous, and combine them into one state--we've got 44 votes for doing that because there's only six of them--and we create one state out of those six. Okay? We then remove this pressure

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for irresponsibility in the federal budget that is brought about by that power in the Senate because they... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR SCHUMACHER: ...those six will now only have 2 votes instead of having 12 votes in the United States Senate. And that's all perfectly within the bounds of this resolution, a little bit of a twist maybe you haven't heard of, but, believe me, there will be plenty of characters like me at this convention to cook up all kinds of little twists that are well within even the strictest reading of this resolution. And so now we will be part of our six-state consolidated state of DIMWN. And we will have just 2 percent of the population--sounds really fair. I don't know who could disagree with that one. It's nice, all kind of the same agricultural, cows, environment. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR SCHUMACHER: It really fits together as one nice state. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR SCHUMACHER: Thank you. [LR6]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Halloran. [LR6]

SENATOR HALLORAN: Thank you, Mr. President and colleagues. Just to go on record, Schumacher, I don't think you're...Senator Schumacher, I don't think you're a character. You're a fine character. But the same kind of rules that govern one or two characters getting away with some crazy, bizarre amendment to the constitution, we're able to keep this character in check from time to time, most of the time. We're able to keep this character, myself, in check most of the time because we have rules that will govern a convention of states in the same way. And then ultimately, once a proposal is made, it has to go to the states, three-fourths of the states, folks, 38 states. Sorry, huge hurdle, it's a tough one to get something nitwit through. I'm going to yield the rest of my time to Senator Hilgers. [LR6]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Hilgers, 4:10. [LR6]

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SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Halloran. I have no doubt that...well, I shouldn't say that. I...Senator Morfeld's point, Senator Schumacher's point is that there could be individuals who could gum up the works at a convention and that may or may not be true. I'm not certain. I haven't done the research on that. My point is that there is a significant guardrail to that process and that is the ratification process and whether or not there could be...whether or not we have a 38-state requirement. I think the answer is clearly yes. And as I was discussing before, the counter argument is, well, we shouldn't...we don't need to apply that now or it wouldn't apply now because it didn't apply in the...when the initial constitution was drafted. And I was going through reasons why I do not believe that to be the case and the first reason is that Congress did not call the convention for a limited purpose, therefore, those delegates at the convention did not exceed the authority by which they were there to act. The second point that I was just starting to discuss was the really critical point of what authority the delegates had. Now of all the states, ten of them gave authority to their delegates that matched and mirrored the purpose of the convention as called for by Virginia; in other words, you have authority to act in a way to meet the needs of the country in this dire time. That's essentially what the authority that they were given. Now that could include amendments to the Articles of Confederation, but it could also include, and did include, creation of a brand-new constitution. And in fact, I think this point is clearly demonstrated by the fact that they...two of the states, the two states that did not have such authority that actually were only given authority to amend the Articles of Confederation, which were New York and Massachusetts, did not participate in the drafting of the actual constitution. Once it became clear that a new constitution was being drafted, those two states sent their delegates home, except for Alexander Hamilton from New York. He stayed and ultimately signed the constitution, but that was a symbolic act and not an act on behalf of the state of New York. That is incredibly important, this notion of agency. What power do we give our delegates and what can they do? It is a long-held, going back to the time of England, principle of law that an agent cannot go beyond the powers given to him or her by the principal. No matter the context, that is a long-held principle of law. Any such act that goes beyond that authority is what we would call ultra vires; in other words, not authorized, not valid, void. So the question here is not necessarily whether we've had a lot of cases that have just talked about a particular constitutional convention and the actions of the delegates. We haven't. I concede that point. But that's not the appropriate question. The question is whether or not we have legal principles that deal with this type of situation, an agent going outside the authority of a principal. And we do. We do. Agents cannot go outside their power. So if Nebraska says to its delegates you are bound to this limited scope of action and you can go no further, and they do, that action is void. [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR HILGERS: Now the third reason why I do not think that the historical example is applicable here, and this is often given in the context of, well, the ratification procedures were

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different in the Articles of Confederation and they were thrown out the window by the convention and we could do that now, so we could throw out the 38-state convention procedure. Well, I don't think that's true for a whole bunch of reasons, but I want to focus on one reason in particular, which is the...again, in the historical record. In the historical record not every state actually ratified, immediately ratified the constitution. That much is true. However, every state did agree to the procedure outlined in the constitution for ratification. In other words, the constitution says in Article V...does not say you shall just...you shall ratify it, so, state legislatures or citizens, you shall ratify it. It says you shall call a convention for the purposes of ratification. And every state, including the ones who initially didn't ratify the constitution, including Rhode Island, called that convention. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR HILGERS: Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator McCollister. [LR6]

SENATOR McCOLLISTER: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. This particular piece of legislation has its attraction, has its appeal. I certainly understand that. But as we move forward, we need to be cognizant of doing no harm, and that also is a factor in my thinking. I wonder if Senator Ebke would answer a few questions. [LR6]

PRESIDENT FOLEY: Senator Ebke, would you yield, please? [LR6]

SENATOR EBKE: Yes. [LR6]

SENATOR McCOLLISTER: Thank you, Senator. Thank you very much. Is there a difference between a constitutional convention and an Article V convention? [LR6]

SENATOR EBKE: I think it's a matter of semantics. You know, the Article V folks who...in all instances are referring to it as a convention of the states under the authority of Article V. Typically when we think of a constitutional convention, we're thinking more of a universal convention as of rewrite the whole convention, the whole constitution. [LR6]

SENATOR McCOLLISTER: Is it such that an Article V convention will be limited in scope? [LR6]

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SENATOR EBKE: I believe it is. [LR6]

SENATOR McCOLLISTER: And there's...there was, I guess, a mock constitutional convention such as an Article V convention in Williamsburg just last year. Is that correct? [LR6]

SENATOR EBKE: Yes. There was a mock convention of the states. [LR6]

SENATOR McCOLLISTER: How many proposals came out of that mock convention? [LR6]

SENATOR EBKE: I think Senator Lindstrom addressed this. There were a number of proposals. Each committee was tasked with coming out with considering at least three, I think, Senator Lindstrom, and several of the committees only came out with two. And I don't remember how many were actually adopted. [LR6]

SENATOR McCOLLISTER: Thank you. I'll redirect that question to Senator Lindstrom if he'd yield. [LR6]

PRESIDENT FOLEY: Senator Lindstrom, would you yield, please? [LR6]

SENATOR LINDSTROM: Yes, I will. [LR6]

SENATOR McCOLLISTER: Can you describe the process by which the committees at the mock constitutional convention held in Williamsburg conducted their business and what were their conclusions? [LR6]

SENATOR LINDSTROM: So we were tasked with three different proposals per group, so Senator Ebke, myself, and Senator Friesen were split up into different groups. I had the fiscal restraint. We came out with two to the floor. The three that came out, there's fiscal restraint; there was federal legislative and executive jurisdiction, term limits, that type of thing was part of it. And I believe there were about around six or so that were voted on in support of. [LR6]

SENATOR McCOLLISTER: So... [LR6]

SENATOR LINDSTROM: And then we had a few of them that got voted down. [LR6]

SENATOR McCOLLISTER: So what I'm hearing you say is there were six proposals that came out of that convention? [LR6]

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SENATOR LINDSTROM: Yeah, give or take one or two. [LR6]

SENATOR McCOLLISTER: What were the other five? [LR6]

SENATOR LINDSTROM: Well, we dealt with, like I spoke about earlier, we dealt with debt limit ceiling was one. We dealt with taxation on the federal level when it came to income tax, gifting tax, estate tax. We talked about term limits, dealing with the congressional term limits, and some of the other dealing with the judiciary branch was a part of it as well. So we covered a lot of different issues and we had several different proposals that dealt with those issues and I can only speak mainly to the fiscal restraint. Senator Friesen or Senator Ebke can maybe talk to the others. [LR6]

SENATOR McCOLLISTER: Thank you. Thank you, Senator Lindstrom. Question back to Senator Ebke, if she would. [LR6]

SENATOR EBKE: Yes. [LR6]

SENATOR McCOLLISTER: Could we in fact change the ratification system to make the process much easier? Could that be a part of the process and one of the proposals? [LR6]

SENATOR EBKE: Well, since the ratification process is part of Article V, I suppose you could have an amendment to Article V. But in order to become a legitimate amendment, it would have to be ratified based on the old understanding. You can't change the ratification as part of the original. You could do it prospectively for the future. [LR6]

SENATOR McCOLLISTER: Yeah, thank you, Senator Ebke. I yield the balance of my time to Senator Krist. [LR6]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Krist, 1:00. [LR6]

SENATOR KRIST: Thank you, Mr. President. Thank you for your courtesy, Senator McCollister. I have my own time on the mike coming up and I'd be glad to yield some back to you, Senator McCollister. I just wanted to make a point. My office is being inundated with phone calls from other states saying Nebraska needs to stop filibustering this issue and get on with it and become part of us. That's not how we do things in Nebraska. And by the way, this is not a filibuster. This discussion on this floor is as energized and as honest as I've seen it. So if we were filibustering, we'd start reading "Mary Had a Little Lamb." We at this point are talking about things that are

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important to a final vote on this. Thank you, Mr. President, and thank you, Senator McCollister. [LR6]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Crawford. [LR6]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. I rise again in opposition to LR6. But I do care about Senator Clements' grandchild. I care about all our children and grandchildren and the debt. And, colleagues, that is a reason why we should not pass LR6. If you're asking what do we need to do to resolve the debt crisis--which it is, it is a debt crisis--we need to be actively engaged in solving that debt crisis. What do we need to do? Well, think about what happens if you're in a situation where you have debt. If you have serious debt, just stopping spending from this point on does not address your debt problem. Yes, it keeps you from getting into further debt, but addressing...we are beyond that point. Addressing our debt crisis is going to take more than just fiscal restraint from this point forward. In fact, it might take some additional spending to tackle that problem. If you've been in a situation where you've been in debt, you know sometimes what you have to do is you have to bring in additional revenue and spend more on your debt servicing for a while to try to address that debt problem. And so I'm very concerned that if we were successful in having a convention and there were fiscal restraints put on from this point forward, (1) it distracts attention from what we really need to be doing, which is tackling the debt; and (2) it might put us in a situation where we would not be able to tackle that debt situation because we would have put fiscal restraints on our members of Congress. The second thing that you need in this kind of a situation is you need experienced members of Congress who understand the situation and are willing to be statesmen/stateswomen. And I know that we sometimes think because the reelection rate is high, we sometimes think there isn't congressional turnover. But, colleagues, there is quite a bit of congressional turnover. And actually in 2013, two in five lawmakers in the house had served less than three years. So in 2013, we had the less experienced house since 1995. And when I think about the situations where we have had these committees coming together in Congress, it generally is those...it generally has been those more experienced members of Congress who exercise leadership. And I'm thinking of one effort particularly by our senator, Senator Kerrey at the time, who led a bipartisan effort to address and try to tackle entitlement reform. And those senators who were experienced were a key part of that. It is also the case we had, in 2011, our Budget Control Act of 2011. And so it's not fair to say that nothing is happening in Congress. We've had now...we have the experience of the sequester and some of the cuts that we prefer that another solution was found other than the sequester, but they--Congress--did act in terms of showing budget restraint. And so member...I believe that we need more experienced members of Congress, ones that are passionate about tackling the debt and have the experience to do so. It also is the case to make sure that members of Congress are tackling the debt that we need to have competitive elections. And so, colleagues, our redistricting bill, we have Murante's bill and Senator Harr's bill; we have two bills to tackle that problem, to try to reduce districts that are gerrymandered so that they are no longer

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competitive. Making sure Congress is responsive, a big part of that is making sure they have competitive districts, and that's something we can do here in this room to help make it more likely that Congress will be responsive in addressing the debt. When I think of the members of Congress who I see acting on these issues and trying to be responsible on these issues... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR CRAWFORD: ...I daresay it's more often the members who have been there for a while. And again, my own member of Congress has been there 12 years and I believe that he understands this issue and I've heard him talk in public about this issue and take a stand on this issue. And so I think that...and he happens now to be on the Appropriations Committee, and so I don't think...I do not want to pass something that would say that he needs to leave. If there is somebody who is not understanding the issue or making irresponsible decisions, those are the members of Congress that need to leave. And what happens with term limits is you lose your experience. You still have similar kinds of levels of turnover, but unfortunately everybody gets booted out, not just the ones that are being irresponsible or who aren't as engaged and effective in that process. And so we do need to address the budget, the federal debt. It is a crisis. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR CRAWFORD: But LR6 would do the opposite. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Crawford. Mr. Clerk. [LR6]

ASSISTANT CLERK: Mr. President, a priority motion, Senator Chambers would move to bracket the bill until June 2. [LR6]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your bracket motion. [LR6]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, it was all I could do to stay in my office and watch and listen without coming back up here. I had said that I would not say much on this proposition. As I listened to some of the comments that were made on an issue so serious, I felt that maybe I should not have pledged myself at the beginning in the way that I did. But I did also say that I do not believe this proposition has sufficient strength to move farther along in this process. I counted 15 people who were here last time and voted against this proposal; 15 have come back; 25 voted to send it back to committee. There are other new people and I've listened to some of them and I don't think they're going to support this. If

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those 15 remain firm, then all that are needed are 2 more to defeat cloture. Those who want this proposal can then spend six hours on it and I'll be happy to have them do that. The more time taken on any proposal, the more the session plays into my hands because I take a strategic look at the system known as the Legislature, not just tactical. The tactical people look at one bill, one vote, one day. And sometimes that approach leads to great frustration, disappointment, and maybe even disengagement for a while from the legislative process. When you take the panoramic view, you look, starting at the beginning, all the way to the end, not able to predict with precision and exactness what is going to happen day by day. But when the body gave me 30 days at the beginning of the session after I told them, Senator Friesen, that I would like us to get down to a 60-day session, which I could complete standing on one foot on a bowling ball, you all gave me those 30 days. It should let you know that I have some awareness of how this process works. What I want to do is to have the conversation and the discussion which have taken place so far move toward a point. That means a vote on something. A test vote is what my motion is designed to bring. All I needed was a priority motion. Last year it was a very serious motion to send the bill back to committee and that's what happened. Rather than go through all of that, this test motion will let us see how many people support this bill. I doubt that people who are opposed to it will vote against my motion, which is to bracket. That means that we will see if 33 votes remain to invoke cloture. If 33 votes are not here, then I believe that those who support this proposal should have every opportunity to use the remaining hours until they get to where a cloture vote is taken, which they will lose. The debate is productive even when people speak without knowing whereof they speak. It gives insight into that individual. I was listening very carefully to what Senator Hilgers said but I don't see him now. I would like to ask...oh, I see him. I'd like to ask him a question. And while he makes his way to his seat, he and I have a tendency to kind of look at each other when one or the other is speaking. We analyze and evaluate. [LR6]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LR6]

SENATOR HILGERS: Yes, absolutely. [LR6]

SENATOR CHAMBERS: Senator Hilgers, you made reference to Alexander Hamilton. You know he was in the New York delegation, correct? [LR6]

SENATOR HILGERS: Yes, I do. [LR6]

SENATOR CHAMBERS: He was a strong what you might call nationalist in the sense of wanting a strong central government. Would you agree with that? [LR6]

SENATOR HILGERS: I would agree with that. [LR6]

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SENATOR CHAMBERS: He was the only one in his delegation who took that position and he was frustrated during much--in fact, probably all--of that convention. Would you agree in general with that? [LR6]

SENATOR HILGERS: I believe I would, yes. [LR6]

SENATOR CHAMBERS: You also said that Alexander Hamilton signed the document. Did you say that? [LR6]

SENATOR HILGERS: I did say that. [LR6]

SENATOR CHAMBERS: Are you sure? [LR6]

SENATOR HILGERS: As sure as I can be reading it in a Law Review article this weekend. [LR6]

SENATOR CHAMBERS: Would you like to make a small wager, not as gamblers, but just to focus people's attention on what it is we're wagering? And it might be a chance for you to put me in my place again like you did when I said that "court of competent jurisdiction" was not in the statute and you found 280 places where it was. Would you like to make a friendly wager? [LR6]

SENATOR HILGERS: What are the stakes, Senator Chambers? [LR6]

SENATOR CHAMBERS: The stakes would be one copper cent, one penny. I have a brand-new shiny one. Would you wager one penny without knowing what the wager is? [LR6]

SENATOR HILGERS: I would. [LR6]

SENATOR CHAMBERS: Now, if I were to tell you that Alexander Hamilton was so frustrated that he left before the final gong and he authorized somebody to affix his signature, is that true or false? That's the wager. I wager you a penny that is what happened. Would you bet against what I said? [LR6]

SENATOR HILGERS: So you're saying his signature is there but he...it was not his hand that wrote it in. [LR6]

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SENATOR CHAMBERS: Right. He did not...he authorized somebody to affix his name but it was not his signature. I'm betting a penny that that's exactly what happened. Are you willing to bet a penny that it did not? [LR6]

SENATOR HILGERS: No, because I believe you. [LR6]

SENATOR CHAMBERS: Members of the Legislature, sometimes you have to regroup. (Laughter) Is there anybody on the floor who would like to wager against what I said? Now, I know I'm old, but I was not actually there. (Laughter) Senator Hilgers is a wise person. The reason I'm offering this motion is basically for the reason I gave: to show that there is not the support to invoke cloture; but for another reason, a debate that involves two sides, both of which are making their point, and people in between who are undecided, an ongoing debate has the opportunity or the chance of minds being changed. I doubt that any person's mind will be changed. That, though, is no basis for trying to terminate a debate at the beginning. Things of value will be said by those on both sides, especially a subject like this. Historians are the group who could best give an idea of how matters should be handled when you're talking about something that happened a long time ago which is historical because it was a long time ago and historic because it had great importance and significance, but it is so complex there is no way to determine the motives or true intentions of the people participating. So historians will gather as many sources, original sources, as possible, then secondary sources provided by people whose integrity you trust, and try to arrive at a conclusion which is more or less impartial--you cannot say objective because you don't have all the facts. So you may find ten highly respected historians writing about that grand convention, which is what they characterize 1787. [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR CHAMBERS: And all ten of them will draw different conclusions on very important aspects of it because nobody was there. Each one has marshaled facts to support his or her position. That is not the nature of the discussion that is taking place on the floor of the Legislature because many people have not even read the constitution itself. I do not believe that any minds will be changed. So the vote that will be taken on this motion should be reliable as a predictor of how much strength this proposal has, how accurate my assessment is. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Chambers. Debate continues on LR6 and the pending motion. Senator Quick. [LR6]

SENATOR QUICK: Thank you, Mr. President. And I will be supporting Senator Chambers' motion and I would like to the yield the remainder of my time to Senator Morfeld. [LR6]

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PRESIDENT FOLEY: Thank you, Senator Quick. Senator Morfeld, 4:50. [LR6]

SENATOR MORFELD: Thank you, Mr. President. Thank you, Senator Quick. Just a few different things. Well, first, in response to Senator Hilgers, I think one of the things that's important to realize is that how broad Article V is, is one of the greatest dangers to this constitutional convention, one of the reasons why I'm in opposition. First, it does not say who resolves disputes when it comes to a constitutional convention. It's not clear that the courts have jurisdiction. The courts have jurisdiction obviously over the constitution, but this article itself is so broad that it would only have jurisdiction over settling disputes of perhaps this article. And that's a problem, colleagues. And this is only highlighted by the convention that I went to in Utah where they actually had I think about two-thirds of the states convened and they wanted the Speaker of the Legislature at the time, Galen Hadley, to actually send delegates that had binding authority of the Legislature to represent the Legislature to Utah. Now Galen said, well, sure, Adam, you can go to this convention but I can't give you binding authority on behalf of the Legislature, and quite frankly I didn't want binding authority or that responsibility, so that was fine by me. But it was interesting because we were in the legislative chamber of the house of representatives of the state of Utah as two-thirds of the states, some with binding authority, apparently, from their legislatures, some that did not and were simply there, like me, creating the rules for the constitutional convention, creating the framework of the rules with supposed or apparent authority. Now Senator Hilgers brings up rules of agency. Well, rules of agency are pretty clear when it comes to our civil courts, in particular, and our civil jurisprudence and precedents. But the bottom line is that those rules of agency are determined by the courts, whether or not somebody had agency or whether they acted outside the scope of that agency. And it's not clear under the constitution that the courts would even have any authority over a constitutional convention. So rules of agency are fine. The precedents surrounding agency are fairly clear after hundreds of years of precedents both from the English courts and our own American courts. But the bottom line is it's not clear that those rules of agency would even apply in this case. And in fact, there's historical context and precedents that show that the constitutional convention, I believe, of 1787 actually went outside the scope in some cases. So it's important to realize that there are a lot of unsettled questions. And there's a lot of unsettled questions because, quite frankly, the scope of Article V is so broad and there is very little context or even guidance under Article V to provide for any guidance on whether or not the Supreme Court would even have jurisdiction to see and determine whether or not these agents went outside the scope of their agency. And that goes to what is also known as political question doctrine: whether or not the court is the appropriate forum to decide political questions. And I would say that the court would likely, unless there was a complete or blatant violation of Article V, which there's not much text in Article V as it is, the courts likely would not decide on whether or not a certain action of a constitutional convention is valid or not unless they tried to violate the expressed terms of Article V,... [LR6]

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PRESIDENT FOLEY: One minute. [LR6]

SENATOR MORFELD: ...which is, again, very, very broad and there's really only one or two requirements. Colleagues, the bottom line is we are opening a Pandora's box when it comes to authorizing an Article V convention. It's not clear that we can actually narrow the scope of authority of the delegates. It's not clear who would decide whether or not those delegates went outside their scope of authority. And it's definitely not clear that we can actually bind those delegates as a Legislature and then recall their vote if we're upset with it once they voted on the new constitution or the proposed constitution that would then go to the states. It's a dangerous, dangerous road to go down and we should not go down it. And I would also note that my office is getting a lot of calls too. If this is a filibuster, it's the worst filibuster ever that I've ever staged because two-thirds of the people speaking are actual proponents of this measure so this is not a filibuster. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Brasch. [LR6]

SENATOR BRASCH: Thank you, Mr. President, and good morning once again, colleagues. Our morning has almost left us and we're nearing noon. And I didn't get to finish the article I started. There's just a little bit more to go on it. But to remind those who maybe are just listening now that an article by Arthur J. Goldberg, the former U.S. Supreme Court justice, the headline is, "STEER CLEAR OF CONSTITUTIONAL CONVENTION." It ran September 14, 1986, written because of the upcoming bicentennial of the constitution, September 17, 1987. I want to return to the article. And Court Justice Goldberg writes, he says, "Let's turn away from this risky business of a convention, and focus on (the) enduring inspiration of our Constitution. The bicentennial should be an occasion of celebrating that magnificent document. It is our basic law; our inspiration and hope, the opinion of our minds and spirit; it is our defense and protection, our teacher and our continuous example in the quest for equality, dignity and opportunity for all people in this nation. It is an instrument of practical and viable government and a declaration of faith--faith in the spirit of liberty and freedom." That has been my greatest objection that have we as a nation evolved, that our founding fathers who fought for liberating us from England, that fought for life, liberty, and the pursuit of happiness, who penned very carefully the roadmap moving forward, I don't believe our changes is any fault of theirs. What saddens me is that you hear the reports in the newspapers about how few individuals are voting, the low number of people during the primaries, during our elections. I introduced two bills that are in committee, one on civics, one on Americanism. You know, and the State Board of Education, the language has been so diluted in it that we have to cross out this, cross out that, be careful what we say, be careful what we do, let's tiptoe around what this country founded, and I believe that's where we're at fault, not with what our founding fathers wrote. It's the action we've taken with it. Some of you have attended Council of State Governments meetings. Some of you are with the Henry Toll Fellowship. Some of you went through the BUILD program. And I did want to draw

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attention to you that they have a focus on federalism and that is what former Senator Beau McCoy took as one of his missions. And when they talk about...this federalism committee talks about the cost that we incur every year--between \$44 billion and \$62 billion--it's due to unfunded mandates and regulations that cost the state. [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR BRASCH: When we talk about our debt, we need to talk about those items creating debt, not our constitution, not our founding fathers. And then when we take this delegation, whoever they may be, perhaps we nominate Senator Chambers to be one because he knows about Jefferson not being a willing signer. However, who is going to pay for that? We will pay for that. That comes with an unknown fiscal note. I would support MO74 on the bracket. And I do have concerns about LR6 and the multiple amendments that follow. Thank you, Lieutenant Governor, and thank you, colleagues and second house. [LR6]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Friesen. [LR6]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. It's my understanding that Senator Chambers would like to withdraw his amendment, so would Senator Chambers yield to a question? [LR6]

SENATOR CHAMBERS: Yes, I will. [LR6]

SENATOR FRIESEN: So is that your intent? [LR6]

SENATOR CHAMBERS: Senator Friesen, your name could be "F-r-e-e-z-i-n-" and when you put that cold, withering gaze, I have no choice other than to say I want to withdraw that motion. [LR6]

PRESIDENT FOLEY: Without objection the bracket motion is withdrawn. [LR6]

SENATOR FRIESEN: Thank you, Senator Chambers. You know, I've been trying to listen to all the debate. And if Senator Morfeld is here, I'd like to ask him a question. I don't see him right now. But we talked a lot about...he mentioned in the...earlier in his statement he talked about the Republican Party was now in control and we should be able to just take care of all this. Well, you know, if you recall my remarks, I said it didn't matter which party was in control, we have a problem. We've had a problem for 40 years, maybe longer, and I think it's important to address it. And we can continue to ignore it, we can continue to kick the can down the road, which we're all

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very good at as politicians. And there's some of us, probably, who have a yearning to be a lifelong politician. I, for one, don't. But when we look at the extent of the problem we have, you know, when I started my career in business, interest rates were around 9.5 percent. And we thought that was considerably highly leveraged when you had to make those kinds of loans and then they promptly went to 18 percent. And so when you look at the federal debt of \$20 trillion and you start to make the calculations, and if our interest rate would just go to 10 percent, there would be no money left. And we have no path to address that. We talk about balancing our budget. We can't even balance the budget, much less reduce our debt. We are in a long-term unsustainable projection down. And I look at that and I look at us here just saying we should dismiss it, we need to be careful, we're going to damage something. How much money is going to be left for any social programs with interest rates of 10 percent? None. It will eat up our budget. And then we can howl and cry and wonder why we didn't do something sooner, and we can blame it on those politicians who were there, who did nothing, but they're long gone. And it's the same as working in this body. We can do things that have fiscal impacts long term. In the end, we leave and we leave it for someone else to clean up. Senator Schumacher, would you yield to a question? [LR6]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LR6]

SENATOR SCHUMACHER: Sure would. [LR6]

SENATOR FRIESEN: You talked about, you know, we're just going to reduce the number of states in the country and I...that's an interesting concept. So let's talk about it. Let's just scale it down to Nebraska. I know in the past we've talked about merging counties. How did that go? [LR6]

SENATOR SCHUMACHER: Well, we just haven't done that yet. [LR6]

SENATOR FRIESEN: And why is that? [LR6]

SENATOR SCHUMACHER: Because we haven't done it yet. [LR6]

SENATOR FRIESEN: Because there isn't any support in the body? [LR6]

SENATOR SCHUMACHER: Well, I have 44 votes to merge six states into one. [LR6]

SENATOR FRIESEN: Yeah, well, I look at this and let's start merging counties, you know, let's do that and let's see if we can get 38 senators here to follow that. Let's raise... [LR6]

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SENATOR SCHUMACHER: But this would be so much more fun, Senator. [LR6]

SENATOR FRIESEN: Let's raise it up to that 38-vote minimum. Let's put it there instead of at 33. What are the odds of getting something through the Legislature? [LR6]

SENATOR SCHUMACHER: Hey, it's 40...30...all I need is 38. I got 44. I can lose six. [LR6]

SENATOR FRIESEN: What are the odds of that happening? [LR6]

SENATOR SCHUMACHER: Pretty good if we can get rid of some of these states that keep sucking all of our money out and making us fiscally irresponsible. [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR FRIESEN: I think you're stretching my imagination a long ways if you think you can get that done, because I've seen... [LR6]

SENATOR SCHUMACHER: It's a stretchy world. [LR6]

SENATOR FRIESEN: ...I've seen a lot better proposals come before us that don't get 33 votes, much less 38. So with that, I still support LR6 and I still think we have a lot of issues to address. I, for one, was not a term limits fan. I didn't vote for term limits when they came before us to vote on them in the past. So you send me there and I probably wouldn't support that. But there are issues here that are more important long term to the sustainability of this country and it's time we address them. Thank you, Mr. Lieutenant Governor. [LR6]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Linehan. [LR6]

SENATOR LINEHAN: Thank you, Mr. President. I appreciate very much Senator Brasch's comments quoting Mr. Goldberg. It is true that the Constitution of the United States is I think almost a miraculous document. It is, considering the times and the issues and what they were addressing and how it has unfolded over the last 200 years. I don't know that any document ever written can compare to it. I have a great appreciation for it. And when I first heard about LR6, I didn't think I could be in favor of it, but I have changed my mind. I am supporting LR6. And this is one of the reasons. If you look at Article V, the last line says, "no state, without its consent, shall be deprived of its equal suffrage in the Senate." So I don't think we have to worry about state...the convention pushing six states into one state. Again, the framers saw that that would be

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an issue then and over the next 200 years and they protected the small states, Nebraska being one, right in the same article. It also says in the article, and what we're talking about here, is that the legislatures can call...well, I'll just read it since it's right in front of me, "application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution..." So the people who wrote it were brilliant, I think most of us would agree. The document is probably without comparison of any document ever written. And yet right there it says not only can we do this, but I would argue we have the responsibility to do it. They gave us that responsibility. They didn't say it was just the responsibility of the U.S. Congress. They say right there that we have that responsibility as well. Regarding the national debt, we've gone through two eight-year terms of two presidents from two different parties who both came to office saying they were going to fix entitlements. It was, before 9/11, probably George Bush's number one objective. He worked on it. Senator Hagel worked with him. He came to Nebraska. We did a tour around the state trying to drum up support for fixing our entitlements. It was a reasonable plan, affected no one under 50 years old. It raised the retirement ages. It kept Social Security solvent. It went nowhere. And then I pulled up here this morning an article. First paragraph, it's a Washington Post article: "President-elect Barack Obama pledged yesterday," so he's not even taken office yet, but he pledged yesterday, "to shape a new Social Security and Medicare 'bargain' with the American people, saying that the nation's long-term economic recovery cannot be attained unless the government finally gets control over its most costly entitlement programs." So for 16 years, we've had two presidents, two different parties, sometimes with the Congress in their own party's control, and they haven't been able to do this. So I know it's a serious step, but I think we're looking at it wrong. It's not...this is not a...this isn't something that we can do if we feel like it. It's a responsibility that we have to make sure not only that our state government is working,... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR LINEHAN: ...but that we push for our federal government to work. And I think we're looking at this wrong. We can't just blame Washington if, in fact, we have the right and the obligation to do something about it. I plan and will support LR6 and thank Chairman Ebke and Senator Halloran for bringing it to us. Thank you. [LR6]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Krist. [LR6]

SENATOR KRIST: Thank you, Mr. President. Good morning...or good...yeah, it's still good morning. Good morning, colleagues, and good morning, Nebraska. Senator Ebke, yield to a question? [LR6]

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PRESIDENT FOLEY: Senator Ebke, will you yield, please? [LR6]

SENATOR EBKE: Yes. [LR6]

SENATOR KRIST: The intent and purpose of...thank you, Senator, for yielding. The intent and purpose of LR6 is not to identify a responsibility on our part to do something that we are essentially not capable of doing by ourselves but, in fact, to support a single purpose. As I read from your script, "for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government." So it's not to, as Senator Murante suggested earlier, posture ourself to support a convention of the states and put a process in place. It is, in fact, to support one specific issue. Is that correct? [LR6]

SENATOR EBKE: Well, there's three issues that are included, but it is a convention that would...it is to support a convention that would deal with those three issues. I don't know if I'm answering your question or not, but... [LR6]

SENATOR KRIST: That's right on target. Thank you. And thank you for yielding. Although Senator Ebke and I are not lawyers, we spend a lot of time in Judiciary together, and let me emphasize again the respect I have for her and for her opinions. But in this particular case, I cannot support LR6. I can support, as Senator Murante suggested earlier, a resolution that would posture us as a Legislature to meet the requirement of a convention of the states at a point to be determined by the number of states that would sign on to the process. That by itself I agree. I don't agree with Senator Murante a lot, but on this particular issue I agree with Senator Murante that if we don't posture ourself to make sure that we're doing the right thing when the time comes, and if we're not in session, that could be pretty difficult. It could require a special session. So I could, I could support the process or the construction of how we would respond to that convention of states. Now to my point on this time at the mike. It's my opinion that if you ask five lawyers a question you're going to get at least ten different answers. And I think that any of you who have dealt in this body understand that that's the case. So we have heard from many lawyers in the body. I'm just going to quote from Eric Berger. And this was in the Omaha World-Herald, March 24, 2017. The writer is a law professor at the University of Nebraska College of Law. "A resolution pending in the Nebraska Legislature proposes that Nebraska call for a convention to amend the U.S. Constitution." And I'm not going to read the whole thing but I would like to read an excerpt. "Both conservatives and liberals would use a constitutional convention to advance their agendas. Conservatives may try to limit federal legislative power, require a balanced budget and even abolish the federal income tax." And those conservatives you're hearing loud and clear on this floor today. "Liberals my try to overturn the Supreme Court's decision in Citizens United, replace the Electoral College with a national popular vote for

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president and prohibit partisan gerrymandering." Good luck on that one. "We may disagree"...those are my words, not his: "Good luck on that one." I continue to quote, "We may disagree that (sic: about) the wisdom of these individual proposals, but no rules limit a constitutional convention"--let me say that again--"no rules limit a constitutional convention to a preassigned topic. Once states call for a convention, anything could be fair game." Now this is a law professor at the University of Nebraska, not one of our own, I understand, but a law professor at the University of Nebraska. I continue to quote, "Private-interest groups wouldn't be looking for compromises that serve the nation well in the long-term. To the contrary, they'd fight to further their current..." [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR KRIST: "...political objections (sic: objectives), and it's anyone's guess what kind of a country we'd end up with." I passed out earlier a little cartoon that I think is very appropriate, my favorite German minibus, a little Volkswagen minibus, and the driver and the occupants are about as far afield as you could name--Mr. Soros, Mr. Coburn, and Mr. Meckler--heading towards a cliff and the caption above, "Caution be damned--full speed ahead!" That's the kind of diversity, that's the kind of support that these kinds of things are getting from across the board. And I don't think that we should put our nation at risk, or the constitution at risk, when there's that much big money from different ends of the spectrum supporting these kinds of things. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Erdman. [LR6]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Good morning, Nebraska--at least good morning where I live, anyway. I rise today in strong support to LR6. I notice people stand up and say strong support and they say strong opposition. I don't know why they do that but had to do that. Anyway, if Senator Krist would yield to a question, I would like to ask him a question. [LR6]

PRESIDENT FOLEY: Senator Krist, will you yield, please? [LR6]

SENATOR KRIST: Absolutely. [LR6]

SENATOR ERDMAN: Senator Krist, I'm looking at your little cartoon. So what position in this bus does Soros play? Is he for or against? [LR6]

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SENATOR KRIST: He's the driver. All three of those people have come out in support of a constitutional amendment supporting different areas. [LR6]

SENATOR ERDMAN: The last article that I read said that Soros was against it. My impression of Soros is he's on both sides of every issue because he wants to hedge his bets to see which side is going to win and if it wins then he wins. And so my impression is anything that George Soros is for, I'm against. Okay? That's my impression. I received a document this morning and Senator Krist referred to Senator Fischer. And I received a document this morning from Senator Sasse and he says, I quote: Dr. Coburn is a hero and I want to imitate...I would like to imitate him in my public service. He's right. Washington, D.C., seeks its own interests and is out of control. I've come to agree with him that the Article V process our founders included in the constitution is meant for times like these. With his intellect, character, and energy behind this effort, we have a chance to get Washington back on track and under control. So that was Senator Sasse's comment this morning. And I also had the same article from the Omaha World-Herald that Senator Krist alluded to and made comment from. And over time what I've discovered is most of the time articles in newspapers are slanted to take the position of whatever the editor would like to write. And I've been the subject of that on the Keystone Pipeline in Scottsbluff in the Star-Herald. And one thing I knew and I didn't adhere to what my own personal convictions were. You never win an argument with somebody who buys their ink by the barrel. I've now learned my lesson. And you can be right as rain and you never win because of that. So I am, as I said earlier, strongly in support of LR6. And I would yield the remainder of my time to Senator Halloran. [LR6]

SENATOR ERDMAN: Thank you, Senator Erdman. Senator Halloran, 2:00. [LR6]

SENATOR HALLORAN: Thank you, Senator Erdman. I appreciate that. I'm not sure I can blivate for two more minutes on this. I think we've had some good discussion, solid discussion, and I respect everyone's concerns about LR6 and Article V. What I do find a little bit, for the lack of a better word, amusing is we all love the constitution. We all respect, honor, hold the constitution dear to our heart, except for a couple lines in Article V. Now I don't know what the founding fathers were drinking at the time, or smoking, but apparently, according to some in this body, they were on something that was probably legal at the time but maybe a little too much. It seems funny that we can be okay with the constitution but want to, in this body, pick apart one article and say, oh, gosh, the sky is falling. I don't know where the lack of confidence or fortitude in the American people is, but apparently there's a lack of confidence; there's a lack of confidence here on this floor... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

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SENATOR HALLORAN: ...that three-fourths of the states are going to do something silly. We're smarter. We've gone through this before. Senator Lowe brought it up before. He said...I won't speak for Senator Lowe but for myself. I was just average intelligence before I became part of this body. But all of a sudden I come into this body, get elected by due diligence of the voters back home, and I'm of superintelligence or...well, we're all of superintelligence. We're above the average. But we don't think that much of our own constituents or the constituents across the other 49 states. We're going to disregard their judgment and say, oh, these crazy people, anything can happen. I disagree with that. I've got confidence in the American people. Three-fourths is a high standard. If we had three-fourths standard here for cloture, we would never, ever break cloture, not that we can do it now. Three-fourths is a high standard, folks: 38 states. Thirteen states would have to vote opposite of that. [LR6]

PRESIDENT FOLEY: Time, Senator. [LR6]

SENATOR HALLORAN: Thank you. [LR6]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Ebke. [LR6]

SENATOR EBKE: Thank you, Mr. President. I, too, want to thank everybody for the tenor of the conversation today. This is a good thing for us to be talking about. I want to just address a couple of things. Senator Morfeld mentioned his Assembly of State Legislatures event that he went to in Utah in November of 2015. I was scheduled to go to that and was not able to because of a family funeral. But I wanted to note that Senator Morfeld, you know, Senator Morfeld kind of made the case for agency and that a commissioner or a delegate does have some agency responsibilities. He was told by Speaker Hadley that he couldn't vote on behalf of the state and he didn't. And I have every reason to believe that everybody else would act in that respect as well. Senator Morfeld also asked Senator Halloran, I believe it was, to mention...for data, for names of who had thought that, you know, that the founders, that politicians ought to serve short terms. Certainly George Washington believed that. He term-limited himself after two terms as President even though he could have stayed virtually indefinitely, until he died. Thomas Jefferson, as well, has a number of writings that I'd be happy to provide Senator Morfeld which indicate his belief that you should have citizen legislators. And then if you look at the nature of Congress and politics at the time, they didn't meet year-round. They met for a few months and then went home and tended their crops. So I think it's pretty clear that they didn't intend for them to make that their livelihood and their lives' work. Senator Morfeld also talked about sort of a lack of precedent, that we have no idea what happens when the states get together in convention. Since 1814, there have been 20 actual intergovernmental conventions...11, rather, including: the Hartford, Connecticut, convention in 1814 which was a response to the War of 1812; Nashville, Tennessee, convention in 1850 which was the southern response to the North; Washington, D.C.,

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in 1861, to propose a constitutional amendment; and then Santa Fe, New Mexico, in 1922, which negotiated the Colorado River Compact. And in all of those cases, states have one vote and they stayed within the scope of their charge. We also have conventions, not conventions dealing specifically with the constitution, but we have convention of states that's held every year, every year since 1892, and I know it's not an Article V convention but it operates in much the same fashion as an Article V convention could. The association is the National Conference of Commissioners on the Uniform State Laws, known today as the Uniform Law Commission. The rules and processes used by the Uniform Law Commission are virtually identical to what could be and probably would be used by an Article V convention, except that uniform state laws are proposed instead of amendments to the constitutions. There have been countless state conventions to deal with constitutions. None of them have gone off the deep end. We have a significant concern if that is our big fear in all of this. I would argue, colleagues,... [LR6]

PRESIDENT FOLEY: One minute. [LR6]

SENATOR EBKE: ...that what this takes is a little bit of courage. In 1787, people got together and they said, you know, this Articles of Confederation thing isn't working. And so the states got together under their sovereign control. They were not part of a country, per se, then. They got together and they said, let's put this together, let's make this constitution, let's send it out to the states for ratification and we'll see what happens. They didn't know what was going to happen. They didn't know what was going to work. But serious people got together and talked about serious issues. Senator Morfeld tweets. He "Facebooks." Nothing is going to be secret at a convention of the states. Everybody will know what's going on and if there is a problem you can bet that those who sent commissioners will go and fetch them and send them back. Thank you, Mr. President. [LR6]

PRESIDENT FOLEY: Thank you, Senator Ebke. Mr. Clerk. [LR6]

CLERK: Mr. President, Enrollment and Review reports LB427, LB647, LB647A, LB152, LB300 to Select File, as well as LB346 and LB257 (also LB323). The following bills have been reported correctly engrossed: LB34, LB35, LB122, LB151, LB166, LB222, LB432, and LB639. Senator Hilkemann offers a new resolution, LR93. That will be laid over. Communication from the Special Committee with respect to the Election Challenge, that's signed by Senator Watermeier as Chair. And, finally, your Committee on Retirement Systems reports LB415 to General File with amendments. Senator Smith would like to add his name to LB253. (Legislative Journal pages 973-975.) [LB427 LB647 LB647A LB152 LB300 LB346 LB323 LB257 LB34 LB35 LB122 LB151 LB166 LB222 LB432 LB639 LR93 LB415 LB253]

Senator Briese would move to recess the body until 1:30.

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PRESIDENT FOLEY: Members, you heard the motion to recess till 1:30. All those in favor say aye. Those opposed say nay. We are adjourned...excuse me, are recessed, not adjourned.

RECESS

PRESIDENT FOLEY PRESIDING

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

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Any items for the record?

CLERK: I have nothing at this time, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. We will now proceed to the first item on the afternoon agenda. It's General File, 2017 priority bills. Mr. Clerk.

CLERK: Mr. President, LB248. A bill originally introduced by Senator Harr has been discussed. It's a bill for an act relating to employment training. The body discussed the bill last Thursday, Mr. President. The committee amendments were offered by the Business and Labor Committee. There's an amendment pending to those committee amendments from Senator Harr. [LB248]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Harr, you previously opened on the bill, but if you'd like to take just two minutes to refresh us on the bill and your amendment, we won't count that as a speaking opportunity, but just two minutes to get us started. [LB248]

SENATOR HARR: Thank you, Mr. President and members of the body. So, we already had a chance to discuss this bill and we had good debate and I want to thank those who worked with me on this and had the conversation. And I don't think I really disagreed with anything anyone said, but I think we lost focus there for a little while. Governor Dave Heineman used to always say, if you want to know how a kid is going to do on a standardized test, don't look at the kid, look at his parents, because sad, but true, based on a parent's education level and income, you have a pretty good idea of how that kid is going to perform on a standardized test, and that's a sad and scary thing. LB248 tries to break that chain. It provides help early on with education, but

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it also is mainly a work force innovation bill. It's helping children find jobs and to linkup their skills with jobs that are available. And I can speak more about it, but I want to thank you and I look forward to working with you on this bill. Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Harr. Debate is now open on LB248 and the related amendments. Senator Linehan. [LB248]

SENATOR LINEHAN: Thank you, Mr. President. I appreciate Senator Harr's efforts on this and I know he's trying to help kids that need extra help. I get that. But I disagree with him, and I guess Governor Heineman, with his next statement. Yes, I mean, it's easier if kids have two parents and they're affluent and they went to preschool and they have tutors. I get that. That's an easier kid to teach. But that is not the vast majority of the kids...vast majority...that's not the majority of the kids we now have in our system. I've heard this again and again on Health and Human Services last year that somewhere between 52, 53, 54 percent of the kids born in Nebraska last year were born on Medicaid. Now, if 54 percent of the kids in Nebraska are born on Medicaid, we're not talking about affluent families. It doesn't take much to figure out five years from now, 50 percent of the kids in our K-12 schools, or at least in kindergarten, unless there's a dramatic turnaround in their family's status, are not going to be from affluent kids with two working parents or one working parent, college educated kids. So we have to figure out how to educate the kids we have, not the kids we wish we had. And as far as blaming the parents, and it...you can say, I'm picking on Omaha Public Schools but they give...you have to admit, they provide a lot of material. So at the beginning of the school year, it took OPS somewhere between two weeks and a month to figure out bus routes. They let kids stand on corners waiting for a bus to show up for an hour and a half. They would get confused at night where to let them off and they'd beg for patience because they have more kids and they didn't have the time and whatever, whatever, whatever. Okay. How is that the parents' fault that the bus route doesn't work? So we go a few months later, and there's a little boy. He's an immigrant boy. He's a Korean. I know something about this group of people because my youngest daughter worked for two years as...she had a Ready for 5 Program that worked with the Korean kids. And the Korean people, they're here because their religious...United States lets so many immigrants in every year because of religious persecution. So these people have been in refugee camps not for a few years but for two generations where there was no...there were no schools. And these parents hold on to their kids because in the life they came from, they had to make sure nobody grabbed them. They were at risk for death, risk for getting hurt. So my daughter, for two years, would work with these people to make sure they were willing to send them to school because it was not in their culture to let a five or six-year-old, let alone a preschool kid go to school or let anybody else have that kid. So they had a program where the parents would come and the preschool teacher would come and they would be all together trying to prepare them to get ready to let them go to public school. So what happens to one of the little boys that she had? OPS loses him on a bus. And it takes them five hours to find him. And the most astounding thing about it to me is, anytime you lose

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things, and I lose things frequently, not kids but other things, you always look the last place you saw them. And probably as a parent I might have lost track of one of my four occasionally... [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR LINEHAN: ...so why wouldn't you go look the last place you saw the kid? It's just common sense. It took them five hours before they went back to find the child on the school bus they last saw him on. Now, is that that Korean parent's fault? I don't think so. Now, finally, last week, they dropped an autistic ten-year-old off four miles from his house because there was a screwup. So they let a ten-year-old...now, thank goodness, because somebody was watching out their window and they saw him walking down the street and they were watching the news, they reunited him with his mom who was frantically looking for him, of course, because he was not dropped off by the bus as he was supposed to be. Again, is that that mother's fault? We cannot...again, I understand that there are kids who are more difficult... [LB248]

PRESIDENT FOLEY: Time, Senator. [LB248]

SENATOR LINEHAN: Thank you very much. [LB248]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Harr. [LB248]

SENATOR HARR: Thank you, Mr. President and members of the body. I'm not blaming the parents. What I'm trying to do is to figure out how do we line up our work force with our students. We do not have a large labor market in this state and we have a low unemployment rate in this state and if we want our businesses to continue to grow and prosper in this state and keep those jobs and grow those jobs in Nebraska, we got to make sure we have a good work force. This last recession we've had an uneven recovery of youth unemployment. There's an article from April 5th in a magazine called Governing that states just 49 percent of Americans between the ages of 16 and 24 were employed last year and the latest federal data depicts especially uneven recovery for youth. In Nebraska alone, we have 7 percent more youth unemployment comparing 2005 to 2015. In general, states where young adults are at least likely to be working tend to be those that have the highest unemployment across all groups. Guess what? That's us here in Nebraska. We have a very low unemployment rate, but we have very high unemployment rate when it comes to our youth. If you want to have good benefits when you retire, and you want to make sure there are people in the work force to support your retirement, this is the bill for you. This bill is a policy decision. We can't fix all our problems. Senator Linehan is right. It would be nice if we could start in the womb with training, with education for the mothers and the fathers, and if we could continue to have early childhood development, and if we could continue

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to make sure our kids are learning at the proper rate all the way through, and that they graduate high school and that they go on to get that post-graduate certificate or degree. This is the first step. We're saying, what do we want those kids that, to a certain degree at age 16, aren't succeeding? And that come from a level of income, again you have to be available for free and reduced lunch and/or a Pell recipient, whose family may not have the resources to help get that kid on track. What programs are there available out there for them? This works with a public/private partnership that says, let's look at what programs are out there, let's study those programs, let's invest in those programs. We leave it up to the Department of Labor. Again, we ran this through the Department of Labor because this is a Workforce Innovation Act. A lot of the language we stole in this bill comes from the Workforce (WIOA) Innovation (and Opportunity) Act which deals with people who lose their jobs and helps find them and give them that education to get the next job. Well, we're just taking a step backwards and saying, you don't have to have lost a job. Let's get you that job. Let's find you and link you up. So, I appreciate the debate, but I would ask again for your support on AM936 and AM301. We can have this policy debate today. We can vote on it and say it's a good thing. It's not going to go to General File...or Final Read. We don't have the money. So we can have this debate now or we can continue this debate next January. I think this is a good bill. I want to work with other senators to improve this bill between General and Select, and would entertain any questions anyone may have and/or any suggestions if we are able to advance this past General. Thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Krist. [LB248]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. And I got to tell you, there are lot of people watching us. When I went down to my office, my staff said you can't believe the number of phone calls that you've had asking you to stop filibustering LR6. And I said, well, obviously a lot of calls, where are they from? Arizona, Colorado, Minnesota, Michigan, Ohio, Maryland, Illinois, Iowa, Missouri, Nevada, New York, North Carolina, South Carolina, North Dakota, Pennsylvania, Tennessee, Texas and Washington. Seriously. Ask my staff. They've been keeping track. So I will officially say here on the floor so all these folks can stop worrying about it, today I am done filibustering LR6. Now case in point for what we should be talking about. We have to match up those, I believe the age is 16 to 24-year-olds who need the training to get the good jobs, this is what this is about. LB248 is good legislation. The Business and Labor Committee makes it better and the last amendment, AM936, I will support as well. Vote green on all three. Thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Wayne. [LB248]

SENATOR WAYNE: Good afternoon. My name is Justin Wayne. I feel like I'm talking into a deposition here. Last time we had this bill, I got up and was adamantly opposed to it, but since

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then Senator Harr and I have had a lot of conversations and he is right about one thing that this year is not going to be the year this is going to go through because of the fiscal note. So we've made a condition that we're going to work together that over the summer to make this bill better and so with that, I'm going to support it because I like the concept, as I did say that last time, but there are some things we need to work out on this bill. So I would urge everybody to vote green and let's fix the bill. We have time to do so, but the concept itself is good. We just have to figure out how to get there. And with that, Senator Harr, I'll yield you the rest of my time. [LB248]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Harr, 4:00. [LB248]

SENATOR HARR: Thank you, and thank you, Senator Wayne, for your support. I look forward to working with you on this bill and I would ask everyone to please vote for AM936 and AM301 and LB248. Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Linehan. [LB248]

SENATOR LINEHAN: Thank you, Mr. President. I realize that we can't fix everything today but it seems to me that we could start. And I don't see how funding a nonprofit that's not accountable to the Department of Education, not accountable to local property taxpayers, so we take money from a budget even if we had...let's say we have \$20 million that Senator Harr wants to put in this program. So, that means we give this program, whose board of directors is not elected, who is not accredited by the Department of Education, who I'm not sure if the teachers have to be certified as they do in any school, public or private in the state of Nebraska. I don't know, do we have any concerns about...there was a huge...what do they call that when they run a series of newspaper stories after, one after another about a certain situation? Goodwill Industries in Omaha where a nonprofit CEO went, and frankly you have to give this to the Goodwill, they have great stores. It was...from outside looks wonderful, it looks impressive. They come to find out the CEO is making...I don't know, it was a little convoluted because part of it was a bonus and part of it was retirement and a retention bonus. I think where he really got in trouble was hiring his family members and friends, nepotism, which was...ran wild at least according to the stories. So what...do we have any...would Senator Harr accept a question? [LB248]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB248]

SENATOR HARR: Yes. [LB248]

SENATOR LINEHAN: So in your plan here for a nonprofit that the Labor Department is going to choose, do you have any limits on executive salaries, what they can make? Is there any limits,

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do you think, for these nonprofits that are going to get state taxpayers' money versus sending it to schools? Do you have any limit on their executive pay? [LB248]

SENATOR HARR: At this point, no. We can work on that between General and Select or if you would prefer, we can trust the rules and regs. [LB248]

SENATOR LINEHAN: Well, I think one thing that is good about...thank you, Senator Harr. [LB248]

SENATOR HARR: Thank you. [LB248]

SENATOR LINEHAN: One thing that's good about nonprofits in Nebraska, and the reason the Goodwill story became public was they do have to file a 990, which explains very clearly how much goes to overhead, how much goes to the executive salaries, and how much is spent on programs. So are you familiar with the 990s of any of the groups that you're thinking about...excuse me. Senator Harr, would you yield for a question? [LB248]

PRESIDENT FOLEY: Senator Harr, would you yield further? [LB248]

SENATOR HARR: Yes. [LB248]

SENATOR LINEHAN: So, Senator Harr, are you familiar with any of the 990s that you mentioned in the hearing about this, where some of the organizations where this money might go to? [LB248]

SENATOR HARR: Am I familiar...no. I'm going to say no. [LB248]

SENATOR LINEHAN: Okay. So I think that's...maybe this summer when you're looking at this program, you might want to look at the 990s of some of the programs that you talked about in the hearing that would benefit from \$20 million in appropriations from the taxpayers in Nebraska. [LB248]

SENATOR HARR: It's \$2.5 million with the amendments that we're debating right now. [LB248]

SENATOR LINEHAN: Okay, thank you. Thank you, Senator Harr. Okay, still, I think over the summer you might want to look at the 990s of some of the organizations. And I think we all, certainly if we're going to get state-appropriated taxpayer money to an organization, we should

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be very, very intimately familiar with how that organization runs, as we should be with how the school funding works. I'm a...again, I know we can't fix every problem, but we could stop papering over them and that's what we're doing, in my opinion, with Senator Harr's bill. We're papering over the fact that we have kids from the time they're five or six years old, until they're almost 18 years old, and we're saying, even though they stay in school that long, that somehow they're not prepared to go in and apply for a job, know how to show up on time, know how...their soft skills. So what...I just find that unacceptable. [LB248]

PRESIDENT FOLEY: Time, Senator. [LB248]

SENATOR LINEHAN: Thank you very much. [LB248]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Erdman. [LB248]

SENATOR ERDMAN: Thank you, Lieutenant Governor, and good afternoon to everyone out there watching. Senator Harr and I have had discussions about this bill. I discussed this bill earlier when it was up. It's peculiar to me to understand what our schools are supposed to do nowadays. Looks to me like if this is a good idea for some nonprofit to do this, why don't the schools do this? If they know what the problems are and who the kids are that need this help, it would just make sense to me that they would go ahead and take the initiative to do this instead of asking us to contribute another \$2.5 million, or whatever it is, to some nonprofit. So I read through the amendment, AM936. It appears to me that AM936 becomes the bill. And so as I look at that, I read through it. I just seen it a minute ago and I highlighted some of the things. It says a nonprofit corporation means any corporation that is exempt from federal tax purpose under this section of the IRS, the Internal Revenue Code. I don't know what qualifications this nonprofit needs to have, whether they are an instructor in these skills, or if they're just a nonprofit that wants to do this. Doesn't make any sense. It goes on down further and it says that if one or more of these nonprofits want to get in this business and they're qualified...I don't know who is going to qualify these people. And it continues to talk about they're going to teach soft skills and I understand the definition that they have in here about soft skills and, again, I think it's just appropriate that the teachers...the schools teach this. That would make a lot more sense to me. And it would make sense if they already have those students there. As Senator Linehan alluded to, I think the schools sometimes pass these people on and they should pay more attention to what they're doing. Not sure who is going to decide who gets the money, who is going to make that decision, whether they're qualified or not, and then the other question you have to ask is, what standards are these nonprofits going to be held to? Do 50 percent of those people have to graduate and become employed? Twenty-five percent? I don't know. What is the number that would be sufficient for them to continue to be funded? And so the whole thing looks to me like it's something that the schools could handle. I'm not in favor of AM936. I understand

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there are a lot of people out there that need jobs. I think this whole thing could be handled more efficiently if the public schools were doing their job and not some nonprofit that we don't have any control over it is doing it. Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Erdman. (Visitors introduced.) Continuing debate, Senator Blood. [LB248]

SENATOR BLOOD: Call the question. [LB248]

PRESIDENT FOLEY: I rule that out of order. Continuing debate, Senator Chambers. Senator Chambers, you're recognized. [LB248]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm going to give an alibi. I've been involved with a number of things recently that took time and I haven't had the opportunity to review this bill in the way that I would like to or the way that I feel I must before I could vote for it. I've listened to the kinds of things that have been said, so I'd like to ask Senator Harr a question or two. [LB248]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB248]

SENATOR HARR: Yes. [LB248]

SENATOR CHAMBERS: Senator Harr, what ultimately is the aim of this bill and how is it to be achieved through the methodology outlined in the bill? [LB248]

SENATOR HARR: Thank you. The ultimate purpose of this job is to align workers and work force together so that we make sure kids who do not have as many resources as others to get the education, or the...if they're starting to fall behind, so we start at age 16. We make sure they get a high school...the idea is you help them get a high school degree and then you help them get an associates degree or certificate and you help line them up with the needs of the work force, the community out there, whatever that is. [LB248]

SENATOR CHAMBERS: Why cannot this be done through...first of all, is there an assumption that these children are not going to have received an adequate education in the public schools? [LB248]

SENATOR HARR: No. No, not at all. [LB248]

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SENATOR CHAMBERS: What will this add that the public schools cannot do? [LB248]

SENATOR HARR: You have kids who are slipping behind. You look...high school graduation is 90 percent across the state. Kids who are free and reduced, it's 81 percent. If you want to help break that cycle of kids who aren't getting high school degrees who probably come from homes if they're free and reduced lunch, their parents probably don't have a high school degree and so they don't have the mentoring at home, and they don't have the help to get that high school degree, or understand the importance of it. It helps them to get a high school degree. It's similar to Senator Wayne's Trailblazer Program. It provides mentoring, it provides oversight, it provides help for those children. [LB248]

SENATOR CHAMBERS: But he doesn't get public money in doing that, does he? [LB248]

SENATOR HARR: What's that? [LB248]

SENATOR CHAMBERS: Does he get state funds for doing what he does in his program? [LB248]

SENATOR HARR: I don't know. [LB248]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I will have to look at this because I'm not in favor of the schools not doing their job, then somebody else being paid to do what the schools are supposed to do. Not having thoroughly analyzed this bill, I cannot say I will vote against it, but I certainly am not in a position to vote for it. If it in any way takes the schools off the hook, I'm against it. I have fought for decades against the cheating of our children by OPS. When I say our children, not just black children, poor white children also. When I was growing up they had what they called DPs, displaced persons in south Omaha. Their parents could not read English, they could not write English, they could not speak English, they could not understand English. But in the schools their children were taught to read, write, and speak. So to say that because the parents don't have a high school...by the way nobody who graduates high school has a high school degree. They have a diploma. No person should be branded a certain way because of the absence of formal education of his or her parents. Neither of my parents went to college. Neither one, yet I'd match what I know against anybody...not disparaging anybody, anybody on this floor with any degree as long as we're not talking about a specialized area of study. So when the parents are going to be considered uneducated or poorly educated, therefore, you presume that the children are too, so the teachers in the schools are let off the hook, I won't buy that. [LB248]

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PRESIDENT FOLEY: One minute. [LB248]

SENATOR CHAMBERS: Suppose my parents had brain cancer. Does that mean you presume that I, as the child of my parents have...I have brain cancer so you treat me as though I have it? Theirs was inoperable, it's incurable, therefore, I'm doomed to die, too, so I don't have to be educated. I don't have to get vaccinations, nothing. That I will not tolerate. So I'm not going to vote for this bill. I have many, many questions, but here's where I'm different from some of my colleagues. I admit my ignorance. My job is to correct and rectify it, but I'm not going to vote from a position of ignorance, but I don't know enough to vote against the bill at this point either. Thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Linehan. This is your third opportunity, Senator. [LB248]

SENATOR LINEHAN: I was going to lay down an amendment on this bill, but I'm not going to. And I will...okay, why is somebody whispering, go ahead, so maybe I will. Senator Harr just said that 80 percent of the kids, if you go to free and reduced lunch, graduate from high school. I can say so many things about that. First of all, and I talked about this Thursday. Graduating from high school is one thing, but if we're sending a huge percent of kids to community colleges which are also paid for by property taxes and state funding and tuition and Pell grants, and I'm a big supporter of community colleges and I don't think every kid needs to go to a four-year college, but they do need to read and write and they need to do math. Let's forget about college or career. What kind of life in today's society do you have if you can't read or write? It's basic, it's a human...it's a civil rights issue that we cannot be letting kids graduate from high school and they can't read and write. And the community colleges have pointed out. I have the numbers, I'm not going to bore you, or maybe I will, hopefully not. Time will...if I have the time maybe I will again. Huge percentage of kids graduated from high school, go to our community colleges, this is not just in the metro area of Omaha, by the way, need remedial reading and remedial math before they can start college courses. So you graduate from high school, you feel good about yourself, you get to community college and they tell you, uh, you're not really quite ready for college. So that's one problem. So let's go to the 20 percent of the free and reduced lunch kids that don't even get to the point they get a high school diploma. The number he didn't bring up is 50 percent of minority kids, boys, young men, in Omaha, don't graduate from high school. And as I said the other day, and I believe this if I believe anything about kids and school, they don't get to graduate from high school because they didn't learn to read. And by the time they get into junior high, they are bored, they're tired of being told they're lazy, they're tired of being told they're not trying hard enough, so they act out, so they become a discipline problem or they get put in special ed classes. We cannot paper over the problems we have with K-12 education by funding another nonprofit, and nonprofits are good. They have their place, but they're generally perceived to be nonprofit, and you feel they're doing the right thing because the people giving

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them money, donations, to run their nonprofit. Hopefully, if they're writing out \$100,000 checks, they're making sure they're actually accountable for what they're doing. That's how nonprofits work. I just...this mixture of all of a sudden giving state money, taxpayer money, to a particular nonprofit...talk about picking winners and losers. I mean, if a nonprofit is hugely successful, they will be hugely successful in raising money. And if they are filed correctly with the tax authorities, the people that write them a check will get a tax deduction, which I think is absolutely okay. I even think that sometimes tax deductions are fine, they should get a tax deduction. They get a federal tax deduction depending on what bracket they're in, 50 percent of that is basically coming out of, as some...I don't say it this way, but... [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR LINEHAN: ...some would say, out of state revenues. So we already do that. And there was another bill, it's never gotten out of the Revenue Committee that Senator Harr sits on. It was a tax credit for people who gave money to private schools, parochial schools. Instead of getting tax deductions as all nonprofits do, actually give the schools...the donor to the schools a tax credit. And Senator Harr's opinion on that, according to the hearing transcript, it was giving money away to the rich. And I don't think generally most of the parochial schools...they are funded, thank goodness, by people who have been fortunate and worked hard, some more fortunate than hard work, some more hard work than fortunate, but it's absolutely ridiculous, if I remember from reading Senator Harr's transcript on the tax credit, to give tax credits to people who write checks out to private schools or parochial schools... [LB248]

PRESIDENT FOLEY: Time, Senator. [LB248]

SENATOR LINEHAN: Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Larson. [LB248]

SENATOR LARSON: Thank you, Mr. President. Will Senator Harr yield to a question? [LB248]

PRESIDENT FOLEY: Senator Harr, will you yield, please? [LB248]

SENATOR HARR: Yes. [LB248]

SENATOR LARSON: Thank you, Senator Harr, and I'm just working on educating myself, and Senator Linehan brought up a few questions. In the amendment that I'm reading, AM936, it talks

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about the Legislature finds that there's a skills gap for kids and whatnot, and that this can help offer training. Would you consider not being able to read part of the skills gap? [LB248]

SENATOR HARR: Where are you reading from, Senator? [LB248]

SENATOR LARSON: Page 1 of the amendment, line 5, starts Section 2. The Legislature finds and declares that there's a skills gap that exists between employers and young people between the ages of 16 years and 24 years. [LB248]

SENATOR HARR: Well, the intent of that language is that, for instance, there are... [LB248]

SENATOR LARSON: Would you consider not being able to read part of that skills gap? [LB248]

SENATOR HARR: What I would consider part of that skills gap is where you have a number of jobs available, for instance, welding in Omaha, or... [LB248]

SENATOR LARSON: So being able to read might...isn't part of that...is being able to read part of the skills that an employer might look for when giving people a job? [LB248]

SENATOR HARR: I don't know what kind of job you're talking about. [LB248]

SENATOR LARSON: Well, any... [LB248]

SENATOR HARR: And I'm trying to...well, if you'd let me... [LB248]

SENATOR LARSON: ...or education. I guess my point is, here on LB248 and AM936 we as the state are admitting that there's a skills gap. And I think Senator Linehan has a priority bill that would require third graders to be able to read. Yet we're looking at this, we're trying to sell \$2.5 million, or \$2.5 million with the amendment to cover a skills gap that the Legislature with this amendment is acknowledging exists, but we don't want to take care of it when they're third graders... [LB248]

SENATOR HARR: Nope, that's not... [LB248]

SENATOR LARSON: I'm done questioning. [LB248]

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SENATOR HARR: Am I done? [LB248]

SENATOR LARSON: Yeah, I'm done questioning. Okay, thank you, Senator Harr. We don't want to take care of it when the third graders...we want to wait until their 16 or 24, or however old, and try to figure out a skills gap or give them employable skills at that age. When we hear Senator Harr talk about breaking the cycle of poverty, I don't disagree that this might be good, but we also have to focus on what types of things can actually focus on breaking the cycle of poverty. Is this it? Possibly, this is one solution. I'm not disagreeing with that, but what I am saying is, we should invest probably a little earlier, or focus a little earlier in education to help close those skills gaps to where certain skills gaps don't even exist. I'm not disagreeing with Senator Chambers. I thought he brought up a great point when he says the fact that there is...and I'm paraphrasing, I'm sure he will correct me exactly what he said, but essentially there are kids, whether it's in north Omaha or anywhere in Omaha that are being cheated by OPS. And that's wrong. I also go down further in the amendment in terms of who can get it, and here I read is, one or more nonprofit corporations that do business in the state and provide qualified youth with soft skills training for career readiness, career counseling to assess occupational skills, interests and the abilities to analyze potential career opportunities, or other programming related to career readiness. Well, shoot. To me that sounds a lot like...that could be the possibility of a charter school. Colleagues, there are lots of ways to go and work through problems of addressing what Senator Harr is in terms of a skills gap. But instead of focusing after the skills gap has already been created, why aren't we focusing at the beginning? As I said earlier this year, I understand that a certain organization in the state and... [LB248]

PRESIDENT FOLEY: Time, Senator. [LB248]

SENATOR LARSON: Thank you. [LB248]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Friesen. [LB248]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. When I've looked through the bill and I probably missed the earlier debate on this, but I look at...when I look at 16 to 24-year-olds, I, too, will look at it and say our high schools then have failed. To me I have said over and over that when I think of high schools offering advanced career opportunities, I think is a mistake also. I think their sole mission should be get kids ready for life whether that's community college or four-year college. And so to me those high schools should be in charge of the soft skills needed to succeed because if we're going to measure K-12 success, to me success means that when you graduate from high school, you're capable of getting a job somewhere, living on your own, balancing a checkbook, having some soft skills to survive. That makes you successful in my eyes. You stay out of prison, you stay off the welfare rolls, you work. You're successful.

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You're a little more successful if you go on to community college. You're a little more successful if you go to college, but success means that they're productive members of society, and to me that's our job of our K-12 education. With that, I'll yield the rest of my time to Senator Linehan. [LB248]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Linehan, three and a half minutes. [LB248]

SENATOR LINEHAN: Thank you, Mr. President. There's so many things I don't like about this bill, but I'm going to go into one more of them right now. When we have these programs that are going to decide when a kid is 15 or 16 years old, they're going to grab ahold of them and fix their soft skills and guide them toward a career. I've heard Senator Friesen say on the floor before and I've heard some other colleagues say, I was not college material. Well, I listened to Senator Friesen and that's just not true. He's a very smart man, but I remember being in high school and teachers saying who was college material and who wasn't college material. That was accepted in our generation, but it's not right. So what Senator Harr...if I'm reading the bill right and he can respond if I'm wrong here, we're saying that, you know, you have these kids, they might be C students, they're struggling a little bit, it doesn't appear that they're college bound. But they're hopeful, they're hopeful kids. So, we want to grab hold of them, and if I understand this right, we don't tell them that, you're right, you are smart, you can go to a four-year college. Let's make sure that you get ACT prep, let's get you a tutor. Let's figure out why you are not reading, seeing if we can't improve those reading skills. Let's see if we can't get you a math tutor, and improve your math skills because you're clearly bright and if you're hopeful, it is America, you can do whatever you want. That's what we tell little kids and that's what I actually believe. But that's not what this program does if I understand it right. This program identifies kids who probably...somebody is deciding, I don't know who has got this magic wand, that this child's probably not four-year college. I mean, his parents didn't go to school. His parents didn't go to college, they're not college educated. Probably not on a four...probably not headed to be a doctor or a lawyer or architect. So, let's introduce him to other careers. And I have nothing wrong with blue collar careers. And I have four kids, they've all got a college education and a welder makes more money than any of them. So there's nothing wrong with being a welder, or...and I have plumbing problems in my house and that's a whole...you need an education to figure out to how to get a plumber to come to your house. So I have no problems with those jobs and they are needed, but... [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR LINEHAN: ...I have a problem telling a 15-year-old or 16-year-old that this is your career track, that instead of giving you a tutor to get your spelling up to par or to teach you how

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to write a letter or to teach you how to fill out an application, we're going to kind of head you in this direction because this is what Nebraska businesses need. I guess maybe that's where I should have started, why I don't like this bill. Our obligation as I see it, not whether we're in a Legislature or a parent or a member of our community, is that every kid ought to have every opportunity to be everything they want to be and they're willing to dedicate themselves to be, and they have the hope to be. Thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Erdman. [LB248]

SENATOR ERDMAN: Thank you, Lieutenant Governor. I was listening to the conversation as I was waiting. It was interesting to see Senator Larson's comments about...what he said about the Legislature finds and declares there's a skills gap to be in existence. Perhaps there is. I don't know whether Senator Harr did some research to discover that. Is Senator Harr still here, I'd like to ask him a question if I could. Maybe even two. And while he's making his way back to the mike, I will make these comments about Senator Linehan's commitment to education. I serve on the Education Committee, and Senator Linehan is as dedicated a person on that committee as anybody I serve with and her desire is for young people to be educated. Her bills that she's introduced are intended to do just that, help young people learn. Her goal is to have young people read by the time they're in third grade and if not, make sure they do before they move on to fourth. She on several occasions has made this comment, up until third grade you learn how to read, and once you're past third grade, starting in fourth grade, you read to learn. I believe that is a true statement and I appreciate her bringing that. Senator Harr, I have a question for you. [LB248]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB248]

SENATOR HARR: Yes. [LB248]

SENATOR ERDMAN: Senator Harr, if this passes... [LB248]

SENATOR HARR: When it passes. [LB248]

SENATOR ERDMAN: ...who is going to determine who gets the money? [LB248]

SENATOR HARR: Department of Labor. [LB248]

SENATOR ERDMAN: The Department of Labor. The Department of Labor is exactly that, the Department of Labor. What do they know about education? [LB248]

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SENATOR HARR: Oh, thank you. Right? Because the intent of this language has been completely bastardized. This is about a work force development bill. It's about a skill gap of our kids who hopefully by this time already know how to read and write and have a certain level of arithmetic. The idea of this bill is to take those kids who maybe want to go to a four-year college, doesn't prevent them from doing that. Maybe want to go to community college, doesn't prevent them from doing that. But really says, hey, where are the needs in this state? What can we do to help line up our work force with our workers? That's the intent of this bill. It has been taken on a right word departure that has nothing to do with the bill. Thank you, Senator Erdman. [LB248]

SENATOR ERDMAN: Okay, I get that. Here's where you may have run off the rail. You're making an assumption that because they are of a certain age, they can read. Most of those people who drop out of school, drop out because they cannot read and you made a comment earlier about 90 percent of high school students graduate. Ninety percent of those people has a certificate. That doesn't mean they're educated. It means they have a certificate. They've been there, they attended school and they may have passed them on. And so you're making an assumption that these people now know how to read and so it won't be a problem for them to learn these skills because they can read. There are people that I know of that have been through high school that have a diploma or a certificate, whatever you want to call it, that can't read a lick. Okay, that's what happens. And it's because of things like Senator Linehan commented, when they're in third grade, we're not going to hold them back. We can't have that stigma. Well, let me give you a little story. When my children were in school there was a young man that was held back. I think it was second grade. Couldn't read, didn't do as well as his cohorts. They held him back, the young man did quite well, and today they call him doctor. That's how well he did. Had they let him go on from second, third grade without reading, who knows where he would be. So you make an assumption just because you have some piece of paper that some school gave you that you have an education or that you can read. I don't know any way... [LB248]

PRESIDENT FOLEY: One minute. [LB248]

SENATOR ERDMAN: ...that these people are going to be picked up by somebody, a nonprofit. They're going to determine who these people are and they're going to teach them some soft skills, how to write a letter, how to put on a coat or whatever, and be on time. This is a peculiar situation that we think we can fix what the school system cannot do. The schools need to pick it up and do what they're supposed to do and educate these children. Thank you. [LB248]

PRESIDENT FOLEY: Senator Chambers, you're recognized. Thank you, Senator Erdman. [LB248]

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I've been listening to the debate. I talked directly to Senator Harr. I'm now in the position that Senator Wayne articulated. I'll support the bill moving. This is not an education bill. This is--if you want call it that--a job placement bill. There are people right now who could hold a job if they were put in the right direction or paired with an employer. I'm in favor of that. This talk of charter schools and third grade has nothing whatsoever to do with this bill. Now there are people who are interested in those entities that will make money from charter schools, will make money from being special this and special that, and divert money from the public schools. The vast majority of children are going to go to the public schools and my primary responsibility is to try to do the greatest good for the greatest number. The greatest number is going to be in the public schools, and that's where the money should go. I will fight every charter school attempt in this Legislature. That's what Senator Larson is talking about it. He talked about it when Lautenbaugh was here. I've been to some cities where they had charter schools. They're boarded up buildings now. And you know what happened to those kids who went to the charter schools? They were farther behind when the charter school failed than they would have been had they stayed in public school. And when the charter schools failed, the people say, oops, the jokes on me. It's not a joke. Charter schools cherry-pick. They have lotteries. They try to do everything they can to stack the deck to make it look like they're doing a great job that nobody else is doing. So I'm against of charter schools. I am opposed to the way, not only OPS, but other public schools in this state do not provide education to the children that they should. I get letters from teachers in the western part of the state who don't know grammar. They cannot spell. So don't think it's just in the cities. Nebraska is not a state known for quality education at any level. When I was at Tech, I was told how difficult Creighton would be as an academic institution. I went there and I scored so high--and I've told you this before--so high on the entrance exam, I was put in honors English. The classes and courses were so easy for me I stopped attending class. And by the time I got to my senior year, I had so many hours, I just stopped going to class already and I got what was called AFs, absence failure. You fail not because you didn't take the exam, you didn't go to school. And I still graduated on time. I didn't know that it was unusual for a poor black kid to graduate from a school like Creighton with that high academic standard in four years. That was nothing for me. So, when these people stand up here and talk about all that's going to happen with the charter schools, I say that's hogwash. And if we are going to expend some effort on improving education, we should do so where there is the greatest need. The Jesus again, that these people say they worship, said it is the sick that have need of a physician, not those who are well. So, if they're...and there are, defects in public schools, we need to address those. And I had a plan to address it in OPS, but I won't go into that now. I'm going to support this bill. There are people who need jobs right now and they're not in the third grade. I cannot say because something is not happening in the third grade now, that people who right now need a job, should not have the assistance and the wherewithal to get that job. [LB248]

PRESIDENT FOLEY: One minute. [LB248]

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SENATOR CHAMBERS: I hear people coming around here saying give veterans a preference, just because they were veterans. Give them a break. Maybe they don't know how to do the job, but because they wore a uniform, give them a break. Why didn't they learn something in the military? The military teaches remedial courses. Why do they have to be given a break? They were paid when they were in the military. They had insurance. They were fed. They were clothed. Some could learn skills, maybe they chose not to. So don't think that BS is going to work for me, that sentimentality of somebody is a veteran. Then all of these people who need help and were not given the opportunities through no fault of their own are going to be cast aside to get involved in some nonsense about charter schools. I will support the bill, but I'm still going to talk to Senator Harr, and if I see rough places, we're going to smooth it out. If I see some valleys, we're going to fill them up. If I see some hills, we're going to level them. If I see a rough road, we're going to smooth it. [LB248]

PRESIDENT FOLEY: Time, Senator. [LB248]

SENATOR CHAMBERS: Thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Howard. [LB248]

SENATOR HOWARD: Question. [LB248]

PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor ceasing debate vote aye; those opposed vote nay. Record, Mr. Clerk. [LB248]

CLERK: 25 ayes, 7 nays to cease debate. [LB248]

PRESIDENT FOLEY: Debate does cease. Senator Harr, you're recognized to close on AM936. [LB248]

SENATOR HARR: Thank you, and I will keep this short. I want to thank Senator Linehan, Senator Larson, and others for this discussion about charter schools, and about her priority bill. And I hope we get a chance to debate it, if and when it makes it out of committee. However, we are here today on LB248. This is not a charter school bill. This is not a reading, writing, arithmetic bill. This bill is aimed at, how do we take those kids that are on the edge, right? They've already probably learned how to read, probably already learned how to write, and are somewhat proficient in math. How do we take those kids and make sure that they get that high school diploma so that they can go to a four-year college, if they'd like? They can go to a

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community college, maybe they don't even go to school but we provide the services available for them to help them to get to that next rung on the ladder so they can have that full-time job that pays benefits. And more importantly, that pays well enough that they pay income tax so we can afford to do what we do down here. That's what we're trying to do. We're trying to match up those kids who aren't sure where they want to go, or maybe need a little help to make sure they can go where they want to go. I'm not sure. I keep hearing, it's not the jobs of the schools to do this, it's not the jobs of the school to do that. But then when we say, hey, what about making sure they have those soft social skills that Senator Linehan talked about, the cream of the crop, who showed up in her office when she was chief of staff for Senator Hagel and didn't know how to dress, didn't know how to shake hands, look someone in the eye. If they don't, how do you expect others who don't have those same opportunities to learn that? So we're going to teach some of those soft social skills, but we're also...it's a work force development bill. It's about aligning those kids with the jobs that are available to make sure that they can get a hand up. This is not about a handout. This bill more than pays for itself by making sure our kiddos, 16 to 24, get into the work force. It's funny, if you were in the work force and you lose your job, there's programming available for you. Federal programming available to help teach you and retrain you for a new job, one that is available in the work force, but if you're 16 to 24, there aren't any such programs. Yeah, that's why I ran this through the Department of Labor. I could have ran something similar but different through Department of Ed, but I didn't want this to be an education bill. Could have ran it through DED, but I didn't want this to be about, what does the employer need. I ran it through the Department of Labor because I said, what does that kid need to get the job? This is about the kid. Plain and simple. And then they can choose what nonprofits they want to work with. Ultimately, the marketplace will decide. And we'll work with the Department of Labor and believe you me, folks, this isn't going to go through this year. We got all summer to work on it, but we have to decide what do we want to do with a percentage of our population that has a larger than the rest unemployment rate. How are we going to address that? Are we just going to let them slip away, lose all hope, and then guess what? They become a liability. When you lose hope, maybe you start living unhealthy, you don't have insurance, heck, we don't even need to expand Medicaid for what these people will qualify for. They're going to be on straight Medicaid. Or, and then that's a liability to the state, or do we want to help them find a job and help break that cycle of poverty. This amendment applies to kids who are available for free and reduced lunches and Pell grants. I ask for your support on AM936. Thank you, Mr. President. [LB248]

PRESIDENT FOLEY: Thank you, Senator Harr. Members, you've heard the debate on AM936. The question before the body is the adoption of the amendment. All those in favor vote aye; those opposed vote nay. Senator Harr. [LB248]

SENATOR HARR: I would request a call of the house. [LB248]

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PRESIDENT FOLEY: There's been a request for a call of the house. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB248]

CLERK: 34 ayes, 5 nays to place the house under call. [LB248]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. All unexcused senators are now present. The question before the body is the adoption of AM936. Senator, your option is to accept call-ins or a roll call. Senator Harr. [LB248]

SENATOR HARR: I will accept call-ins. [LB248]

PRESIDENT FOLEY: Call-in votes are accepted on AM936. Roll call vote has been requested. Mr. Clerk. [LB248]

CLERK: (Roll call vote taken, Legislative Journal pages 976-977.) 24 ayes, 20 nays, Mr. President, on the amendment. [LB248]

PRESIDENT FOLEY: AM936 is not adopted and I raise the call. Pursuant to the agenda, we'll now proceed to the 2:30 items, Select File, appropriation bill. Mr. Clerk. [LB248]

CLERK: Mr. President, Senator Wishart, LB641A. I have no amendments to the bill. [LB641A]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB641A]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB641A to E&R for engrossing. [LB641A]

PRESIDENT FOLEY: Prior to the vote, Senators Larson and Krist, your lights are on, I don't know if that's from the prior...Senator Larson, you're recognized. [LB641A]

SENATOR LARSON: Thank you, Mr. President. Regardless of what happened on the last bill, Senator Chambers made some comments in terms of...very generalized comments about charter schools. About how when he goes to a different town where they are, they're boarded up and kids are farther behind. Well, if Senator Chambers...and maybe I'll get him the information that he

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needs to be corrected on this issue of some of the top schools in the nation, the top schools in the city of New York, the top school in Washington, D.C., all public schools that don't cherry-pick, that operate on pure lotteries. There's a school in Chicago that is over 90 percent minority and 100 percent of the kids go to college. So, Senator Chambers can overgeneralize, but in the end the facts speak differently. So what these types of schools have offered all kids across this country and all but I think seven states now have enabling legislation for it. So, regardless...again, I can understand his concern in the terms of he doesn't want to take money out of OPS or the state aid formula because that further hurts the kids that are currently there. Colleagues, we've seen in the other school districts across the country that have done this, that it actually offers more benefit to the public school system. Again, look at Rahm Emanuel in Chicago. What he has done with Chicago Public Schools. In terms of making the public school system there not only more lean but as I said, some of the top schools in the nation are charters coming out of Chicago. I was...we'll work on getting Senator Chambers that information so he doesn't have to overgeneralize and say that they all fail and those that are coming out of these schools are worse off than they were than the kids in the public schools. Washington, D.C. this past fall, I visited BASIS School in the heart of Washington, D.C., and it is the top public school and it is a charter in the District of Columbia outperforming every other school in the district. They operate on a pure lottery basis, as LB630 would have done as well, the bill that I introduced this year. There is no cherry-picking, there is no entrance exam. I can see that Senator Chambers and I may want the same thing in the end, but disagree on the methods to get there. I would like to model our methods in the state of Nebraska off proven methods that have worked all across this country. We can reference what many of the opponents of education reform in this body reference, the talking points from the NSEA, and their lobbyists, and essentially some of those were at the beginning of what the charter school movement was, or the open enrollment might not be the best term but the beginning of education reform, but we have to realize that most states in this country are on Ed Reform 2.0 and we're yet to reform anything. We hear from the left all the time about the money in politics and the right and big business buys us off for tax reform and all of this, but in the end, there's one union... [LB641A LB630]

PRESIDENT FOLEY: One minute. [LB641A]

SENATOR LARSON: ...that tells a majority, or at least enough to stop, break...keep a filibuster going, how to vote in this body to protect themselves from what they call education reform. I guarantee that one union spent more money in politics than that darned Governor that we continually hear about all the time, about how he put so many of us here. Let's co-count the cash. I guarantee who spent more money. [LB641A]

PRESIDENT FOLEY: Time, Senator. [LB641A]

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SENATOR LARSON: Thank you. [LB641A]

PRESIDENT FOLEY: Thanks, Senator Larson. Senator Krist. [LB641A]

SENATOR KRIST: Thank you, Mr. President. I think it would be good to co-count the money, Senator Larson. I have to bring to your attention in your e-mail, colleagues, is the ACLU letter that I have been saying is coming, because starting with my association with the Corrections reforms and the issues in JRI and Council of State Governments, and everything they have said to date is coming to fruition. They address it to Governor Ricketts and they tell him, the ACLU, the undersigned have committed to joining our expertise to bring suit, if necessary. Our team includes Michael Bien, Rosen Bien Galvan & Grunfeld, LLP; Howard Rosenblum, chief executive for the National Association for the Deaf; David Fathi, director of ACLU; National Prison Project; Becky Gould, director of Nebraska Appleseed; Danielle Conrad, executive director of ACLU. And they don't just threaten the lawsuit, they promise it, and this is what it's going to take to clean up corrections and get ourselves on the right path. They break it down by applicable legal standards of which they are breaking: Unlawful conditions that exist in our jails and our penitentiary, medical care, mental health care, mental and behavioral health. Where have we heard it before? Violations of the ADA and Rehabilitation Act. Solitary confinement issues, Senator Schumacher. Solitary confinement. Four years we've been asking them for a reduction and have seen little progress. And then in conclusion that says that the Governor needs to take immediate action to fill the current staff vacancies, an issue that this Legislature has been thrown under the bus for in the last week. The Appropriations Committee did the right thing in reducing the 96 number of new money, new positions, when the director cannot fill and hold a given 150 positions...140-plus positions that are unfilled currently. What CEO that is in business, what small businessman, Senator Lowe and others, what small businessman would add another 96 positions to a corporate structure that has 149 unfilled, paid positions in place? Instead your JROC, of which I'm part of and proud to be part of, asks the Appropriations Committee to look at other ways to spend that money as in merit pay to reduce a 27 percent loss rate, an attrition rate of 27 percent. So our sincere hope in this matter that we can be resolved without resort to legal action. However, please advise within ten days of your intentions. It's happening. Said it's going to happen if we don't take the proper action and I'm also bitterly concerned, bitterly concerned, with the safety of the Corrections officer and the safety of our prison system. We now see the spread of riotous activity, burning Rome down as they say, in yet another of our brick and mortar establishments. I advise you to read that letter from the ACLU and understand that we're all in this together... [LB641A]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB641A]

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SENATOR KRIST: ...but lack of action is not going to get it done. Thank you, Mr. President. [LB641A]

SPEAKER SCHEER: Thank you, Senator. Senator Chambers, you're recognized. [LB641A]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Larson is notorious around here for listening very poorly, misstating, misunderstanding. I did not say all charter schools fail. I said that I have gone to cities where there had been charter schools and they were boarded up. That the children who had attended those schools were worse off than before. He is on a hobbyhorse. I don't know who is paying him or telling him since he wants to say that everybody in here listens to the teachers union, is somebody lining his pockets? Does he know some entity that wants to get the job for providing these services? Maybe so, maybe not. That's not a level that I have to sink to. I have performed when I wore a younger man's clothes...what do you call those people...consultants, consulting work for the U.S. Department of Education. I worked with the University of Nebraska in what was called the Triple-T Program, trainers of teacher trainers. I went around to universities and colleges of education throughout this country, studied their programs, evaluated them, made recommendations. Some people have heard of Carnegie Mellon. Some people have heard MIT. Some have heard of Pittsburgh University. Those are some of the schools I was invited to examine and report on. I was much younger than Senator Larson. I know what I'm talking about when it comes to education and I'm not going to watch this fly-by-night stuff that people like him bring. He will say there's a school in Washington, D.C. There's a school in New York. How many children can attend these schools? And when you have a decent school and you say we're going to fill the seats by means of a lottery, that's one of the cruelest things to do. What often happens is there are promises made by public schools, by private schools, by charter schools, which will allow the children who need the help the most to smell the aroma of food but never sit down at the table and partake. They're not the ones that any of these schools want. So Senator Larson, as a young white guy who probably had it easy all his life, is not going to tell me what's the best thing for the children in the community where I've lived in all of my life. And I have dealt with those education problems, not just wait until I get in the Legislature, beat my gums, yackety-yacking, and have no track record of anything that I've ever done. So he and his ilk can say what they choose. If the NSEA or whoever he's talking about is pushing for the same thing that I am, we will join hands, we will link arms. I probably am one of the people where that organization spent more money against to have me defeated, and that's not going to blind me. They can support whomever they want to and I still don't campaign and I still win because I represent people. I don't try to pretend what I am not. I want people to know exactly what it is I believe in, don't believe in, what I will stand for and what I won't stand for, so that I can say when you vote for me, you know what it is you're voting for and you're going to get exactly what you vote for. Why do you think I've been here all these years when I've been attacked and criticized every kind of underhanded way, and yet I don't

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campaign, I don't accept money, and here I am, still here. And as Bob Seger said, still the same. "You're still the same." [LB641A]

PRESIDENT FOLEY: One minute. [LB641A]

SENATOR CHAMBERS: Never played a losing hand. So, I am going to stand for what I think is going to help the most children and charter schools is not the answer. Let Senator Larsen get up here and tell us every charter school has succeeded. He can't say...well, he could say it because he doesn't know what he's talking about. Anyway, he always gives me comic relief when I listen to him because the real people, the intelligent people know what needs to be done. Thank you, Mr. President. [LB641A]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Erdman, you're recognized. [LB641A]

SENATOR ERDMAN: Thank you, Mr. Speaker. Good afternoon again. I almost forgot what we're talking about. I think we're talking about LB641A, at least that's what I want to talk about. I was reading that again today and reviewing what we had done in the past. Looked like the first time we voted on that there were two votes red, and then the second time there was 25. So maybe we're gaining ground. But as I was reading the fiscal note, the third paragraph on the fiscal note, it says that AM747 strikes the emergency clauses and states the transfers from the loan repayments to the Bioscience Innovation Cash Fund beginning October 1, 2017. The department expects loan repayments for the fiscal year '17 and '18 to be \$1,492,000 and for years '18 and '19 to be \$961,000. But it goes on to say, however, the bill allows other sources of funding to be credited to the Bioscience Innovation Cash Fund but caps that spending at \$2,000,000 annually. So evidently, the bill allows for a collection of another 1 point...almost \$1.1 million from other sources to be distributed by the Bioscience Cash Fund. I would bring this to your attention. We are in a budget shortfall. I am not sure where the other source of revenue is going to come from, but it very well could come from General Fund, who knows. But when I seen that, it threw up a red light or red flag for me to say, look, what are we amending here, what are we passing? Twenty-five of us voted in favor of this bill when we voted for the bill and I would encourage you, at least that many of you, to vote red on LB641A so we can stop the drain of our finances going someplace where we don't know where it is. Thank you. [LB641A]

SPEAKER SCHEER: Thank you, Senator Erdman. Senator Morfeld, you're recognized. [LB641A]

SENATOR MORFELD: Thank you, Mr. Speaker. In response to Senator Erdman, as was discussed on the floor last time, we kept in the provisions that terminate the fund after all the

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federal funds from that program come in. Again, these federal funds cannot be used for any other purpose than for small businesses. So it could not be used to plug a hole in the General Fund dollars. I'd urge your advancement of LB641. Thank you. [LB641A]

SPEAKER SCHEER: Thank you, Senator Morfeld. Senator McCollister, you're recognized. [LB641A]

SENATOR MCCOLLISTER: Thank you, Mr. President. Good afternoon, colleagues. Like Senator...Senator Ernie Chambers and Senator Larson, we're still talking about LB248, so I have a few comments as well. I have real sympathy for Senator Linehan and some of the comments she made about early education. As I went through school I can relate to some of the issues she talked about. The inability to read is a big problem in our schools, and a good...a big problem with some of the kids we have. But I'm also sympathetic to the comments of Senator Harr because we have hundreds of thousands of people looking for jobs but yet we have positions that we can't fill because the persons applying are not qualified. I think the big problem we have it the hand-off between high schools and the community schools, technical colleges, because if they properly prepared high school students for some of the technical skills, I think we would do far better. So, I am a big supporter of early ed and also the work force development as Senator Harr indicated. So, I hope to work with him and bring this bill back next year if not sooner. Thank you, Mr. President. [LB641A]

SPEAKER SCHEER: Thank you, Senator Morfeld (sic). Seeing no one else in the queue, Senator Wishart for a motion. [LB641A]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB641 to E&R for engrossing...LB641A, excuse me. [LB641A]

SPEAKER SCHEER: Thank you, Senator Wishart. All those...you've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. It is advanced to E&R for engrossing. Next item, Mr. Clerk. [LB641A]

CLERK: Mr. President, LB180. Senator Wishart, I have Enrollment and Review amendments. (ER43, Legislative Journal page 886.) [LB180]

SPEAKER SCHEER: Senator Wishart for a motion. [LB180]

SENATOR WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB180. [LB180]

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SPEAKER SCHEER: You've heard the motion. The question before us the adoption of ER43 to Enrollment and Review. All those in favor say aye. All those opposed say nay. The ayes have it. [LB180]

CLERK: Senator Bolz would move to amend with AM866. (Legislative Journal page 977.) [LB180]

SPEAKER SCHEER: Senator Bolz, you're welcome to open. [LB180]

SENATOR BOLZ: Thank you, Mr. President. The amendment is a technical amendment. It just adds a missed reference to guardian ad litem on page 2, line 12. The parents and the guardian ad litem have standing within the bill and this is just a technical cleanup. I'd appreciate your green vote on the amendment to LB180. Thank you, Mr. President. [LB180]

SPEAKER SCHEER: Thank you, Senator Bolz. Seeing no one in the queue, Senator Bolz, you're welcome to close. She waives closing. The question before us is the advancement of...the question before you is adoption of AM866. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB180]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Bolz's amendment. [LB180]

SPEAKER SCHEER: AM866 is adopted. [LB180]

CLERK: I have nothing further on the bill, Mr. President. [LB180]

SPEAKER SCHEER: Senator Wishart for a motion. [LB180]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB180 to E&R for engrossing. [LB180]

SPEAKER SCHEER: The question before us is advancement of LB180 to E&R. All those in favor say aye. All those opposed? LB180 does advance. Next item. [LB180]

CLERK: LB180A, I have no amendments to the bill, Senator. [LB180A]

SPEAKER SCHEER: Senator Wishart for a motion. [LB180A]

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SENATOR WISHART: Thank you, Mr. President. I move to advance LB180A to E&R for engrossing. [LB180A]

SPEAKER SCHEER: You've heard the motion. All those in favor of advancing LB180A, say aye. All those opposed say nay. LB180A is advanced. Next item. [LB180A]

CLERK: LB267. I have no amendments to the bill, Senator. [LB267]

SPEAKER SCHEER: Senator Wishart for a motion. [LB267]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB267 to E&R for engrossing. [LB267]

SPEAKER SCHEER: You have heard the motion. All those in favor of advancing LB267 say aye. All those opposed say nay. LB267 is advanced. Next item. [LB267]

CLERK: LB137. I have no amendments to the bill. [LB137]

SPEAKER SCHEER: Senator Wishart for a motion. [LB137]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB137 to E&R for engrossing. [LB137]

SPEAKER SCHEER: You've heard the motion. All those in favor say aye. All those opposed say nay. LB137 does advance. Mr. Clerk, next item. [LB137]

CLERK: LB317. Senator, I have no amendments to the bill. [LB317]

SPEAKER SCHEER: Senator Wishart for a motion. [LB317]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB317 to E&R for engrossing. [LB317]

SPEAKER SCHEER: The question before us is the advancement of LB317. All those in favor say aye. All those opposed say nay. LB317 does advance. Next item. [LB317]

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CLERK: LB444. I have Enrollment and Review amendments first of all. (ER36, Legislative Journal page 867.) [LB444]

SPEAKER SCHEER: Senator Wishart for a motion. [LB444]

SENATOR WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB444. [LB444]

SPEAKER SCHEER: The question before us is advancement of E&R amendments. All those in favor say aye. All those opposed say nay. ER36 is adopted. Next item. [LB444]

CLERK: Senator Erdman would move to amend with AM982. (Legislative Journal page 978.) [LB444]

SPEAKER SCHEER: Senator Erdman, you're welcome to open. [LB444]

SENATOR ERDMAN: Thank you, Mr. Speaker. When we had this bill...heard this bill the first time, I voted in favor of this bill. I got to looking at what this bill does and began to realize, I realized it I guess when we started, that this perhaps...not perhaps, but it is an unfunded mandate on the cities and the counties. And so what this amendment does, on page 1, line 11, it inserts the following: "The State of Nebraska shall reimburse cities and counties for the costs of providing individual or family health insurance for first responders." My intention is if we, the State Legislature, is going to impose on the cities and the counties that they should do something, they...we require them to pay for something, it is my intention that we pay for those. The county in which this gentleman resides has for years struggled to make their budget because they have such a small county and such a small valuation that these kind of things may put those people in a position, those county commissioners and those people in the counties, not able to fund those. And so, consequently, I think it's a common-sense approach. I will share this with you. Senator Chambers can remember this quite well. Back in the early 2000s, we had fallen on hard times here at the state level and we had a funding shortfall. And at that time the budget was scrutinized and the state, in their infinite wisdom, decided that we would no longer reimburse counties for jail reimbursement. And that was a reimbursement that counties used to receive for holding prisoners that broke state laws. I asked our county attorney several years ago if he ever knew of a person who sat in our jail, our county jail, that broke a county law, and he said there was never a person in our jail that broke a county law. But we have county jails and when we pick someone up who broke a state law, the county property taxpayer pays for their defense, their medical care, and all those things. And we get reimbursed nothing for that. And so we have a tendency here to pass legislation that somebody else is going to pay for. And so it is my intent, as we move forward, this very well could be a good program, but if it's that well...that good, it should be

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funded by us. And so I don't know what that will be. It's suggested that there's not very many of those that happen in an annual basis. It's a small number of people and so, consequently, the appropriations probably won't be very high. I understand that we are in an appropriations or a funding shortfall and this may fall to the back of the line to see if it gets appropriated at the end of the year. I understand that. But I would ask you to vote for this amendment so that we don't put undue burden on property tax. So that is my amendment. Thank you. [LB444]

SPEAKER SCHEER: Thank you, Senator Erdman. Senator Walz, you're recognized. [LB444]

SENATOR WALZ: Thank you, Mr. President. I stand in opposition of amendment AM982. I do not feel this is a friendly amendment. First of all, I strongly feel if the county is going to pay for anything, they should definitely be paying for the protection and safety of their citizens. That should be the number one priority. I also want to say that what happened to Mike Hutchinson and his family should not happen again, regardless of who pays for it. However, I do have a few concerns with this amendment. Currently, there are some local governments that are already providing their police officers and firefighters this support, including the largest departments in Lincoln and Omaha. As you all know, the state is in a budget crisis and this would potentially cost the state more money. While Mike's situation has been called an isolated incident, from what I read in the papers it is not uncommon in Lincoln and Omaha for these events to occur. Why would the city then pay the bill if the state is going to? We are going to foot the bill that Omaha and Lincoln is now currently paying if we pass this amendment. That's all I have. Thank you. [LB444]

SPEAKER SCHEER: Thank you, Senator Walz. Senator Groene, you're recognized. [LB444]

SENATOR GROENE: Thank you, Mr. President. I stand in support of Senator Erdman's AM982. Unfunded mandates keep coming to the local governments. We see it over and over again. No cost to the state income tax, state, but we tell local governments that they have to do things. I'd like to make a comment, too, about what the difference between a mandate and a right is. We had Senator Hilgers on his LB68, I believe, saying that's a right. There's a difference between a right and a mandate. When we protect a right from local governments, individuals who happen to live in a community or county, protect their rights from those mandates, we are not mandating local government that they cannot do something. We are protecting rights. There is a difference. When you restrict the right with a mandate, there's a difference between that and a right. So hopefully I'm making myself clear. But when we stand up and we defend rights against mandates, that's a whole different argument. We do too many of these things. Why first responders? Why not the secretary who runs an errand and falls down on ice and then cannot do their job or a file clerk? What about the prison guard--they're not a first responder--in the county jail and they get harmed? Are they included in this bill? Why first responders? And we are reaching down on an

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incident that happened in one county and we're dictating to them and to all counties that they must do this, and I'm assuming we do it on...I was reading the bill on communities, too. We...let's just stay out of it. We have Obamacare now. We have all sorts of instances of healthcare availability and abilities to stay on your health insurance after you're terminated or on the job. This is...we react to instances. And I agree with Senator Erdman. If you're going to tell a county or city that they have to do something, then you better help them pay for it. So I stand in support of AM982, Senator Erdman's, and if we're going to do this let's pay for it. Thank you. [LB444 LB68]

SPEAKER SCHEER: Thank you, Senator Groene. Senator Chambers, you're recognized. [LB444]

SENATOR CHAMBERS: Mr. President, members of the Legislature, there's a term "political subdivisions." Counties and cities serve the state. There are certain powers, authorities, and duties that go along with being a political subdivision. They want to enjoy all of those powers and privileges that they have. They want to be able to raise revenue, then they want to say, well, if you tell us to do this, you're wrong. Well, the state tells the counties what to do. The state tells the cities what to do, and they will do it. This stuff about unfunded mandates is said by people who think in cliches and speak in slogans. Unfunded mandate, what does that mean? What does it mean? Everything the state tells somebody they must do is a mandate. But to say that every duty imposed by the state should be paid by the state when it's to be carried out by a county or a city is insane. The things...I want to ask Senator Groene a question before I proceed because I don't want to misstate his position. [LB444]

SPEAKER SCHEER: Senator Groene, would you please yield? [LB444]

SENATOR GROENE: Yes. [LB444]

SENATOR CHAMBERS: Senator Groene, are you opposed to farm subsidies being paid? Are you opposed to them? Would you like to see all farm subsidies banished, banned? [LB444]

SENATOR GROENE: I wish they would never have been started. [LB444]

SENATOR CHAMBERS: But they exist now. [LB444]

SENATOR GROENE: Yes, they do. [LB444]

SENATOR CHAMBERS: Would you like to see them all done away with? [LB444]

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SENATOR GROENE: I would like to see the free market take over, yes. [LB444]

SENATOR CHAMBERS: You'd like to see all farm subsidies ended? [LB444]

SENATOR GROENE: Eventually, yes. [LB444]

SENATOR CHAMBERS: I mean right now. [LB444]

SENATOR GROENE: You have to have a transition period to do that when you... [LB444]

SENATOR CHAMBERS: In other words, you don't want to see them ended right now? [LB444]

SENATOR GROENE: I think there are very few of them out there right now. [LB444]

SENATOR CHAMBERS: Thank you. [LB444]

SENATOR GROENE: Yeah. [LB444]

SENATOR CHAMBERS: He doesn't want to answer the question. He knows where I'm going. See, they talk this stuff, but then in certain areas they want to leave it alone. What Senator Erdman is asking for is unreasonable. What was done to that individual was unconscionable. Sometimes people will stand on this floor and boast about and praise and lionize those people who put their lives on the line, who perform this service, who perform that service. I bet Senator Groene never would have supported a subsidy for shoemakers who are so stupid that they will pay more for the material for a shoe than they can sell the shoe for. That's what farmers did. They raise crops it costs more to produce than what they could sell the crop for, but they wanted to keep producing it so they got the government to make up the difference. If I'm a shoemaker and I can make a shoe and I can sell it for \$30 but I spend \$50 for the material, is that the government's fault? Is that the taxpayers' fault? Is it the taxpayers' fault that farmers pay more to produce something that they can sell it for? But they want that subsidy, don't they? When they talk about out of control spending by the federal government, they don't mean that free money that the big-time, big shot farmers get, do they? I bet you'll not find a single farmer on this floor who gets farm subsidies who will stand on the floor and proudly announce it, that I get this free money, it's mine. And there are farmers on this floor who do that. They get the free money. They talk about out-of-control spending until it comes to them. That's what I look at and that's what I'll talk about. I'm going to put my light on again because Senator Erdman, in a sense,... [LB444]

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SPEAKER SCHEER: One minute. [LB444]

SENATOR CHAMBERS: ...opened Pandora's box. As for these prisoners, he doesn't know I guess that counties are contracting with the state to take state prisoners so they can make money. That's what they're doing and that's why they're doing it. These people are not county prisoners; they're state prisoners. And the counties have empty cells and they told the state, pay us to take these prisoners. They want it to be a one-way street. To have an ordered society where you have a state at the top, then you have various political subdivisions of various sizes, there are duties and responsibilities those subdivisions are going to assume and they're going to assume them because the state ordered them to. Whether people like Senator Groene or Senator Erdman like the tone of voice that the state uses is one thing, but to say the state doesn't have the authority is another thing. The state doesn't have to say please to anybody. I pay taxes. They don't say on the tax form, Ernie, will you... [LB444]

SPEAKER SCHEER: Time, Senator. [LB444]

SENATOR CHAMBERS: ...please pay these property taxes. They say, pay these taxes. [LB444]

SPEAKER SCHEER: Time, Senator. Thank you, Senator Chambers. (Visitors introduced.) Senator Erdman, you're welcome to speak. [LB444]

SENATOR ERDMAN: Thank you. Thank you, Mr. Speaker. Interesting conversation. Senator Chambers, I understand there are counties who contract with the state for prisoners. In my region, there is only one that does that in my district, maybe two. But our little county jail doesn't hold state prisoners and several other county jails don't either. We used to get a reimbursement of \$35 a day, which helped with some of the costs. but we don't receive that anymore. And I understand what the state can do and I understand that we make that decision here. That's why I brought this amendment. And as we move forward with passing things that cost state...cost county taxpayers money, it will be my intention to bring that forward so that we understand that. But this bill, and Senator Groene alluded to part of that, is it also...those people who are jailers spend their day around people who may want to harm them in some way and this does not include those people. It also may not include, say, your motor grader operator who's out in the country grading a road and he knocks down a farmer's mailbox or something and he may get accosted or assaulted. And I know that...the bill does not say that someone who's accosted by somebody or who's assaulted is not eligible for health insurance. But when you get to the end of the day, that person who is injured or assaulted may very well say, well, the sheriff deputy was assaulted and you paid his insurance. And I'm an employee of the county, why aren't you paying mine? So I'm just curious about what this opens up when we start doing this and it looks to me like this is a situation that we're dealing with here. And I understand Deputy Hutchinson, I

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understand his situation there. The county tried to help in every way they can. I believe, if I'm not mistaken, they paid six months for his insurance and then they give him the money to go out on the market and buy six more months of health insurance. So I think the county attempted to do what they could to help with his health insurance. They were very concerned about his well-being. They were very disappointed that he was injured in the line of duty and they wished that would not have happened, and so do I. I wish him the best and hope he gets back to work. But by the same token, one size does not fit all and sometimes we do that here. We pass legislation and assume it's best for everybody in the state. And we are somewhat different out west than they are here, a little less populated, and we have other issues that maybe you don't. So I would encourage you to vote for AM982 and allow the state to pay for this funding if there's going to be some. Thank you. [LB444]

SPEAKER SCHEER: Thank you, Senator Erdman. Senator Hansen, you're recognized. [LB444]

SENATOR HANSEN: Thank you, Mr. President. And good afternoon, colleagues. I rise in continued support of LB444. We heard this in the Judiciary Committee and I thank Senator Walz for bringing this. This is a very good bill that clarifies some unique situations in which people we ask to protect ourselves and protect our communities get injured and then through some sort of contractual technicality get dropped from health insurance plans. The specific example that kind of got the news story, got our attentions focused on this was obviously a situation in which an officer was shot and, therefore, wasn't required working the required hours per week in order to maintain health insurance, and per the policy got booted off. This would just require in those rare instances in which you have a health insurance policy that doesn't account for this, you now know that you'll have to continue to support our law enforcement officers who are injured in the line of duty. That being said, I do not support Senator Erdman's AM892. As I read it, I think there's some legitimate issue there, worry that it is actually including coverage that is already being paid for, that has already been, say, negotiated in certain counties and for certain cities that we are all of a sudden going to be giving special cities basically a hand up, coming in and taking some of their contract negotiations over and offering to pay for them again, while the other side...maybe not even providing what we need to on the other side. But fundamentally, when we're talking about our counties, talking about our counties, our cities, the people who employ first responders, asking them to make sure they have health insurance if injured past the point of injury and not have some arbitrary definition of hours worked before they are kind of kicked to the side, that's all we're asking for in LB444. And I think that's an important step. We can get farther into the definition of first responder, but that's a bit kind of abstract. Certainly we've had issues on other bills and I know bills I've introduced on whether or not correction officer should be a first responder or whether or not they should be included. And if Senator...if we want to have that discussion, let's have that discussion. But let's not try and muddy the waters. We're talking about whether or not counties should pay for law enforcement officers that they hired, that they employed, and they dispatched on dangerous line of duty that got injured. I think that is

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a very fair ask to say, counties, pay the extra minor premiums that you might have in order to make sure your law enforcement officers, your first responders are cared for if they are injured in the service to their constituents, to their citizens of their counties. Being that, I would ask my colleagues to continue to support LB444 and to not adopt the Erdman amendment, which I think muddles the waters on all sorts of funding issues bigger than maybe Senator Erdman initially intended. Thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you, Senator Hansen. Senator Riepe, you're recognized. [LB444]

SENATOR RIEPE: Mr. President, fellow Senators, I understand Senator Erdman's concern with passing laws or laws that send the bill to the counties, and I support his position there. My question and the follow-up to that is that it certainly appears to me then if the fiscal responsibility comes down to the state, that certainly puts a fiscal note on LB444 and jeopardizes that particular piece of legislation. This does not seem to me to be something that's worthy of a statutory bill or legislation here in the state of Nebraska. I believe that this is clearly a labor/management issue that needs to be negotiated through the employer and the employee, and that goes back to the county and they need to do what they can do because their opportunity here that, while this might be one individual, it has the potential for being for large numbers of people that also...that already that we would be required to provide healthcare or any other benefit that we might want to simply with the stroke of the hand. With that, I was present, not voting on LB444 prior to it. I will probably now be opposed to it with the amendment of Senator Erdman. So thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you, Senator Riepe. Senator Quick, you're recognized. [LB444]

SENATOR QUICK: Thank you, Mr. President. Yeah, I rise in opposition to amendment, I can't even see that, AM902? Is it AM982 or AM902? I'm sorry. And then...but I am going to support... [LB444]

SPEAKER SCHEER: It's AM982, sir. [LB444]

SENATOR QUICK: AM982? Okay. I guess I need to get my glasses out, don't I? (Laugh) But anyway, I'm opposed to that amendment, but I am supportive of LB444. And I know there's a lot of the cities and counties--I think we discussed this previously--but unless you're actually provided that insurance, they're really not going to be affected by this. I know there's some of the...probably some of the first responders, the police officers maybe in the cities and maybe with the counties. But also what happens to a lot of those workers, you know, the work comp does cover the injury that they have. But then you also find that while they're off on that, if they would have another...say they have a gallbladder attack or some other health issue and they're off

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long enough that their health insurance runs out. They can't take care of themselves. And also with family, if they have family insurance, they can't provide for their families under that insurance plan. So I think the amendment, AM982, would really hurt this bill and so I am opposed to that and would support LB444. Thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you. Senator Walz, you're recognized. Thank you, Senator Quick. [LB444]

SENATOR WALZ: Thank you, Mr. President. Senator Erdman, would you yield to a question, please? [LB444]

SPEAKER SCHEER: Senator Erdman, would you please yield? [LB444]

SENATOR ERDMAN: Yes. [LB444]

SENATOR WALZ: Good. I'm just wondering if you intentionally are trying to change the bill with your amendment? I am definitely, absolutely opposed now to AM982 because on his amendment it reads, "The State of Nebraska shall reimburse cities and counties for the costs of providing individual or family health insurance for first responders." The amendment does not say if they are injured. It just says they shall be reimbursed for health insurance, family health insurance. My bill emphasizes that it is only for first responders who are injured due to an assault. The other thing I wanted to mention is that I kept this bill very narrow. It was my intention to keep it narrow, to just first responders who are injured, so it would not be a burden on counties and cities. So I urge you to vote no to AM982 and yes to LB444. Thank you. [LB444]

SPEAKER SCHEER: Thank you, Senator Walz. Senator Chambers, you're welcome to... [LB444]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I don't fault Senator Erdman for bringing his amendment. I don't fault him for trying to get his county and similarly situated counties out from under the financial responsibilities they are to assume. Except for the fact that his thinking is not as nuanced as mine, his analysis is not as deep and thorough, he reminds me of myself when I was a kid. But see, when I was a kid I thought as a kid, I believed as a kid, I behaved as a kid; when I became a man I put away kid things. He's doing what he feels his job is to do as a representative of the people who sent him here. My job, as I perceive it, is broader in scope. I take the title "State" in front of "Senator" very seriously. I believe if you would check my record, not only would you be amazed, you would understand that my interests

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are not restricted to the geographic boundaries of the 11th Legislative District. I am a State Senator and there are powers, duties, and responsibilities, and prerogatives of the state which belong only to the state. And I'm going to defend those prerogatives of the state against encroachment by counties, by cities, and others who are the handmaidens, handservants of the state. What Senator Erdman is asking for is unreasonable, in my view, so I am opposed to his amendment. But as Nixon would say, let me make one thing perfectly clear--I think he's the one who said that--any senator obviously has the right and the duty to stand on this floor and articulate the positions he or she thinks would be required to carry out his or her duties as he or she perceives those duties to require. But know that I'm going to oppose those things. If this were a general law that made it the county's responsibility or even the city's to pay for the generality of people who have jobs of any kind or description and they get injured any kind of way, I would oppose that. I've been opposed to expanding the definition of first responder. This is a very narrowly crafted bill. Nobody, I don't believe, would say that I'm a water carrier for the police. And I'm not. I don't hate all police, only 99.991 percent of them. That other one-hundredth of 1 percent is all right. I want people to know that that is being facetious. I think there will be enough votes though to defeat Senator Erdman's amendment. People will look at the narrow scope of this bill and see that it is a policy decision that the state can take. It's not just for this one individual. Sometimes what happens to an individual will call our attention to the existence of a problem. The problem is of the kind and nature that the state ought to establish a policy on so that it is not a matter of similarly situated people being treated differently simply because one is from a county that will take care of it, or a city,... [LB444]

SPEAKER SCHEER: One minute. [LB444]

SENATOR CHAMBERS: ...as happens, or a scrooge county which doesn't care. There are responsibilities that are owed to people who have certain functions associated with their job. I do not routinely and automatically support these types of bills. But if it's narrowly drawn, then I will support it. I was persuaded that this is a reasonable requirement by the state and it would be unreasonable to require the state to reimburse the county. The amount is minuscule compared to the counties' overall budget. I hope you will vote against Senator Erdman's amendment, but don't vote against Senator Erdman. Senator Erdman is one of the nicest people I know because he has a son whom I liked a great deal. And were it not for Senator Erdman, I never would have met that son. Thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Kolterman, you're recognized. [LB444]

SENATOR KOLTERMAN: Thank you, Mr. President. Good afternoon, colleagues. I rise against AM982 and I think LB444. I was present, not voting when this first came through on General

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File, and the reason I was not voting is because there's a lot of questions that are opened, in my mind, to this bill. And I appreciate the fact that Senator Walz brought the bill. But having been in the business for as many years as I have and starting to look at the costs associated with something like this and the other options that might be available, I'm not sure whether the state or the county or the city or anybody should be responsible for picking this up, especially in times when we're really...it doesn't matter where you're looking, whether it's city, state, county, we're all looking at tough times from a revenue perspective and balancing our budgets. I did just a quick figure of what it would cost for a family of four, about age 50, under the health insurance. You're talking about...and I've checked with two companies, Blue Cross and Blue Shield and Medica. You're talking \$1,650 a month up to almost \$1,900 a month. Those are the premiums that we're asking people to pay on an individual policy. Now, you can get a little better rate than that maybe. But those involve deductibles of \$13,500 all the way up to...and then there's also one for \$3,900. But you're talking \$20,000 a year at the cheapest. That's not chump change for a year of benefits, \$20,000. If you start multiplying that across the state, we're talking probably some pretty good money. My question is, if they're injured on the job, obviously the employee himself has workers' compensation. If they're off for more than a certain period of time, they're going to get 66 and two-thirds of their regular salary. Plus, all the health insurance costs associated with that individual claim are going to be covered under workers' compensation, really with no deductibles and no co-pays. So it's not the employee's injury that we're worried about. We're talking about his family and the rest of them. At the same time, if somebody is disabled and they're off work for more than six months, they're eligible to apply for Social Security benefits. And then you throw in the fact that if they're off for a certain period of time, if they lose their job, they're eligible for COBRA for 18 months minimum. That would be an individual policy. And then finally, if they're at 100...a little over 100 percent of poverty, they're eligible for the Affordable Care Act. So there's a lot of questions that are unanswered, in my mind, around this whole idea of who pays the bills. Is it the state? Is it the county? Is it the cities? There's just a lot of unanswered questions that each one of these has a potential to stand on their own. So if we're creating legislation that's going to deal with one or two people, that's one thing; but if we're dealing with legislation that's going to talk to 50 to 100 people a year, we're pretty soon talking big money. And so again, I don't know where I'm going to vote. I think I'm going to be present, not voting again simply because there is a lot of unanswered questions. [LB444]

SPEAKER SCHEER: One minute. [LB444]

SENATOR KOLTERMAN: I don't know if it's right to push it to the state. Obviously, you know that we have our difficulties here. I have a tendency to agree with Senator Riepe that it's an employer-employee relationship and that's where it probably ought to stay. So that would mean it would be a county or city or a state or even a private employer's type of situation. But, I don't know, there's just too many unanswered questions to put something like this into law, in my estimation. So I just wanted to give you my perspective on this. Thank you. [LB444]

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SPEAKER SCHEER: Thank you, Senator Kolterman. Senator Albrecht, you're recognized. [LB444]

SENATOR ALBRECHT: Thank you, Speaker Scheer. I didn't really want to have to get back up, but I know that I was the one that led the charge on not being interested in LB444 simply because I had heard rumors about this particular case. And when that happens, I want to go to the source and find out in fact if he, you know, somebody said he was let go as soon as the accident happened and lost his insurance. So I did my due diligence and called out to the county and asked them, and he still is employed. They still hope he comes back to work. But this particular individual, it is very unfortunate and I feel terrible that he was in the line of duty and was hurt. But what I do have an issue with is there's a GoFundMe page that has raised over \$50,000 for this individual. And that's where I feel that, you know, if it takes care of his expenses for a few years, I hope he's not off that long, but to know that a county of that size that doesn't have the ability to carry on for very long. Being in county government myself, I understand that they have different insurance programs, if you will, and I appreciate Senator Kolterman's explanation of those, because some counties have less employees than others, and in this case they have less employees. And this particular incident, if they did in fact, which that's what I heard, that they paid him for six months, they gave he and his wife a stipend to go out and find insurance outside. They even tried to find it for them themselves. This isn't even probably going to benefit this gentleman, but you're looking for a problem and wanting to pay for something that you don't have any idea what the situation is in those cities and counties that you're going to ask them to pay. And I have to...the one thing I didn't get to do is to contact insurance companies and ask them, you know, can you just pay for somebody who is not employed there? You know, I have a dear friend that has cancer and her company said, if you can be here for just three days during the week, even if it's just six hours a day, just to answer the phone--she's a nurse--if you could just be there that long, we can keep you on our insurance policy. But if you can't do that, we can't keep you. So again, whether it's a maintainer, the snowplow driver, somebody else in that county, what kind of precedence are you setting when it is just in the line of duty? Again, I feel like definitely I oppose the state paying for any part of it. But I also don't support the state mandating cities and counties to do so. So thank you. [LB444]

SPEAKER SCHEER: Thank you, Senator Albrecht. Senator Blood, you're recognized. [LB444]

SENATOR BLOOD: Thank you, Mr. President. Fellow Senators, friends each and every one of you, I stand against the amendment and in favor of LB444. And I want to share a sad reality, the reality being that when September 11 happened, we had our American flags waving, and well we should have, and we were in support of our police and we were in support of our fire and rescue. And the Patriot Act even made sure that we had funds set aside for these families, these families who had lost loved ones, for these first responders that would never be the same physically or mentally. And for years in the United States of America, gosh darn it, we were behind our first

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responders and we're going to be the first ones to let you know that we're behind our first responders in this country, and God bless America! And then time passed and guess what happened. It started to become a distant memory. In Omaha, and it's unfortunate, we lost an officer in Omaha and that started the carry on wave of support for law enforcement. It's really unfortunate that it takes the loss of someone's life to remind us how important first responders are to our daily life. And that was a nice benefit. I used to belong to the Bellevue Public Safety Foundation. It helped donations for our foundation. But now time is passing. This bill is a narrow bill that makes sense. What nobody is saying is that the employee still has to pay their portions of the health insurance. We're not giving them anything. I just think it's unfortunate that when it's popular, we're the first ones in line to support our first responders. But as time passes and incidents go behind and into our memory, we find reasons to not support our first responders. And I am keeping track of everybody who's talking about unfunded mandates today because I know there's a lot of bills coming up where we're asking the state to step up to the plate in reference to fees. So we'll see who's really in favor of unfunded mandates and who isn't when that comes around. But with that said, I say this a lot on the floor, this bill is about people. We have asked our first responders to do something that you and I are not doing--putting our lives on the line every single day to make our communities better. To make our communities stronger. And we are not asking for anything unreasonable in this bill whatsoever. I would love everybody who votes against this bill today, when they're done voting the bill, give a call to your local fire department, give a call to your local police department and explain to them why you don't support this bill, because I frankly think it's un-American to not support Senator Walz's bill. And God bless America and God bless our first responders and vote green and give her your support. [LB444]

SPEAKER SCHEER: Thank you, Senator Blood. Senator Erdman, you're recognized. [LB444]

SENATOR ERDMAN: Thank you, Mr. Speaker. Interesting discussion. Senator Walz, I listened to your comments. And you said would I rise for a question and you never did ask me one, so maybe I'll make one up. Just kidding. So I see how the amendment I have adopt...or had amended or thrown in and perhaps it's one of those learning moments. Senator chambers talks about when he was my age, just a kid, he did things kind of peculiar. I don't know if he knows how old I am, but I was born in the first half of the last century. Does that help you any? Anyway, he'll figure that one out. So after reading that and talking to Senator Chambers and looking at what it says and what I'm asking that amendment to do, Mr. Speaker, I withdraw my amendment. [LB444]

SPEAKER SCHEER: Without objection, so ordered. [LB444]

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CLERK: Mr. President, Senator Bolz would move to amend the bill with AM842. (Legislative Journal pages 978-979.) [LB444]

SPEAKER SCHEER: Senator Bolz, you're welcome to open. [LB444]

SENATOR BOLZ: Thank you, Mr. President. In 2010 the Legislature passed and the Governor signed a change to workers' compensation laws in Nebraska to include the mental well-being of first responders, police, State Patrol officers, and firefighters that may find themselves experiencing emotional and mental trauma relating to their work where they may experience gruesome events. Corrections officers and employees at the state's regional centers also experience such traumatic events in the line of duty. AM842 includes them in workers' compensation benefits for emotional and mental trauma they experience as it results to their important work. The bill came out of the Business and Labor Committee unanimously and has no fiscal note. The reason that it has no fiscal note is because the previous legislation to include first responders in coverage for mental illness related from a mental injury has been very judiciously used. Since 2010, only 21 claims have been filed and the total cost of the workers' compensation claims has been \$529.53. So, colleagues, I ask for your support for this piece of legislation that will illustrate to our Department of Correctional Services officers that we value them and their mental health and their mental well-being. Will cost the state nothing new, has no fiscal note, and has the support of your Business and Labor Committee. I'd be happy to answer any questions and ask for your green light on AM842. Thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you, Senator Bolz. Senator Crawford, you're recognized. [LB444]

SENATOR CRAWFORD: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM842 and LB444. And I appreciate Senator Erdman's conversation and his willingness to pull the amendment that had some unintended consequences. I also appreciate him raising that question for us to talk about on the floor. It's important that we think about the consequences to our political subdivisions in any bill, and so it's a valuable conversation to have. But I do feel that LB444 was carefully constructed to keep the impact narrow and I think it's also important for us to realize that the bill is tightly crafted to try to keep the impact narrow, and also wanted to respond a bit to some of Senator Kolterman's comments and concerns. I do appreciate Senator Kolterman bringing his expertise to the discussion as well. One of the great things about our body here is we have people from all kinds of backgrounds that bring those different backgrounds to the table. First, I'll start with AM842. We did hear this bill in Business and Labor and was unanimously supported. This is a very important protection for our front-line workers in our corrections facilities. It provides an ability for them to get assistance for the mental trauma that they experience and particularly when they are facing unusually difficult situations. And so I think it's an important protection to provide and I urge your support of AM842. Back to LB444,

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again, supporting our first responders and hoping that very few of them have to resort to a GoFundMe page, trying to make sure that we take care of as many of them as possible. But I do want you to notice that it is narrowly constructed and it is only those first responders who fall below the minimum number of hours needed to maintain their coverage because of an assault. Colleagues, this is talking about making sure that when a front-line responder is injured by an assault, that we continue to take care of their family. But it is even more narrowly crafted than that because it indicates that the city is...or county is required to maintain that coverage as long as they're maintaining that person in their employment. So really, we're talking about a situation where the city or county values its first responders but has to cut their hours back, and the person was assaulted, the front-line responder. All of those conditions have to be met. If all of those conditions are met for an individual, we're asking the city or county to continue to pay for their health insurance. And note it also has a time restriction on it as well. So lots of protections to try to make sure this is very narrow and only goes to those front-line responders, again, assaulted when they're protecting us and able to maintain some employment with that city or county in the meantime. And those are very important provisions and I appreciate Senator Walz's careful attention and conversations with our cities and counties in terms of trying to make sure we have a very narrowly crafted bill so we can take care of those front-line responders. Now there was some mention about COBRA but, colleagues, if someone has COBRA that means they have access to that group insurance plan but not necessarily a way to fund it. And so while that protection provides some protection for someone who loses their job, it does not provide a way for them to pay that insurance. And so it's important, this provides a way for some of our front-line responders, who are injured by an assault, doing the work for us, to be able to maintain that coverage. And it may or may not help the particular person who came to testify. His story is a compelling one that helps us see this issue. [LB444]

SPEAKER SCHEER: One minute. [LB444]

SENATOR CRAWFORD: Thank you, Mr. President. The point in a policy is to construct it so that it impacts future front-line responders and to make sure we have a system in place that outlines expectations of how we expect to take care of those first responders. And so I urge you to support AM842 to help make sure we're taking care of those who are protecting us and taking care of us in correctional facilities, and LB444 to ensure that we are taking care of those who are on the front lines fighting for us. Thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you, Senator Crawford. Senator Groene, you're recognized. [LB444]

SENATOR GROENE: In rural Nebraska, we have volunteer firemen. We have deputies who are paid a dollar who help the sheriffs' departments. This doesn't cover a very close relative who is

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very involved in rural fire, volunteer fire. I asked. I texted him and I said, do you have health insurance from the city when you go out and put fires out and grass fires out in county? Oh, no, we have workmen's comp. We go to the hospital if we get hurt on workmen's comp and that covers it. Do you understand employers, like counties, are paying workmen's comp fees, insurance, and they're also paying health insurance. The system works. If you get injured at work, you then divert to workmen's comp. That's what happened in this case out west. Hospital bills were paid and they continued to be paid on that issue of being harmed. Volunteers don't get that. Also this individual I talked to, he said, even in my business I can't afford health insurance, but I do have workmen's comp on my employees and it's high labor, industrial labor. We are choosing just a few individuals here and saying they need to be take...have family health insurance. What about, like, the county? My county has...I have a good friend. He's an avid outdoorsman. He volunteers with the city...with the county as a deputy. They pay him a dollar to make sure he's covered for...and he's gone through all the training. At events and stuff he helps with the sheriff. If he gets harmed or hurt, I don't know if this...if they don't have to put him on health insurance. No city or county offering an individual, family health insurance policy to law enforcement officer shall cancel such individual, family health insurance for any law enforcement officer who suffers serious bodily injury. Does he have to be put on it? I mean they can't cancel it, but does he now have that ability because he accepted a dollar and he's under 40 hours a week? Can he say, I want to be put on your health insurance? He doesn't want to. I'm assuming he's under workmen's comp because he does receive that dollar pay a year. This is another one of those issues where we pass laws for one instance, and I'm not so sure this individual...I guess I'm not going to say that. I didn't hear Senator Walz, if she talked to this individual out there and he asked for this or was seeking this. Or is he getting along just fine out there? The community is taking care of him and he's going to go back to work. Or is this one of them laws we just decided we've seen the instance and we decide now we're going to help people in a far away county that's not related to our districts? And I haven't heard Senator Erdman say that in his district that this is a necessity, that he was approached by the county, by the individual that's in his district and this was a necessity because we found a loophole where people weren't taken care of. I believe this individual's health bills are being paid. Anyway, this isn't about throwing platitudes at first responders. They're good people. They choose their occupations. They do it well. I admire them. But to throw platitudes at them and benefits they didn't even ask for because we want to feel good and we want to say we like them, yes, we like them. They're good people. They risk their lives, so does a lot of other occupations. They're well cared for. We have nothing to apologize as a society how we take care of our first responders. We do it. Nobody needs to feel guilty... [LB444]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB444]

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SENATOR GROENE: ...because we have not done it or we do not show respect. That doesn't need to be said on this floor. That's a given. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Chambers. [LB444]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Bolz a question or two. [LB444]

PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LB444]

SENATOR BOLZ: Sure. [LB444]

SENATOR CHAMBERS: Senator Bolz, was this that you're bringing a bill, this amendment? [LB444]

SENATOR BOLZ: Yes, it was a bill, yeah. [LB444]

SENATOR CHAMBERS: And what committee did that bill go to? [LB444]

SENATOR BOLZ: Business and Labor. [LB444]

SENATOR CHAMBERS: And what happened to the bill? [LB444]

SENATOR BOLZ: It was voted out unanimously. [LB444]

SENATOR CHAMBERS: And where is it now? [LB444]

SENATOR BOLZ: I am hoping to amend it on to LB444. [LB444]

SENATOR CHAMBERS: Do you have a copy of the committee statement in front of you? [LB444]

SENATOR BOLZ: Sure. [LB444]

SENATOR CHAMBERS: How did I vote on this bill? [LB444]

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SENATOR BOLZ: You supported this bill, Senator Chambers. [LB444]

SENATOR CHAMBERS: How do you know I supported it? [LB444]

SENATOR BOLZ: It's on the committee statement. [LB444]

SENATOR CHAMBERS: And you believe everything you read? [LB444]

SENATOR BOLZ: (Laugh) I believe that we have competent staff in the Legislature and I'm sure the committee clerk was accurate. [LB444]

SENATOR CHAMBERS: Now, tell me again what this bill does. [LB444]

SENATOR BOLZ: This bill offers workers' compensation to Department of Correctional Services and regional center staff people if they've had a mental injury...a mental illness related to a mental injury. [LB444]

SENATOR CHAMBERS: A mental injury. What kind of circumstances might these individuals confront that could affect them mentally in a negative way, if you have anything you can put on the record for us? [LB444]

SENATOR BOLZ: Sure. The individuals who had to respond to the riots in Tecumseh were asked, as part of their job duties, to see and take care of the bodies of the two individuals who were killed in those riots, and that is the kind of thing that could result in a mental injury relating to a mental illness. [LB444]

SENATOR CHAMBERS: Do you think that inmates could be exposed to things in prison that would affect them mentally in a negative way? [LB444]

SENATOR BOLZ: Yes. And that's one of the reasons I've been a champion for mental health in the Department of Corrections. [LB444]

SENATOR CHAMBERS: So what you are looking at is an across-the-board policy or philosophy which says that mental illness, whoever suffers it, ought to be treated in the way...in the best way available. [LB444]

SENATOR BOLZ: Yes, I generally think that as a broad philosophy. [LB444]

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SENATOR CHAMBERS: Do you think that my comments have been helpful or hurtful to what you're trying to do? [LB444]

SENATOR BOLZ: Generally, Senator Chambers, you and your comments are good for my mental well-being. [LB444]

SENATOR CHAMBERS: (Laugh) Thank you. Members of the Legislature, a prison environment, I've often mentioned, and maybe it will be listened to in this context when not in another, the people who they used to call them warders, w-a-r-d-e-r-s, who watch prisoners, the ones who work in prison are imprisoned along with the inmates. There are things that they are required to do, vis-a-vis the inmates, which nobody should be required to do as a part of a job. But that is the job that they're given. That is the job they must carry out or they are unemployed. This is just another aspect of the overall difficult circumstances that exist in the prisons and have become increasingly severe under the current administration. It is not just inmates who are suffering, but the ones who have to guard them, who have to tend them, who have to deal with them any kind of way. They witness things happening to inmates that they would like to see different, but it's not going to be different, because if they say anything... [LB444]

PRESIDENT FOLEY: One minute. [LB444]

SENATOR CHAMBERS: ...out of school, they lose a job. This is a bill which should be supported. It's not, in my opinion, something where a person could just say, I saw something, I got all shook up and I'm a little mixed up, sometimes I feel fine but most of the time I don't. There would have to be the establishment of this condition before it would be covered by workers' comp. So I doubt that there would have been any opposition to this, but in case there would have been I hope now that we'll think about it a little more deeply and support the amendment. Thank you, Mr. President. [LB444]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Kolterman. [LB444]

SENATOR KOLTERMAN: Once again, good afternoon and thank you, Mr. President. Well, we're talking about fiscal notes again. There's no fiscal note associated with this bill. LB242 advanced out of Business and Labor unanimously because there's no fiscal note to the state or the cities or the counties. But really there is a fiscal note potentially associated with this. It's called workers' compensation premiums. And anytime you pay a claim, you can't pay claims without having the right amount of premium put into the policy to pay the claims. So as claims go up, premiums go up. And it doesn't matter whether you're a city, county, a business. Whoever you are, if you're paying premiums and you've got claims, it's going to go up. It's based on exposure. It's no different than health insurance. First responders, you know again, I think Senator

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Chambers asked--it's narrowly written here--what is a first responder? I was a volunteer fireman for 14 years and I went out on a lot of calls that I wished I'd never had to go out on. Have you ever picked up a two-year-old out of a car that's got their eyes set, they're brain dead, and have a doctor tell you, put him in the corner because he's not going to make it anyway? I could say I've got PTSD from that as well. Again, and the last thing I'm going to say is I don't think I can support this simply because there is a cost associated with it. And you can minimize that all you want, but there is a direct cost to everybody that pays premiums. And the state of Nebraska happens to self-insure. And last I'd like to say that if you vote against this you're not American? I take offense to that. I'm as American as everybody in this room. And I find that offensive. So...and there's a lot of other people that might vote against this that probably ought to feel the same way. So I'd encourage you to vote no, no on both of these bills. Thank you. [LB444 LB242]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Kolterman. Senator Halloran, you're recognized. [LB444]

SENATOR HALLORAN: Thank you, Mr. President, colleagues. I was supportive of the underlying bill that's now an amendment, LB842. But I would like to ask Senator Bolz for...yield to a question if she would, please. [LB444]

SPEAKER SCHEER: Senator Kolterman, would you please yield? Senator Kolterman,... [LB444]

SENATOR HALLORAN: No, Senator Bolz. I'm sorry. [LB444]

SPEAKER SCHEER: ...would you please yield? [LB444]

SENATOR HALLORAN: Senator Bolz. [LB444]

SPEAKER SCHEER: I'm sorry. [LB444]

SENATOR HALLORAN: I'm sorry. [LB444]

SPEAKER SCHEER: Senator Bolz, would you please yield? [LB444]

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SENATOR BOLZ: Yes. [LB444]

SENATOR HALLORAN: Thank you, Senator Bolz. I tend to agree with Senator Kolterman. To me, part of the underlying problem I have with this is the difficulty and the challenge of measuring and judging, whether it's a preponderance of evidence, that employment conditions caused a mental injury or not. And I'm not unpatriotic. I'm as patriotic as anyone is and I don't want to be accused of being otherwise. I have deep respect for these first responders and people on the front line. But...and I see Senator Blood is smiling at that, but that's okay. Who's measuring the preponderance? What's the preponderance of evidence? [LB444]

SENATOR BOLZ: So, Senator Halloran, that is not for the layperson to decide. An individual needs to have a medical condition that is diagnosed by a medical professional, just like any other workers' compensation claim. And in fact, one of the reasons that the fiscal note may be considered to be so low is that Department of Correctional Services officers already have access to the Employee Assistance Program so their first step might actually be calling one of those on-call counselors. And so the folks that rise to the level of a mental...diagnosed mental illness due to mental injury are going to be fairly small. [LB444]

SENATOR HALLORAN: Immeasurably small. I mean we don't know? It's an educated guess, I guess? [LB444]

SENATOR BOLZ: The measuring stick that we can use is the existing program that is for State Patrol and firefighters and other first responders. And in the seven years since 2010 when the bill passed, there have been 21 claims and the total amount for the claims that was paid out for workers' compensation purposes was \$529.53. And that is from the Workers' Compensation Court. [LB444]

SENATOR HALLORAN: So I'm confused with...okay, so this would be under workmen's compensation or something otherwise? [LB444]

SENATOR BOLZ: Workers' compensation. [LB444]

SENATOR HALLORAN: Okay. Okay. Thank you, Senator. Appreciate it. [LB444]

SENATOR BOLZ: Thank you. [LB444]

SENATOR HALLORAN: That's all. [LB444]

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SPEAKER SCHEER: Thank you, Senator Halloran and Senator Bolz. Senator Bolz, you're next up. [LB444]

SENATOR BOLZ: (Laugh) Thank you. I just wanted to address two points that I've heard on the floor this afternoon, and Senator Halloran helped me make the first, which is I think that this protection for our Department of Correctional Services officers who face so many pressures, especially given current circumstances, is worth the potential claims to our workers' compensation program. And again, over the seven years since the previous legislation was passed, 21 eligible claims have been filed by 18 individuals and 4 claims were paid for a total of \$529.53. The other comment that I heard from Senator Groene, and forgive me, I'm not sure if this was related to the amendment or the underlying bill. I was caught up in answering another colleague's question. But just to answer this question, it was brought to me by folks who work in the Department of Correctional Services. There were front-line workers who did testify in support of the bill and specifically I have one constituent who has contacted me about this idea who lost a co-worker to suicide a couple of years ago. And so I just want to reiterate that this isn't legislation that Senator Bolz simply thought was a good idea. It is a piece of legislation that was brought to me by Department of Correctional Services officers and that I have discussed with folks who do those jobs, those difficult jobs. So just wanted to answer those questions on the microphone and that's all I have. Thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you, Senator Bolz. Senator Friesen, you're recognized. [LB444]

SENATOR FRIESEN: Thank you, Mr. President. Would Senator Bolz yield to a question? [LB444]

SPEAKER SCHEER: Senator Bolz, would you please yield? [LB444]

SENATOR BOLZ: Sure. [LB444]

SENATOR FRIESEN: Could you lead me through who is all subject to this or would be implicated in this? [LB444]

SENATOR BOLZ: Sure. Department of Correctional Services staff people and regional center staff members. So I can articulate that in the language of the bill but, "Frontline state employee means an employee of the Department of Correctional Services or the Department of Health and Human Services whose duties involve regular and direct interaction with high-risk individuals." And the definition of high-risk individuals includes individuals who are in our correctional institutions and our regional centers. [LB444]

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SENATOR FRIESEN: Was there first responders or sheriffs or any of those included in this? [LB444]

SENATOR BOLZ: That is in the previous legislation. So in 2010, the Legislature included State Patrol, firefighters, and police. [LB444]

SENATOR FRIESEN: Okay. Would like county-owned correctional facilities where the state contracts with, would those correctional workers be subject to this? [LB444]

SENATOR BOLZ: Well, because those contracts are no longer continuing, it wouldn't apply. [LB444]

SENATOR FRIESEN: Okay. But if they were continuing, they would not be covered under this or would they be covered previously? [LB444]

SENATOR BOLZ: They would not be covered under this. And the county jail program has been discontinued, so that state tie isn't there as it was there in the way that it was previously, so we didn't think that it applied. [LB444]

SENATOR FRIESEN: Okay. Thank you. [LB444]

SENATOR BOLZ: Thank you. [LB444]

SENATOR FRIESEN: Thank you, Mr. President. [LB444]

SPEAKER SCHEER: Thank you, Senator Friesen, Senator Bolz. Senator McConnell...McDonnell. Senator McDonnell, you're recognized. [LB444]

SENATOR McDONNELL: Thank you, Mr. President. I think everybody in this room is patriotic. I think everybody in this room supports first responders. But I think also sometimes we also forget the first responders also have families. And what...and I rise in support of amendment AM842 and LB444. With what happened with officer Hutchinson, to my understanding, was that he was part of the workers' comp. He was part of worker's comp and 30 days went by and then we were talking about he no longer had the option for health insurance unless he wanted a COBRA. What about his family? What about if Officer Hutchinson wasn't shot four times, his family would have never been affected because he would have never lost his health insurance. There's something basically wrong with that. I'm not saying that cities don't go above and

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beyond this, that there's not workers' comp, there is not COBRA options. But we're talking about after 30 days after being shot four times, and this isn't just about Officer Hutchinson. This is about anybody that might find themselves in that position as a first responder. So now we look at it as his family. Not only was he shot four times and made that sacrifice. We're asking his family to make that sacrifice based on the idea that after 30 days he can't afford COBRA at that moment, so him and his family are out of health insurance. Now we're not talking about an extra cost to the government at that point, because if he'd had never been shot, that health insurance would have been paid throughout that year. They had budgeted for the health insurance throughout that year. Now he's shot. Now there's 30 days later and there's different costs. There's no doubt there's going to be callback for the officer that's going to replace him. But we're talking about purely health insurance. At that point, that government is saying, that local government is saying, well, we can save money; we're going to go ahead and take you off the health insurance. But they're not only taking him off or that officer that was shot; they're taking their families off. Senator Walz, would you yield to a question? [LB444]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Senator Walz, would you yield, please? [LB444]

SENATOR WALZ: Yes, I will. [LB444]

SENATOR McDONNELL: Senator, when you brought this, was it only about Officer Hutchinson? [LB444]

SENATOR WALZ: No, it wasn't. Actually it was brought to me by the Fraternal Order of Police and also by the firemen. Officer Hutchinson traveled a long way to come and testify for future first responders in a situation that might occur like that. [LB444]

SENATOR McDONNELL: And during the discussion with Officer Hutchinson, the Fraternal Order of Police, the Nebraska Professional Fire Fighters Association, the other groups that came to testify and talk to you as individuals, did they talk about the families of Officer Hutchinson? [LB444]

SENATOR WALZ: Yeah. [LB444]

SENATOR McDONNELL: Did they talk about other families? [LB444]

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SENATOR WALZ: Officer Hutchinson did talk about his family. His wife actually, during the time that he was not insured, his wife had an injury. She had a very bad cut on her hand or finger and was not insured for that. Had to pay for that out of her pocket. [LB444]

SENATOR McDONNELL: Thank you, Senator Walz. So not only did it affect on that day when Officer Hutchinson put himself in harm's way, was shot four times; 30 days later his family has a medical need and was no longer able to have that paid through the health insurance that he earned based on his service to his community. But that was also taken away. So his family, on top of it, was punished also. I rise to please ask you to reconsider those out there that are opposed to amendment AM842 and LB444 because of Officer Hutchinson but every officer, every first responder in the future. This is also the message we're sending. The message we're sending that not only will you put yourself in harm's way, and if you make the ultimate sacrifice or are injured, we're also not going to look out for your families. [LB444]

PRESIDENT FOLEY: One minute. [LB444]

SENATOR McDONNELL: Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Chambers. [LB444]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I am compelled to ask Senator Bolz an additional question, maybe two, if she will yield. [LB444]

PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LB444]

SENATOR BOLZ: Sure. [LB444]

SENATOR CHAMBERS: Senator Bolz, who will determine whether a person covered by this amendment really has this mental condition? [LB444]

SENATOR BOLZ: A medical professional. [LB444]

SENATOR CHAMBERS: Just any medical professional? Could they go to a general practitioner and that determination be made? [LB444]

SENATOR BOLZ: No. The employee must go to a qualified medical professional that can make the appropriate diagnosis and I believe, and let me look in my notes here, but I believe if the

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employer asks the employee to visit a physician of their request, they can do that. So the employer does have a trust level with the physician making the diagnosis. [LB444]

SENATOR CHAMBERS: To be frank, I don't really remember who testified for or against this bill. Did anybody from the Department of Corrections speak for or against the bill? [LB444]

SENATOR BOLZ: The Department of Corrections did not oppose this bill. [LB444]

SENATOR CHAMBERS: When Senator Kolterman was talking about premiums going up, is it anticipated that so many correctional employees will probably fall under this amendment that it will cause additional cost to the state of any significant amount? [LB444]

SENATOR BOLZ: I guess I would say a couple things. One is that there are existing support systems like resiliency training, health insurance, and the Employee Assistance Program that care for a lot of these pieces. So the number of individuals who will require workers' compensation is fairly low. I don't want to speak for the department. I certainly don't. But I would see this as a retention tool. I would see this as actually something that could have cost savings, because someone decides to take a break or get medication or assistance rather than quit, and the cost of training is expensive. [LB444]

SENATOR CHAMBERS: You wouldn't want this amendment to perhaps bring down the bill, would you? [LB444]

SENATOR BOLZ: No. Most certainly not. [LB444]

SENATOR CHAMBERS: And we'll have a chance to determine that by the vote. [LB444]

SENATOR BOLZ: Right. [LB444]

SENATOR CHAMBERS: Thank you. That's all I have to ask. I'd like to ask Senator "Uncle Sam" Kolterman a question or two if he would respond. [LB444]

PRESIDENT FOLEY: Senator Kolterman, would you yield, please? [LB444]

SENATOR KOLTERMAN: Yes, sir, I would. [LB444]

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SENATOR CHAMBERS: Senator Kolterman, I misplaced my eyeglasses so I cannot see from here, but is that a flag in your...a flag lapel pin that you're wearing? [LB444]

SENATOR KOLTERMAN: No, it is not. [LB444]

SENATOR CHAMBERS: Where's your flag lapel pin? [LB444]

SENATOR KOLTERMAN: I don't need a flag lapel. [LB444]

SENATOR CHAMBERS: Are you a patriot? [LB444]

SENATOR KOLTERMAN: Yes, I am. [LB444]

SENATOR CHAMBERS: Every time I see Mr. Trump, he has a flag in his lapel. Every time I see members of his staff, they have a flag. Where is your flag? [LB444]

SENATOR KOLTERMAN: Don't have one. [LB444]

SENATOR CHAMBERS: So then you don't think that wearing the flag is essential to determining whether or not a person is a patriot? [LB444]

SENATOR KOLTERMAN: No, sir, I do not. [LB444]

SENATOR CHAMBERS: Is there a party called the "Flag Party" in America? [LB444]

SENATOR KOLTERMAN: I don't know if there is or not. [LB444]

SENATOR CHAMBERS: Do you think the President belongs to a "Flag Party" and those in his staff and that's why they all wear flag lapel pins? [LB444]

SENATOR KOLTERMAN: He very could be a member of that party. [LB444]

SENATOR CHAMBERS: Senator Kolterman, when these motorcycles go by, and trucks, and they have flags, do you stand at attention in honor of the flag when you see it? [LB444]

SENATOR KOLTERMAN: I have, sir, at times. [LB444]

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SENATOR CHAMBERS: Not "have." That's past tense. Do you, present, present progressive, do you stand for the flag? [LB444]

SENATOR KOLTERMAN: When the flag goes by, I generally stand, yes, sir. [LB444]

SENATOR CHAMBERS: Are you standing already or you get up and stand? [LB444]

SENATOR KOLTERMAN: (Laugh) I'm standing already. [LB444]

SENATOR CHAMBERS: Now, if you were in your car and you stopped at a traffic light... [LB444]

PRESIDENT FOLEY: One minute. [LB444]

SENATOR CHAMBERS: ...and a flag was beside you, would you get out of your car and stand for the flag? [LB444]

SENATOR KOLTERMAN: No, I probably would not. [LB444]

SENATOR CHAMBERS: And you call yourself an American. (Laugh) That's all. Members of the Legislature, I'm going to turn on my light because I have to say something about this patriotism. I'm not a patriot. I'm my own man. I don't need a refuge. I'm not a scoundrel, so patriotism never is mentioned in connection with me. But I'm going to put my light on. [LB444]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Erdman. [LB444]

SENATOR ERDMAN: Thank you, Lieutenant Governor. So I'm listening to the conversation and I am a patriot. And do you see what I have, Senator? Chimney Rock. Morrill County was the first home to Chimney Rock and we're keeping it. We like it. I rise to bring this question. One bill goes Judiciary; another one goes to Business and Labor. One bill deals with a political subdivision canceling one's health insurance; one bill deals with someone being eligible for workmen's comp. One bill deals with someone being physically injured; the other bill deals with somebody being mentally injured. My question is, how are those two bills germane? I read Rule 7, 3(d) and it talks about germaneness. And it said: Germane amendments relate only to the details of the specific subject of the bill and must be in a neutral (sic--natural) or logical sequence to the subject matter of the original proposal. "A nongermane amendment includes one that relates to a substantially different subject." Canceling one's health insurance and making one

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eligible for workmen's comp raises a question whether these two bills are germane to each other. I'm not sure how to proceed forward with this, but I would be interested in maybe "Professor" Schumacher or someone who...or maybe even Senator Chambers who understands the dilemma. You see, I've already stepped in it once by the amendment that I put in and so I thought I'd take another shot at it with this one. But, in my opinion, these two bills don't look germane to me. Please help me understand that. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Walz. [LB444]

SENATOR WALZ: Thank you, Mr. President. I just wanted to rise and answer a couple questions or clarify a couple of things. First of all, workers' comp, and maybe we talked about this already but I'll say it again, workers' comp just covers...only covered his injuries. The insurance plan was dropped, so his family's insurance coverage was not covered. And again, I know I talked about his wife being injured and they had to foot the bill during that time when they were struggling. I also wanted to make sure that people understood that this was not Mike who brought the bill. It was the Fraternal Order of Police and the firefighters who brought the bill. Mike Hutchinson came to testify on the bill. I guess the last thing I want to say is that I feel that this bill is the responsible thing to do. You know, we all want people to protect us. But we don't find them valuable enough to help them in time of need? I urge everybody to please vote yes to LB444. I also want to thank Senator Bolz for bringing her amendment, AM842. I think it's real important that we are providing mental health assistance to people who need it, as well as the health coverage. So I urge everybody to vote yes on LB444 and stand behind the people who are out there protecting us every day. Thank you. [LB444]

PRESIDENT FOLEY: Thank you, Senator Walz. Senator Morfeld. [LB444]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise in support of AM842 and LB444. I don't think I can say it any more eloquently than my colleague, Senator McDonnell, so I won't. That being said, since we are talking about healthcare, I couldn't help but talk about a constituent from Senator Bostelman's district, LD23. Kevin falls within the Medicaid gap, a bill that we have failed numerous times to pass in this body that would expand Medicaid to over 90,000 Nebraskans. And I'll keep talking about Nebraskans' stories from each our districts until we pass that legislation or we have somebody who takes up the responsibility to do so in the committee. This is Kevin's story. Kevin qualifies for health insurance, but his wife is not as lucky. She was disabled by a bicycle accident as a young child, but does not qualify for Social Security. Kevin's disability benefits are not enough to meet the couple's most basic needs, much less purchase his wife a private health insurance policy without any assistance. Kevin and his wife make ends meet by visiting food pantries to help stretch their budget, food pantries of which I'll tell you that if you're in my district, they stretch about a block in terms of the line. But

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they have their worries, including his wife's need for dentures and a family history of breast cancer. Although there are free programs that can screen for breast cancer, there is no available medical intervention if cancer is detected. Consequently, Kevin's wife hasn't seen a doctor in nearly three years. Affordable health insurance would allow Kevin's wife to get the medication she needs to get preventive screenings to monitor for the possibility of cancer, knowing that their family will be able to take care of their health no matter what happens. Colleagues, this is a real Nebraskan. His name is Kevin. He didn't want his last name used. But he lives in LD23, which is Senator Bostelman's district, which is David City, Nebraska. It's important that we expand Medicaid to insure that over 90,000 Nebraskans have affordable healthcare. They deserve the dignity of affordable healthcare. They deserve the dignity of this body debating that issue and not hiding behind politics to stay away from it and not provide critical medical coverage and insurance that we all need to meet our basic daily needs. It's good for Nebraska. It will bring in over a billion dollars over the next three years. It makes absolutely no sense that we do not expand Medicaid and it's shameful. That being said, I do want to ask Senator Kate Bolz a question in response to my colleague Senator Erdman's question on germaneness. Will Senator Bolz yield to a question? [LB444]

PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LB444]

SENATOR BOLZ: Sure. [LB444]

SENATOR MORFELD: Senator Bolz, can you...this is obviously your amendment and you're a fairly thorough person. I'm assuming that you've gone through why this is germane. And can you explain why you believe it's germane on the floor? [LB444]

SENATOR BOLZ: Yes. [LB444]

SENATOR MORFELD: Thank you. [LB444]

SENATOR BOLZ: Thank you for the question, Senator Morfeld. AM467 to LB444, which was the Judiciary Committee amendment, the amendment from your committee, amends Section 38-1217 of Nebraska law. My bill also references Section 38-1217 of Nebraska law. Both issues address the definition of first responders, so that very clear connection of amending the exact same section of law is what makes the amendment germane. [LB444]

SENATOR MORFELD: Thank you, Senator Bolz. [LB444]

SENATOR BOLZ: Thank you. [LB444]

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SENATOR MORFELD: And thank you, Mr. President. [LB444]

PRESIDENT FOLEY: Thank you, Senators Morfeld and Bolz. Senator Chambers, this is your third time, Senator. [LB444]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the issue of germaneness I think was cleared up. But Senator Erdman did mention something about one bill going here, another bill going there. I'd venture to say he probably voted against every rereferencing motion that I made. Why should a death penalty bill go to the Government Committee? Because it's a stacked committee. It would do what the Governor wants. A lethal injection bill goes to the Judiciary Committee, but there were enough votes to send it to Business...I meant to the Government Committee and it came out here. There are other bills that related to liability, which went to stacked committees. There are people on this floor who do not want the Judiciary Committee to do its job. So they look at the people on that committee, regardless of the subject matter of the bill. They say there may not be enough votes to get it out of that committee and they've got the different...well, the Reference Committee is stacked. It's always the same ones who misreference bills, in my opinion. And that has been happening. So if Senator Erdman had paid attention, I'd venture to bet that he voted against all of my rereferencing motions. Now that that has been laid to rest, there are some things that people take offense to on this floor that amaze me. If something is un-American, then it's un-American. Is French American? Is English American? English is English. Now they say there's such a thing as American English, which any time Americans touch something they butcher it. They vulgarize it. They debase it. Why, this is the language which has more insulting, demeaning terms for every other people than any other language on the face of the earth. They have to find something degrading and derogatory as a label to hang on people. And if go to the dictionary, you'll find more insulting terms in American English than you find in any other language. That's what America is about: insults, vulgarization, profanity used by everybody, profanity used on television, profanity even used in churches. So if somebody tells me I'm un-American, I say thank you. That's the highest compliment you could pay me. What is there about America that would make me want to say I'm American? When I express my opinion, first thing people say to me, why don't you go back where you came from? Well, I came from my mother's womb. I can't go back into my mother's womb and be born again. There was a guy in the "Bible" who asked that question. Talking about being born again, be an American, if somebody says, that's un-American, well, if the shoe fits, wear it. But if that's too harsh for you I'd say, if the shoe fits, shine it. If the boot fits, lick it. That's the kind of stuff that happens. I'm very familiar with the insulting terms that can be used toward other people. And you all know who create those terms, don't you? To be American is to be gross. The movie, The Ugly American, was made by white Americans, and it had to do with the disrespect that Americans show to everybody, the ridiculing of people's customs, the disrespect when they go to these countries that they show to people who live... [LB444]

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PRESIDENT FOLEY: One minute. [LB444]

SENATOR CHAMBERS: ...in their own countries. I was out in Norfolk one time and some fool in the audience, old white gentleman, why don't you go where you come from? I said, partner, if I'm going back where I came from, we'd link arms and we'd go straight to Africa because that's where everybody came from, my ancestors and yours, too. But you're so ignorant you don't know where you came from so I need to take you where you came from, and Africa is where all of you originated, if you call yourself a human being. And I get tired of all this talk about American exceptionalism. The only thing exceptional about America is that it's worse than any other person, any other country, in my opinion, on the face of the earth. That includes North Korea, Russia, Iran, Yemen, Iraq, Afghanistan, Colombia, all of them. America is worse than all of them, in my opinion. Now, let the letters come... [LB444]

PRESIDENT FOLEY: Time, Senator. [LB444]

SENATOR CHAMBERS: ...and it doesn't hurt me at all. Thank you, Mr. President. [LB444]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Williams. [LB444]

SENATOR WILLIAMS: Question. [LB444]

PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor of ceasing debate vote aye; those opposed vote nay. Senator Bolz? Record, Mr. Clerk. [LB444]

CLERK: 26 ayes, 3 nays to cease debate. [LB444]

PRESIDENT FOLEY: Debate does ceases. Senator Bolz, you're recognized to close on AM842. [LB444]

SENATOR BOLZ: Thank you, Mr. President. I did want to clear up one unanswered question in my closing, which was how the determination of mental illness related to mental injury would be made. And I do want to point out that there is an opportunity under workers' compensation for informal and formal dispute resolution if there is a difference of opinion about that issue. Fundamentally, colleagues, this is about protecting the mental health and well-being of our Department of Correctional Services officers. It's about recognizing that mental health is a part of overall health and well-being and it's a way to support those folks who protect our public safety every day. I encourage your support for our Department of Correctional Services officers,

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our regional center officers, our YRTC individuals, and I urge your support for AM842, as well as your support for LB444. Thank you, Mr. President. [LB444]

PRESIDENT FOLEY: Thank you, Senator Bolz. Members, you heard the debate on AM842. The question before the body is the adoption of the amendment. All those in favor vote aye; those opposed vote nay. Senator Bolz. [LB444]

SENATOR BOLZ: I'd like a call of the house, Mr. President. Ooh, ooh, never mind, never mind. [LB444]

PRESIDENT FOLEY: Never mind. [LB444]

SENATOR BOLZ: Changed my mind. [LB444]

PRESIDENT FOLEY: Have you all voted who care to? Record, Mr. Clerk. [LB444]

CLERK: 26 ayes, 3 nays on adoption of the amendment. [LB444]

PRESIDENT FOLEY: AM842 is adopted. Returning to debate on LB444. Seeing no members in the queue, Senator Walz, you're recognized to close on LB444. Excuse me. Senator Wishart for a motion. Sorry. [LB444]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB444 to E&R for engrossing. [LB444]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. All those in favor say aye. Those opposed say nay. The bill advances. Next bill, Mr. Clerk. [LB444]

CLERK: Mr. President, LB535. I have Enrollment and Review amendments, Senator. (ER42, Legislative Journal page 883.) [LB535]

PRESIDENT FOLEY: Senator Wishart. [LB535]

SENATOR WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB535. [LB535]

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PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB535]

CLERK: Nothing further on the bill, Mr. President. [LB535]

PRESIDENT FOLEY: Senator Wishart. [LB535]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB535 to E&R for engrossing. [LB535]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. All those in favor say aye. Those opposed say nay. LB535 advances. Next bill, Mr. Clerk. [LB535]

CLERK: Mr. President, LB91. No E&Rs. Senator Hilkemann would move to amend with AM858. (Legislative Journal page 911.) [LB91]

PRESIDENT FOLEY: Senator Hilkemann, you're recognized to open on AM858. [LB91]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. As LB91 went through the E&R Initial, it was discovered that a reference to metabolic diseases still remain in a section of statute, 71-522. The Department of Health and Human Services agreed that this change would be necessary for continuity among other language changes regarding metabolic diseases. Additionally, we became aware that the Department of Health and Human Services has several tasks to accomplish in order to begin to implement the three new tests, including revising the contract with the testing laboratory. And they felt that a delayed operative date would be helpful in ensuring that they can fully be prepared. Therefore, we have included an operative date of July 1, 2018. This date lines up with the commencement of the new contract with the laboratory, eliminating any need to renegotiate for the period of September 2017 to July 2018. I ask for your support for AM858 and the advancement of LB91. Thank you. [LB91]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Debate is now open on LB91 and the amendment. No members in the queue. Senator Hilkemann, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM858. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB91]

CLERK: 35 ayes, 0 nays on adoption of the amendment. [LB91]

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PRESIDENT FOLEY: AM858 is adopted. Mr. Clerk. [LB91]

CLERK: Nothing further on the bill, Mr. President. [LB91]

PRESIDENT FOLEY: Senator Wishart. [LB91]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB91 to E&R for engrossing. [LB91]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. All those in favor say aye. Those opposed say nay. LB91 advances. Next bill, Mr. Clerk. [LB91]

CLERK: LB417. I have E&Rs first of all, Senator. (ER45, Legislative Journal page 935.) [LB417]

PRESIDENT FOLEY: Senator Wishart. [LB417]

SENATOR WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB417. [LB417]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB417]

CLERK: Senator Riepe would move to amend with AM977. (Legislative Journal pages 979-981.) [LB417]

PRESIDENT FOLEY: Senator Riepe, you're recognized to open on AM977. [LB417]

SENATOR RIEPE: Thank you, Mr. President and fellow Senators. Today I present AM977 to LB417. LB417 is my priority bill and is the Department of Health and Human Services omnibus bill as it relates to the public health and welfare of Nebraskans. LB417 removes the reporting requirement of the number of waivers granted by the department for training for relative foster care. On General File, I stated I would find a better way to report this information. After discussing this information with the department, we have found the best place to provide this information is within Section 43-4406, which is the report on child welfare services. This is what AM977 addresses. LB417 also removed the reporting requirements for the total number of children placed in relatives' homes. Foster Care Review Office captures this information within

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Section 43-1303(1)(c) This reported information can be found in the annual Foster Care Review Office report. Thank you and I ask for your green vote on AM977 and LB417. Thank you, Mr. President. [LB417]

PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now open on the bill and the amendment. Senator Riepe, there's no one in the queue. You're recognized to close. He waives closing. The question before the body is the adoption of AM977. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB417]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Riepe's amendment. [LB417]

PRESIDENT FOLEY: AM977 is adopted. Mr. Clerk. [LB417]

CLERK: I have nothing further on the bill, Mr. President. [LB417]

PRESIDENT FOLEY: Senator Wishart. [LB417]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB417 to E&R for engrossing. [LB417]

PRESIDENT FOLEY: Members, you heard the motion to advance LB417 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB417 advances. Next bill, Mr. Clerk. [LB417]

CLERK: LB376. Senator, I have no amendments to the bill. [LB376]

PRESIDENT FOLEY: Senator Wishart. [LB376]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB376 to E&R for engrossing. [LB376]

PRESIDENT FOLEY: Members, you heard the motion to advance LB376 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB376 advances. Next bill, Mr. Clerk. [LB376]

CLERK: LB75. Senator, I have no amendments to the bill. [LB75]

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PRESIDENT FOLEY: Senator Wishart. [LB75]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB75 to E&R for engrossing. [LB75]

PRESIDENT FOLEY: Members, you heard the motion to advance LB75 to E&R for engrossing. Those in favor say aye. Those opposed say nay. We'll take a machine vote. Those in favor of advancing LB75 vote aye; those opposed vote nay. Record, Mr. Clerk. [LB75]

CLERK: 32 ayes, 8 nays on the advancement. [LB75]

PRESIDENT FOLEY: LB75 advances. We'll now proceed on the agenda to Select File, 2017 committee priority bills. Mr. Clerk. [LB75]

CLERK: Mr. President, LB263. I have E&Rs first of all, Senator. (ER41, Legislative Journal page 866.) [LB263]

PRESIDENT FOLEY: Senator Wishart. [LB263]

SENATOR WISHART: Thank you, Mr. President. I move the adoption the of the E&R amendments to LB263. [LB263]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB263]

CLERK: Senator Smith would move to amend with AM777. (Legislative Journal page 851.) [LB263]

PRESIDENT FOLEY: Senator Smith, you're recognized to open on your amendment. [LB263]

SENATOR SMITH: Thank you, Mr. President. And I do want to apologize for not bringing this amendment earlier on General File. I was in another meeting that morning when LB263 came up on the floor. And Senators Crawford and Vargas, I understand, had some questions about the bill, and I do believe that AM777 goes to their original concerns. But I do want to give an overview of the amendment. AM777, as amended to LB263, would create a better regulatory framework for Medicaid nonemergency transportation, referred to as NET, services in Nebraska. Specifically LB...or specifically the amendment and the underlying bill would clarify and

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maintain the Public Service Commission's oversight responsibilities by requiring that NET providers be permitted by the PSC as contract carriers while allowing additional flexibility to improve access to NET services and better integrate them into the overall DHHS delivery system. As a Medicaid benefit, NET services are subject to federal regulation under the Centers for Medicare and Medicaid Services, state oversight under DHHS, and additional state regulation under the PSC. While this all is intended to provide greater consumer protections to our state's residents, it has led to a sometimes confusing patchwork of regulatory requirements that are not always in alignment. The bill, as amended, would make it clear that the state is allowed to incorporate NET services into the new integrated Medicaid managed care program, Heritage Health. This will mean that DHHS will have a vested interest in assuring their clients can make it to their appointments or pick up their medication from the pharmacy. Including these transportation benefits as part of Heritage Health will help complete the continuum of care for its clients and improve the ability to provide whole person care management. As the Public Service Commission chairman stated in his original testimony before the committee, the Public Service Commission has the authority to certificate common and contract carriers to provide transportation services to passengers across the state of Nebraska. Many of our certificated carriers have agreements with the Nebraska Department of Health and Human Services to provide nonemergency transportation for those who receive Medicaid to get to and from medical appointments. Carriers that provide this essential transportation must comply with the statutes and rules of both the commission and HHS. The current statutes and regulations do not clearly define the responsibilities of each agency with regards to the transportation service, which has created difficulties for both the public and carriers. And so during committee, there were some opposition testimony from some of the common carriers. We have worked with this amendment, AM777, to address their concerns successfully. We have worked with the Public Service Commission to make certain that by addressing those concerns with this amendment that we still are in alignment with the Public Service Commission. Mr. President, could you give me a gavel on that one, please? And then finally we have worked with DHHS. I believe we have worked very, very hard to try to work out a compromise that addresses the issues of all those interested parties in this bill but also to make certain that we can provide the very best services to Medicaid recipients in areas that are somewhat underserved by these nonemergency transportation services. I believe this amendment helps us to provide better services for them. In summary, the PSC regulates both contract and common carriers, and for the purposes of NET, or nonemergency transportation, the regulation oversight granted the PSC is for need and necessity, including safety standards, background checks, etcetera. All of this remains in place with this amendment. For contract carriers, DHHS is permitted to negotiate pricing for purposes of nonemergency transportation. Amendment AM777 would simply make this the case also for common carriers. So please, colleagues, let us allow the DHHS to negotiate the same with common carriers as they do with contract carriers to provide the very best possible service to Medicaid clients in this state. Thank you, Mr. President. [LB263]

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PRESIDENT FOLEY: Thank you, Senator Smith. Debate is now open on LB263 and Senator Smith's amendment. Senator Bolz, you're recognized. [LB263]

SENATOR BOLZ: Thank you, Mr. President. I'll admit that this is not my area of expertise, but I will also say that my staff has been...my office has been contacted by individuals who are very unhappy with their Medicaid transportation providers. And I'll also say that we have...I have been brought information primarily from the Auditor's Office about overpayments and inaccurate billing. And so I guess I would ask Senator Smith to yield to a question. [LB263]

PRESIDENT FOLEY: Senator Smith, will you yield, please? [LB263]

SENATOR SMITH: I will. [LB263]

SENATOR BOLZ: Senator Smith, I respect your expertise on these issues and I would appreciate it if you would walk me through some of the challenges that I'm hearing and how this bill addresses those challenges. So what I'm hearing is that this bill might take away some of the oversight of the Public Service Commission to ensure that people who rely on Medicaid transportation services have safety, that the costs are appropriate, and that the transportation providers are adequate in any given geographical area. Can you help me understand better what this bill does and how it impacts the challenges that are coming into my office? [LB263]

SENATOR SMITH: Well, I think there's been quite a bit of miscommunication about what this amendment does and what this bill does. So if you can think of it, we have common carriers and we have contract carriers that provide for nonemergency transportation needs in our state. Common carriers would be like taxicabs. Contract carriers would be maybe bus services or something beyond just a taxicab or a common carrier, if you would. So in both cases, there is a needs and necessity that has to go before the Public Service Commission to look at and make certain there's appropriate insurance in place, making certain that the drivers are fit, making certain that all those regulated forms of delivering those services are met. That stays in place. That is not touched. What this bill does is allow DHHS to negotiate with the common carriers on the pricing, as they do with the contract carriers, to make certain that we are compensating properly in the areas that are currently underserved to attract and entice and make certain that we have the nonemergency transportation services in place that are needed for these Medicaid clients. And if this bill does anything more than that, I would like for someone to show me where exactly it does that. [LB263]

SENATOR BOLZ: Thank you, Mr. Senator Smith. It's helpful to hear you talk about this bill. I would like to discuss it further with you, and having just had an opportunity to see the amendment on the floor today, I would hope that we would be able to have a further conversation

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because my concerns are twofold. One is the experiences that I've heard from constituents who have called my office who have communicated with me that their wait times are too long and that they're concerned about the safety of the individuals, not only of themselves but of the individuals who are transported by some of these carriers who are family members and loved ones. And I'm also concerned about how we are ensuring that the folks who are providing these Medicaid transportation services are billing accurately. And I have a letter here from the Auditor talking about the rate paid to providers that is preauthorized for each trip, that those have been erroneously billed, multiple people taking one trip but billing for each individual rider, those kinds of things. And so I look forward to further conversations with you, Senator Smith, and do rise in the moments that we have left in debate today to raise some concerns and hope that those concerns will be addressed through the work of the Transportation Committee. Thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Bolz and Senator Smith. Senator Friesen, you're recognized. [LB263]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I stand in support of AM777. What the problem, some that we've had in the rural areas, is we cannot line up a transport for a Medicare or Medicaid patient at the same time that the doctor wants to set his appointment. And so what happens typically is you have somebody miss an appointment and, therefore, it costs DHHS money. The patient doesn't get to the doctor when they want to. And so part of the reason that I'm very interested in this bill is it does open up options for transportation of these nonemergency transports. And so when I looked at what this did in the more rural areas, it provided that option for people to find transportation to their doctor's appointments. So again I stand in support of AM777. Thank you, Mr. Lieutenant Governor. [LB263]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Krist. [LB263]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues and Nebraska. I wonder if Senator Smith would yield to a couple of questions. [LB263]

PRESIDENT FOLEY: Senator Smith, will you yield, please? [LB263]

SENATOR SMITH: Yes. [LB263]

SENATOR KRIST: So in particular regarding the bill and what I thought was going to be a proposed amendment AM909 from Senator Wayne, can you tell me, does AM777 and AM909 parallel in any way? [LB263]

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SENATOR SMITH: I believe AM909 would strike entirely the components of the underlying bill, as related to the original amendment which actually arose out of a bill that was introduced in committee. So I believe AM909, if I'm not mistaken, would strike that entirely from this omnibus bill. [LB263]

SENATOR KRIST: Okay. And as I understand the purpose of AM909 and as I understand the conversation with, in particular, a brokerage firm called IntelliRide, which was the subject of the Auditor's investigation and report, and also finding from the Public Service Commission that there were instances of waste, fraud, and abuse related to the billing of services of Medicaid clients, and that the department (sic--Division) of Medicaid has not resolved those issues themselves, and the information sheet I have here, Public Service Commission in this particular case is asking or would be asking to retain authority to oversee the transportation providers until such actions are taken to ensure that the IntelliRide and others are held to a proper standard. Is that also your understanding based upon the committee's hearing? [LB263]

SENATOR SMITH: Well, my understanding there would be some level of transition. The premise of the underlying bill here or the original amendment that AM777 seeks to address is to really kind of focus in on limiting the role of DHHS primarily with regards to being able to negotiate pricing with the common carriers in those underserved areas. In terms of IntelliRide, some of these other conversations that are taking place parallel to what we're discussing here with this bill, I have heard those same complaints. And in fact, going back, we had these conversations previously with Senators Mello, I think Commissioner Rhoades, with Senator Kathy Campbell. So my understanding is DHHS is working towards resolving those concerns with that particular service provider. But that's I think outside a little bit from what we're seeking to address with this amendment. [LB263]

SENATOR KRIST: Okay, not with the amendment but necessarily with the bill. Thank you, Senator Smith. I wondered if Senator Friesen would yield to a question or two. [LB263]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB263]

SENATOR FRIESEN: Yes, I would. [LB263]

SENATOR KRIST: So it is my understanding, given your time on the mike, that you are interested in trying to provide those services in the rural community. And my concern, as I've just expressed to Senator Smith, in the underlying bill is that if we have no oversight with organizations like IntelliRide in terms of pricing, in terms of efficiencies, in terms of quality of services, and basically the Auditor is calling it waste...fraud, waste, and abuse related to the billing and the services of Medicaid,... [LB263]

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PRESIDENT FOLEY: One minute. [LB263]

SENATOR KRIST: ...you're not suggesting that we lower that standard in order to get those services in the rural community. Is that correct? [LB263]

SENATOR FRIESEN: No. And the way I understand the IntelliRide service is totally a contract with DHHS. It is still supervised by Public Service Commission. And when we look at the number of calls and complaints, I mean, if I just bring up some data here, DHHS had about 300,000 Medicaid trips per year, and so less than 1 percent of them resulted in a complaint. DHHS investigates some of the complaints as far as the billing process, but I think the service complaints with still handled by the Public Service Commission. [LB263]

SENATOR KRIST: So you don't see any combination of LB263 or the amendment, AM777, as reducing the authority for the Public Service Commission to oversee those complaints? [LB263]

SENATOR FRIESEN: No, I do not. [LB263]

SENATOR KRIST: Okay. Thank you, Senator Smith and Senator Friesen. [LB263]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Harr, you're recognized. [LB263]

SENATOR HARR: Thank you, Mr. President. I rise in surprise on this bill. Would Senator Smith yield to a question? [LB263]

PRESIDENT FOLEY: Senator Smith, will you yield, please? [LB263]

SENATOR SMITH: I will. [LB39]

SENATOR HARR: Thank you, Senator Smith. This bill, correct me if I am wrong, moves billing from PSC to HHS. Is that right? [LB263]

SENATOR SMITH: DHHS, yes. [LB263]

SENATOR HARR: Okay. [LB263]

SENATOR SMITH: I believe that is the case. [LB263]

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SENATOR HARR: And I don't know, based on history, who generally has done a better job in the last I'll say six years since we've been here, DHHS or PSC? [LB263]

SENATOR SMITH: With regards to what, Senator Harr? And I think that's a pretty broad question. [LB263]

SENATOR HARR: I suppose. Okay. Okay. That's it then, thank you. Folks, I don't know if you've watched the news. I have. HHS has been in shambles, at least, at the very least. I am not sure, and I haven't been given a good public policy reason why we would give an agency that can't handle what it's doing now more responsibility. This is an agency that sat with \$20-plus million in a drawer in a desk, \$20 million. And we want to give them more authority? And we want to give them more responsibility? Where I come from, you got to earn responsibility. And in my opinion, we should be looking at ways of taking some of these issues and powers away from HHS where on to organizations that have done a better job, like the PSC, with the taxpayer dollars, with making sure that people are paid. I've been listening to debate and I hear, oh, we're just going to move it over there, but I haven't heard a good policy reason why to do that. So at this point, I can't say I'm going to support the bill. I'm going to sit down and listen some more. But it just seems peculiar to me that we would give the Public Service Commission...take something from the Public Service Commission. I haven't heard really any complaints about what they're doing. I've heard some inconveniences, but I, maybe I'm repeating myself, but I just don't see why we would give HHS, DHHS more responsibility when they can't handle the financial responsibilities they currently have. Improving, don't get me wrong, and I commend what they're doing. But if you had to ask me who I would rather have watch my dollars and who I would rather have bill, at this point it wouldn't even be a close race between PSC and DHHS. So thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Smith, you're recognized to close on AM777. [LB263]

SENATOR SMITH: Thank you, Mr. President. And again, some of the concerns that have been raised with the brokerage IntelliRide, my understanding is with this amendment into the transportation bill, we will be able to move away from that brokerage and as we move to Heritage Health to take care of this particular need inside of DHHS. We do have a letter in support from the Nebraska Public Service Commission in support of AM777 and seeking to address maybe some of the concerns that were distributed to Senators in the Rotunda earlier today or last week. But again, I do believe that this is the best path forward for our state to bring efficiencies into our managed care system by incorporating the nonemergency transportation services under our managed care system. And I would appreciate your vote green on AM777 to the underlying bill and then support the underlying bill. Thank you, Mr. President. [LB263]

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PRESIDENT FOLEY: Thank you, Senator Smith. Members, you heard the debate on AM777. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB263]

CLERK: 31 ayes, 6 nays, Mr. President, on the adoption of Senator Smith's amendment. [LB263]

PRESIDENT FOLEY: The amendment is adopted. Items for the record, Mr. Clerk? [LB263]

CLERK: I do. New resolutions: LR94 is by Senator Craighead; LR95 is by Senator Craighead--pursuant to its introduction there's a letter from the Speaker directing it to be referred to standing committee for public hearing; LR96, Senator Bostelman; LR97, Senator Kuehn; and LR98 by Senator Wayne--I have a similar letter from the Speaker directing it be referred to standing committee for public hearing. Senator Briese would like to print an amendment to LB512. (Read LB225A by title for the first time.) Mr. President, Select File: LB478, LB509, LB509A, LB291, and LB97 all have been reported to Select File, some with E&R amendments attached. A final amendment to be printed from Senator Wayne to LB263. Name adds: Senator Blood to LB75 and LB253. (Legislative Journal pages 982-997.) [LR94 LR95 LR96 LR97 LR98 LB512 LB225A LB478 LB509 LB509A LB291 LB97 LB263 LB75 LB253]

And Senator Hilgers would move to adjourn the body until Tuesday, April 11, at 9:00 a.m.

PRESIDENT FOLEY: Members, you heard the motion to adjourn for the day. Those in favor say aye. Those opposed say nay. We are adjourned.