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Floor Debate
March 14, 2018

[LB158 LB299 LB741 LB760 LB773 LB803 LB807 LB845 LB861 LB873 LB923 LB944
LB945 LB950 LB994 LB1132 LB1135]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-third day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Pastor Todd Bumgarner of the 2 Pillars Church in Lincoln, Nebraska, Senator Wishart's district. Please rise.

PASTOR BUMGARNER: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Bumgarner. I call to order the forty-third day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

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

ASSISTANT CLERK: No corrections this morning.

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

ASSISTANT CLERK: No messages, reports, or announcements this morning.

PRESIDENT FOLEY: Thank you, sir. (Doctor of the day introduced.) We'll proceed to the first item on the agenda, General File, 2018 Speaker priority bills. Mr. Clerk.

ASSISTANT CLERK: Mr. President, first bill, LB741 introduced by Senator Lindstrom. (Read title.) The bill was introduced on January 3, referred to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File with no committee amendments.
[LB741]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Lindstrom, you're recognized to open on LB741. [LB741]

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SENATOR LINDSTROM: Thank you, Mr. President, and good morning, colleagues. LB741 was introduced on behalf of the Nebraska Real Property Appraiser Board. At its public hearing before the Banking, Commerce and Insurance Committee, LB741 had no opposition and was afterwards advanced without a dissenting vote. The purpose of the bill is to update the Real Property Appraiser Act for compliance with three things. First, Title XI, I want to repeat that, Title XI of the Federal Financial Institution Reform Recovery and Enforcement Act of 1989. Second, the Uniform Standards of Professional Appraisal Act, we also call USPAP. And third, the policy statements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. If the state of Nebraska is found to be out of compliance with Title XI by the Appraisal Subcommittee, the Appraisal Subcommittee may remove all Nebraska credentialed appraisers from the federal registry, resulting in there being no appraisers qualified to appraise real property in connection with federally-related transactions, which is approximately 80 percent of all loan activity in the state. Nebraska currently has about 700 certified or licensed real property appraisers. The bill makes a series of changes required for compliance with Title XI, USPAP, and the ASC policy statements such as changes to date references and definitions. LB741 also includes changes to lessen the burden on obtaining or maintaining a credential such as removing the required demonstration of general knowledge of Nebraska appraiser law. Simplifying the standards for evaluation of reciprocal applicants to jurisdiction of practice and removing the report writing update course for continuing education requirements. The bill would also repeal requirement that no more than 14 hours of continuing education activities, and each two continuing education period may be taken on-line or by correspondence. The bill would also repeal requirement that the seven hour national USPAP update course shall be taken in a classroom and not on-line or by correspondence. These changes will make things more convenient for our appraisers to keep their credentials up-to-date. Finally, LB741 includes minor changes to address administration of the Nebraska Real Property Appraiser Act and eliminates the provisions relating to the separate credential of real property associate. Currently there is nobody who holds this credential of real property associate. Thank you, colleagues, and I urge the body to advance LB741. Thank you, Mr. President. [LB741]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Debate is now open on LB741. Senator Chambers. [LB741]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I wonder if Senator Lindstrom would respond to a question or two. [LB741]

PRESIDENT FOLEY: Senator Lindstrom, would you yield, please? [LB741]

SENATOR LINDSTROM: I will. [LB741]

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SENATOR CHAMBERS: Senator Lindstrom, I tried to follow what you were saying and in a nutshell, what does this bill do now? Does it reduce the requirements that a person has to meet to...well, just tell me. [LB741]

SENATOR LINDSTROM: What does it do. So, there's a couple of provisions. One, it just puts us in compliance with several of the federal regulations. Basically if we don't pass this, 80 percent of the loans will not...mortgages in the state of Nebraska will not be able to take place. The other part of it is to lessen the burden on individuals for continuing education to be able to do some of these CE credits on-line versus going to a classroom. [LB741]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I would like to ask Senator Lowe if he would respond to a comment or two. [LB741]

PRESIDENT FOLEY: Senator Lowe, would you yield, please? [LB741]

SENATOR CHAMBERS: Senator Lowe, I want to thank you on the mike for the way you came to my assistance last night and I thought I would...before you came, I don't know whether you were an answer to prayers. But I decided that since these people pray every morning and I don't see any results from it, that maybe since I'm not in their swim, I would try one and just see what happened. So I was saying in my mind, what verse might fit? Oh, thine is the power. Thinking of OPPD, NPPD, and the other companies, and what to my wondering eyes should appear but this light from out of nowhere. And then I thought of another one. Let there be light. And there was light. Senator Lowe, you were the bringer of light to me last night. It was a great help and I do appreciate it and I want to acknowledge it and let you know that I appreciate it. So thank you for that. And I want to give my usual critique of the prayer. I listen to what is uttered by the person who prays over you all and tries to give you advice under the guise of praying to God. These preachers know that God knows what is going to be asked before they ask it. So they're trying to give you all a hint. The things that you ought to be doing. And I think there are ministers who will watch what we do and they are well-aware of the fact that there is a lot more we could do without any supernatural intervention. But because you all are superstitious and whatever else it is that leads to you pray every morning, maybe if he addressed you in that context, it would take, and you would do better. He said that God placed us, meaning senators, in a position of authority. I don't think that's true. Now, if the God you say believe in exists, that God has to have better sense than what would be indicated by suggesting that this is the best God could do. Now, there are 1,900,000 people in Nebraska, not all of them of age where they could be members of the Legislature. But of that great number, when God is calling, you think this is the best that God could do? Why, I happen to know as I've told you, that the Governor is not a man of righteousness. He can say he's a man of God. Anybody can say that. But he carries out... [LB741]

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PRESIDENT FOLEY: One minute. [LB741]

SENATOR CHAMBERS: ...and demonstrates why Jesus said it's easier for a camel to go through the eye of a needle than for a rich man to enter the kingdom of God, but the Governor is not interested in that. But he put people here and I see that he controls those people. He pops his finger and they know what they're supposed to do. They snap to attention. They carry out his will as far and to the extent that they can, and God doesn't have anything to do with it, from my perspective. But since I don't converse with the God that you all say you believe in in the same way, and the God of whom I am a surrogate, what you're saying and what the minister said does not make sense and does not compute. The gentleman said God sets up kings and removes kings. [LB741]

PRESIDENT FOLEY: Time, Senator. [LB741]

SENATOR CHAMBERS: Thank you, Mr. President. [LB741]

PRESIDENT FOLEY: Thank you, Senator Chambers. You're next in the queue, you may continue. [LB741]

SENATOR CHAMBERS: I don't believe that either. If you read history, you'll see how various kings were removed and you'll see how various people became kings. So if God does have a hand in all of this, there is a kind of symmetry and consistency because many of the kings, in fact, the majority of them are no better stuff than members of the Legislature. And you can't help what you are, just like I can't help what I am. That's a fact. And that's a sop that I'm tossing out there for everybody. Did God set up Rex Tillerson? Did God remove Rex Tillerson? He certainly did because God is sitting in the White House right now, all powerful. And he has a bus. How many of you all are aware of God Trump's bus? Nobody. I study. And you know what the sign is on the side of that bus? President Donald Trump's bus, under which he throws all of those who trusted him. He tells you. And people are saying, Mitt Romney must be thanking his lucky stars that he did not accept a position under Trump or he would have been humiliated in the way that Rex Tillerson was humiliated. This guy, Trump, who said that he would have run into that school where the shooting was occurred and he would have stormed it without a gun, and the coward doesn't even have what it takes to confront a man who trusted him to tell him, you're out of here. The man's a coward. But since he's a psychopath, I don't know whether he's really responsible for all of the things that he does. And as for this woman that he allegedly had an affair with shortly after his wife gave birth, wants to be freed so that she can tell her side of the story. Trump doesn't want that. He should want to let it all hang out. She's willing to give back \$130,000 so that she can tell her story. Everybody wants to hear it. I want to hear it. You want to hear it. If your dog is intelligent and follows the news, your dog wants to hear it. But I got a message from

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the dogs. They don't want Trump to be referred to as a canine by anybody anymore because it's an insult to every member of the canine family. The minister this morning said as though he was talking to God, you're not a far off authoritative God, but you're sympathetic, close, and comforting. How many of you all have been comforted? Don't raise your hand. And don't lie because the God you say you believe in reads the hearts of men and women and knows the innermost secrets. Are you all comforted? If that's the case, some of you all ought to have a better disposition than you manifest when you're called out for the wrongful things that you do and the unwillingness to do the things that we've promised to do. Now, last night I left the impression that I might be putting motions on all these bills, or on some of them. I have four motions that I was going to put on Senator Lindstrom's bill, but it didn't come up last night. [LB741]

PRESIDENT FOLEY: One minute. [LB741]

SENATOR CHAMBERS: And the reason I won't do it today, when I mark a bill for something and the deadline passes, it's like a death warrant that the state issues and it has to be carried out by midnight of a certain date. And if midnight passes, the death warrant automatically is withdrawn. And my conclusion last night was why put off until tomorrow what I can do today. So I used my chairperson's bill, which is designed to pay these claims against the state, to vent my ire. But that doesn't mean all these other bills are going to get a free ride. And maybe Senator Lindstrom would rather I just put some motions on his bill instead of using it as an opportunity for me to speak in the way that I'm speaking. But I'm not going to put any motions on his bill. Now, a motion is distinguished... [LB741]

PRESIDENT FOLEY: Time, Senator. [LB741]

SENATOR CHAMBERS: ...from an amendment. Thank you, Mr. President. [LB741]

PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue on your third opportunity. [LB741]

SENATOR CHAMBERS: Me? Thank you. Senator Lindstrom, I'm not going to put any motions or offer any amendments to your bill and it will be easy for me to support it based on the explanation that you gave. But some of these other bills may lend themselves to some discussion. I see following yours is LB923, provide immunity for certain law enforcement...provide immunity to law enforcement? Why, I am flabbergasted. But maybe Senator Morfeld can explain to me what his bill does and it might either remove the "flabber" or the "gasted". And if it takes two wheels to make a motorcycle and you can remove one of the wheels, then the motorcycle cannot function as a motorcycle. So he doesn't have to remove everything, just one or the other.

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Then we come to LB760. And the perpetrator of that bill is my old antagonist, Senator Hughes. He and I are like Batman and the Joker. And he can be whichever one he chooses. I'm debating whether or not I want to carry him through or his bill what I often do. Then LB803 brought to us by Stinner the sinner, who wouldn't stay for dinner because he wants to grow thinner and thereby become a winner. But I will make a determination should I live that long as to what I will do. Do you all realize that the next minute is not promised to you? That at some point, you're going to breathe out and you'll never breathe in again. You don't know the day. You don't know the hour. You don't know the minute. And that leads me to mention Stephen Hawking who died yesterday. That man had a profound intellect, but he, in a sense, was a metaphor of what is capable of being achieved by the human spirit. You don't have to have an exterior that people would view and marvel at how attractive based on the standards set for human attractiveness. Here was a man who had been wheelchair bound. He had ALS. He lived longer than probably anybody expected that he would be. I heard this morning where one of the admonitions he gave to his children is that they should look toward the stars and never at their feet. You all know that a person like him would probably speak metaphorically in many settings. All that he had to work with was a powerful intellect and an iron will. He was indomitable and he held out and held on for decades and some people...I was even challenged to just once in the morning put on makeup like women have to do to see what they go through, but they don't have to do that. Those are things that are imposed by others. But if they do it, that is not something to frown upon. [LB741]

PRESIDENT FOLEY: One minute. [LB741]

SENATOR CHAMBERS: But since we're in a society where so much in the way of a judgment is cast on how somebody looks, and to look at him would make people say not what a fantastic example of the power of the human spirit do I see, but more like, there but for the grace of God go I. How can you say that God shows grace by afflicting one of his children, but not you? That's one of the worst statements you could give. And you're insulting God. If you have worth, it's not because you can compare yourself to somebody who is worse off. Have that value because of what you are no matter what anybody else might say or think. Thank you, Mr. President. [LB741]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Williams. [LB741]

SENATOR WILLIAMS: Thank you, Mr. President, and good morning, body. And I would like to get back to the bill, LB741. Senator Chambers talked about being thrown under the bus. There's a lot of times that we get thrown under the bus by federal regulations. Right now, we clearly have the situation that those institutions that are making loans on property have to have, by federal law, certain appraisals done. Right now, it is difficult to find qualified people to do those appraisals and the appraisal board needs these updates of standards so that we can have

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adequate people available that will allow us to continue to comply with federal law. I appreciate the Speaker prioritizing this bill and Senator Lindstrom for bringing it and would encourage you to as quickly as possible, move this legislation forward. Thank you, Mr. President. [LB741]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator Lindstrom, you're recognized to close on the advance of the bill. [LB741]

SENATOR LINDSTROM: I'll make it short. Thank you, Mr. President. Thank you, Senator Williams. Thank you, Senator Chambers, and I urge the body to advance LB741. Thank you, Mr. President. [LB741]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Members, you've heard the debate on LB741. The question for the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB741]

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill. [LB741]

PRESIDENT FOLEY: LB741 advances. Let's proceed to the next bill, Mr. Clerk. [LB741]

ASSISTANT CLERK: LB923 introduced by Senator Morfeld. (Read title.) The bill was introduced on January 9, referred to the Judiciary Committee, placed on General File with no committee amendments. [LB923]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Morfeld, you're recognized to open on LB923. [LB923]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, LB923 is a bill that provides immunity for law enforcement employees from civil action in their use of naloxone and to harmonize the Good Samaritan alcohol immunity standard with the Good Samaritan drug immunity standard that we passed last year. Since arriving to the Legislature, one of my top priorities has been keeping Nebraskans safe across the state, particularly when they're experiencing an alcohol or drug overdose. I've introduced three bills that address alcohol and drug overdose in the last three years and all three have passed into law. To summarize briefly, LB439 passed in 2015, grants immunity to persons seeking help for themselves and/or someone else in need of immediate medical attention due to an alcohol overdose. LB546 passed in 2015 also made naloxone more available to those who need it when they're experiencing an opioid overdose. The bill also allowed for immunity from civil action for peace officers and first responders that had administered lifesaving naloxone to a person experiencing an opioid-related

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overdose. LB487 introduced and passed in 2017, as you may recall, granted limited immunity for persons seeking medical assistance for someone experiencing a drug overdose. Again, provided they remain on the scene and cooperated with first responders and law enforcement. I'm happy to say that all three of these bills passed overwhelmingly, a strong indicator that this body at its core cares about young adults and citizens who are experiencing alcohol and drug overdoses. After working with the city of Omaha and several others who reached out to me, I was made aware, and this is to Senator Chambers' point, that Omaha's crime lab did not feel as though they had the necessary protections under LB487 with immunity for the naloxone use in the furtherance of their duties. Therefore, I'm introducing LB923 as a means to help clarify and make the standards uniform in the previous pieces of legislation for the drug overdose standard and also for the alcohol overdose standard as well. In addition, LB923 expands the reach of LB487, by allowing immunity from civil action in the use of the naloxone to law enforcement employees who as a part of their duties handle or process evidence or property which may include opioids. That's where the immunity is extended. Further, after we passed the drug overdose Good Samaritan bill out of committee on the floor last year, we realized that we needed to match the drug overdose standard with the alcohol overdose standard to make sure that it's uniform and to decrease any confusion. I urge your favorable consideration of LB923 and look forward to continuing Nebraska's lifesaving policies when it comes to drug and alcohol overdoses. Thank you, Mr. President. [LB923]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Debate is now open on LB923. Senator Howard. [LB923]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of LB923 and I just wanted to point out when we as a body were deliberating on LB931, which was the opioid package for this year, I cited an article from Pew Charitable Trust that indicated that Nebraska was one of only 14 states where opioid overdose deaths had declined in America. And a big part of that is the work that we've done around prescription drug monitoring. But another big part of that is the work that Senator Morfeld has done in regards to making sure that naloxone and Good Samaritan laws are available to everyone. And so in that regard, I would certainly urge the advancement of LB923. Thank you, Mr. President. [LB923]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Chambers. [LB923]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Morfeld brought a good bill. One reason I like it is that it's not trying to impose a harsher penalty on somebody for doing something to a law enforcement person. It offers protection to people who as a part of their duties are rendering service, the rendering of which may jeopardize their own health. Anything that can protect people doing that, whether they're in uniform, out of

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uniform, whether they're saints or sinners, if there is anything that can be done that will give them a feeling of security so that they will continue to do it, then I am pleased to vote for such a bill. And I was pulling Senator Morfeld's leg when I made comments earlier and he knew that. I'm glad that Senator Howard made her comments because opioid addiction, in whatever form, is something that needs to be addressed from the medical standpoint rather than the lock them up, throw away the key standpoint. And as bad as opioid addiction is, Donald Trump is the fool for saying that drug dealers should get the death penalty. First of all, he doesn't understand what American law is as pronounced by the U.S. Supreme Court. The only crime for which the death penalty is allowed is murder. And not just what is referred to as an ordinary, all-American, red, white and blue, run of the mill murder. It has to be a murder with aggravating circumstances. There were people bloodthirsty like your Governor who wanted there to be an automatic death penalty in all cases of murder. The U.S. Supreme Court said, these mandatory death sentences are unconstitutional. The purpose of the law, the function of the law is to particularize each case of each person who is charged with a crime. Person A cannot receive a harsher penalty because the court is accustomed to dealing with person B. Person A must have his or her circumstances judged on the basis of this person standing before the bar of justice. The crime that was committed, the circumstances in which or which surrounded the commission of that crime, and the particularized characteristics, traits, and factors that makes this person different from another person. And if you have a mandatory death sentence, all of these steps in the way justice is supposed to proceed, are erased. So, there cannot be a death sentence for somebody who pushes drugs. There cannot be. Now, if somebody administered poison, unless it's the state, the Christian state, after having gone through the ceremony of establishing this individual as the offering on the altar of so-called American justice, I call it barbarity, then they go through another ceremony whereby with pomp and circumstances, they administer poison. [LB923]

PRESIDENT FOLEY: One minute. [LB923]

SENATOR CHAMBERS: If the state does it, then it's okay. But if you do it knowingly, intentionally, you can be charged with murder. There may be what are called aggravating circumstances and you may be sentenced to die and you may be executed. But for the mere pushing of drugs, there cannot be a death penalty. And I'm going to have a few more words to say on this and I'm not trying to delay Senator Morfeld's bill or dilute what it is he's trying to accomplish. Thank you, Mr. President. [LB923]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Erdman. [LB923]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good morning. Listened to debate this morning, I have some questions about this bill. I was reading it, yesterday I looked at it, and I

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had some concerns about it and I was wondering if Senator Morfeld would yield to a question or two. [LB923]

PRESIDENT FOLEY: Senator Morfeld, would you yield, please? [LB923]

SENATOR MORFELD: Yes. [LB923]

SENATOR ERDMAN: Senator Morfeld, page 4, line 23(4)(a), it talks about a person being between the ages of 18 and 21. Is that correct? [LB923]

SENATOR MORFELD: Correct. [LB923]

SENATOR ERDMAN: What happens if a person is 17? [LB923]

SENATOR MORFELD: That's actually covered in a different section. I don't have it right in front of me, but I can get that to you. If they're under the age of 21, this immunity applies to them, whether they're 17 or 18 or whatever the case may be. [LB923]

SENATOR ERDMAN: So there is another section that says about the 17? [LB923]

SENATOR MORFELD: There is another section and I don't know where it is in this bill, but I remember in 2015 when we passed this law, it was explicitly made to apply 21 and under. And there's two different sections because there is a different law for people who are adults 18 to 21 and a different law for below it. [LB923]

SENATOR ERDMAN: Okay, well, I didn't see that. All right, thank you. Secondly, so if you scroll down to page, I think it's 6, line 15 or page 5, 15. It talks about an incident that if they think there is an emergency and they call law enforcement, they're not going to be subject to any legal ramifications for doing so. And young people being as creative as they are, so some young people have a few beers and they may be in jeopardy of being caught. So one of them says, you act like you have a medical emergency and we'll call the police and we'll both get a...we'll just get off on this. How do you prevent that from happening? [LB923]

SENATOR MORFELD: That's a great question, Senator, and something that was brought up in committee in 2015. And I think actually brought up on this floor. That's why on page 4, line 29, it states, made a good faith request for emergency medical assistance in response to a possible alcohol overdose. And what that means...and that's what it's generally interpreted to mean is that

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you call for medical assistance. So you call the police. So if the police come and there is a big party and everybody is like, oh, gosh, we're having alcohol medical emergencies, that's not how this law has been applied and has been in effect for several years, and that's not the intent of it. [LB923]

SENATOR ERDMAN: So is there somewhere where a good faith request is defined? [LB923]

SENATOR MORFELD: No, but I'd be happy to do that with you, Senator. [LB923]

SENATOR ERDMAN: It just seems like as enterprising as young people are, and you were young once and so was I, and you may be able to figure out a way to circumvent this, that seems to be a bone of contention, so. [LB923]

SENATOR MORFELD: Yeah. I would be happy to work with an amendment on Select File on a definition of that. Again, it's been in place for about three years in statute and they haven't seen abuse of it in that way. But the law of unintended consequences. [LB923]

SENATOR ERDMAN: Right. Thank you. [LB923]

SENATOR MORFELD: Thank you. [LB923]

PRESIDENT FOLEY: Thank you, Senators Erdman and Morfeld. Senator Chambers. [LB923]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. This bill gave me the opportunity to talk about President Trump and his ignorance of the law, his crassness, and he is vulgarizing this society. I watch television when the news is on and there are more people who tell lies who are in office and when the reporters bring their words that they're saying today side by side to what they said even yesterday and it shows that they were not telling the truth, you know what their classic out is? I misspoke. And that's all they'll say. They won't accept any questions. And I saw that happen to one of these "Repelicans" just yesterday. The vulgarization of a society occurs or is aided and abetted when those in positions of authority, those who are popular in the entertainment world conduct themselves in a certain fashion. If they use profanity as this President does and he did it when he was in Pennsylvania campaigning, he addresses and refers to people with the term S.O.B. or bastard. And all these Christians don't even...it doesn't raise a hair. Doesn't turn a hair. And then I talk about what people like him do and there is great anger and outrage, which shows that this society is in serious need of proper education. They don't need any more religion. That's what leads Trump to do what he's doing now. You see these so-called Evangelicals supporting a man like him. They're supposed to

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believe that marriage is for life, between one man and one woman. He violated that already. They believe that a man should keep his hands to himself. Trump boasted about how he used to grab women's genitals. My seatmate used the term "vaginagate". That was Trump. His "vaginagate" and he admitted it and joked about it. And his poor wife, poor wife, when she commented, she said, well..."Manila", she said, well, I have two little boys at home, two little ten-year-old boys at home. This man is running for President and she's got to defend him by saying he's like a little boy. I know she wasn't saying her little boy runs around grabbing the genitals of little girls, but that's what you could conclude. Like father, like son. The nut doesn't fall very far from the tree. And that poor woman, I think...here's what I used to say. The most oppressed person in this society is the black female. Discriminated against because she's a woman, discriminated against because she's black. Then mistreated by black men, to whom I wouldn't apply that term. But now I think the most oppressed woman is "Manila" Trump. Every time she turns on the television set, he's had an affair with that one, this one, and the other one. And society accepts it. You all who pray every morning accept it. Suppose President Obama had done what Trump did. Suppose he was laughing about grabbing the genitals of women. They were upset and condemned him because he was a community organizer. That's what happens when you're black. [LB923]

PRESIDENT FOLEY: One minute. [LB923]

SENATOR CHAMBERS: And they can pass all of the Presidential proclamations or issues that these Presidents please, pass all the civil rights bills that they want, change the Constitution, and I still don't have the status of a full-fledged human being in this society. That's why I say this country, your country, your law, your Constitution, your Legislature, because I have no proprietary ownership in any of these things and I certainly am not treated like a man. But nobody is going to walk on me, one on one. I don't care who it is. And what you're seeing from me is what you have created. You created me. When I was that small boy who had feelings and those feelings were hurt and there was nobody I could turn to. When you said those things in grade school that humiliated me like Little Black Sambo, Old Black Joe, and... [LB923]

PRESIDENT FOLEY: Senator Chambers, you may continue on your third opportunity, Senator. [LB923]

SENATOR CHAMBERS: Thank you, Mr. President. And it goes from the ground on up. The Negro is a creation of white people. And maybe I wouldn't be the man that I am now if I hadn't been mistreated the way I was by white people when I was a child and didn't know how to fight, couldn't fight, and I'd dare them to try to do to me now that I'm a man what they did to me when I was a child and they were adults. That's why I have contempt for adults who mistreat children. I don't care who the child is and I don't care who the adult is. And I will always be that way

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unlike you all. Because I've suffered does not put me in a mind where I want to make other people suffer the way I do, the way I did. It makes me want to do all I can so nobody has to feel like I felt, so nobody has to ever think the thoughts that I think every day, every day of my life. And I am sane, I am aware, I know what is going on around me every second of every minute of every hour of every day, of every week, of every month, of every year, of every decade. And you all, you're favored. You're privileged. You don't have to deal with this and then you think I should sit down and be nice like you all can be and you don't face anything and you'll go out and hang yourself. You'll shoot yourself. You'll poison yourself. And then you think that I am going to be like you? My example is not even drawn by other black people, drawn from other black people. I am sui generis. I am a rara avis, a rare bird. I don't need anybody. I don't ask anybody for anything. And that's the way it had better be if you are a black man or a black woman and you're going to survive in this hostile environment. Senator Kuehn and I exchanged a word or two last night about evolution. I use terms analogously, metaphorically. And when I say nature, that's not a substitute for God. It's trying to use language you all might understand and be familiar with. I'm trying to communicate with you. Communication is when you use words or symbols to try to transmit from your mind what is there to somebody else's mind. These symbols and words are deliberately chosen for that purpose and that's when communication occurs, not when there is just the transmission, but when there is also the reception. And that often does not occur. It does not occur often between black people and white people because most people, black people have to think before they speak. How is this going to be accepted? Doesn't make me any difference how people accept it. Grown people who can mistreat children in the way that I was by grown people, whom my parents taught me to respect because they were grown, don't deserve anything from me in the way of special consideration. Nobody can treat me better than I will treat them. Nobody can show me more respect than I will show for them. But don't mistake my trying to be respectful towards you for being weak. Don't mistake my being courteous for being afraid. And don't mistake my showing restraint for being a coward. [LB923]

PRESIDENT FOLEY: One minute. [LB923]

SENATOR CHAMBERS: And anybody who wants to test me knows where to find me. I don't hide. I don't carry guns. And I don't live looking over my shoulder and fleeing when no man pursues. If I hear a leaf crackling in the street, I don't say a lion is in the streets and I've been down here in this pestiferous place for 43 years. More than four decades of my life. Black people don't like to hear me say this. Four decades of my life wasted. But I have nobody to blame except myself because I chose to waste my life in this fashion. It's like throwing a pebble in the water. There are ripples for a while... [LB923]

PRESIDENT FOLEY: Time, Senator. [LB923]

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SENATOR CHAMBERS: ...then the ripples go away and the surface recomposes itself. Thank you, Mr. President. [LB923]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Morfeld, you're recognized to close on the advance of the bill. [LB923]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, thank you for the discussions. I'm happy to work with Senator Erdman on some of the issues surrounding the language and definition of good faith requests and I urge your adoption of this legislation. Thank you. [LB923]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Members, you've heard the debate on LB923. The question for the body is the advance of the bill. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB923]

ASSISTANT CLERK: 31 ayes, 1 nay on the motion to advance the bill. [LB923]

PRESIDENT FOLEY: LB923 advances. Moving to the next bill, please. [LB923]

ASSISTANT CLERK: LB760 introduced by Senator Hughes. (Read title.) The bill was introduced on January 3, referred to the Revenue Committee, placed on General File with no committee amendments. [LB760]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Hughes, you're recognized to open on LB760. [LB760]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. In 2016 the Legislature passed LB886 on a 46-0 vote. It created the Volunteer Emergency Responders Incentive Act, which provided an income tax credit for qualified active volunteer emergency responders, rescue squad members and firefighters that serve a city, village, or rural, or suburban fire protection district. That bill inadvertently left out volunteers serving a county fire protection district. LB760 would correct that oversight and would also provide a mechanism for them to apply for the income tax credit that was originally intended to include them. Just being a volunteer doesn't automatically qualify them for the tax credit. They have to accumulate 50 points in a year. They can receive points by being in leadership, attending outside meetings, responding to calls, and taking additional hours of training. The number of volunteers across the state has been steadily decreasing and this is an incentive to those who donate their time by providing a service to their communities. Recently a fire broke out near McCook, Nebraska. Due to the high winds, the fire moved quickly and threatened the town of McCook. They immediately

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evacuated the elementary students to the high school. Thankfully, 19 volunteer fire departments responded to assist the McCook Fire Department when putting out the fire and staying up to make sure there were no flare-ups. These people left their jobs in the middle of the day and some stayed up all night. This is a small way that we can say thank you and encourage them to stay with their departments, because this has been...this could have been a lot worse, but due to pay and volunteer responders...due to paid and volunteer responders, a disaster was avoided. There is no fiscal note with this bill because the volunteers on a county squad were intended to be included in LB886 from 2016. There is an emergency clause on this bill so that the Department of Revenue can start processing requests from county squad members immediately. I urge you to vote green. Thank you, Mr. President. [LB760]

PRESIDENT FOLEY: Thank you, Senator Hughes. Debate is now open on LB760. Senator Kolterman. [LB760]

SENATOR KOLTERMAN: Thank you very much, Mr. President. I rise in support of LB760. I was one of the co-sponsors of the original legislation. We missed this. For those of you that aren't aware, in rural Nebraska there's becoming a real crisis to get volunteers to volunteer to be firefighters and paramedics and emergency responders. Anything we can do to encourage that is beneficial. I'm sure that we're going to be taking a harder look at this in the next few years, but I would hope that we can correct the bill that we missed this on last time and advance this to E&R. Thank you. [LB760]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Groene. [LB760]

SENATOR GROENE: Thank you, Mr. President. I stand in full support of LB760. As Senator Hughes indicated, it was just an oversight by the bill writers on the county issue. But volunteers to rural Nebraska, firemen are the real heroes. They're out there. If we get a dry year again, there will be grass fires. They're out there. They don't complain. They don't brag. They just do it. But the cost of some of this mandates that we send to them on the EMT qualifications and training is becoming burdensome to them. And the \$250 credit is a little help. But this body also needs to look at some of the licensing and requirements of what we expect those volunteers to pay for in their training for EMTs and to be a fireman. There's money available through the Mutual Aid. It already exists through insurance payments. I think in the future we need to look at that and direct some of those funds to the training costs of rural firemen, but that's another issue I'd like to look at and maybe with Senator Hughes and a few other rural senators next year on that issue. But this just needs to be done. Needs to be done quickly as they file their income taxes for last year. Thank you. [LB760]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Chambers. [LB760]

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SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature, and Senator Hughes. I think that I have flayed that dead horse--not referring to Senator Hughes--long enough. There are senators who have sinned more grievously than has Senator Hughes. So why would I stay on Senator Hughes in the way that I have? Because he's the chairman of a committee. Not only did he engineer the derailing of my black-tailed prairie dog bill, he has bottled up my bill to prohibit the hunting of mountain lions. So he and I do have a particular connection that I don't have with anybody else. However, I'm not going to go after every bill that he brings because of the two things I've touched on. This is a very innocuous bill but it's significant and it is based on the concept of equity, so I will support it. And if I were going to take out after Senator Hughes as I've done before, this would have been the morning when I would do it. Because there's things that are serious to me that I'm discussing and will continue to discuss, but I think I would trivialize what I'm talking about this morning by engaging in what I have done in the past every time Senator Hughes' name appears on a bill. You might wonder what set me off this morning and you may not, but I'm going to tell you anyway. There's a photograph in today's Lincoln Journal Star on page A6 and it's a photo of a cover of National Geographic labeled special issue. There is a black girl standing behind a white girl and the white girl's arms are held in this manner and the black girl's hand is on the white girl's shoulder and they're both looking out at the person who is looking at the book. And this is the headline of the article: Acknowledging past racist coverage. Had I brought to your attention the racism in National Geographic, you would say, as most white people say, I see racism everywhere. Well, I think a bacteriologist sees bacteria everywhere. A virologist, if there is the term like that, sees viruses everywhere that he or she is examining. So I see racism everywhere in America because racism is everywhere in America. This will probably surprise some of you all but I had a full-length picture of me in National Geographic. How many of you all can say that? I don't read of you all doing anything that has taken a note of nationally. I am what symbols...notice I say, what, not who. A black person is not a "who" but a "what". I am what symbolizes Nebraska in the minds of a lot of people who don't live in Nebraska, who have never been to Nebraska, don't want to come to Nebraska, and express sympathy for me because I live in Nebraska. And I'm often asked, why do I stay in a place like that? [LB760]

PRESIDENT FOLEY: One minute. [LB760]

SENATOR CHAMBERS: And I always respond because it's where my family is and all of my friends, both of them. But this is an article that I'm going to read, and I don't really care how anybody reacts to it, but I want to put it on the record. And my light is on and I'll start reading it after I'm recognized. Thank you, Mr. President. [LB760]

PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue on your second opportunity. [LB760]

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SENATOR CHAMBERS: Thank you, Mr. President. I tell you, everywhere I look, every day just reading the newspaper, I can find things that would lead me to speak like this. Beside the picture are these words in bold type, and enclosed in quotation marks. Oh, and the name of the person who is being quoted is John Edwin Mason of the University of Virginia photography historian. People of color were often scantily clothed. People of color were usually not seen in cities. People of color were not often surrounded by technologies of automobiles, airplanes, or trains, or factories. The National Geographic is a high-class magazine. It's an intellectual magazine, and it's a racist magazine. Anything involving white people has racism in it. Racism is of the warp and woof of everything in America and wherever white people are. How can it be otherwise? If I pour water on you, you can't help but get wet. You know where you see racism? The same place where Jesus wants you to be a sunbeam, at home, at school, at play. And it's in all of those places, and your churches too. Martin Luther King said nine o'clock on Sunday morning is the most segregated hour in America, because that's when the white people go to church. Let me read this, subhead line, April National Geographic issue addresses race. It's by Jesse J. Holland, Associated Press. Dateline, Washington. National Geographic acknowledged this week that it covered the world through a racist lens for generations with its magazine portrayals of bare-breasted women and native brown-skinned tribesmen as savage, unsophisticated, and unintelligent. And I hear these dumb white people talking about they're superior to every black person and I want to find the white person superior to me. Now, I'll tell you somebody who was white who might be considered superior to me. But none other is in the world now, and that was Stephen Hawking. I cannot say that I would have handled the disadvantages, the afflictions that were his for most of his life and the way that he handled it. And that's a tribute to him, not a diminution of me. Let me continue, "we had to own our story to move beyond it", editor-in-chief Susan Goldberg told the Associated Press in an interview about the yellow-bordered magazine's April issue which is devoted to race. National Geographic first published its magazine in 1888. An investigation conducted last fall by University of Virginia photography historian John Edwin Mason showed that until the 1970s, it virtually ignored people of color in the United States who were not domestics or laborers. And it reinforced repeatedly the idea that people of color from foreign lands were "exotics, famously and frequently unclothed, happy hunters, noble savages-every type of cliché". [LB760]

PRESIDENT FOLEY: One minute. [LB760]

SENATOR CHAMBERS: For example...for example, in a 1916 article about Australia, the caption on a photo of two Aboriginal people read "South Australian black fellows. These savages ranked lowest in intelligence of all human beings. When have they ever written that about you? But it would apply to you more than to us. I notice the Chamber is emptying now, but fortunately there are people watching. And this reinforces what I said last night about that other bill. You had your marching orders. That's why you stayed in here because you were told by the bishops

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that this is where you needed to be. Others of you were ordered by the Governor to be here.
[LB760]

PRESIDENT FOLEY: Time, Senator. [LB760]

SENATOR CHAMBERS: Thank you, Mr. President. [LB760]

PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue on your third opportunity. [LB760]

SENATOR CHAMBERS: And Senator Hilgers, who spoke more than anybody else, is not here today. Continuing. In addition, National Geographic perpetuated the cliché of native people fascinated by technology and overloaded the magazine with pictures of beautiful Pacific Island women. This examination comes as other media organizations are also casting a critical eye on their past. The New York Times recently admitted that most of its obituaries chronicle the lives of white men and began publishing obituaries of famous women in the "overlooked" section. The National Geographic's April issue, Goldberg, who identified herself as National Geographic's first women editor and first Jewish editor, wrote a letter titled "for decades our coverage was racist. To rise above our past, we must acknowledge it". "I knew when we looked back, there would be some storytelling that we obviously would never do today, that we don't do and we're not proud of," she told the AP. "But it seemed to me if we want to credibly talk about race, we'd better look and see how we talked about race." Mason said he found an intentional pattern in his review. "People of color were often scantily clothed, people of color were usually not seen in cities, people of color were not often surrounded by technologies of automobiles, airplanes, or trains, or factories, he said. People of color were often pictured as living as if their ancestors might have lived several hundreds of years ago and that's in contrast to westerners who are always fully clothed and often carrying technology." I'm going to finish this on the next bill because I won't have time to finish it here. But this is a Jewish person telling you what I've told white people ever since I've been speaking. What your people have done to my people forever. In this high-class magazine, National Geographic, they did it. They did it intentionally and the Lincoln Journal Star, the Omaha World-Herald, the Lincoln Star when they were publishing, used to criticize what I said about the racism of white people being everywhere because you will not accept it from a black man, you will not accept from the man who is experiencing it what I'm experiencing. You will not accept my identification of the perpetrator because that perpetrator is you and you hate us because we are our conscience. Every time you see us, you see the crimes that you committed against humanity but you didn't see it as a crime against humanity because you saw us not as people. We were not human. We were not quite animals, we were a tertium quid. A third thing. What did they call the developing world where there are not white people, the Third World. We are the third thing, the tertium quid. Not human, but a step above the beast.

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You white people are just a little lower than the Angels and look what you have done. You have enslaved peoples. You have destroyed cultures. Everywhere you go, you've brought diseases to this continent... [LB760]

PRESIDENT FOLEY: One minute. [LB760]

SENATOR CHAMBERS: ...that were not here before. Everywhere you have gone. When you went to Australia, everywhere you have gone. You went to India. You degraded the people, you enslaved people, you ridiculed them and their customs. You made light of their religion. And some white people had a glimmer and then a gleam of understanding and somebody wrote a book and then produced a movie, The Ugly American. And when he looked in the mirror, he saw himself. He was a part of it, and you all are part of it, and you will always be part of it. How can you not be part of it? It's in your genes, your chromosomes, your DNA. You don't like me to say that, do you? Well, we heard ever since we were in this world that we are genetically inferior and your scientist said it and sought to prove it. Do you know how they proved it? Because most dark people have brown eyes. [LB760]

PRESIDENT FOLEY: Time, Senator. [LB760]

SENATOR CHAMBERS: I have kinky hair. [LB760]

PRESIDENT FOLEY: Time, Senator. [LB760]

SENATOR CHAMBERS: Thank you, Mr. President. Was that my third time? [LB760]

PRESIDENT FOLEY: It was, Senator. Senator Hughes, you're recognized to close on the advance of the bill. He waives close. The question before the body is the advance of LB760 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB760]

ASSISTANT CLERK: 33 ayes, 0 nays on the advancement of the bill. [LB760]

PRESIDENT FOLEY: LB760 advances. We'll proceed to the next bill, Mr. Clerk. [LB760]

ASSISTANT CLERK: LB803 by Senator Stinner. (Read title.) Bill was introduced on January 4, referred to the Education Committee. That committee placed the bill on General File with committee amendments. (AM1719, Legislative Journal page 731.) [LB803]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Stinner, you're recognized to open on LB803. [LB803]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, LB803 is part of a much needed legislation on requirements behind early childhood education in Nebraska and how it fits into work force issues that we have been experiencing over the last ten years, and particularly in rural areas. I'd like to first thank the Buffett Early Childhood Institute, First Five Nebraska, and other early childhood educational advocacy groups for working with me on the provisions of this bill. The agreement we have reached would come in the form of the Education Committee's AM1719, which would strike all sections of LB803 and replace it with the language under the amendment. Quite simply, what I'm looking for under LB803 with the amendment is to authorize the Department of Education to provide a waiver under the early childhood education certification requirements. I would also like to highlight that early childhood education programs would still need to meet the Board of Education standard under its rules and regs. As part of the Buffett Institute's Early Childhood Workforce Commission, I understand the need for quality in our early childhood education, and I also understand the needs of western Nebraska and the realities that we face. While work force shortages are not uncommon in early childhood education profession, it is amplified in rural areas like western Nebraska. Educational Service Unit, ESU 13, in Scottsbluff first brought this issue to my attention after facing significant work force shortages in their Head Start program. What is much needed for rural areas of the state is flexibility under certification requirements while still meeting program standards under the rules and regs. LB803, with AM1719, would allow rural areas to fill those work force needs, give adequate training to early childhood education work force, and give our schools the ability to provide more programs for families seeking early childhood education programs. Thank you, Mr. President. [LB803]

PRESIDENT FOLEY: Thank you, Senator Stinner. (Visitors introduced.) As the Clerk indicated, there are amendments from the Education Committee. Senator Groene, you're recognized to open on the committee amendments. [LB803]

SENATOR GROENE: Thank you, Mr. President. AM1719, presented and adopted by the Education Committee at the request of Senator Stinner, AM1719 would strike all original sections to LB803. Been getting a lot of e-mails about some of the sidebar stuff that was in that bill. That has all been stricken. The amendment strikes all the original language, to be redundant in what Senator Stinner said, and now simply provides the Nebraska Department of Education the ability to exempt prekindergarten teachers and administrators from current certification in certain situations. NDE would adopt the rules and regulations for the programs with exempt teachers and administrators to comply with. This amendment recognizes the current difficulty that pre-K programs out in the rural area of the state are having finding certified staff and will also address a looming problem for the Head Start program that is administrated by ESU 13

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which risks federal funding if the teachers do not meet state certification. This is all AM1719 would do and I ask for a green vote on AM1719. During the hearing, ESU 13 brought this to Senator Stinner. They took over a troubled Head Start program and now we mingled state requirements for instructors with federal ones. Some of the individuals working for that Head Start program had been there 20 and 30 years, but they didn't have the certification. The issue was faced with the idea that they would have to fire these people. This is a good compromise. It allows those people to work there and it can be used for other programs in rural Nebraska when they run into troubles if NDEA, an application is given to them by a school district or an ESU and, therefore, they could allow individuals to do what they love, to help instruct teachers, without the burdensome point that they have nowhere in rural Nebraska to go quickly and get a certification. So I'm completely on board but I wanted to let the public out there understand, if you're reading the main language of the bill, that's all been stricken in this...with this amendment. So thank you, Mr. President, and thank you, Senator Stinner, for bringing it, and I urge you to support the amendment and the bill. [LB803]

PRESIDENT FOLEY: Thank you, Senator Groene. Debate is now open on LB803 and the pending committee amendments. Senator Chambers will be followed by Senators Thibodeau, Kolowski, and Bolz. Senator Chambers. [LB803]

SENATOR CHAMBERS: Thank you. Mr. President, before I continue with this article, I want to ask Senator Stinner a question or two about the bill itself. [LB803]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB803]

SENATOR STINNER: Yes, I will. [LB803]

SENATOR CHAMBERS: Senator Stinner, you mentioned the term "work force." What does that have to do with this law or what does this law have to do with work force? [LB803]

SENATOR STINNER: Well, right now, Rule 11--that is part of the Department of Education--requires that the ESU who has a Head Start program to hire only certified teachers. We do not have a whole abundance of certified teachers, so we had to fill in with Head Start teachers. Some of them have 20-30 years of experience. [LB803]

SENATOR CHAMBERS: Excuse me, because I don't want to take...what I'm asking, let me ask it a different way. Does the term "work force" apply to those who are going to be teaching or does the term "work force" apply to those children who are going to get this jump start as far as education? [LB803]

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SENATOR STINNER: "Work force" in this case, at least in my interpretation, means candidates or teachers that are available to provide that instruction. [LB803]

SENATOR CHAMBERS: So the children are not viewed as future workers. That's not what the aim of the education that they receive is at the state. [LB803]

SENATOR STINNER: That's not the angle of it, but giving them a good head start certainly puts them one step further to get into the work force should they complete a K-12 education. [LB803]

SENATOR CHAMBERS: And with that explanation, I don't have a problem with it. But I don't want...I see so much emphasis on the workplace, the work force, and children beyond this age are educated to become workers for somebody else. When businesses can't get the compliant people that they want, then they want the schools to groom children so that when they do enter the work force they will be obedient, they will not question, they will feel that their destiny is to work for somebody else, and they are not behaving as they should unless and until they get a job with some company that's going to put them under working conditions that are not fair, pay them wages that are not adequate. If they're women, they will have to submit to all kinds of indignities without complaining, and that's what I envision when I hear talk about providing workers. Education, to me, should aim at the whole person. People want to ridicule what is called liberal arts education. Liberal arts, the term "liberal" is something that the people who use the term don't even understand what it derives from. A liberal education doesn't mean like these narrow-minded conservatives portray it. A liberal education was the education that a liberated, or a free person, would receive. It goes beyond teaching how to do something with your hands, how to make a living, but how to live. It nourished the mind. It based itself on the Greek ideal of a sound mind and a sound body. But too often in a society like this one, where they praise factories, they praise mechanical things, they praise technology, the individual is just a cog in the machine, a replaceable, expendable cog. And the schools are to produce by assembly-line methods additional cogs, so when one is worn out or injured another is waiting to fill its place. You have people who do not think critically. The aim is that they think not at all. The confusion exists between thinking and learning by rote, behaving in a self-starting way and following directions without question. And when that occurs, you have the kind of problems that exist... [LB803]

PRESIDENT FOLEY: One minute. [LB803]

SENATOR CHAMBERS: ...in some sectors of this society where people are trained in such a narrow way that when that job ceases to be, those people are expendable, just like those obsolete machines. They cannot move from that into other employment because their education--misnamed--their training was too narrow and restricted. That produced these angry white men

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who became obsolete, just like the factory jobs they had, and they are the ones who put Trump in office. Thank you, Mr. President. [LB803]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Thibodeau. [LB803]

SENATOR THIBODEAU: Thank you, Mr. President. I stand today in support of this committee amendment. As an early childhood educator myself and the owner of an early childhood development center, I agree that even in urban areas it is hard to find people to come in and teach those children. So I can imagine that it's even harder in the rural areas. When you're looking at early childhood education, you're focusing, actually, on the whole child, Senator Chambers. We focus on who a child becomes is just as important as what they know, so it's not putting them in a regimented day. It's actually putting them in a day to where they are curious. The teachers there, they foster curiosity, they want the children to ask questions, they will talk about what they are going to learn that day and then they allow the children to ask the questions. And the teachers are then able to take that curriculum and apply it to where the children are going with that. So it is fostering questions, it's fostering leaders. And the best time to make children love school and to foster curiosity is in those early days. Those early days are very important. And if you have a child that learns early that they love school, that they love being curious, that is going to carry them through the rest of their schooling, whether they go on to the work force after they graduate from high school, whether they go on to receive secondary education. We start with early childhood and making that investment in those children early has given great response and has produced children that not only care about being workers, but they actually care about being a good person. Thank you, Mr. President. [LB803]

PRESIDENT FOLEY: Thank you, Senator Thibodeau. Senator Kolowski. [LB803]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I also support what we have as far as the LB803 and the standing amendment that we have here. It's extremely important to help with this legislation, to put this together. Statewide, this gives us a chance to get caught up on the things that are extremely important with early childhood education and the work that's taking place in our state, which we've talked about before. But I would point out, if you want to look back here, everyone has one of these copies on early childhood education plan evaluation in your office. It was sent to you. Take the time to read through this and understand what's going on within the context, not just in the metropolitan areas but the state as a whole. Our friends and neighbors in the western part of the state need this particular bill to help meet the needs of early childhood education across the state. And the work of Sam Meisels, Dr. Sam Meisels, and the Buffet Family (sic: Early) Childhood Institute is one of the rarities of what's going on in this country at this time. Be aware of this, understand it, know what's happening, and this bill is a good bill that gets us to the future of what we need to cover statewide. Thank you very much. [LB803]

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PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Bolz. [LB803]

SENATOR BOLZ: Thank you, Mr. President. Will Senator Stinner yield to a question? [LB803]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB803]

SENATOR STINNER: Yes, I will. [LB803]

SENATOR BOLZ: Senator, could you just tell me a little bit more about what you understand the origin of the teacher shortage to be? Why is it that we have a lack of the appropriate teachers with the appropriate existing certification now? [LB803]

SENATOR STINNER: Yeah, we have 186 kids in the Head Start program, and Head Start does require training over the summertime. But even in some of our schools, the Hemingfords and the smaller schools, they can't find enough certified teachers to fill K-12. So we're really short. Certified teachers are not equally distributed across the state of Nebraska. [LB803]

SENATOR BOLZ: Sure. [LB803]

SENATOR STINNER: So we're just short in a lot of different areas, these small towns, so if we're going to have a program, if we're going to have early education and be in compliance with Rule 11 and have oversight... [LB803]

SENATOR BOLZ: Sure. And a teacher becomes certified through our higher education institutions, correct? Peru State College, the University of Nebraska, that's where a teacher would get the baccalaureate degree and the teacher certification? [LB803]

SENATOR STINNER: Yes. [LB803]

SENATOR BOLZ: That's the only point that I want to make on the microphone today is that when we don't make proper investments in our institution of higher education, we find problems that come up on numerous other issues related to numerous other state goals. And it is concerning to me that we have to bring forward a budget that doesn't fully invest in higher education at the same time we're only serving 36 percent of the individuals who qualify for the Nebraska Opportunity Grant in terms of our state scholarship assistance. And so I just felt compelled to use this opportunity to bring back the reminder that when we make compromises and when we have to make cuts to our institution of higher learning through our state budget

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because of tough budget times and because of policy choices, the implications are widespread, they are urban and rural, they relate to early education, higher education, work force development, and all kinds of priorities for all kinds of folks. So I do appreciate the circumstance that rural communities are in, in trying to provide early education, but we can't turn a blind eye to some of the other reasons that underlie the shortage of teachers and certified teachers that relate to our need to invest in higher education institutions. Thank you, Mr. President. [LB803]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Chambers. [LB803]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, tailgating to some extent on what Senator Bolz just said, on this floor we are so shortsighted the Governor tells us do this, the Appropriations Committee does it but not quite to the same extent, and there's no real looking at what the impact is going to be in the real world. Some people will do things that hurt the very institutions that make it necessary to do what we're doing today, which is to lower standards. There should be an opportunity to make more quality education available to all young people, put it within the reach of all young people. But when we cut these budgets because you say you want to do what the taxpayers want, you want to lower property tax, you want to lower corporation taxes, and to do that you pick the biggest target, which is public education and higher education--and because a lot of the people doing the cutting don't have much education as I reckon it, and certainly not higher education as I would reckon it--and then the damage is detected and they don't know why it happened, how did it get this way, so they say, well, what we need to do then is find people who don't have to meet these standards, that's how we solve this problem. Instead of providing the education that would take people to the standard, we solve the whole thing by just lowering the standards. Then they don't have to go to school. With fewer people in school, you don't need to spend as much money in schools, so we can cut it even further. That's what happened when ignoramuses, "Unicameralus ignoramus" is running free. Sometimes people fall back on the slogan "something is better than nothing." That's not always the case. It depends on what the something is and it depends on the status of the person who has the nothing. Sometimes a person who is trying to instruct children is the something which is better than nothing, but the child is already precocious, the child is already curious. Little children and snakes...I'm glad Senator Kuehn is here, our resident biologist, our resident scientist. Snakes sample their environment by their tongue. It's always flicking, always. It's sampling its environment. What do little children do? They taste everything. Anything a little child gets goes to the child's mouth. Is it because their taste helps tell them something? What it is, I can't tell you. But there are similarities that we can see among different species, between different species. And Senator Kuehn introduced a word last night and asked me was I familiar with it, which I was and am. We know that you cannot take conduct that you see in human beings and apply it without modification to animals whose outer actions may give you the impression that the same thing is going on in their head when they do it as is going on in a person's head when the person does it. And that's why scientists study. They want to test, they

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want to experiment, they want to see if others have taken similar steps and reached similar conclusions. They verify. When we are talking about what we are talking about this morning, or I'm going to talk about it anyway, one of the cruelest hoaxes... [LB803]

PRESIDENT FOLEY: One minute. [LB803]

SENATOR CHAMBERS: ...that can be worked on our children is to have what they call early childhood education encourage them to be curious, then they go to kindergarten in public schools where they are stifled. Instead of all of that curiosity and that interest being encouraged to grow, that child becomes a child who is disruptive, a child who is disobedient, a child who doesn't work and play well with others. So these people, the Buffetts and the rest of them getting all this credit for childhood, early childhood education, they need to straighten up and fly right by looking at what happens to these children who have been awakened going into a system which admires the little children when they're asleep. They want them to be like the flowers in Flanders Field. [LB803]

PRESIDENT FOLEY: Time, Senator. [LB803]

SENATOR CHAMBERS: You said time? [LB803]

PRESIDENT FOLEY: That is time, Senator. [LB803]

SENATOR CHAMBERS: Thank you, Mr. President. [LB803]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Vargas. [LB803]

SENATOR VARGAS: Thank you very much, President. Colleagues, I rise in support of LB803 with the AM1719, and the reason why is, one, it's a little personal, but, two, I think it's pragmatic. We have a teacher shortage and we need to make sure we have as many individuals that are deemed qualified to be in early childhood positions. I agree with Senator Thibodeau in this reality. And ways that we can sort of, without lowering standards, ensure that we're also putting people into the right positions is the best pathway forward, and when we don't have individuals in these positions to teach kids, we are truly missing out. I also agree with Senator Bolz. We need to make sure we invest in higher education. There's obviously an investment piece in our university system and our higher education system. They're going to be the ones that are creating this, these individuals that are going to be doing this work. I also want to call to attention that this doesn't just stop in early childhood. This continues on in K-12. We need to figure out, beyond fourth grade, how we're going to make sure to address the teacher shortage. I

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do want to call out that LB1135, which is my bill, it's currently in Education Committee, I think, is an extension of what we can begin to start looking at and doing, which is looking at reciprocity across states. What it does is essentially ensure that we're addressing this teacher shortage, providing reciprocity to individuals who hold teaching certificates in good standing in other states to teach in Nebraska. This way, we're making sure that the onus is really on the school and the principal that, if they find somebody that they can hire, we're creating a more streamlined system than what we currently have, which we have some system to do it but it's not very clear, it's not as transparent, and not everybody can utilize it. I also want to encourage people to then look a little bit more into these alternative certification programs. I was one of them. I came out of college. I had a biology degree. I knew there was a teacher shortage at this time in New York City and it was in the sciences, and so I had...I did not go to school for teaching but I entered the work force, became a teacher provisionally for two years, went to night school and weekend school to get my certification. At the end of two years, I had to prove that I had the education needed to continue teaching and that was contingent upon me completing that to then earn my certification and stay in the classroom. I completed that, completed my master's in two years through a program called Teach for America. There are other alternative certification programs. I think these are very innovative ways to ensure that we're getting some individuals into the work force quicker and not making it more redundant for them to go through another pathway while still holding a very high standard. So, colleagues, I urge you to support this amendment. The same supporters of the amendment and LB803 were also supporters of my bill, which includes First Five. The NSEA was also supportive. This problem doesn't just end in early childhood. We have teacher shortages across the state. And if we don't find innovative ways to put people in those classrooms and holding a high standard and easing some of the requirements while holding this standard high, we're going to be missing out an entire talent pool. They're going to be looking all over the other states around us to then teach and find a home in Nebraska. Thank you very much, and that's all I have. [LB803 LB1135]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Erdman. [LB803]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good morning. Senator Stinner brought this bill and I appreciate that, Senator Stinner. I appreciate your willingness to help solve a problem that we have in western Nebraska. And when you came in to testify, you shared the information as to how we got here. And I was wondering if Senator Stinner would answer a question or two. [LB803]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB803]

SENATOR STINNER: Yes, I will. [LB803]

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SENATOR ERDMAN: Senator, what happened in western Nebraska in your district that brought this problem to a head? [LB803]

SENATOR STINNER: Yeah. CAPWN, which is our federally qualified healthcare clinic, was running the program, went bankrupt. And of course with the bankruptcy, they took a look at what this program was about and decided to exit that program as part of the bankruptcy plan. So it basically was in limbo. I think there was a group from Denver that looked at possibly coming in, but ESU then picked the program up and obviously has...is trying to get back into compliance with Rule 11. [LB803]

SENATOR ERDMAN: Okay. So up until now, it's functioning as it was when it was with CAPWN, is that correct? [LB803]

SENATOR STINNER: Well, I think it's functioning better, actually,... [LB803]

SENATOR ERDMAN: Okay. [LB803]

SENATOR STINNER: ...but with the ESU oversight. [LB803]

SENATOR ERDMAN: But I mean they're using the same employees? That's a better question. [LB803]

SENATOR STINNER: Yes. [LB803]

SENATOR ERDMAN: Okay. Thank you for your help on that. So, colleagues, that's exactly what happened there, and Senator Stinner very well explained that we have a shortage of teachers not only out there but across the state. And some of these people, as Senator Groene alluded to, have been doing this for 20-30 years, are very capable, get training during the summer to do what they do with these kids. The kids know them and they're doing a fine job. Interested in Senator Bolz's comments about higher education, and education is important and I understand that. I am always kind of perplexed by the comments when we talk about higher education in Nebraska. It's always about the University of Nebraska. We do have other schools in the state that teach people, that give degrees, doctor degrees, bachelor of science, master's degree. We don't ever help those institutions, but we seem to always concentrate on the higher education of the one university that's in our state, that we think is in our state, but there are other universities. So we should be helping all universities, all students get an education, not just those who choose to come to the University of Nebraska. So we need to have that discussion, as well, and I appreciate her bringing that up. Thank you. [LB803]

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PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Thibodeau. [LB803]

SENATOR THIBODEAU: Thank you, Mr. President. And, Senator Chambers, I just want to say I actually appreciate the debate that you're bringing up here today regarding early childhood and K-12. So a little bit more about early childhood, it's not letting the kids run amok with their curiosity. It's a balance between teacher-directed and child-initiated activities. So the teachers are still directing activities, the children are still required to behave. They don't require the children to sit in their seats for 50 minutes or for however long because at that age they're not capable of doing that. I have visited with a lot of school districts in my area and kindergartners, kindergarten programs are realizing that, as well. Now we do need to focus a little bit more going forward. I know there's been a lot of times where recess has been taken away and a lot of people don't realize that during recess children's brains are processing what they just learned while they are out running around. So I do agree that we need to look at K-12 a little bit more and are we using age-appropriate expectations in those areas. So with early childhood you want to use age-appropriate expectations. It's not teaching them to run amok in kindergarten. And just one more thing, Senator Chambers, if you would mind, when we were here late last night and we were all getting a little squirrely, you did indicate that you always like to continue to learn. And I don't want to put you on the spot because this is going to be teaching a lot of the people who are in here, but I think, even though you have a lot more experience than me, I think there's one thing that I can teach you and I was wondering if you would mind yielding to a question. [LB803]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB803]

SENATOR CHAMBERS: I am always prepared to have my education improved, even by a youngster such as yourself. [LB803]

SENATOR THIBODEAU: (Laugh) Okay. Well, thank you. Okay, so I'm just going to educate you and some other members because about four or five times yesterday my last name was pronounced wrong. So my last name, you actually pronounce the "T-h." It's Thi-boh-doh. So if we were back learning how to read--we all remember phonics--so if you spell it to phonetically, it's T-h-i-b-o-h-d-o-h: Thi-boh-doh (phonetically). So we always pronounce the "h." I know a lot of people in here don't pronounce the "h" or they've added an "r" in there. So, Senator Chambers, I appreciate you yielding to my question and allowing me to use you to teach the rest of the body. Thank you, Mr. President. [LB803]

PRESIDENT FOLEY: Thank you, Senator Thibodeau. Senator Chambers. [LB803]

SENATOR CHAMBERS: Senator Thibodeau, lesson learned and it will be applied. But, Mr. President, members of the Legislature, I always said Thi-boh-doh (phonetically). But a friend of

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yours named Larson is a member of the Executive Board and he created the impression in my mind that he knew you because he had talked to you about placement on a certain committee. And he pronounced your name Ti-boh-doh (phonetically). That's why I started doing that, because if he's your friend he ought to know how you prefer to have your name pronounced, and I will pronounce a person's name the way that person desires. But what I should have done, and if I had been on my p's and q's I would have remembered that, having graduated from George Washington (sic: Georgetown) University, Senator Larson has not demonstrated a knack for anything other than to usually cut beside the line that he's supposed to be cutting on. But now that I've gotten it straight from you, it is now Thi-boh-doh (phonetically), and I feel much, much better because I'd have to think consciously to not pronounce the "T-h" with the "th" sound, so I appreciate that. And here's what I want to say along the lines of what I was touching on earlier. I'm glad that Senator Thibodeau pointed out how you cannot have little children sitting still for long periods of time. That's why they shouldn't have to go to church. First of all, they're not going to listen, they're not going to pay attention. If they hear a preacher hollering and the people singing, then little children join in because they imitate, and then people are shushing them. Whenever I've been anyplace and little children express themselves, I will say, let that child alone. The child is more sincere than all of us because what you see in the child is what the child is. But at any rate, I was getting to the point that early childhood education is good and I'm going to--I support this bill, by the way--presume, for my purposes, that it's properly given. What I meant about coming into the kindergarten classroom, there are people there who are there because it's a "cush" job for them. If they can just make sure that the little children don't make too much noise, then they're going to be considered a good kindergarten teacher, and if they can keep the little children corralled. And that poem about poppies, Flanders Field...something like: In Flanders fields the poppies grow / In sweet profusion, row on row. But I had substituted "crosses" for the "poppies," because in Flanders Field you see all of those crosses that symbolize all of the young people who died for no purpose because there were some old white men who sent them out there to die and then told everybody they're dying for freedom of the press; they're dying so you can stand up for the national anthem at a football game. That's what your idiotic President says, and it's why I'm so disgusted with what happens in this country and on the floor of this Legislature when you all say that flag salute. That's crazy but that's what you all want to do. It's you all's house. I'm not a guest in your house. I'm an intruder. But I'm not going to go along with all of your customs, like worshiping a rag. But what I'm concerned about with reference to this bill is not the teachers being certified or not certified, but encouraging children... [LB803]

PRESIDENT FOLEY: One minute. [LB803]

SENATOR CHAMBERS: ...to let their natural propensities grow and be exercised. And when they carry it into kindergarten, these teachers, especially if they're dealing with black children, see those black children as being disruptive, lacking in home training. But a funny thing, when

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they get to be 18 or 19--and now earlier than that because they're in these white high schools and they're very active on the football field or the basketball court--they like black children to be very active, more athletic than these white children. Basketball has been revolutionized in Nebraska because black children and Native American children are now actively participating; and the same on the football field where these white schools now have young black people running the ball. If you run a ball, throw a ball, catch a ball, kick a ball, or hit a ball, and you're black, you're all right because that's what you're supposed to be. Donald Trump called them sons of bitches because they took a knee... [LB803]

PRESIDENT FOLEY: Time, Senator. [LB803]

SENATOR CHAMBERS: ...when the National Anthem was being played. [LB803]

PRESIDENT FOLEY: Time, Senator. [LB803]

SENATOR CHAMBERS: That's the word he used. [LB803]

PRESIDENT FOLEY: Time, Senator. [LB803]

SENATOR CHAMBERS: Was that my third time? [LB803]

PRESIDENT FOLEY: That was your third time, Senator Chambers. Senator Groene, you're recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of the committee amendment, AM1719. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB803]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments. [LB803]

PRESIDENT FOLEY: Thank you, Mr. Clerk. The committee amendment is adopted. Is there any further discussion on LB803? Senator Chambers. [LB803]

SENATOR CHAMBERS: Yes. Mr. President, when I succeeded in getting a bill passed that divided OPS into three districts, one of the things I pointed out was that black children having schools in their own area would produce very good athletic teams, because that's what white people like to use young black men for: athletes. And that was construed by white people to be racist. No, they would not have had access to the black youngsters that they were enjoying. There are young black men playing for schools now, little white schools, and I didn't even know

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black people lived in those parts of the state safely. I've seen where, every now and then, a young black girl plays on one of those all-white teams and they're all right when they're in the context of athletics. But off the field, it's entirely different. There have been children from South High who would go play against some schools, one in particular and I don't want to make the school look as bad as it must be, and when they were playing soccer and all these white kids had these green cardboards and they all threw them in the air. Why do you think these little racists-to-be would throw green cards in the air when South High, which had a number of Latinos playing on the team, were there? What were these white kids saying? Who told them the significance of a green card? And you all think we're overly sensitive. Native Americans had heard insults shouted at them when they were playing basketball, and white people are there, white adults, and you all don't do anything to correct it. I have to try to embarrass you here and say, why don't you teach your little children to stop being so savage, teach them that everybody is a human being. It's not going to take with you. You have this man Frost, Frosty the Snowman, who is your coach of your football team, or is it Jack Frost? What's his name? It has something to do with wintertime. And he's going to bring summer to you because he's going to be able to recruit some of those black players like he had down in Florida and they will play at all what they call the skill positions. For you all who don't know it, they don't want to say a black person's position. They call them skill positions. Skill is where you have to be fast, you have to be elusive, you have to be quick. There's a difference between being fast and quick. If you move a certain distance in a certain period of time, that's speed. If you move, if you're quick, you can change directions on a dime. Well, black players are deemed to be quick, fast, the skill positions, wide receiver, running back, and now quarterback. They didn't want black people to play quarterback because that was the brain position on the team. They didn't even want a black person to play center or middle linebacker. And then there was a guy named Singletary who played for Chicago and he did a lot to change all that. And while these players, black and white, were running into each other with hurricane force and smashing into each other, it was an African doctor... [LB803]

PRESIDENT FOLEY: One minute. [LB803]

SENATOR CHAMBERS: ...who discovered CTE and the last letter, the "E," stands for "encephalopathy." And they did everything they could in the NFL to discredit his findings, but they had to acknowledge it because the players knew something was happening to them, their families knew, and the NFL knew. But since they were a multibillion-dollar operation, none of the players counted, black or white, other than for what they could do on the field. But the point that I was touching on is that in these schools black children run into racism in these white schools, but they're there for mainly athletic reasons. And you all don't pay attention to that but we do. They are our children. [LB803]

PRESIDENT FOLEY: Time, Senator. [LB803]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB803]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Krist. [LB803]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. As long as we're on the subject of education, I want to take a moment this morning to help educate the body, particularly those who have not been through a process of having a constitutional challenge--I hope Senator Hilgers is listening to this--for a particular bill that you have brought forward and how that might happen. I passed out to you United States Court of Appeals for the Eighth Circuit and the case in point is Shirley L. Phelps-Roper, Plaintiff and Appellate. This is the Westboro Baptist Church that runs a picket line and protests around our young men and women who come back as casualties from war. We had a law in Nebraska that left our picket lines at a 300-foot interval. We then...I then introduced a bill that pushed it back to 500 feet. It was challenged by a Westboro Baptist at the Supreme Court level. They denied hearing and they pushed it back. It was then heard in the Eighth Circuit Court of Appeals and this is the resulting document. You have to be very, very clear on the floor to, when you're touching some of these constitutional issues and the rights of speech, and in some of the bills that we talk about on a daily basis, to create a legislative record so that if it is...if it has to be defended, you have enough to defend. And I want to thank Mr. Jim Smith. He was named full-time solicitor general for the Attorney General's Office in May of 2017. He was the man who actually took this and went in front of the Eighth District Court. You can read it yourself. I won't belabor the point. But on page 24, the last page, the conclusion, the thread that we tried to carry through this, was that you strike a balance between the rights of the people who are protesting and the rights of the people who are engaging in the activity, which would, in this case, be the funeral recognizing the young man or young woman who are brought back to rest. "The rights of all speakers, including Phelps-Roper," and I quote, "and others at funerals, to publically (sic) express their beliefs are protected by the First Amendment--but are not absolute and some time, place, and/or manner restrictions are allowed." I want to thank then-Senator Lathrop and others who helped me define the parameters by which we would have to create that legislative record and, of course, the finding of the Eighth District Court is to uphold that particular distance in a constructive way, both to develop a manner, protect those vulnerable, emotional conditions that exist at a funeral, as well as the manner of restriction that was put into place. Good reference for you for the future--this is what happens when you have a contest and it's taken to the Supreme Court or the Court of Appeals, which I believe we talked about ad nauseam yesterday, but I still believe that at some point there could be a challenge to that as well. Thank you for your time and I hope that was a little piece of education that you will take to heart. [LB803]

SPEAKER SCHEER PRESIDING

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SPEAKER SCHEER: Thank you, Senator Krist. Senator Chambers, you're recognized. [LB803]

SENATOR CHAMBERS: Mr. President, members of the Legislature, bills like this are good. What they aim at is good. But there has to be evaluation and examination of all these types of things, these programs, when I say "things," because they're related to our children. And I don't often use that expression "children are the future," but they are and we should be very mindful of what the treatment we are subjecting them to is likely to produce when they become adults. And I had touched on athletics, so let me say this. These football players, I've tried. I started in 1979 trying to get compensation for football players. I mentioned the millions of dollars they bring into their schools, their conferences, and the NCAA as an organization, that first-class players travel coach while third-rate coaches travel first class. But at any rate, they were shorted when it came to education because they were reckoned only in terms of how they could perform on a football field, and they would get out of college not knowing how to read. Some of them were not there as students, and I always pointed out don't call them student athletes, call them athletes you're trying to masquerade as students. I even suggested that UNL, since you're going to give them these...well, they had a name for them. They called it basket weaving. It wasn't really basket weaving, but...and Osborne was the coach. I don't respect him like you all do. I told him: You all at that school are trying to keep these players eligible. And there was a teacher, and she was also an adviser in the athletic program, and she said: I could keep a cockroach eligible for the time that cockroach would play football, and that's all that they cared about. But I said, why, since some of these young men are going to go into the pros and they'll make money and these college programs are like training grounds for the NFL, teach them something about handling money, give them a course in financial management, finance management. They wouldn't do it. And Osborne was a racist who would recruit black players and then stack them all up in one position behind each other. And when I said why he did it, nobody believed it, and then they started checking it out and then they started saying how perceptive I am. He would recruit players who were looked at by...Nebraska used to be in the Big Seven, then the Big Eight. And when Nebraska was there, and Oklahoma but Nebraska first, they called it "Nebraska and the seven dwarves." Then somebody supplanted Nebraska, which was Oklahoma. But at any rate, they had this notion, Osborne and this athletic department, that if there are black players who would go to some of these other schools, recruit them to Nebraska and don't let them play, but then they won't play against you for these other schools. Oklahoma wouldn't even let black players on their team. I believe Prentice Gautt may have been the first black player that Oklahoma had. So we have encountered racism everywhere, even in the classroom. So when people become a little more aware of what is going on, and to some extent they began to regard black and Latino... [LB803]

SPEAKER SCHEER: One minute. [LB803]

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SENATOR CHAMBERS: ...children as human beings, they began to some extent to realize that there is an obligation, however small, to provide education to these children. Then little steps, baby steps, are being made in the right direction, and I encourage that. But as a member of the Legislature, I can insist on it and that's what I'm trying to do. So I don't want these programs that will encourage children to be very intellectual for little children, and then they come into a school system where that is not the level at which children are taught, so the children become restless, they're not challenged, they're considered disruptive. They might want to put them on Ritalin, Mellaril, or any of the so-called psychoactive drugs, which they don't call, to quiet them down. And that's where a lot of people got addicted to Ritalin when they were in school... [LB803]

SPEAKER SCHEER: Time, Senator. [LB803]

SENATOR CHAMBERS: ...and doctors prescribed it. Thank you, Mr. President. [LB803]

SPEAKER SCHEER: Thank you, Senator Chambers. (Visitors introduced.) Senator Chambers, you're recognized and this is your third time at the mike. [LB803]

SENATOR CHAMBERS: Thank you, Mr. President. I think what I'm doing today is better than me simply offering motions on all these bills. And I'm more or less staying within shouting distance of the subject matter of these bills. But you have to understand that we bring into a situation what we are. We are products of our upbringing, our experiences, all of those things, and there's no way I could come here and pretend that I'm something that I'm not. Now other people can do that, but I don't owe it to anybody masquerading as something other than what I am, acting like I'm ashamed because I'm black. I am what I am, and I'm proud of what I am. I'm proud of who I am. And I've acknowledged that I have nothing to do with that. My parents account for what I look like and what I am genetically. But other than them giving me the building blocks and maybe the blueprint, the other things belong to me. For better or for worse, I have tried to develop my mind in a way that would take me where I want to go. I will never get where I want to go, but I'm going to do all I can as long as I'm conscious to work toward it. I need to read. I need to study. I need to write poems as therapy because of what I do down here so much of the time. I probably spend more time here than anybody else, and one of the troopers told me that lately he sees me more than he sees his wife. And that's true. And when we're here, I'm going to be doing something, I'm going to be saying something, so I'm going to choose those things to do and say that advance what I think I ought to be as a person. And what would make me a better person here is to discharge my duty as a lawmaker in a way that I understand my duty. And it is not determined by what other people think or by what other people do. I have to get in my mind a clear picture of what I ought to be giving my time to. So when I use the three "Ls"--the last, the least, and the lost--my job is to be a voice for those who have no voice, to be a

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friend for those who have no friends, to be a bastion of strength for those who are weak. For those who are ignored or those who are made fun of, I have to remind them, if they'll listen, that I was made fun of when I was growing up and it strengthened me and it hardened me. And a hard life makes a hard man, but it doesn't have to make you hard in every respect; especially when you deal with children and you deal with people who might be mentally challenged, those who have some disability or disadvantage that makes them feel like they're on the outside, are the ones that I feel I should give my time to. Other people don't need me. Rich people don't need me. Strong people don't need me. But the ones who have no one to turn to do. And what I regret and my resident scientist, I'm going to call him Dr. Kuehn, academic doctor, maybe medical--I haven't heard that he's lost a patient yet--but at any rate, it's a situation...well, I won't say that. I want to make sure that he's here when I say that. But if we on the floor of this Legislature... [LB803]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB803]

SENATOR CHAMBERS: ...could do the things that we have the power to do, we wouldn't have to always theorize and talk about building castles in the sky. We could build castles on the ground. We could make sure that the education is what it ought to be. And if we were going to have a pyramid--it's wide at the base and it narrows at the top--and we were going to rank the importance of various activities and professions, in my mind, if teachers are doing their job, the teacher would be the one at the pinnacle. The teacher would be at the top of the pyramid. From wherever anybody was with reference to that pyramid, when they raise their eyes, the one they'd see at the top would be the teacher. And I don't know what the teacher is for all these kids who come down here and listen to me. But I tell all of them listen to your teacher. If you've got a teacher who doesn't like you and you think the teacher doesn't like you, you know how you fix that teacher? Learn everything the teacher tells you, because that teacher doesn't want you to learn. So fix the teacher, learn, listen. The things that they may not want you to learn, you take it, because they're smarter than you, whether you like it or not. You read everything you can, learn as much as you can about everything you can, and then you might replace me in about 120 years, because that's how long I'll be around here. Thank you, Mr. President. [LB803]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Stinner, you're recognized to close on the advance of the bill. He waives closing. The question before the body is the advance of LB803 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB803]

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to advance the bill. [LB803]

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PRESIDENT FOLEY: LB803 advances. Items for the record, please. [LB803]

ASSISTANT CLERK: Mr. President, your Committee on Government, Military and Veterans Affairs reports LB807 to General File with committee amendments. Committee on Enrollment and Review reports LB950 to Select File. Notice of committee hearing from the Natural Resources Committee. Amendment to LB773 from Senator Lindstrom. That's all I have. (Legislative Journal pages 970-974.) [LB807 LB950 LB773]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll now proceed to General File, 2018 Senator priority bill. Mr. Clerk.

ASSISTANT CLERK: LB299 introduced by Senator Ebke. (Read title.) The bill was introduced originally on January 12 of this year. Referred to the Government, Military and Veterans Affairs Committee. That committee has reported the bill to General File with committee amendments. It has been considered previously on February 20. (AM1665, Legislative Journal page 473.) [LB299]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Just one moment, Senator. Senator Ebke, it's been a while since we've heard this bill on the floor. Why don't you take a few minutes to bring us back up to speed on it. [LB299]

SENATOR EBKE: Thank you, Mr. President. As was noted, this was originally heard on February 20, so I'd like to review where we are at this moment because it hasn't been changed since that point. LB299, as you recall, deals with occupational licensing and we provided a review mechanism for the licensing requirements that the Legislature has enacted. Currently there is not adequate oversight by the Legislature for these creations of the Legislature. This bill would also provide better guidance to folks with a past criminal history and give them the ability to better understand which licensed occupations are open to them and which ones are not. My overarching goal with this bill is to make it easier for people to work hard and earn a living in Nebraska. I'd like to thank Senator Murante and his staff for their willingness to discuss the merits of this policy proposal and their diligent effort on the committee amendment to make my bill more workable while reducing the fiscal impact. I would also like to thank Senators Hilgers, Krist, Riepe, Howard, and Crawford, in particular, for providing constructive feedback both in floor debate and in subsequent meetings. And I want to thank the Speaker for bringing this bill back as well. We've gone through a lot of effort over the last couple of weeks to address issues that were brought to us from both senators on the floor and the policy research office, as well as state agencies, as well as those raised by other colleagues on the floor. Senator Howard and Senator Crawford wanted to address this bill's possible impact on the 407 process and HHS. My office sat down with Senators Howard and Crawford and we went line by line...through the bill

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line by line to address these issues. AM2349, which you will hear about shortly, is a white copy version of the committee amendment. So it will replace the committee amendment which would become the bill. What we would...we understand that there are a few more concerns both from some of the senators and possibly from PRO. PRO has given us written indication that they have a potential amendment coming our way and we know that there are some others that we didn't catch in the last draft so we would address those on Select File. I also want to give a bit shout out to Marcia up in the Reviser's Office. She has been through more versions of this bill than anyone should have to be through. So where we are now is that AM2349 to the Government Committee's AM1665 would become the bill. It's the white copy amendment. I do have a summary of proposed changes to the bill. I would be happy to talk about them at a later time, but thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Ebke. Mr. Clerk. [LB299]

ASSISTANT CLERK: Mr. President, when the bill was considered previously, there were amendments offered by the Government, Military and Veterans Affairs Committee. There were amendments pending to that. The first, Senator Hilgers. Some of this was FA102 and I have a note to withdraw. Senator Hilgers? [LB299]

PRESIDENT FOLEY: Senator Hilgers, if we could just interrupt for a second. The Clerk is asking about withdrawing an amendment you previously filed. The amendment is withdrawn. Thank you, Senator Hilgers. [LB299]

ASSISTANT CLERK: Senator Ebke had previously filed AM2028. I have a note to withdraw that as well. [LB299]

PRESIDENT FOLEY: The amendment is withdrawn. [LB299]

ASSISTANT CLERK: In that case, Mr. President, Senator Ebke would offer AM2349 to the committee amendments. (Legislative Journal page 930.) [LB299]

PRESIDENT FOLEY: Senator Ebke, you're recognized to open on AM2349 to the committee amendment. [LB299]

SENATOR EBKE: Thank you, Mr. President. As I referenced earlier, this would become the bill and there will probably be another adjustment on Select File. Let me just run through the quick proposed changes to AM1665 that we would see in AM2349. The first issue that we saw in AM1665 would have required a sunset...a sunrise review, rather, process requiring committees to

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apply certain factors in analyzing new occupational license bills before them adhering. And you will see a copy on your desk of this as we go through it. One of the concerns raised in floor debate was whether legislation was a proper place to instruct committees and the proper procedure for evaluating new legislation. Another concern cited on the floor about the sunrise review process had to do with the allocation of staff resources during session. So to resolve these issues, the sunrise review component of AM1665 was eliminated entirely by AM2349. The second issue raised with AM1665 would have mandated an ongoing occupational license review process requiring committees to evaluate all existing occupational licenses under their jurisdiction on a rolling basis every five years. The concern we saw with that was that without some specificity in the review process component of AM1665, senators and staff were concerned about the scope of the mandated report and whether they would be capable of completing it as (inaudible) directed. Our solution to that, to resolve this concern, AM2349 now provides more detail on what information the committee report should include at minimum. The third issue dealt with occupational licenses currently in law that have been subject to the executive branch credentialing review process created by LB407 in 1985. Our concern was that standards set out in LB299 could potentially supersede those specified in current law as a result of LB407. To resolve this concern, AM2349 includes numerous changes to harmonize with existing LB407 standards. Additionally committees are directed to consider any relevant LB407 reports in conducting their regular oversight review. And we do continue to make some tweaks to that language to be even more explicit. And on that, we'll see an amendment on Select File. The fourth issue, people with criminal convictions on their records may be barred from being licensed for some occupations. However, they are often unable to determine this before completing training and other prerequisites for the licensure. So AM1665 would allow a person with a criminal record to ask state licensing authorities whether their record would disqualify them from licensure and to make this request before undertaking the other license requirements. Legal counsel from the Department of Insurance expressed concern that the standard for this agency advisory opinion component in AM1665 could conflict with existing licensing standards, meaning that a person might get an advisory opinion that did not correctly advise them of their ability to get the license in question. So our solution to that, the advisory review standard is removed entirely, allowing the licensing authority to apply their existing standard when providing advice. This was the preferred method of resolving this issue and was suggested in writing by agency legal counsel. And then AM1665, finally, included an expansive list of occupations which are currently or might at some point be subject to state occupational regulations. There was some concern expressed by Senator Krist that some of these occupations are currently regulated by a comprehensive federal regulatory scheme. In other words, related to airplane pilots and other airplane-related mechanics and so forth. So our solution there was to eliminate the confusing list of occupations and instead provide a definition that can be applied without maintaining a long list in statute. I believe that there will be others who will be talking a little bit about some of the things that we're going to work on on Select, but I would urge my colleagues when we get to that point, to advance...to adopt AM2349 to the Government

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Committee amendment and then advance LB299 to Select File. Thank you, Mr. President.
[LB299]

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate is now open on LB299 and the pending amendments. Senator Krist. [LB299]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. Again, I'll be very brief. I want to thank Senator Ebke for working with all of us, particularly hearing the message and understanding the redundancies particularly when the state seems to want to get into occupations, professions that are already being regulated heavily by the federal government. There are some provisions in agriculture with spray planes that are already being monitored and those things are being taken care of. But again, thanks to my chair in Judiciary for her understanding, listening, and modifying LB299. And I will fully support AM2349, AM1665 and the underlying LB299. Thank you. [LB299]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Howard. [LB299]

SENATOR HOWARD: Thank you, Mr. President. So, I spoke with Senator Ebke about LB299 and have been speaking with her for the past couple of weeks. In fact, I candidly told her that I think I have spent more hours on LB299 than I have on any of the other 22 pieces of legislation that I introduced this year. That being said, I wanted to go back to the core value of LB299 and the two pieces that there's really...I can't imagine that there's disagreement on. And one is that criminal piece, which is really important. The other one is...I think we can all agree that it's healthy for us to regularly look at our occupational licenses, make sure that they're doing the things that we want them to do, and ensuring the health, safety, and welfare for individuals in the state of Nebraska. That being said, when we got AM2349, I hadn't really gone over it with a fine-tooth comb. And so I wanted to make sure that the changes that we are hoping for are all in the record. And so we have passed out sort of a note, a summary. And Senator Crawford and I will sort of tag team on that. But really when Senator Crawford and I looked at this bill, we looked at it with concern in regards to the 407 process, which is the process that reviews scope of practice and licensure for our healthcare and health-related professions in the state of Nebraska. We did not address concerns for any other licensure outside of those that are impacted by Section 71 or the 407 process. So there may be other issues in this legislation and in this amendment that do not deal with the 407 and that was exactly the only area that we looked at. So the first issue that we asked for that you won't see in AM2349, but if you'd like to follow along it's on page 2, lines 11 and 13. It says an individual who is not certified may engage in the lawful occupation but is not allowed to use the designated title. So we asked for that language to be stricken with the idea that it would allow individuals to possibly bypass necessary training requirements and say, I'm a doctor, but I can't, I can't...I'm not certified as a doctor, but I'm going to do the things

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that doctors do. And so we felt that that language was not helpful to LB299. The other thing we asked on the first page was for that certification definition. We really wanted to make sure that it jived with Section 71 and so we asked for a full reference to Section 71 and the definition of certification therein so that there wouldn't be any supersession between LB299 and Section 71. The third thing is that we asked for a strike regarding the notice on page 3, line 18 to 21. We asked for a strike there because we thought it would create more unnecessary regulation, which I know the idea behind this legislation is to not have more regulation. And this is in Section 12 on page 3 because that is the definition of registration, which ends up being a little bit different than the definition of registration in the healthcare statute. For healthcare professions, a registration can require some educational qualifications and it can require a background check. And while I appreciate that this is all very boring, I do want to make sure that this is all on the record. So we asked for a reference directly back to that registration statute in Section 71 and a strike on line 22 to line 23 that says that a registration, it does not include any requirements to show personal qualifications. We wanted to make sure that the registration can require a bond, but we also didn't want to tie the hands of future Legislatures by saying that they could not have any personal qualifications be part of a registration. On page 4, line 25, we asked that... [LB299]

PRESIDENT FOLEY: One minute. [LB299]

SENATOR HOWARD: ...there be a reference directly back to Section 71-6222, which is the method of least-restrictive regulation in the 407. We felt that that met the aims of LB299 and that met the aims of the LB299 review that was asked for. On page 7 there were just some clarifying...I'm sorry, on page 5, number 7 in your cheat sheet. Changing the word felony to criminal conviction across the board just to make it more expansive. And number 8 on your cheat sheet, we asked to include the word anonymously to make sure that any sort of denials for licensure would be reported to the committee in an anonymous way. I won't talk on this. I don't want to run time, but I'm happy to try to answer any questions. Again, the core value of this is that we don't disagree with the criminal provisions and we don't disagree with a regular review but we do want to make sure that it dovetails nicely with an already existing review standard. And I believe that we can get there between now and Select. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Crawford. [LB299]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor, and good morning, colleagues. I want to also echo my thanks to Senator Ebke and your office for spending considerable time with us looking at those questions of how the review in LB299 can be consistent with what we already have in place in terms of a definition of least restrictive in our healthcare professions. And our healthcare professions are really the largest number of our professions that would end up being governed by this provision of reviewing the licensure and also being able to have the

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protections in terms of trying to prevent people from being barred from profession or understand their ability to enter a profession even if they have past criminal convictions. I want to echo our emphasis. We sat and worked through most of these concerns in the office together. We agreed to let it come back on the floor and not filibuster, or if it got filibustered to be a cloture vote under the assumption that anything that was not covered in the amendment would be covered between General and Select. And so we wanted to be very careful to identify what those things were. So in our initial meeting we had really stressed many of these references and felt that they were very critical to be very clear. And I appreciate there was effort to adjust language, but I just want to give one example of how that could backfire, and some of our concerns about changing the language only and why...just going back on page 4, the...we asked to make sure there was a reference on terms of the least restrictive method of regulation going back to what we have already defined for health. And on lines 5 through 19, it talks about using the least restrictive regulation necessary to protect consumers from present, significant, and substantiated harms. And we talked significantly on the floor last time about our concern about that language as a standard. So they had added threatening and endangering health and safety and welfare of the public to that language but as it's written on page 4, I'm concerned that our understanding of threatening and endangering health, safety, or welfare of the public is now being predicated by, or defined by present, significant and substantiated harms. So I'm concerned that tightens that definition even more and that's part of why we felt at least for health professions it was absolutely critical to make sure we went back to that standard that we outline. And in terms of the registration, colleagues, we have two bills on the floor that follow the other definition of registration and that's part of what we're dealing with. Let me just pick up where Senator Howard left off. Number 9 is talking about subsection (g). As Senator Ebke said, this is a sun...this is really reviewing, not a sunrise addition. We're just raising concerns about the definition of what's required for a license to be considered a license to be a relevant recommendation. And again, there we put...we have very specific standards of when a license is required in the healthcare profession and so that's why we ask that that be considered instead of what's outlined in (g). Some concern about (g) being treated otherwise in statute as a consideration as a statutory defined consideration... [LB299]

PRESIDENT FOLEY: One minute. [LB299]

SENATOR CRAWFORD: ...for when licenses are necessary in other places. Thank you. Number 10 is again adding a section to make sure that we're being attentive to the health standards that we already have in place. And number 10 is a simple one which is again...was raised earlier too, just to make sure this is something we have to work out as we continue to move LB751 across to make sure it's consistent, that simple one. Again, I want to emphasize as I did on the floor before that our work here is...has been focused on the health professions and that has been our emphasis. And so we have really narrowed down on that aspect and expect others who are focused in other areas and other fields to be attentive to what impact these changes have in their

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field are concerned as we approached it was, that we were concerned about a new standard that would replace well-established standards. So reviewing the licenses... [LB299]

PRESIDENT FOLEY: Time, Senator. [LB299]

SENATOR CRAWFORD: ...to make sure they fit those standards, great. But we didn't want at this time to replace standards for those professions. Thank you. [LB299]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Wayne. [LB299]

SENATOR WAYNE: Thank you. Thank you, Mr. President. First, I want to thank all the pages today for allowing me to work with them and sit with them today. I did not realize when I came to work today that I wear a similar outfit, so. But I did learn that I made more money per hour working with you all than I do working out here, so I do appreciate that. I rise in support of this bill. The concept generally, I know, working from General File to Select File, there will be probably some more changes...there will be some more changes. But generally speaking, at least in Urban Affairs we were talking about creating a process in which building codes and other licenses and regulations come on a routine basis within Urban Affairs because we need to, every four to five years...and I got this concept from me being on the Government Committee where we reviewed board and commissions last year. We should be doing the same thing. So conceptually, I support this bill because every committee should be doing this conceptually. I think it's disingenuous and unfair for those in the industry to say, don't worry, we got this, when we're the ones who allowed them to get the license in the first place. So I think they should least be able to every four to five years justify what licenses, what regs, what things are needed to survive as technology and things change. The other reason is, I used to work for a railroad where computers completely changed the scope of work for our telecommunication employees. The same licenses requirements that were needed when my father worked for the railroad were not the same things that were needed in the field. Same with engineers. Same with conductors. There used to be a conductor at the end of the booths and we used to sit there and there would be one in front and one at the end. Now it's called the FRED. It's a little light that has a GPS. As technology changes, licenses and regulations should at a minimum be reviewed. And it should be reviewed by the governing body who granted them the ability to do it and that is us as the Legislature. This bill still requires any changes to go through the formal bill process. So those who are for and against any changes can come in and have a public hearing and do those things. But the one thing that the board and commissions process taught me on government affairs is there is a need for review of at least what's out there to make sure that we are keeping up-to-date as times change. So with that, I will vote green. I hope to look forward to working with Senator Ebke to make any new or additional changes. But that's why I'm supporting conceptually what is

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going on with this bill and as time of this session ends, I hope we can get this bill taken care of to where everybody is satisfied. Thank you, Mr. Speaker. [LB299]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator McDonnell. [LB299]

SENATOR McDONNELL: Thank you, Mr. President. I rise today based on the idea that I believe what Senator Ebke, big picturewise, is trying to accomplish with the idea of a review process is necessary and we should all accept that. The idea of also giving people a second chance that have made mistakes in their past with a criminal conviction, for those people to know if they are looking for a license, a certificate, and they are going to pay their money out for that tuition, and they're going to go through that process for a number of years, are they going to be accepted? And knowing to have that opportunity for a family member, a friend and neighbor, I think we would all agree that that is something we should look at and do. Now trying to work with Senator Ebke between General and Select, there's a number of concerns I have, and that's why I'm not going to vote against this today and I'm not going to vote for it today. But I am going to be working with Senator Ebke before Select, and I know she is willing, because of our discussions this morning, but also I want to give her credit on the big picture of looking at the review process and also those individuals to make sure they have an opportunity for these license and certificates and are not going to be told after the fact that they are no longer qualified because something that happened in their past. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator McCollister. [LB299]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I rise in support of AM2349 and LB299. It's good, good legislation. This bill represents a more comprehensive approach to licensure in the state than what we've had before is a big, big step forward. And it integrates well with the other processes that exist, the 407 process. So I salute Senator Ebke and the rest of the folks involved with this legislation that has made this bill what it is now. I should also tell you that the inertia that we seem to have in so many bureaucratic areas, that is the problem and this bill will combat that bureaucratic inertia that exists in government, no matter what level. And I think this will pierce that process and move things forward. I should tell you that the NCSL has an interest in this bill. I serve on a national committee and we held a meeting here a couple of weeks ago by telephone, and they wanted to know all about LB299 and the licensure reform existing in Nebraska. And many states are doing this and they're thinking that maybe Nebraska is the national model, so I salute Senator Ebke and her group for that effort. This also is the American dream for many people. Those folks that can't step up in their life and become what they want to be because the licensure requirements are so restrictive, this will change that. You know, they can better themselves, the families can earn more money, this is the

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American dream. So we need to do all we can to support this effort and move this bill forward. I urge your support of the amendment and LB299. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Kuehn. [LB299]

SENATOR KUEHN: Thank you, Mr. President and thank you, colleagues. I just do want to draw your attention to one particular part of AM2349 just for the record. You'll note that it does amend Sections 84-910 and talks about the notification process. I haven't had a chance as I was just reading the amendment during debate here and where we're taking a look at that with regard to staff. But I just want to make everyone aware that a Speaker priority bill that we will hopefully be hearing in the next couple of weeks, LB751, amends this exact same paragraph of statute. So as we're contemplating some language changes, we'll be potentially merging statutory changes to one probably untouched paragraph in a long period of time of statute. And also just wanted to make sure everyone is aware that that does put an additional reporting responsibility on the legislative Performance Audit Office. So as chair of the committee, I just want to make sure that everyone is aware of that. We're checking the staff and I don't think that's going to present a problem or a complication, but it does reinforce the need for clear standards on how this information is reported, and the mechanisms by which we have communication between Executive Board, the Performance Audit Committee in how these reports are distributed to standing committees. As we found with the unpromulgated rules and regulations issue which has prompted LB751, there can be a significant gap in communication and a lack of clarity in terms of how these reports once received and how they are to be conveyed and distributed to the individual committees of jurisdiction. So as we continue to proceed forward with this legislation, I think it's important that we gain some guidance and also make sure everyone is clear in understanding what the expectation is of how that information is conveyed between those committees. So I'll pop over and talk to Senator Ebke and we'll make sure everything is clear and specified on that as we proceed forward with this legislation. So just wanted to bring that to the attention of the body and into the record. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Quick. [LB299]

SENATOR QUICK: Thank you, Mr. President. I know I've received several e-mails actually opposed to this bill and I think maybe some of the concerns have been addressed because some of them were from the health profession, but I have also received some from engineers. I have talked to someone who is a hairdresser and they're all concerned about what this whole process will be. So, I know I've had conversations, too, with Senator Ebke and we'll keep talking about maybe making sure that we can address those concerns. I know...you know, along with the healthcare professionals, we also have people who work in the trades that also deal with public safety and some of those areas, and also some of the professionals who have licenses, like

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engineers and those type of professions. And we've just got to make sure that some of the definitions within the bill are going to make, you know...to make sure that their licenses aren't harmed in any way because I think...I'm okay with the review process. I understand all of that. But maybe some of the definitions that are outlined under restrictive regulation and those types and the order that they are in and looking at some of those issues, we also have some of the process that goes along with that to bring us back to how we come back and look at licenses as a legislative body. And so I just want to make sure that if we're going to do this, that we do it the right way. So I will probably be also not voting and hopefully we can work together and address these issues. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Bolz. [LB299]

SENATOR BOLZ: Thank you, Mr. President, and I'll admit that I'm still trying to fully understand all the mechanics of the bill and the amendment as proposed. So questions in good faith to try to better understand what's being proposed and how it would work. I do really appreciate Senator Ebke's work on the issues related to felons' access to occupation and career choices. You know, I think we can have some shared agreement that we'd rather have folks working and paying taxes and contributing than not. And so I do appreciate those aspects of the bill. I would like, Senator Ebke, if she would yield to a couple of questions in terms of defining some terms. [LB299]

PRESIDENT FOLEY: Senator Ebke, would you yield, please? [LB299]

SENATOR EBKE: Yes. [LB299]

SENATOR BOLZ: Thank you, Senator Ebke. Can you just help me understand the bill references reviewing the least restrictive regulation and least restrictive to most restrictive. I'm trying to get my head around how this work will get done to marry up public safety interests with other interests. So if we have, for example, the private certification, so if we have a private certificate saying someone is capable of inspecting an elevator or doing electrical work or being a social worker, how will we discern that that is in the interest of the public safety with all of those professional rules and regulations? Can you just help me maybe walk through an example of how that would work? [LB299]

SENATOR EBKE: Sure. Well, I mean, I think ultimately when you talk about any of the occupational regulation, these definitions that we've provided...we've tried to provide a framework for us to look at, for the Legislature to look at and to assess. But the assessment is ultimately going to be somewhat subjective. Depends on who is in the Legislature, who is...you know, how we define a particular thing. So, I mean, I don't know if I can give you a hard and fast

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if, you know, if then, this is the way it's always going to be. But generally speaking what we're trying to do is provide this framework for the Legislature to look at as they are either creating new occupations or assessing the current ones. [LB299]

SENATOR BOLZ: So, that's helpful. So, if I were a part of that conversation, I would be reviewing what it takes to get a certain private certification and what would be the standard to which I would apply that to? Would it be, you know, my knowledge base or the legal counsel's analysis? How do I discern whether a private certification is good or not good? [LB299]

SENATOR EBKE: Yeah, I mean, I think that with a lot of the private certifications, if that was going to be our strict standard, I mean we would...how do we decide what to license today? When we decide to license something new today, you know, none of us are experts in, I don't think, in...as a dental technician or dental hygienist. And so what we do is we listen to those who are experts in those fields, people who suggest that we should make these new licenses or change the credentialing requirements and we apply our standards in some way. As I see most of this, most of the definitions, it's really an intent, it's really pointing the Legislature in the direction of looking at it this way. But how we each define and how I define least restrictive and how you define lease restrictive may be very different and that's where the legislative process works. [LB299]

SENATOR BOLZ: Okay. That's helpful, I'm starting to deepen my understanding of what your goals and intent are. I do...and I always want to think the best of Nebraska and think the best of people. I'm struggling a little bit with how to...how we'll discern when maybe there are certifications or market interests that don't...that have a bottom line interest in mind or have another interest in mind, not necessarily the best interest of the state as a whole. And I don't mean to make dark commentary if it's not appropriate, but there are interests who would provide certifications that are lower standard because they want to charge for those certifications or because they see a business interest in doing that. And particularly as somebody who works in the social work field, you know, if we're certifying people who are...well, social work or electricians or even elevator inspections, how do we solve for the bad actors? And I'd be curious your take on how we would make sure that those bad actors providing certifications in any field would be sorted out of the way that we're... [LB299]

PRESIDENT FOLEY: Time, Senators. [LB299]

SENATOR BOLZ: ...moving forward. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Bolz and Senator Ebke. (Visitors introduced.)
Continuing discussion. Senator Crawford. [LB299]

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SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. And again, I want to emphasize that I think Senator Bolz is raising some important questions as everybody is looking at this bill as we look at changes on Select File in terms of making sure this is, you know, providing an appropriate framework for us moving forward. And as I've said multiple times on the mike, the...I think particular attention and concern to the clear...the substantiated presence and significant harm standard and how it's used in different parts of the bill. And the amendments that we have, we address that for healthcare professions by asking that the reference be to the standard of harm that's in our statutes already for those professions. But the present substantiated significant harms is still a standard that's in the bill as a standard in terms of thinking about when licensure is necessary for other professions. And thinking about that in your own areas and for the other people that you are representing is important in thinking about what that means for, as a standard, as we're thinking about licensure, is a critical issue for our debate moving forward. And again, we focused on addressing it in terms of the health professions, but this is about other professions as well, like we have talked about this morning. And so that's just an important standard, I think is important as we move into Select File on debate. And...or if there's issues that other people have of ways to recognize how that might need to be addressed and that you're talking to Senator Ebke about that if that's an issue in your fields. So I just wanted to again lay that on the record that our emphasis was to make sure to protect it for those health professions and that standard is a part of the framework that's in the bill and it's important for everyone to be thinking them and that we do everything we can to make sure, as we're moving to Select, that all people are looking at what those concerns might be and are working with Senator Ebke about those issues if you see them or have them. Thank you. [LB299]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Ebke, you're recognized to close on AM2349. [LB299]

SENATOR EBKE: Thank you, Mr. President, and thank you, colleagues, for your attention. I just want to clarify one thing that was mentioned at some point. I want to point out that while this bill has the potential to change many things, by itself it does not. What this bill does is creates a structure for review. Any changes in licensures, any changes...any creations of new licensures, any deletions of licensures would never be able to happen as a result of this review process. It would still have to go through the regular legislative process. And with that, Mr. President, I thank you and...let's vote. [LB299]

PRESIDENT FOLEY: Thank you, Senator Ebke. Members, you've heard the debate on AM2349. The question for the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB299]

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ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of the amendment to the committee amendments. [LB299]

PRESIDENT FOLEY: AM2349 is adopted. Senator Murante, you're recognized to close on the Government Committee amendment. [LB299]

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. The amendment you just adopted was the white copy amendment to AM1665, so we've already adopted it. Now we procedurally have to do it again. So I would encourage however you voted on the previous amendment, do the same. Thank you, Mr. President. [LB299]

PRESIDENT FOLEY: Thank you, Senator Murante. Members, the question for the body is the adoption of the Government Committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB299]

ASSISTANT CLERK: 27 ayes, 0 nays on the adoption of committee amendments as amended. [LB299]

PRESIDENT FOLEY: Committee amendment is adopted. Senator Ebke, you're recognized to close on the advance of the bill. [LB299]

SENATOR EBKE: Thank you, Mr. President, and thank you, colleagues. I would request a call of the house. Thank you. [LB299]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB299]

ASSISTANT CLERK: 22 ayes, 1 nay to go under call. [LB299]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Senator Hilkemann, if you could check in. Senator Lindstrom, Senator Brasch, Senator Chambers, Senator Morfeld. Senator Groene, if you could check in. Senator Halloran, if you could check in. We will proceed pursuant to Senator Ebke's direction. The question before the body is the advance of LB299 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. Record vote has been requested. [LB299]

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ASSISTANT CLERK: (Record vote read, Legislative Journal pages 974-975.) The vote is 31 ayes, 0 nays, Mr. President. [LB299]

PRESIDENT FOLEY: LB299 advances. Items for the record, please. [LB299]

ASSISTANT CLERK: Mr. President, your Committee on Enrollment and Review reports LB945 to Select File. An announcement that Judiciary will hold an Executive Session in room 1113 upon recess. (Legislative Journal page 975.) [LB945]

And a priority motion. Senator Hansen would move to recess until 1:30 p.m.

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

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good afternoon, ladies and gentlemen and 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.

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Do you have any items for the record?

ASSISTANT CLERK: Not at this time.

PRESIDENT FOLEY: We shall proceed to the afternoon agenda. General File, 2018, Senator priority bill. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the first bill this afternoon, LB158 introduced by Senator Pansing Brooks. It's a bill for an act relating to juveniles; change provisions on the appointment of counsel for juveniles and standards for guardians ad litem and attorneys in Juvenile Court; to provide for rescission of a waiver of counsel by a juvenile; harmonize provisions and repeal the original section. The bill has been considered previously by the body. The bill has committee amendments, which were pending the last time the bill was under consideration. When we left we were considering a priority motion to bracket LB158 from Senator Groene. [LB158]

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PRESIDENT FOLEY: Senator Pansing Brooks, Senator Ebke and Senator Groene, you all had bill or motions or amendments pending when we left this bill. It's been a number of days. If each of you would like to take a minute or two to refresh us on where we left off that would be fine. Senator Pansing Brooks, why don't you start us off with a little refresher. [LB158]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, we're back at it. I feel like this is a happy day because I think we can do a lot of good for our kids across the state. As a reminder, LB158 deals with a constitutional right. The Sixth Amendment has been extended to children, and under In re Gault, and juveniles have a right to counsel. They have a right to make sure that the proceedings that are going on before them that they understand those proceedings, and that they have...if they waive counsel, which they can do at any point, that it is an understanding and knowledgeable waiver. That is part of the requirement of the Supreme Court. So, I just want to remind you that minor offenses often carry significant consequences. And so I will speak a little bit more to that and I am excited for this day because I think we have the opportunity to do what is right for our children across the state. Thank you, Mr. Lieutenant Governor. [LB158]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Ebke, would you like a minute or two? [LB158]

SENATOR EBKE: Thank you, Mr. President. AM145 to LB158 makes two changes to the bill. First, it addresses concerns with the appointment of counsel for juveniles who participate in a pretrial diversion program by clarifying that under such circumstances counsel need not be present. Second, it adds a requirement that a judge inform a juvenile of his or her right to rescind a previously given waiver of the right to counsel at all hearings following such waiver. LB158 is amended by AM145, advanced from the Judiciary Committee on a vote of 7-0, to one not voting. On behalf of the committee, I would ask for your green vote on AM145. [LB158]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Groene, if you would like a minute or two, you may take it. [LB158]

SENATOR GROENE: What's that? [LB158]

PRESIDENT FOLEY: If you'd like a minute or two to refresh us, you're welcome to take a couple of minutes. [LB158]

SENATOR GROENE: I don't have an opening. Did I have an opening? [LB158]

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PRESIDENT FOLEY: I think you already opened on that motion, is that right? Yes, you've already opened but if you want to refresh us for a couple of minutes, you may do so. [LB158]

SENATOR GROENE: Thank you. I've handed out the handout I gave you about Lincoln County. I'm going to focus on rural Nebraska. I'm going to focus on rights. I'm going to freely admit I'm a pro-family, pro-parent, parental rights individual. I'm pro-individual rights. We have Supreme Court cases where it clearly defines you have the right to deny counsel, to never have counsel in a criminal case. We have that, Peruta v. California. I can get you the court case if you want. I've been talking to my judges, my public defender, who's a very progressive individual. We don't see eye to eye on a lot. He agrees with me on LB158. My judges agree with me on LB158. My county attorney agrees with me on LB158. As we get further into this, I will bring up some points to tell you why, and keep your handout handy, those are factual numbers I got from the county clerk's office...not the county clerk's, of the court clerk's office. Not some survey that was taken where numbers are filled in. Those are actual about Lincoln County's history. I will point out how 109 citizens, functional families, red-blooded American teens get in trouble. I can name a few that are still in functional families where the parents care. They make decisions. They decide not to have an attorney. They understand consequences of their actions and they're willing to take it. This bill will cause them to have a legal fee. Any attempt in the past that you heard you can dismiss that lawyer, you cannot because the lawyer if his ethics says, no I can't give you that advice to dismiss me. I haven't done discovery yet. I don't understand what the county attorney has on you. So I am going to tell you I'm not going to advise you to dismiss me. And the three counties that are doing it, I can't find a case yet where the attorney was dismissed after the hearing. [LB158]

PRESIDENT FOLEY: Thank you, Senator Groene. [LB158]

SENATOR GROENE: Thank you. [LB158]

PRESIDENT FOLEY: We'll now proceed to debate. Senator Erdman. [LB158]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley, and good afternoon. I see a handout on my place when I came back. It looks like...I'm quite sure it's from Senator Patty Pansing Brooks. It has the red arrows on it. Senator, what is it that you want me to know about this handout? Can you...will you answer a question? [LB158]

PRESIDENT FOLEY: Senator Pansing Brooks, will you yield to a question, please? [LB158]

SENATOR PANSING BROOKS: Yes, I'd be happy to. [LB158]

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SENATOR ERDMAN: So what point are you trying to make with your arrows in the boxes here? What is your...what is your... [LB158]

SENATOR PANSING BROOKS: The point is this was handed out as to showing the cost of all juvenile defenses. These are not all costs that can be attributed to juvenile defense, so we showed what each one talks about and how it's different. [LB158]

SENATOR ERDMAN: Okay. All right. So have you looked at any of the counties in my district as to what the costs are there? [LB158]

SENATOR PANSING BROOKS: No, I haven't because Senator Groene passed this out, so I... [LB158]

SENATOR ERDMAN: Oh, Senator Groene, okay. All right. Well, I was opposed to this last week when we spoke about this bill. I'm opposed to it again today. I am in agreement with Senator Groene's bracket motion. This doesn't work for us. Those people out there that get caught with a cigarette or something, they don't need a counsel and they don't need to pay extra lawyer fees. It looks to me like what happened here, and I'm not sure about what happened on the history of this because I haven't been here, but it looks like we put this in place a year or two ago, whenever it was, or we carved out two or three counties and that worked quite well for those lawyers in those counties. And so then we go back and we take another bite at the apple and we try to get the rest of the state be involved in the same things that worked in those three counties. It doesn't work for us. Senator Groene pointed out the fact that once that lawyer is put in place, it's really difficult to dismiss him and my county attorney, I also talked to the prosecutors there, and they are of the same opinion that this is not needed. We don't need this. One size does not fit all across the state of Nebraska. And we do a lot of that here. And so when we're farther away from Lincoln, the farther west we go, it's the more different we are. And consequently, we spend about 40 percent, 35-40 percent of our county budget goes to doing things, judicial things that the state forces us to do. And I understand and it's very important that children that need counsel get represented and they do that. Those judges are very cognizant of that and they make sure that these children have the necessary guidance that they need. But to force someone to have a lawyer that doesn't need a lawyer is not what we need to do with this bill. And so as I said earlier, I am not for LB158 or the amendment from the Judiciary Committee, and I'm going to vote red on everything but the bracket. Thank you. [LB158]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Groene. Senator Groene, you're recognized. [LB158]

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SENATOR GROENE: Thank you, Mr. President. There has been claims which I think is foolish in the first place by courts in the three counties that are doing it that it speeds things up and makes things flow better. Think of what I just said, folks. For the employees, the judges, the county attorneys, the clerks, are we becoming chattel in this state? You hear the word the system. You get into the system. You just keep your mouth shut and you flow through it. You have no more individual rights to say I am not guilty. I don't want to pay for a lawyer. I'm of sound mind. This takes it away for those individuals, those teens, call them, who just made a red-blooded American kid made a mistake, got an MIP, mom and dad decide they're going to plead guilty and have it over with. Let me tell you how it will work in Lincoln County. According to my judges out there, 95 percent of juveniles that come to court and waiver their right to an attorney are done the same day. They take their probation and go back home. Let me explain who those individuals are. One hundred nine of them out of...what was it, 237 in '15-16, 261 cases, 109 of them did that. We're by Lake McConaughy. We also have the NEBRASKAland Days, the big summertime event. You're all welcome to come out. Kids come to concerts, they go to the beach, they get picked up for MIP. They get picked up for under an ounce of marijuana from Colorado and Kansas. Right now they drive to North Platte, plead guilty with their parents, go back home, do probation by mail, send in their grades, take a urine test and it's over with. This will make them come back two or three times. The local kid just wants to go on with his life. He takes the urine test for six months. He shows what his grades are. He learned his lesson, he goes on with life. This will send a bill to middle-class, two-parent families, single-parent families who can't...read the bill, folks. The money we're talking about goes to the poverty. What happens is the court sends out an inquiry about your income. It decides if you can get a free attorney or if you have to pay. These 109 individuals' parents making \$50,000, maybe to \$100,000, if they're lucky, both of them working, but don't qualify for a free attorney. They're going to get a bill. This is a tax increase. They're going to get a bill from an attorney. And let me tell you how it works in North Platte in Lincoln County. We don't have enough attorneys out there now because of that chart that I passed out that got red lines on it. I handed that out for a point. Those are changes we made in juvenile court, custody, what we forced the counties to supply attorneys. And in our county it has gone from \$181,000 to six hundred and some thousand. I'm talking about all juvenile court because we're going to do good things for the kids. You're breaking the budget. We're making justice unaffordable to society. In Lincoln County, like I said, 95 percent of them do that. We're not like Lincoln, Omaha where public defenders and qualified attorneys, who accept appointment or not, are present in the court ready to take an appointment. We have attorneys who reluctantly sign up for this to help the system. They're not all in North Platte, they're in Cozad, they're in Ogallala. They're not sitting there waiting, so...read this bill. It says, at the hearing they will be appointed an attorney. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

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SENATOR GROENE: ...it doesn't say previously. No, at the hearing. So then you go back home. The attorney is in Ogallala. They contact each other and then they get together...\$100. We're \$100 an hour. Omaha is \$65, \$75. You've got plenty of attorneys. We don't, so we have to bid it up. This is a solution looking for an...an answer looking for a solution or whatever you want to call it. It's foolish. You're taking people's rights away because of some feeling, some academic exercise about the free rights, the rights you have. But we also have rights as individuals to refuse those rights. I didn't take a vote count. I've got to believe there are 17 at least...there should be 25 who would say no. This is Nebraska. Thank you. [LB158]

PRESIDENT FOLEY: Time. Thank you, Senator Groene. Senator Halloran. [LB158]

SENATOR HALLORAN: Thank you, Mr. President. I think the other day we talked at some length about bills that never come up once, but repeatedly come up year after year and this wasn't that many years ago. I wasn't here, but in 2016, it's been referred to before, this bill was before the floor and virtually the same bill. And as part of the negotiation to arrive at a vote of approval, they carved out all cities under the population of 150,000. And this turns out to be kind of an example of incrementalism where in order to get part of the bill passed for part of the state, they had a negotiation, a compromise to do that, and then we come back a year or two later, we try to capture the whole state under an umbrella after a compromise was previously agreed to and that compromise was to leave the rest of the counties under 150,000 alone on this issue. I, like several other senators, have visited with our judges back home. Visited with the prosecuting attorneys, visited with the defense counsel, defenders, and universally they say this is not necessary. Court procedure in juvenile court universally is this way in our county and I assume it's probably the same everywhere else. First appearance is an arraignment where a minor and a parent or guardian are advised of the allegations as charges. Right, and disposition in open court. The court on the record gives an advisement to the minor and the parents concerning the minor's rights to an attorney of their choice. And if they cannot afford an attorney, of course, then one will be appointed by the court to represent the minor. And this does get down to a question of the freedom to choose whether or not to hire an attorney. It appears as though we're kind of backing away from the reason for the compromise a couple years ago to do this and the arguments. I was not there. Maybe we can draw upon some people with some experience with that bill when it was debated, but it seems as though it was logical at that time to carve out counties with less than 150,000 not to have to do this. So I would...obviously, I didn't start this way, but I do stand in favor of the bracket motion and look forward to the balance of the debate. But in closing, this is not necessary for our counties. And we talk a lot about using...having the judge have discretion to make decisions on a per case basis. In the middle of a case if the judge feels as though that it was a mistake for the juvenile not to have counsel, my judges, our judges back home will intervene and say no, you need to have counsel. It's not a choice. If they think that they're being underrepresented by their own representation, then they will have counsel provided for them. It wasn't too many days ago we had a bill that we passed emancipating juveniles, giving them the

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benefit of the doubt under certain circumstances at a young age to be emancipated from their parents. And that's a question about whether or not they have the judgment at that age. We were okay with that. And I think we should give due credence to not use that as an excuse for juveniles not to have the judgment to choose counsel. Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Pansing Brooks. [LB158]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, I am...I'd like to have you all look at the pamphlet, or the little sheet that I passed out that says real cases, real consequences. There's a case in Cass County where it was over the bag limit and it was on fish, small game and turkey. It's a misdemeanor. And the court proceedings in that one, the youth and the parents did not appear to the first appearance. They reset for another hearing. The family again did not appear. The parent called in the next day and needed a Vietnamese interpreter on the line. Hearing was reset for another two weeks. The family failed to appear again. The warrant was issued for the youth to be placed at a shelter if found. Now, if that happens and LB158 were passed, then the attorney would have reached out in advance of the court, the first court hearing, made contact with the family and discovered the need for an interpreter. Done to...which would be done due to diligence to ensure that the youth and the family understood when and where the hearing was happening so that they could attend court. So there are many costs to counties and court proceedings. This is creating a fund which will actually save counties money where you can apply for funding if you have extreme cases, Senator Halloran, like you discussed in your county. To say it's not necessary is to say that you don't need any dollars to help support the juvenile cases, the juvenile indigent cases you have. I think that's short-sighted. And Nebraska, I'd like you to now know that your senators are saying that they do not need a fund to which they can apply for extreme cases with juvenile indigent defense, as this is creating a fund to which your counties can apply to help pay for those juvenile indigent defense cases. But I guess you're all fine, you know. They do it just fine, those judges don't need it. The county attorneys don't need it. You're fine just paying for it yourselves. That's what you're saying by doing this. Right now, you don't have any fund which your counties can apply if there is an issue and especially as an extreme case that requires juvenile indigent defense. So I think that the people from Nebraska in the smaller counties ought to be calling right now and saying, what are you thinking here? This has to do with property taxes, Senator Erdman? It has to do with everything we've been complaining about since day one in here. Property taxes are too high. We're setting up a fund to help take care of that. So the counties don't have to continue to pay for this. But on some unknown standard completely contrary to the Constitution, which you all fight for adamantly on the second amendment, we aren't going to worry about it. There were 4,831 juvenile filings in 2016; 496 of those filings were felonies. So, and then 1,750 youth were placed outside of home in 2016. So if you take those numbers, 10 percent were felonies, yet 36 percent of the kids, the juveniles were placed outside of the home. So you're all saying, oh, this isn't necessary. Thirty-six percent of the kids were placed outside of the home. We continue to talk about how will this

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save money? There will be fewer costly detentions. I've passed out that information to you twice now. I presume you didn't bring it back up, but I decided not it kill more trees. There will be fewer court proceedings. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR PANSING BROOKS: In Senator Groene's...in Lincoln County, there were 187 filings and there's a 63.1 percent appointment rate in 2016. So there were 118 times when the family showed up for court, only to turn around and have to come back a second time so the attorney could be present. Senator Groene is going to say, oh, well, they have a second hearing here too. Yeah, but in Lincoln County they're going to have the third hearing because once the attorney shows up after they've been finally appointed, then they have to have recess so that they can go figure out the defense. So in Lincoln and Omaha, they're having two hearings in the same amount of time that Lincoln County is doing three hearings. So you can continue to argue with me and say this is...boy, this is just a terrible thing, it's overreach of parents. What it does is save money for counties and what it does is protect constitutional rights that have been extended to all people in our state, including children. Thank you, Mr. Lieutenant Governor. [LB158]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Krist. [LB158]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. So to Senator Halloran's point about a compromise. Senator, there was never a compromise. There was a division in this body then, like there is a division in this body now. It was basically those of us that believe that every child should be afforded counsel unless, unless and only if the child turns down its constitutional rights. See, the parents can't do that in the matter of law. Okay? Everyone who wants to talk about parents being the ultimate source and all of that, in a court of law when a child is charged, the only person in that courtroom that can waive his or her right is the child. Now, the parent can advise, but it is the child who has to waive their constitutional right to counsel. Okay? There was never a deal struck. There was a point at which we looked at this as, if you will, as a pilot project and those of us who believe strongly enough at it, sold it as a pilot project. We gave it to those counties. We said here are the choices. Would you like it or wouldn't you like it? And the preponderance of people who voted for it were representatives of Douglas, Sarpy, Lancaster, Cass County, who are in the same judicial district. Two counties are their own judicial district, and then we have, of course, Sarpy, Cass and Otoe being separated. And I think we discussed that the other day when we moved judges around. So here's the deal. It's worked and if anyone gets up on the mike one more time and discourages the facts that we have given you, we'll call Judge Heideman up and he can come in and talk to you. We'll call Judge Johnson up and he can come in and talk to you. We'll call any one of the juvenile court judges up who have expedited the process to get this thing moving through the county and

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they will tell you that the pilot project worked. Now if you don't want to save money, to Senator Pansing Brooks's point, then that's fine. Continue to do what you're doing. I think it's disingenuous to have a bracket motion on something that's been discussed. If we've discussed it five times or six times, your point the other day or other night, not necessarily pointing at Senator Halloran, but the rest of you who made the point several times, we should be able to talk about stuff as much as we need to because times change. It's a dynamic environment. It's not static. And when things change, we need to talk about them again and again and again. And if it doesn't work in a committee, we can pull it out of committee. And if it doesn't work with a poll, we can go in and amend something someplace else. That's our job. As long as we stay within the rules, that's what we need to do. In 43-272, right to counsel appointment, payment, guardian ad litem appointment when duty standards for guardians ad litem standards for attorneys who practice in the juvenile court, it starts out with 1(a): In counties having a population of less than 150,000 people, it goes to (b). In counties having a population of 150,000 people or more it defines it clearly. That's the change we made in 2016 and the debate that we had in '13, '14, '15 and finally in '16 having a change. There is nothing different about the dialogue. The judge is ordered. The order here is you have the right to counsel. You have a right to the attorney. And in those counties that have accepted that premise, they further differentiate conditions of which the counsel will be appointed. But nowhere in here does it say that the child cannot waive his or her constitutional right to counsel. And if all the parents...and I'd like to know where that line of demarcation is where kids and families are self-sufficient, and on the other side of it, they're criminals. I don't get that. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR KRIST: I don't get that rural/urban divide on this particular bill because kids have problems all over the state. I think you should flip this in the opposite direction. We're not telling you, you need to conform in this area. We're asking you if you want to make sure that those kids are represented and then give them the right to say no, I don't want to have counsel. That's all this is saying. Don't disparage the judges or the counties where this is working. Pull the bracket down and the motion off and we'll have a discussion and we'll vote it up or down, Senator Groene. If you think you've got 17, that's great. But I think this one is going to go to the end. Thank you. [LB158]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Lowe. [LB158]

SENATOR LOWE: Thank you, Mr. President. My position still stays the same as the last time we talked on this subject and I'm not in favor of LB158, so I'm going to yield the rest of my time to Senator Groene. [LB158]

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PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Groene, 4:40. [LB158]

SENATOR GROENE: Thank you, Senator Lowe. Correct the record, I hope I don't have to do this over and over again. It was stated by Senator Pansing Brooks that so many kids were taken out of their home. If they're going to be taken out of your home, you have an attorney, period. That's existing law. You have an attorney. This does not affect those. Either you pay for one or you get one appointed, but you will have an attorney. Parents and nobody can say no. All right? Which I disagree with. As to the law, Senator Krist remarked that you can refuse counsel and notice all he talked about was the county, the government, the government is going to save money. We are going to send a huge tax to the parents of these kids that do not qualify for a public defender. Let me read the legislation to you. Any juvenile court petition is filed alleging jurisdiction of a juvenile pursuant to subdivision, blah, blah, dah, counsel shall be appointed for such juvenile, at the first court appearance. Senator Pansing Brooks said that those immigrants, the attorney would have called them. There was no attorney. The attorney don't exist until the first court appearance. That was irrelevant, that story. An imaginary attorney can't call them because it doesn't get appointed. He doesn't get appointed, or she, until the first court appearance. They never showed up for the court appearance. And the court shall inform such juvenile his or parent or guardian...Senator Krist, they informed his or her parent and guardian, too, in statute, by the way, not just him, of such juvenile's right to continue representation by counsel, to continue it. And at any court expense if none of them is able to afford counsel. The statute goes on to say the court ascertains that the juvenile and his parents or guardian are unable to afford an attorney, the court shall continue appointment of counsel. By the way, if you read the amendment, any kid now, any person now given a public defender, that's the baseline of this bill. That's the baseline. You got to prove the county does any increase you have after this bill passes, then you get some of that money. And then it's a rolling three-year average and then pretty soon the money goes away and guess who pays? The local taxpayer. The court shall appoint a counsel, goes on to say to represent such juvenile for all proceedings before the juvenile court. It doesn't say just the hearing. It's all proceedings. We're running up the bill to \$3,000, \$4,000, \$5,000 to families, functional families, the red-blooded kid got in trouble. And you're going to get a bill for thousands, \$2,000, \$3,000 and your whole family only makes \$60,000. Folks, that's what this bill does because we are going to save...I don't think we are. But we're going to save a few tax dollars for the county, for the government. That's who we're saving the money for. We're going to make the system work. We're just going herd these kids through the system, zip their mouth, attorney and the judge decide and they go golfing. That's what we're doing here. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: I could go on and on. Upon entering an appearance on behalf of the juvenile, any counsel shall continue to represent such juvenile through post-dispositional proceedings unless relieved by the court upon the request of the juvenile, upon the substitution of

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counsel, or for cause. That attorney doesn't disappear after the hearing. All he has to tell that family is, my ethics say I can't recommend you to dismiss me. I haven't done discovery. By the way, discovery doesn't happen overnight. In our county, rural counties, it just isn't an agreement because there is so much activity between the attorney. These guys are volunteering, some of those attorneys. They have to ask for discovery from the county attorney. So we're delayed. And then we got another hearing. Ah, the academic debate of equality before the law. Great in a college classroom. Great in this body, but the real life doesn't pertain to that. We have families who had a misfortune. A child, red-blooded kid got in trouble. They want to go on with their life, accept the consequences and go on. This needs to go away. And yes... [LB158]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Erdman. [LB158]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. Senator Groene, I really appreciate your comments there of explanation, that's great. As I look around the Chamber, I think about the discussion we're having today. I wouldn't make a wager with somebody who was willing to do that. There's probably not a soul in this room that has not decided how to vote on this bill. But we're going to talk about it anyway, no matter what facts are put up there, no matter what argument is made, everybody has probably made up their mind. One of the things that I think this bill does, it collects a fee for those people who go to court and most of those fees are going to be collected in three counties. Our counties out west are not one of those three. So we'll collect these funds from the larger counties, the most populated counties and we're going to distribute those, supposedly we're going to be able to apply for these and we're going to distribute those out west. Maybe one of the first times in history that we collected some kind of fee or tax from eastern part of the state and sent it to the western part of the state. That may be noteworthy in history making. But Senator Groene described it exactly right. So as my county attorney and the prosecutor I spoke with said, if a juvenile gets caught buying cigarettes, then that person has to have a court-appointed attorney. Not necessary. Young man, young lady gets picked up for MIP, they don't need a court-appointed attorney. They need to pay their fine, do their public service or whatever the penalty is. We don't need to get these kids involved in a judicial process, keep coming back for hearings because lawyers need to make money. Lawyers have things other than being in court to do as well. As Senator Groene said, maybe some play golf. But make no doubt about it, the rural communities don't have enough hearings and enough appearances at one dollar, I believe the amount that they're going to collect is one dollar per filing, to amount to enough to make a difference for any of the small counties. So we're going to collect that money from the larger counties and distribute that out west or out of the three counties that now collect it. It is, as I said, maybe the first time that's ever happened. But this bill doesn't make any sense. The question that you have to ask is, what happens if you don't do this? And we don't talk much about that here, but we'll get along just fine if this doesn't pass. And so I am in favor of the bracket motion placed up there by Senator Groene. And Senator Krist made a comment about it being disingenuous or whatever his opinion is about the bracket motion.

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Senator Groene has every right to do whatever Senator Groene wants to do and so does Senator Krist. So we'll do here what we think is necessary irregardless of what someone else thinks. So we'll move forward with this and Senator Krist, I believe will take it to the finish line and we'll see. You get 33 votes, you win. If you don't, you lose. That's how simple it is. Thank you.
[LB158]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Wayne. [LB158]

SENATOR WAYNE: Thank you. I rise in support of the underlying bill. The last time I was here on this bill, I talked about the concern of Douglas County supporting the rest of the state. Since then I've talked to multiple commissioners who care more about the right to juveniles since they do that in Douglas County and Lancaster County and Sarpy County. And I talked to Sarpy County Commissioners too, and Lancaster, that they're okay with the amendment. So let's talk a little bit about some inconsistencies that Senator Groene has talked about. So first, Senator Pansing Brooks said on the mike and I had to write it down, 63 percent of the individuals in Senator Groene's county already receive counsel. So, all we're talking about Senator Erdman is 40 percent people who are not being paid already by the state. In addition, there's already public defenders in each of these counties who first have to be assigned prior to outside counsel. That's already built into their local budget. It will only increase their caseload. If they can't handle that, then at that point somebody may be hired or the county may decide only to do outside appointments. Second, let's explain why this is important or why most people in here don't know. I am an attorney who practices in this area. Let's take this simple thing of truancy. Kid has missed more than ten days. They get a letter at 20 days. They get to go to court. Most parents will say, you know what, let's just walk in, plead guilty and he'll be on probation and he'll go back to school. Well, as an attorney before we go in, I'm going to say, no, we're not going to plead guilty, here's what we're going to do. We are going to get you back in school and we're going to get you going in the right direction and we're going to volunteer for pretrial services so you can have all the things that are already on probation, but we're going to do it in a voluntary manner. So in three months we can demonstrate to the prosecutor that you're not a truant student. Rather, they'll go ahead and drop the charges. Why is that important? It is simply important because at 19, when you get an MIP, hypothetically, this child, and you go before an adult court in sentencing, they pull up your record, including your sealed juvenile record. The only way to keep that off, that truancy or MIP charge off, is to get it dismissed. Otherwise it is also held against you as an adult. I don't have an issue with that, but I don't want people to think there is not a legal consequence when you become an adult even to a sealed record. It is. And I'm fine with that. That's a different debate. But my 10 to 15-minute conversation prior to me walking in to court with my client gives them and their family all the rights that a judge or judge may not read and they can make a decision. And yes, they can make a decision to terminate my employment and I can withdraw. And you know how much that's going to cost? See, everybody thinks it's going to cost \$1,000 or \$2,000. That's what I keep hearing. The fact of the matter is, if

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I go to Madison, Wisconsin, it's going to cost them \$100. And that's if I bill all the way. Typically we don't do that. We bill for the 15-minute conversation. I don't go to Madison. Why would a judge appoint me in Madison. You know how much it's going to cost me in Douglas County? Thirty bucks. Thirty bucks to give that family all the legal analysis that they need to make an informed decision on whether an MIP they want to go forward with or they don't. And the fact of the matter is, a kid is not charged with an MIP in juvenile court. It's called deports. So we're getting the charges wrong too. Let's have some basic knowledge and why it's important to have a half-hour conversation. But the bigger problem I have of what's going on... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR WAYNE: ...and I'm going to have to push this on my next button. This is not a filibuster issue. At some point we have to look at our rules and look at whether a three or six-hour debate really means we should filibuster because you can have a legitimate conversation on this floor that lasts three hours and now your vote count goes up to 33. There was a time, Senator Christensen had to pass a very...a telecommunication bill that was heated in this floor. It passed 26 because those are not filibuster issues. This is not a filibuster issue that we can't just take a straight up or down vote on. It's the right for a family to hear what happens legally to their kid. This should be a 26, 27 or however many votes it needs to pass and that's it. To raise the bar to 33, which is higher than a Governor veto override... [LB158]

PRESIDENT FOLEY: Time, Senator. [LB158]

SENATOR WAYNE: ...on whether they...thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Groene. [LB158]

SENATOR GROENE: Would Senator Wayne yield to a question? [LB158]

PRESIDENT FOLEY: Senator Wayne, would you yield, please? [LB158]

SENATOR WAYNE: I'd love to. [LB158]

SENATOR GROENE: Public defender, what are public-appointed attorneys paid in Douglas County? [LB158]

SENATOR WAYNE: Public defenders are on salary. [LB158]

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SENATOR GROENE: I meant...I corrected myself. Appointed. [LB158]

SENATOR WAYNE: Appointed counsel? In Douglas County we get \$65. In your county, it can range from \$85 to \$100. [LB158]

SENATOR GROENE: So you can drive to Wisconsin and back for \$75 to \$80, if you're appointed? [LB158]

SENATOR WAYNE: I'm telling you that in Douglas County, I make trips all the way to Kearney and I only get paid \$65 an hour and if I drive, I have to take mileage. It's the same mileage rate that you get when you drive. [LB158]

SENATOR GROENE: So how did you manage to do a case for \$30? [LB158]

SENATOR WAYNE: Because if I go in and I explain to the family what the issues are and they say they have it and they're okay, and they don't want counsel, then they have the right and that kid has the right... [LB158]

SENATOR GROENE: Thank you. Seventy five to eighty dollars an hour as an appointed attorney. We are at \$100 an hour. The difference between, rural, we don't have the attorneys. We pay the attorneys in...in our area have a right to charge by the hour or by mileage when they travel from Ogallala or Cozad. Here is what will happen in Lincoln County court, or in a smaller court in the counties that are covered by our district judges. There is no attorney there in Logan County. They will have to appoint one from North Platte or Ogallala or Cozad for somebody up in Stapleton, Nebraska, when they have court up there. They're not there. They have to be contacted that, hey, attorney B, you're second on the list, you're next on the list, so you're getting appointed here. Now here's this person over in northern...well, in northern Logan County and you better get together with them and decide how they're going to plead. They were already at hearing. They've been here once already, but I had to appoint a counsel because the statute says so. Middle-class ranching family. Livestock ain't selling very well. But you're going to send them a bill for \$100 bucks an hour. We just had an example from Senator Wayne, the difference between urban and rural. He's there. He meets right there outside the courtroom. He's sitting in the back of the courtroom, 30 minutes and it's done. That doesn't happen in rural Nebraska. Let me explain something too. The records are sealed. Somebody told me that there's...a judge asked, what about a speedy trial? You know what gimmick they play in Lancaster and Douglas County? You got 90 days to ask for your speedy trial. If you kick the can down the road and 90 days passes, the bill goes away. Well, we taught that kid a lesson, didn't we? Didn't we? That's what some of the attorneys play. What are we teaching our youth? You're not responsible. You can get around this, guys. Doesn't show up on your record. It's sealed, by the way. Nobody can look at

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that record. The courts can and we want them to. The courts can also see that you were charged for an offense and they can also look to see how it was settled. They know. The kid did it. He just got the right attorney. This is about taking your rights away. I just...I'm baffled that I have people sitting here saying that we have such a populous anymore that you can't decide for yourself if you want to exercise a right or not. Even a teenager. They can go to war. We are sitting here with individuals in this body who treat our citizens as if they're ignorant individuals that need to be led around and cared for by a nanny state. No child, no child in Lincoln County or western Nebraska, in rural Nebraska... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: ...is harmed. This is a lawyer employment bill. Thirty dollars for a fee. You won't get less than \$300 in Lincoln County and that's a good lawyer who isn't overcharging because he's got a lot of time invested, travel time, court time. He doesn't even want to do it. He's just being a good citizen, volunteering for the list because he's got better things to do. We don't have enough attorneys now. You want to take it three hours? A consent calendar? Maybe there should be consent calendar sending citizens...taking citizens' rights away from them. Maybe it should be 25 votes. Is that how we work here? Twenty-five votes to force a tax on middle-class families because their red-blooded American kid got in a little bit of trouble? Excuse me. I put more value on rights than that. Rights to refuse a right. That is a right. Thank you. [LB158]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Lowe. [LB158]

SENATOR LOWE: Thank you, Mr. President. Would Senator Pansing Brooks agree to answer a couple of questions? [LB158]

PRESIDENT FOLEY: Senator Pansing Brooks, would you yield to a question, please? [LB158]

SENATOR PANSING BROOKS: Yes. [LB158]

SENATOR LOWE: Thank you. You gave us these two pages and it has four cases on it. Do these...are these the only four cases that you know of or are there more that haven't had an attorney? [LB158]

SENATOR PANSING BROOKS: There's a lot more that haven't had an attorney. [LB158]

SENATOR LOWE: Okay. Out in western Nebraska... [LB158]

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SENATOR PANSING BROOKS: These are just examples. [LB158]

SENATOR LOWE: Out in western Nebraska? [LB158]

SENATOR PANSING BROOKS: Yeah. [LB158]

SENATOR LOWE: Okay. Have these young individuals been in trouble with the law before these cases? [LB158]

SENATOR PANSING BROOKS: I don't know. This is from justice...it was prepared by groups that are working on this, the juvenile...Voices for Children and Nebraska...the University of Nebraska Children, Families, and the law. [LB158]

SENATOR LOWE: Okay. Thank you. So we don't know if these youth have had a problem in the past or not. We don't know if these are first-time offenders. It's not very clear. I believe if they were not first-time offenders, they would know enough to ask for an attorney. And I am not against giving our youth an attorney. I believe that is their fundamental right to have one and they can have one. I don't think we need to be telling them and their parents that they have to have one. It's one of our rights and I believe we need to stick to that. I believe that they should take that option. But I'd like to yield the rest of my time to Senator Groene. [LB158]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Groene, 2:45. [LB158]

SENATOR GROENE: Thank you. I want to go over those numbers again. These are actual numbers, not some survey taken by Voices for Children or somebody. Three hundred juvenile cases in '15, '16 in Lincoln County. This is just Lincoln County, not the 12 or 13 counties that was in the district, in that judiciary district. Two hundred and sixty one of them requested an attorney, 237 of those cases received a court appointed counsel. Twenty-four of those cases the juvenile hired an attorney and mom and dad paid. In 109 cases, juvenile exercised their constitutional right to not be represented by counsel. No juvenile who waived the right to an attorney with approval of parent was removed from their placement at home. You can't do that. If you're going to remove them from home, you've got to have an attorney. Those 109 people are now becoming a 40 percent number. That scares me. It's 50.01 percent of the things that swings it. The other people lose their rights. That's what I heard from Senator Wayne. It's only 40 percent. What if it's only one? I think there's a book that says, what if there's one, what if there's two, what if there's five? One child and their parents in a functional family says, I don't want an attorney. That should be enough. That should be enough for you to vote no on this bill. Now we're percentages, our citizens are percentages. [LB158]

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PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: Is that what we came to? Have we been here too long? We look at charts and percentages and say 40 percent this, 67 percent that. Thirty percent here. I charge 30 bucks. They can afford that, so they can lose their right for 30 bucks. I charge 100 bucks. No, maybe that's too much to lose their right, take away their rights away. Think about it, folks. We don't have a problem here. We do have a problem. It's attack on our civil rights. It's an attack on our civil rights, this bill is. Thank you. [LB158]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Albrecht. [LB158]

SENATOR ALBRECHT: Thank you, President Foley. I rise in support of the bracket motion. I'm going to read to you our county attorney from Thurston County, back on 4-18 of '17. So this was last year, she still feels the same way. Thanks for your inquiry about my thoughts on LB158. In short, I don't like it. If a juvenile wants an attorney, they are always free to request one, but I am opposed to having the county make arrangements and payments to have one of their children...to have one there until they say that they don't want one. We don't have a public defender in this county, nor do we have a criminal defense attorney who are court-appointed in this county. It will be an inconvenience and a new expense to the county to appoint an attorney for every one of these types of cases. Thurston County would have to pay an attorney to drive here and back for the juvenile who may not even want an attorney. Not a good use of resources. Further, if a juvenile attorney remains on-board until the end of the case and the court finds that the guardians are able to pay and won't, then I would have to initiate a contempt action. As county attorney, I don't want to serve as a collection agency. There are more important ways to spend our time and the taxpayer money. Again, Senator Krist's comment to all of us, you know that the children have a right. Okay, they have a right, but who ultimately pays that bill? It's the parent or the guardian. And asking a dollar from everyone so that we can help support people who have trouble going to court and paying, what do they do now? Do they write it off? Obviously, we have \$3 million worth of write-offs last night. But what do they do with the children right now and their parents who cannot afford an attorney, even if they're appointed one? I mean, I'd like to hear a little bit more about that. And again, unfunded mandates to the counties, I don't feel is right or fair. And I certainly do feel that it's an attack on the parents' fundamental rights. Thinking about having an attorney drive up to Thurston, Dakota, or Wayne Counties to the tune of \$85 to \$100, plus miles, that alone, not including the time they're going to spend with those families, an ordinary middle-class family couldn't afford these type of fees. And for that reason, I stand in support of the bracket and I would certainly yield my time to Senator Groene if he'd like it. [LB158]

PRESIDENT FOLEY: Thank you. Senator Albrecht. Senator Groene, 2:00. [LB158]

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SENATOR GROENE: Thank you. You know, some points have been made about Douglas County and Senator Erdman made a good point about helping to pay for this. Well, remember this, the money goes away. I don't know what they're going to do with it after a while because once it levels out, then all the counties doing...they're forced to do this, then they have no increased cost and it's pretty hard, they don't get any more money. That's what the amendment basically says. So now you're speeding, you get a ticket, you're going to pay \$50 court fees instead of \$49. Any court fee now is going from \$49 to \$50. And that money is going to be taken off your...it's just not the criminal court cases that gets the dollar fee. It's everybody, to put in this fund for poor kids. Doesn't help the middle-class at all. Doesn't pay theirs. It goes into the public defender budget basically. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: So this is a tax on the middle-class again. I've always said a kid ain't worth his salt unless he gets in trouble once at least. That's what we think in rural Nebraska and we don't hold it against them. I don't know what kind of world some of my folks live in because they're so afraid their kid or somebody is going to get a DWI or MIP or vagrants are getting in a fist fight at school, it will ruin their life. It's part of growing up. That's what rural Nebraska thinks of it. We laugh it off. Johnny's got some spunk. He's learning there is consequences to his actions. Do you really live in your houses and just worry what somebody is going to think of your family because your kid got an MIP? And we got to cover it up. We got to have a lawyer. We got to make sure it disappears. It's not going to harm his life. They'll go on with life. They'll get into college they want to. They will go into the military if they wish. They might not get in the military academy. [LB158]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Krist. [LB158]

SENATOR KRIST: Mr. President, I'd like to call the question and ask respectfully for a call of the house. [LB158]

PRESIDENT FOLEY: Question has been called. Do I see five hands? I do. The question is, shall the house go under call? Those in favor for calling the house vote aye; those opposed vote nay. Record, please. [LB158]

ASSISTANT CLERK: 14 ayes, 4 nays to go under call, Mr. President. [LB158]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desks and check in. The house is under call. Senator Hughes, Bolz, Smith, Riepe, Linehan, Friesen, Brewer,

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please check in. Senators Wishart, Bostelman, Briese, please check in. The house is under call. Waiting for Senator Hughes, please return to the Chamber and check in. The house is under call. All unexcused members are now present. The immediate question before us is whether or not to cease debate. Those in favor of ceasing debate...those in favor of ceasing debate vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB158]

ASSISTANT CLERK: 28 ayes, 5 nays to cease debate, Mr. President. [LB158]

PRESIDENT FOLEY: Debate does cease. We're still under call. Senator Groene, you're recognized to close on your bracket motion. [LB158]

SENATOR GROENE: Thank you, Mr. President. I would appreciate a green vote on the bracket motion. Let's show them that we have 25 votes now and at least 17, so I need as many green votes as possible to bracket it. This bill was not presented well, claims were made that aren't in the language. You know that. Juvenile can't just dismiss. Lawyer don't go away after the hearing. It says it in the legislation. Appointed attorney has to go all the way through the final disposition, unless they're dismissed by the juvenile. That's normal, folks. If you go hire a lawyer, once he's there, he's not gone until you fire him. That's a lot of money to middle-class people who just want to trust the system. The system works, folks. There's a lot of good judges out there. I can't think of a bad one since we got rid of a bad one here a few years ago. They're all good citizens, they're all part of the community. My public defender who is a progressive Democrat, he says, Mike, we know everybody here. We know the family history. We know the judges know everybody. These are families that have been railroaders for years. Generations. We understand the culture. We know what needs to be done and we know what the families want us to do when they ask us. We know who needs an attorney and who doesn't. This is my public defender who is elected, a Democrat in vastly majority Republican county. You talk about bipartisan area and what we believe and we look at character when we vote and principles. Not at titles. This thing needs to go away. I don't understand the passion behind taking people's rights away. This is not a minor vote. Kansas does it. That was during the Sebelius' term when the state went way too far to the wrong direction, to the left. None of the other states around us do it. In fact, what we need to look at is what some states are doing: cutting the cost truly by creating a third level where these kids go into it and no court appearance and a probation-type thing is done, never seeing a judge. A form of diversion. Never shows up on their record. That would save cost, but it wouldn't make lawyers a lot of money. It wouldn't give job security. This needs to go away, let's protect family rights. Is that a dirty word in here? I heard one senator say, listen, families, you lost your rights once your juvenile gets in the court system. Is that Nebraska? Is that our beliefs? Families and juveniles should work together and take their lumps. The perception that every child is poor, every child has dysfunctional family, every child, parents are rotten, that's wrong. Kids get in trouble in functional families. And then they work together and they learn their lessons and they run to mom and dad for help. Let them make the decisions if they want an attorney. This is a free

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market choice, you know, to hire an attorney when you have a right. You have a right to buy a newspaper. Freedom of the press. Have a right to write a letter to the newspaper. Freedom of speech. You also have the right not to do it. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: Let's put an end to this, and quite frankly, if I'm here four years, I'm going to try to bring something to free...give the rights back to the juveniles in Douglas and Lancaster and Sarpy County. It's not right that we have taken their rights away because it saves money for the counties is what I heard. Speeds things up for the lawyers. No mention of the individuals and their rights. Is that who we are in the state of Nebraska? I've left out personnel. This is not a between Senator Pansing Brooks or Senator Groene. If you made a comment to somebody because they asked you what a yellow card, that should be in the trash. You heard the debate. You are dealing with people's lives, not if you're going to hurt another senator's feelings how you vote. That is why you're here. You represent individuals. You don't make a commitment to another senator and then say oh, jeez, I have to keep that. You don't. [LB158]

PRESIDENT FOLEY: Time, Senator. [LB158]

SENATOR GROENE: You have to do the right thing. [LB158]

PRESIDENT FOLEY: Thank you, Senator Groene. Members, you've heard the debate on the bracket motion. The question for the body is whether or not to bracket the bill. Those in favor vote aye; those opposed vote nay. Record vote has been requested. Have you all voted who care to? Record, please. [LB158]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 976-977.) The vote is 13 ayes, 27 nays, Mr. President, on the motion to bracket. [LB158]

PRESIDENT FOLEY: The bracket motion is not successful. I raise the call. Mr. Clerk. [LB158]

ASSISTANT CLERK: Mr. President, priority motion. Senator Groene would move to reconsider the vote just taken. [LB158]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Groene, you're recognized to open on your reconsideration motion. [LB158]

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SENATOR GROENE: Thank you, Mr. President. You know, I keep repeating those numbers, 370 cases. That didn't include about, on average, about 70 cases where kids go to diversion. They do have a choice. First thing they have a choice to go diversion, something like Senator Wayne mentioned, he doesn't get to choose that. He didn't use that term, but every county has it. So if you decide to take diversion in Lincoln County, the sheriff will let you...volunteers that the kid can wash his police cars, mow yards around the courthouse. Individual nonprofits will ask...get kids to work for them. Other things, they agree to go to AA meetings, drug prevention meetings, maybe join a youth group. And then if they fulfill that, then they can...well, their charges disappear. So that's available. We had 71 referrals in 2017, 62 decided to enroll. Believe that or not, we have a problem with our youth. Nine of them decided it was too much work and would rather just take probation when they found out what they would have to do. There's 19 current open cases, that was in '17 where they haven't decided yet of what they're going to do. Discharge reason, 17, one of them moved, failed to comply; with 18 opted not to do the program; 14 they found out it was too much work. Picked up a new charge. They committed another crime. And then they were declined admission because they just didn't fit the profile. The charges in that diversion were 15 and were third degree assault. One was third degree assault with a felony. One was a burglary. One was a distribution of controlled substance. Five was marijuana, less than one ounce. Minor in possession, seven. Minor in possession of tobacco, one. What should scare all of us is, the minor in possession my generation was the big one. It's way down the list now. Minor in possession of tobacco, one. Possession of paraphernalia, three. Shoplifting, four. Trespassing, one. Theft, three. Traffic offense, two. Truancy, nine out of those 71. And uncontrollable juvenile is the big one, 31. Why would you listen to your parents anymore when government gives you so many authoritative figures that drives a wedge between the kid and the family? Now we're going to do another one. We're going to put a lawyer in between there. Is that what we want in Nebraska? But they're pretty serious charges, so they haven't the ability to take diversion and have it off the record. I'm not so arrogant to think I know what's best for every family. They're all different. That's what's great about America. We blend together. We have different family relationships. Then the judge knows that and he appoints an attorney when he sees it's necessary. For that family that's functional, wants to take the probation, wants to fulfill and change their ways...you know, probation, the judge told me is usually you report your grades to us, you make sure you check and make sure you're attending school. You take a urine test once in a while. I guess that one picks up marijuana better than the others. By the way, marijuana in Lincoln County is the drug of choice now. It's not alcohol anymore. It's running rampant, thanks to being about 50 miles from Colorado. It's 100 maybe from the corner. It's becoming acceptable, but that's a side-bar, that's another bill. I don't understand why anybody, anybody with a conservative bone in them would not vote against cloture. Do we think we're perfect parents, perfect household and every other family is in bad shape that they need help but they can't decide for themselves and their children if they want an attorney for a shoplifting? Is that what we're doing here? I see a bunch of high school kids up in the balcony. Look at them. Some of them are going to get in trouble if they've got any red blood in them. They're going to take their lesson that we

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all do in life and we're going to go on. And then you're going to have a few in denial who says, I don't care what I did, it's not my fault, somebody else's. It was society's fault. So I'm never going to admit I did any wrong and I want a court-appointed attorney and I'm going to try to hide this in my record as if it never existed. But the reality is, 109 out of 370 cases in Lincoln County in '15-16, they stepped up, took their medicine, worked with their parents, took their probation and saved their parents hundreds to thousands of dollars in legal fees. But no, big daddy nanny state of Nebraska is going to come in and say, that doesn't work for us. We're going to drive a wedge between you, teenager, and your parents and we're going to wedge an attorney in there and you're going to pay for him. Is that who Nebraska is? Is that who we are? Every one individual that Senator Wayne represents, I will guarantee he was appointed and the judge said you need an attorney. I will guarantee you that no individual teenager with their parents...remember, this is 14 to 18. That's who it is. It's not anybody under 14. They get an attorney. It's nobody who is going to be removed from the home. They get an attorney. It's no child...there's picked up new charges, opted not to do the program, broke diversion, they got an attorney. If they break probation, they get an attorney. That's all the legal jargon and mandates we've dumped on counties now in the legal system. That's already there. We're talking about the good kids who did something foolish and they just want to go on with their lives. Take a little probation. Some of them are probably glad they got picked up finally. They can break that string with the bad peer pressure, the friends they picked up. Laugh about it? Yeah. I don't know any of my friends who didn't get in trouble, including me. Went on with life. But that's small town Nebraska. Now we're going to really put a stigma on them. You got to get an attorney. You had to go through a court case. Really? I thought you could just go to court, plead guilty, get your probation and go on. No, you have to be tied up in the system. You have to be rammed through the system. You got to show up three or four times. In rural Nebraska, you'll show up three or four times. You'll get a stigma all right. Oh, I got a bunch of phone calls in my office yelling at my LA saying, bring up the fact that these parents are working parents and now they're going to have to skip work. They're going to drive 100 miles to North Platte and sit in a case three or four times. These people don't want to pay the legal fees anyway. Now we're going to pull them out of work. These aren't lawyers and professionals who can just leave. They punch a clock. They're on an engine on a train in Wyoming or Fremont or Iowa. They're engineers, they work on the trains. And they can't be there because they're on the call list and if they get a phone call that they need to jump in an engine and take off, they'd better be there. This is reality. This is middle-class, working-class citizens who are you are wedging a lawyer in their lives. I don't sound good in a college classroom... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: ...who does that? Because this is reality. Kids get in trouble and parents help them and they want to go on with their lives. How is my railroad engineer and my conductor going to show up at a court case? Oh, you say, he don't have to be there. We stuck this

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lawyer in his place. We can handle it. Mom, dad, you don't even have to show up because those kids belong to the state, and we're herding them through the system because it makes it easier and we might save a few bucks and the attorneys and the lawyers can laugh and the judges can say, yeah, we'll give you this one, you take that one, we'll plea bargain that. The kid is standing there with a zipper on his mouth. That's the system we are creating in our juvenile courts. Now, you're going to vote for this thing? Is that true? You're going to vote for this? I don't think you are because Nebraska does not want this. [LB158]

PRESIDENT FOLEY: Time, Senator. [LB158]

SENATOR GROENE: Thank you. [LB158]

PRESIDENT FOLEY: Thank you, Senator Groene. (Visitors introduced.) Continuing discussion. Senator Wayne. [LB158]

SENATOR WAYNE: Thank you, Mr. President. I am speaking to the crowd and some of those young students up there and people watching at home. Please develop an app, Nebraska Fact-Checker. Let's go to Nebraska alleged fact-checker because most of what was said by my colleague was flat out incorrect of how the juvenile court process works. For example, if you are charged in a delinquency, the court cannot proceed without a parent or a guardian. Your lawyer cannot be your guardian. Incorrect. All the people who hired me that I represent supposedly were court-appointed. Incorrect. Why would somebody even make that statement without making it is beyond me. But I do want to make a point. This goes to all my colleagues. I treat everybody with respect on this microphone. But if anybody else cuts me off when they ask me a question, I will not yield to them again. You ask me a question because this is the area that I represent and I actually practiced for the last ten years, allow me to answer the question. But if we're going to be that disrespectful, we won't even get time to answer questions anymore. So let's talk about juvenile records and why it's important. If a 16-year-old steals a petty Snickers bar, that same 16-year-old goes to apply at their local Burger King. Insurance mandates that you will not put that child, in most insurance unless they're just lying, companies are lying, you will not put that child on a register. They have a theft charge. So most of those 16-year-olds can't even work at a Burger King because if you've ever been to a Burger King, they kind of rotate around all over. Depending on how fast it is. So a simple Snickers is no longer a simple Snickers, Senator Groene, because we have become a logistics society where we are taking kids to court for everything. Twelve-year-old middle school children who get in a fight at school are being charged with mutual assault. Not just in Douglas County. All over the state. Then we keep talking about court-appointed attorneys. It's not me as an outside counsel. Let me tell you how I get appointed in Douglas County and how the rest of the state will work. There has to be a conflict because you already have a public defender who the court is obligated to appoint first.

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That person is already being paid by the county. There is no increased cost. If there is a conflict, for example, two kids steal a Snickers bar, the public defender gets appointed to one, because there's a conflict because they can't represent both people in the same crime because one kid might say, well, he stole it, the other kid might say, well, no, he stole it. You have to have separate attorneys. At that point, the public defender will file a conflict motion and then outside counsel will be appointed. That would happen regardless of whether this bill passed or not, Senator Groene, because they have an ethical obligation as an attorney not to represent two opposing clients who have a conflict. That would happen anyway. Go back and call your county. Stop talking to the county attorney. Talk to your county public defender and say, are you currently accepting juvenile cases? If they are, you're already paying for it. You're already paying for it. It's already being paid for. But we talk about constitutional rights... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR WAYNE: ...this last minute. As chair of the Education Committee, I want to know on your own time, how come you haven't introduced a bill to make sure the Nebraska constitutional rights that you have a free education from 5 years old to 21 years old has not been introduced? As the Education Chair, if you believe so strongly in constitutional rights, then I need to have every college and university and community college until you're 21 paid for because that's in our Constitution. We want to talk about constitutional rights, let's not pick and choose which one we're going to follow. Let's follow them all. So let's have that debate. But what's missing here is you have a constitutional right to counsel. It's been decided. You have a constitutional right as a juvenile to hear from an attorney and if you don't want that attorney, you go to the court and you withdraw. That happens now. If the judge...I see you're about to lean forward to say, my time. [LB158]

PRESIDENT FOLEY: Time's up. [LB158]

SENATOR WAYNE: Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Chambers. [LB158]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator Groene, because he is ignorant of the law, is presenting a simplistic simpleminded picture of rural people, of rural parents who don't care about their children. No engineer is going to be called off the train. Senator Groene is yapping. He's not trained in the law. He makes assertions with no fact. He learned that from Donald Trump. Just say anything. Nobody has to be given documentary proof. Senator Wayne practices in court every day. Now, you all have heard Senator Groene talk on other issues in which you had an interest. He is going to say he knows more

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about juvenile justice than a lawyer who practices in that field. One reason I've stayed out of this is because my blood is beginning to boil. Justice should be available to everybody all over this state. All young people should have the right to a lawyer, and they should not be represented by ignorant people who gives the impression that rural people are ignorant. They don't know anything. He's trying to make us believe that rural people are so ignorant that as middle-class people they think their taxes are going to go up if a child gets a lawyer. He doesn't even know how the system works, but I want to give a message to Senator Groene, I'm ready to do some horse trading now. Children mean more to me than horses. He's got a bill coming up talking about horses. We're going to see how long we stay on that bill. I'm sick and tired of two rural or three rural senators making all the people in the rural areas seem like they're from a different planet. They don't know anything. They send people down here who rant and ramble and don't know what they're talking about. We know that he is not presenting facts. Every time he speaks he says the same thing over and over and over. No documentation. No cases to mention. He will say, we trust our judges out there. They're good judges, they'll always do the right thing. That's false. No group of lawyers would ever invite him to consult with for sure and certainly not to address a convention or a seminar on juvenile justice. Nobody. And when he runs back and forth to people under the balcony, I had to rescue him from the work done by his staff. I'm sick of it. And at some point there's a price that has to be paid, so I'm going to see if Senator Groene has 33 votes on his horse-massage bill. We're horse trading now. These children mean more to me than the horses. He can decide right this minute what he wants. I can last the rest of the session. You saw what I could do last night. Where was he? Where is he on any issues that are of consequence? Anything that pertains to helping people who need assistance he jumps up and says, well, it's different in the rural areas, we don't do it that way. If a kid does something wrong let him go plead guilty to the judge and get probation. That's crazy. You children up there, I hope you've got more sense than that. If you have the opportunity to get a lawyer... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR CHAMBERS: ...you get a lawyer, and I'm sure it wouldn't be Senator Groene. Ask yourself, would you want him representing you in court or Senator Wayne, who is a licensed attorney, who respects you as individuals not little cogs? You've heard that song. We don't need no education, we're just another brick in the wall. Those are the kind of people who would make you just another brick in the wall, a throwaway person. Your life is the one that would be ruined. Plead guilty when you're not guilty. He thinks it's funny. I can do with my time what I please. I'm going to let you listen to you him muttering, laughing. That's your representative. We'll hear him speak again and again and again. And when his horse bill comes up, he's going to have a chance to explain to you how it got into proper form by me. Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Schumacher. [LB158]

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SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Sometimes I just can't help myself. Senator Erdman a little while ago said, you know, this might be the first time in history that money moved from three counties in eastern Nebraska to western Nebraska. Well, I think there's probably a lot of times in history, and it would always be interesting to have a real chart of how money moves, but I'll point out one time, a bigger time in history. Starting in the late 1990s we began to move a majority of \$30 million to \$70 million a year paid for by the phone subscribers in those three counties, and the rest of the state, but most of it was coming from those three counties to incumbent-- that's the old-fashioned established rural phone companies-- in order to keep landline service cheap. That's amounted to over \$1 billion since then, so a lot of money does move the other direction. Be that it may, a couple of things. First of all, I'm bothered by the provision in this bill that says the judge shall make the parent or guardian pay the bill. I've raised this before but raise it again today simply because you need to hear it again, and some of you weren't here the first time. Guardians are not legally responsible for the bills of their wards. Very simple situation, mom and dad have three kids. Mom and dad wiped out in a car accident. They get together for the reading of the will and the lawyer says, no money, but Aunt Susie, you get three kids. She's the guardian. She may be good-hearted and end up feeding the kids and taking them to school and clothing them, but now we're saying, we're also going to stick her with a mandatory attorney fee. I think something needs to be done with that provision to make it clear that if the guardian is liable they're only liable to the extent they control assets of the child, and then if we dip into those assets then the child might not have money for college and you get into all of that. What we are seeing and what becoming a rather warm debate here, warm in the sense of hot, is people speaking for their own worlds. Senator Pansing Brooks is right. It would really be nice in an ideal world to have an attorney in all these proceedings paid for by the Gods or somebody. Senator Wayne is right, I have no doubt. And he's practiced in criminal law, and it's consistent with my practice in criminal law, even though I haven't been there for years, from his view and his type of practice. And I think that folks like Senator Groene and Senator Albrecht and Senator Erdman are right from their perspective because in their environment what they are saying is an accurate representation of what goes on. What this kind of all is telling me is probably our approach to juvenile justice has gotten messed up along the line. It used to be an adult court. You went to adult court, got fined, got jail, whatever, and it was disposed of. That was a little harsh. It didn't fit well. We created a juvenile court system to take care of kids that were in need on one hand, and on the other hand kids that were in trouble. We sealed their records. We said, look if it's a kid under 18 years old we're going to treat you as a baby, and we're going to help you through a tough time before we turn you into the mean, adult world... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR SCHUMACHER: ...and open up your record for public inspection. Well, that apparently isn't working anymore. Appears that everybody seems to know these records. They

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take it into account for this and that. It's no longer a sealed case. We've got a bill in here, I think, that we may get to this year that says, gee, if you got into trouble...felony trouble as a juvenile somebody needs to know your records so they can check whether or not you can possess a gun and it seems to break down. The purpose of this bill seems to be to try to divert people from the diversion program of juvenile court and create next a third tier of juvenile babysitting. I think that needs to be worked out, and you guys are going to have to work on that because I won't be here to help. That's probably a good thing because I'd be too opinionated on it. That juvenile system, if its gotten so bad that we have to create the diversion system, we need to look at the big picture on that. Kids should be kids and they will be kids and it should not haunt them for the rest of their life. Thank you. [LB158]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Hansen. [LB158]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon, colleagues. I rise in opposition of the reconsideration motion and in favor of the Judiciary Committee amendments and Senator Pansing Brooks's bill. There's been a lot that's been said and done on this bill and just kind of wanted to get up and make sure that we were hearing all perspectives on what juvenile justice system looks like in the state of Nebraska, including my own which is largely having, you know, interactive with it from the Judiciary Committee statement. There's kind of some things that have been kind of said where talking about the stigma of courts and there's some sort of more stigma of having attorney representing you than there is getting probation. Probation...to get probation in the state of Nebraska...to get probation in the state of Nebraska you have to be convicted. Probation is something that happens to people we are convicted guilty of a crime or in a case of juvenile court, in more technical terms, probably adjudicate, but that's something...that's a sentence. That's not like an option for you, you get to choose. That's a sentence after we've deemed you guilty of a crime. Tactically, probation is probably in various aspects a fine thing to get sometime. Obviously, it keeps you out of...the intent is, at least in theory, typically to keep you out of a facility and keep you doing other things as long as you meet a variety of different requirements, but that's not just something that just happens, you can choose, it all goes away. People who get probation have a conviction on the record, and people who get probation in juvenile court still have that conviction on the record, which granted is available at a much more limited scope because of our juvenile record statutes, but it's still available, including it's still available I believe to law enforcement and judges in future sentencing. So it might be easier to just get in and out of court by pleading guilty, but you're pleading guilty, you're asking for probation. So you're pleading guilty and just asking for a small sentence. This isn't like a...it isn't a small thing, and in any given case it might be tactically a right decision. It might be the right decision for a certain, any given child, given family, sure, understandable. But it's not like, yay, they got probation. It's yay, they got convicted and were sentenced accordingly. Now, obviously people who end up in our juvenile justice system, many of them are obviously very deserving of ending up in the juvenile justice system and had a

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history of interacting with law enforcement or maybe it's their first case, but they got caught and it's sincere. And that's why we need to have an option. We need to have some sort of avenue to let them know what the stakes are. If you're looking at it from outside of, like, oh, everything's going great. Everybody who came with an attorney just got probation. You're saying everybody who came in without an attorney got convicted. You know, that might be in any given case, of course the very right course of justice as we have designed in the state of Nebraska, that might be the exact situation that we as objective, you know, put up a veil of ignorance and designed the system to do X, Y and Z, if X, Y and Z crimes are met by a kid who's A, B and C. But it still, like a sentence that will be on record, that law enforcement and judges will get to see in the future. It will be something they have to discuss potentially in hiring situations. Like it's a lifelong thing. It's not just a like, oh, yay, I get to wash a cop car in the afternoon and nobody ever talks about it again. There's some stakes here, and I just want to make sure we all know that, we take a step back to appreciate that. With that, Mr. President, if I have any time left I'll yield it to Senator Chambers. [LB158]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Chambers, 1:00. [LB158]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm starting to draft amendments to that horse equine bill. I've seen too much on this floor of children being given short shrift. I remember when Senator Pansing Brooks stood with Senator Brewer for the Standing Bear back and forth. People think I forget. They think other people forget. They ask for things, then they don't reciprocate. I don't mean horsetrading. He needs to pay attention to who it is telling him what to do. They'll move him, then they're not going to support the things that he'll support. I'm being frank. Now, we are grown people. We're in the last days. I'll kill that equine bill. If I can't kill it, you've got to go six hours. So, see where you'll be. If we started on it right now, 9:15, and if you think I won't do it, just hark back to last night. It has nothing do with the fact that I spent time correcting the incompetency of his staff. [LB158]

PRESIDENT FOLEY: Time, Senator. Time, Senator. [LB158]

SENATOR CHAMBERS: Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Groene, you're recognized. [LB158]

SENATOR GROENE: Thank you. My turn? Thank you, Mr. President. I don't have a law degree, but I know the law. Young people up there, we...most of us down here are not attorneys. We create the law. We create law so that you, as a citizen, can understand it. You don't need an attorney. In America the laws are yours. An attorney is hired if you want help. What Senator

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Wayne said about the 12-year-olds getting in a fight. In 2017 we passed a law, any minor 13 years of age or younger charged in juvenile court with a law violation of statute offense...of a status offense is mandatorily appointed an attorney. That's the truth. Senator Wayne should know that. As far as your right to an attorney, yes, you have a right. This young group up here is getting a government class, civics class right now. Yes, you have a right, but you do not have a right if it is mandated. You do not have a right to vote if they force you to vote, and it's a mandate. You do not have the right to free speech if they make you stand up and talk. You've lost your right. You do not have a right to an attorney. You hear this lawyer talk about the Supreme Court said you have a right to an attorney. Yes, you do. You have the right to an attorney. If you stand in front of a judge and say I want an attorney, you're going to get one. But what they forget to tell you is the court also said you have the right to not exercise that right. You have the right not to exercise that right. This bill takes that away. You young folks in the balcony, you think you're intelligent enough to know if you're guilty or not? I think you are. Those individuals who don't hire an attorney admit their guilt. I contacted a judge. If a juvenile walks in the court and says I'm not guilty and says I'm going to defend myself, guess what, that judge will appoint an attorney like it or not. So to Senator Hansen's claim about that you're guilty, yes, people are guilty. It's called human nature. It's called human nature. Youths, adults, we stray, and many admit their guilt and go on. Some want to fight it, that's fine. You get an attorney appointed. As to the point Senator Wayne made that a story about the 15-year-old kid who steals a Snickers bar. Guess what? Immediately those records are sealed. That owner of that Burger King cannot call the courthouse, cannot check records to find out what kind of a record that youth has. It's sealed. You are equal when you're applying for that job at the Burger King or the McDonald's, if you stole the Snicker's bar, with the kid that goes to church every Sunday, a mom and dad never let him out of sight. You're equal when you apply for that job. That's the truth. We have some problems with this sealed records. If a young person gets DWI at 17, reckless driving at 18, he can apply at the Papa John's and get a delivery job without revealing that to the owner of the pizza place. There's some problems here, but your records are sealed. I'm not a lawyer, but I know that because I can read. I can read the law. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: The law that was created by average men and women in America, not by lawyers. You really want lawyers to create law? Is that what we want? No. I want those young folks up there to be successful in sales, own a McDonald's, and some day stand up and say I'm going to run for office and I'm going to create law because I'm reasonable, I got wisdom, and I have common sense. You just heard a threat, young people, extortion. Groene, you back off of this or I'm going to kill the horse massage. Well, there's people out there. Lower, middle-class women who want to create a career in massage, and we have a senator that's going to get even, and he's going to kill it. I've had enough of that. I will never extort anybody on a bill, and Senator Wayne, I'll give you a lesson that I received as a rookie. [LB158]

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PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Pansing Brooks. Senator Pansing Brooks, you're recognized. [LB158]

SENATOR PANSING BROOKS: Let's take a little breath, shall we? Again, many facts and myths are being discussed here. Fact number one, this is not a burden on the counties. We have a...a dollar will raise 360 or \$350,000 a year. We had no people coming to testify against, except for the counties, and now...and you've received the letter that once you have the fee in place they don't have opposition, and neither do the courts. The letters of support included Voices for Children. It included the...oh, sorry, had it right here. It included...hang on one sec. There we go. Wrong place. Julie Rogers, the Inspector General. It included Judge Johnson from Douglas County. It included Judge Heideman from Lancaster County. It included the Foster Care Review Office about how it's necessary. All of you are talking about how unnecessary this is, and, oh, we don't need this. We have the Nebraska Children's Commission chair write about how necessary this is. We have the bar association write a letter of support. We had Nebraska Appleseed write a letter of support. We had the ACLU talk about constitutional rights and why this is necessary. We have the National Juvenile Justice Network write and say how necessary this is. We had a long letter from Michelle Hines who used to work in the western part of the state in private practice and represented many juveniles, so it's great to say this isn't necessary. Boy, we need these parents to be able to stand up for their children. Well, there are parents that can't stand up for their children. That's why our welfare system has so many issues. That's why these kids literally have no one there to represent them. Last time we were on the mike, Senator Morfeld went into some of the questions about, you know, the procedural matters that are required for someone to go into a court, including motions and evidence and discovery. And I asked each of you whether you really could represent yourselves and know what you're supposed to do to mount your most proficient and perfect defense, and then transfer that idea to juveniles and the fact that they barely understand what an attorney is. I've asked young people who come to the Capitol to explain to me their constitutional rights, and they sort of know about Miranda, that Miranda needs to be given to them if they're arrested, but that's about all they know because they see that in TV. Again, in 2009 we had the National Juvenile Defender Center come in. The number one issue right next to... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR PANSING BROOKS: ...fixing our juvenile justice laws was excessive waiver of counsel. All sorts of people came in that were experts across the state and nationally, and continued to talk about the fact that our juveniles are being forced to precipitously waive counsel and are...that there are systems in place where the parents are mad, where the judges know that it will be a lot easier and the prosecutors know that it's a lot easier to not have defense there. It's a lot easier. Let me tell you if the prosecutors don't have defense attorneys in there, their job is so much easier. They're right. It is easier. They don't need it. They don't need it. It has worked fine.

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But that's not our juvenile system. That's not our justice system. So, thank you, Mr. President.
[LB158]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Pansing Brooks. Mr. Clerk for an announcement.
[LB158]

ASSISTANT CLERK: Thank you, Mr. President. The Health Committee will hold an Executive Session at 3:30 in Room 2022. [LB158]

SPEAKER SCHEER: Thank you. Returning to LB518. In the queue, Senator Krist, Williams, Halloran, and others. Senator Krist, you're recognized. [LB158]

SENATOR KRIST: Thank you, Mr. President. Again, good afternoon, colleagues; and good afternoon, Nebraska. I think Senator Wayne is underneath the balcony. Could I ask you a couple questions, and while you're coming to the mike I just want to make sure that we understand. Again, there's some misinformation that has been given out. You do not need counsel to remove a child from the home. That child can be removed for a number of reasons without having counsel. I think what Senator Groene must be referring to is the termination of parental rights process. I must believe that that's the case because indeed for safety reasons and for a number of other reasons a child can be removed from the home initially, both the protection of the child and the environment. Senator Wayne, would you yield to a question? [LB158]

SPEAKER SCHEER: Senator Wayne, would you please yield? [LB158]

SENATOR WAYNE: If I get to complete the answer. [LB158]

SENATOR KRIST: You're going to get the rest of my time. Could you describe for us because there's been a lot of other misinformation given out about stealing two candy bars and automatically having records sealed. Could you could talk to us about that in terms of what really has to happen in order for a child to have their juvenile records sealed? [LB158]

SENATOR WAYNE: Yes, so what really has to happen, it's a step process, and I'll be quick because it's on your time. It's very short. You have to first either plead or be... [LB158]

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SENATOR KRIST: I want you to take the rest of my time and explain it, so it's all yours.
[LB158]

SENATOR WAYNE: Oh, thank you. So in that example you have to first plead what you say what we call in juvenile admit to be true, or you have to be adjudicated which is a mini-trial. Either two of those. So even if you were to plead on day one and you moved into sentencing phase, since you are a juvenile, no court hardly ever offers a sentence of a fine, because they can't hold you to that really because you're a juvenile and you might not work. So typically what happens on 90 percent, 95 percent of the cases you go into probation. That term of probation is anywhere from 90 days to six months to maybe a year. So at that point you're on probation. And where Senator Groene is incorrect, during the time your case is active, if you were to apply for a job, it would show up. Your record is not sealed until after you complete your probation and there is another hearing, whether it's an actual hearing or the judge just calls it a hearing. They have to find that you satisfactorily completed your probation in order that record to be sealed. Prior to that being ordered, the county attorney has to give notice to the person that their order is going to be sealed. So this isn't, I just plead, tomorrow I walk out, and my record's sealed. That's not true at all, and in fact, most cases for stealing a candy bar opens up more conversations and there could be a psyche eval, there could be...if the kid ever admitted in probation...let me tell you how it drags out, real quick, Senator Krist. How it drags out is if a kid says, well, yeah, I had a couple beers or, yeah, I smoked a joint before, probation has to report that back. And the court could and most likely and ethically obligated to and, I believe, to order a CD evaluation which is a chemical dependency evaluation. If you have a drug problem and the court knows, or is just something that you do on the side, that judge has an ethical obligation to find out if it is a problem or if it's just fun. The only way you do that is through a CD evaluation. So there goes another 30 days to get your evaluation, maybe even longer, and another 30 days to produce that evaluation. So this is the dark hole that you hear... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR WAYNE: ...juvenile justice complain about because a simple shoplifting charge is never just a simple shoplifting charge, even in rural Nebraska. [LB158]

SENATOR KRIST: So just to put an exclamation point on this, what you just gave us is accumulation of how many years of actually practicing and of education? [LB158]

SENATOR WAYNE: I have done...I have been in this field for over 15 years. [LB158]

SENATOR KRIST: Fifteen years, and you're able to explain something that complicated and if I were a parent trying to navigate this system myself, many traps, many pitfalls that we would

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encounter. I want to thank you for that explanation. I hope, colleagues, you were listening to the professional explanation of what really happens when we talk about sealing records in a juvenile case. [LB158]

SPEAKER SCHEER: Thank you very much, Senator Wayne and Senator Krist. Senator Williams, you're recognized. [LB158]

SENATOR WILLIAMS: Thank you, Mr. President; good afternoon, colleagues. Seems like to me, after listening to debate for nearly four years in here, where we get in trouble is when we allow our beliefs and opinions to become facts, and we tend to do that all the time in here. And on the microphone this afternoon, I've heard a couple of things that have bothered me personally when someone has said, I don't understand the passion behind taking away people's rights. And they forget about the constitutional right that trumps all the other rights and comes in there first. And I think we ought to have a little passion for defending those constitutional rights of these people. We also heard that those of us in the rural areas and our constituents are different than the urban areas and we take care of our own and one size does not fit all. I was taught that the constitution is blind to differences. It's not rural. It's not urban. It's not white. It's not black. It's not young. It's not old. It is one size fits all. That again bothers me. Nearly all of us in here are parents or grandparents or certainly have a close relationship with young people, and I would say there are only a very limited few in this group that have the ability to advise professionally a young person about decisions that will affect them and follow them all the days of their lives. I watched from the back row of Dawson County Court, some 20 years ago, when a small group of young people were being charged with minor in possession. The judge in charge happened to be related to one of those young people. There were four of them, did something really stupid, and were paying the price after being advised of how to do it. And the judge asked them some questions about did they realize that their actions that they had taken would limit opportunities that would be in front of them for the rest of their lives. That thought hadn't really crossed their mind, and it certainly didn't cross their mind when they committed the incident that caused the case to happen. I think we need to step back and think about what we're doing here. Creating justice by geography can't make sense. Trying to say that the constitution should be applied differently based on geography, that the constitutionality is not one size fits all, again, makes no sense. Think about the process here, and I like to follow the process of our Legislature. This bill came before committee; was voted out of committee with no dissenting votes. In fact, the only person that did not vote was Senator Chambers, who happened to be absent at that time; and he, of course, as you know, is standing on the floor supporting this legislation. [LB158]

SPEAKER SCHEER: One minute. [LB158]

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SENATOR WILLIAMS: Thank you, Mr. President. Think about that process. Think about where we're going, and recognize and stop allowing your beliefs and opinions to be fact. Thank you, Mr. President. [LB158]

SPEAKER SCHEER: Thank you, Senator Williams. Senator Halloran, you're recognized. [LB158]

SENATOR HALLORAN: Thank you, Mr. Speaker. Would Senator Pansing Brooks yield to a question please? [LB158]

SPEAKER SCHEER: Senator Pansing Brooks, would you please yield? [LB158]

SENATOR PANSING BROOKS: I will. [LB158]

SENATOR HALLORAN: Thank you Senator Pansing Brooks for the opportunity to ask you some questions, or at least a question. Again, I can only speak from the ground level of my own county, and I've heard others speak from counseling with their county judges and defense counsel and prosecutors, but...and even if it's only one case, it's one case too many, I understand that, but is this...can you quantify in some fashion for the number of cases in counties under 150,000 population where juveniles have been abused or denied their right to counsel? [LB158]

SENATOR PANSING BROOKS: Yes, I passed out lots of information that you've already received. I thought...I had hoped people had looked at it. I can...I will be happy to bring this back to you off the mike if you want. I do...I do, okay, yes, I do have it. I have the total number by county and the percent with counsel and the percent without. And I handed this out to you last time, it was a study done, and I have the numbers. So what do you need? By county? [LB158]

SENATOR HALLORAN: Well, I guess my question is, maybe it's not...maybe this isn't quantifiable, but how often has that been...how often has that resulted in abuse of the juvenile's case? I mean, is it a large number of those that did not have counsel that their rights were abused? [LB158]

SENATOR PANSING BROOKS: It depends on which county you're speaking of. There are counties that are doing it 100 percent of the time, and there are counties, like Dundy, but they only have two cases, and they've given counsel 100 percent of the time; same with Knox; same with Keya Paha. There are other counties that have given it 17 percent of the time, or zero percent of the time, like Sioux has given it zero percent of the time. So it just depends on the county. And if you've seen that map that I passed out, you can see the colors. [LB158]

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SENATOR HALLORAN: So in those cases...maybe I don't have, and I'm sorry, please forgive me for this, I don't have that handout in front of me. [LB158]

SENATOR PANSING BROOKS: I'm happy to get you another copy. [LB158]

SENATOR HALLORAN: So we're talking about courts that don't offer the advice or recommend to or at least inform the juvenile to seek counsel? They're not...there are courts that don't do that at all? [LB158]

SENATOR PANSING BROOKS: The testimony we heard was that people are basically cajoled into waiving their right to counsel precipitously; like, we have had a case in Nebraska where the judge brought all the cases up in a mass arraignment. That's not done for adults. They then asked all the kids with the light sentences remember to...if they wanted counsel, and they waived it, and that was fine. But then they got to some of the other cases that were more serious, and the judge actually said why don't you want to waive counsel? What makes you think you are more special than all those other kids before you? So there are cases where it has been shown that judges have attempted to clear their docket as quickly as possible by encouraging and cajoling, making it seem as if they're going to receive a lighter sentence if they waive counsel, which has not been true across the state. So that's what we're up against. [LB158]

SENATOR HALLORAN: So it's a large problem. I mean, and I understand, one case is one case too many. [LB158]

SPEAKER SCHEER: One minute. [LB158]

SENATOR HALLORAN: But it's a large problem, across the state? [LB158]

SENATOR PANSING BROOKS: Yeah, I'll get...I'll hand you this...I'll get a copy of this again for you after...and I don't know if anybody else wants it. I'm happy to get this run off again for people. [LB158]

SENATOR HALLORAN: Okay. Thank you. [LB158]

SENATOR PANSING BROOKS: Thank you for asking. [LB158]

SENATOR HALLORAN: Thank you, Mr. Speaker. [LB158]

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SPEAKER SCHEER: Thank you, Senator Halloran and Senator Pansing Brooks. Senator Albrecht, you're recognized. [LB158]

SENATOR ALBRECHT: Thank you, Speaker Scheer. I guess I save everything in my e-mails, so I got to pull up, last year, when the Judiciary Committee met. NACO did come in in opposition, and I understand that that's how you ended up getting the \$350,000 per year to help fund this. But I wanted to bring to light why they opposed it. I know I was one of the state senators that ran right to Larry Dix and said, are you kidding me? I mean, who really is telling you that they need this, want this, or can afford this? And so, obviously, they had their attorney, Elaine Menzel, legal counsel, put this together. And I'm sure this went out to the Judiciary Committee and Senator Ebke. So in the...and I'll just read a few things out of here. I also have a map that was attached to it that shows the number of counties with zero attorneys, three or fewer attorneys, so there's...with zero attorneys there are 11 counties; with three or fewer attorneys there are 19. And I'd also like to have a question after I get through here, how many attorneys in the state of Nebraska can defend juveniles? Is there something that some can, some can't? I'd like to get a number, so I'll ask that question when I'm finished to see if somebody can tell me how many there are. So inside of this letter, it talks about the Nebraska Association of County Officials, NACO's basis for their opposition at the time was related to the belief that juveniles are not entitled to the right to counsel in court cases, rather it relates to the resources available to counties for providing such services, both in terms of monetary and also in terms of the lack of attorneys available to represent juveniles in these type of cases. Going down to the third paragraph: the next point that I would like to make is related to the availability of attorneys in many of the counties. This is a concern that is recognized by not just NACO, but also the Chief Justice, state judiciary, and the Nebraska State Bar Association. As stated by the Chief Justice, no lawyers mean no judges. It is increasingly difficult for us to fill judicial vacancies in the Third Congressional District. In nearly one-third of our counties, there are between zero and three attorneys in the county. This information is contained in the attached map created by the Nebraska State Bar Association. As you will note that there are 11 counties with zero attorneys, 19 with three or fewer, thus 30 counties with less than 3 attorneys at all. And in some counties this would be the county attorney and someone unable to defend the juvenile. And in some of these counties, even where there are three attorneys, none of the attorneys practice juvenile law. So in many of the other counties, the nearest community with a population base and likelihood of having an attorney who practices juvenile defense work is anywhere from 30 to 90 miles away one way. One example of the necessity to travel to meet with clients was referenced in December 16...excuse me, December 26, 2016, NPR article. While not all cases were... [LB158]

SPEAKER SCHEER: One minute. [LB158]

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SENATOR ALBRECHT: ...necessarily juvenile related, the article stated that the attorneys travel an average of 500 miles a week. Our mileage bill for our office is huge. So, again, I know that's a lot of money...I'd like to find out if Senator Pansing Brooks would yield to a question? [LB158]

SPEAKER SCHEER: Senator Pansing Brooks, would you please yield? [LB158]

SENATOR PANSING BROOKS: Happy to. [LB158]

SENATOR ALBRECHT: Can you tell me, Senator, how many attorneys are in the state of Nebraska that can actually take care of juveniles? [LB158]

SENATOR PANSING BROOKS: All attorneys can represent juveniles. [LB158]

SENATOR ALBRECHT: So why would they say in some of these small towns they aren't able to represent a juvenile? Why would that be? [LB158]

SENATOR PANSING BROOKS: Maybe they don't have enough attorneys in that city, but there are competing counties that can do it. We have a list here of all the attorneys that there are. There's effort going underway right now so that there could be...there is an effort by the bar association to start giving lists to people of attorneys who will go out to western parts... [LB158]

SPEAKER SCHEER: Time, Senators. [LB158]

SENATOR ALBRECHT: Thank you. [LB158]

SPEAKER SCHEER: Thank you, Senator Albrecht and Senator Pansing Brooks. Senator Hansen, you're recognized. [LB158]

SENATOR HANSEN: Thank you, Mr. President. I would yield my time to Senator Pansing Brooks if she'd like it. [LB158]

SPEAKER SCHEER: Senator Pansing Brooks, 4:55. [LB158]

SENATOR PANSING BROOKS: Thank you. If Senator Albrecht would like to ask her question again, I'm happy to have her continue this. Oh, okay. Anyway, so there are, my friends, plans underway by the Nebraska State Bar Association to help on the counties that are having the highest need. Obviously, attorneys can come from...don't have to come from within that county,

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and there are issues about the counties where there is way less population. But if you look at the map that I passed you before in which Senator Halloran has, you will see that it isn't just the counties that are...I mean, some of the counties that are the least populated are still providing counsel most of the time. So you can't even make some sort of generalization about that because of the attorneys. The other thing that's happening now is that more and more courthouses are using video conferencing ability to be able to represent clients. So I'm not sure which letter Senator Albrecht was reading, but the counties have sent a letter saying that they're on board. The first year they came in neutral because they felt they had a moral duty not to oppose that bill and to balance their court's budgets on the back of children. Then because the courts had some problems, they came in against, and now this year we have all of them off, all of them supporting. We didn't have the county attorneys coming in and objecting to this. So the fact that you've each got a specific county attorney here and there that says, oh, no, we handle it just fine. We know how to represent our kids. We don't need somebody to defend our kids. If you think about it, would you be satisfied with that with your own child? I certainly wouldn't, and I wouldn't recommend that any one of you be satisfied with that for your own child. Never accept that you're only going to let your own child go into a courtroom and be represented and just have the judge and the prosecutor decide what's going to happen. That should not be happening in a court of law. No adult who faces any kind of jail or incarceration is expected to follow that standard. So to accept the fact that juveniles can just go in and...that's fine, that's what our juvenile system does. We know what's happened with the "Beatrice Six." What has not happened is the kids have not sued us yet. That is what's not happened. And I keep hearing from various groups--that's the next step, that people are going to go out and represent those kids and show what's happened. I don't think we need to go that far. I think what we have to do is make sure that a kid has representation. To say that there's no attorneys in a certain area, well, what happens in a case that's very significant? If you don't have attorneys...Senator Albrecht gave the example--well, we don't have attorneys in some courthouses that can represent children. Well then send them to diversion and quit charging them, because we are not exacting justice if we aren't representing them. Think about it, my friends. These are kids that don't even know what is going on. We all know 14- to 18-year olds. We know how the brain doesn't fully develop until 26, and you're expecting them to wander the juvenile justice system without representation?
[LB158]

PRESIDENT FOLEY PRESIDING [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR PANSING BROOKS: Anyway, I feel positive about this. I know it's the right thing to do. I'm pleased to continue to stand, and I will continue to stand in this battle. I feel like it's the right thing. We have to protect the most vulnerable in our state. I came here to represent the most vulnerable. That generally meant a lot of people who are low-income and in poverty, but I'll tell

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you what, once I realized what was happening to the kids in this state, I'm adamant to fight their battles on this floor. Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Groene for the third time, please. [LB158]

SENATOR GROENE: Thank you. I wanted to finish where I picked up to my colleague and friend, Senator Wayne, when he said you will never cut me off, I will not stand for a question. Let me tell you the lesson I learned my freshman year when I was...I said basically the same thing to Senator Krist. Quickly I was reminded, sir, that five minutes is my time. The minute I got the answer from you that I wanted it was my time. So I don't know if anybody told you freshman, they can cut you off any time because it is their time. They've been waiting in the queue a long time. But that's fact. It's the speaker, it's the senator in the queue's time. And as colleagues, we yield to questions. It's what we do, but we understand that the senator has planned what he was going to use his five minutes for, and when he cuts you off, he has the right to do that, and he should, because he's trying to present his argument. That reminds me, it was back when I did the...rookie came in and I just like this...I admire Senator Pansing Brooks; she is passionate about this. I'm on the other side of the rights issue. It was about a meningitis vaccination. I was lectured that I did...wasn't an expert. I did my research. And this issue, too, I have a lot of learned individuals who are consulting me on what to say and what's rights are there. When I'm off the mike I'm communicating with them--judges, attorneys. But it was meningitis vaccination. I was told, and I ran a successful filibuster, turned it. It was going to be forced, just like this. Citizens were going to be forced to take a vaccination. Told them it wasn't reliable. I could go all into it. We won. It did not come back. And you know why that bill never came back like this one, because a year later the Academy of Pediatricians came out with a recommendation to parents--do not give that vaccination unless certain conditions, your child's immune system. It was not safe. It was not reliable. This unlearned man standing right here knew that because he did his research. He went to the CDC and got the information. Senator Krist had never brought that bill back for a reason--Academy of Pediatricians agreed with this unlearned individual called Mike Groene. Testifiers at the hearing...told you about my railroad guys, my wife working at the hospital or down at the Kwik Stop. They don't even know the hearing is existing. They didn't even know their teenager might lose his rights to deny counsel. But who was here? The ACLU. The lawyers. The lobby. People who know what best for our children. Average parent, average family who's at work, they don't have time to go to court, but they will with their kids once. Now we're going to make them go three or four times, and then they're supposed to drive down to Lincoln and testify about a hearing that we...about a bill that they don't ever know when it might affect them. And all of a sudden they're going to find out they got to hire an attorney. There goes the Christmas money. There goes that first semester of college. Son, it's going to lawyers because you don't have a right to deny to exercise your right to not exercise your right to counsel. I would ask Senator Pansing Brooks, but I'm not going to put her

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on a tight spot. I would like to answer questions. Is there ever an instance that anybody can cite in the last 50 years...I'll go back 50 years, where an individual was denied counsel... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: ...in the state of Nebraska...where an individual was denied counsel? Denied counsel. All they have to do is say...when the judge asks--you have the right to counsel. All you have to do is answer--I want counsel. It's in a free society. I want to see the case where somebody was denied counsel in the state of Nebraska to exercise their right...teenager, youth, all the way down the line. That young person who stole that candy bar, his records will be sealed. Period. Senator Wayne did not make that clear. His records will be sealed. Oh, yes, when he's on probation, he'll probably have to tell his employer, and he'll have to...maybe part of his probation is to prove that he showed up for work. But his records will be sealed. It was a genetic term that Senator Wayne used that said he would find out, the employer would know. No, after the probation or whatever it would be sealed. [LB158]

PRESIDENT FOLEY: Time, Senator. [LB158]

SENATOR GROENE: So anyway... [LB158]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. (Visitors introduced.) Continuing discussion, Senator Lowe. [LB158]

SENATOR LOWE: Thank you, Mr. President. You know, it seems, I don't know, the last month or so, we're starting a division on the floor. It's not a division of Republican and Democrat. It's not a division of urban and rural. It's a division of attorney and non-attorney. Many times now we have heard that we don't know anything because we are not an attorney. We may not know the law exactly, but we are citizens, and we are a citizen house. I have the non-partisan candidate filing form here that I filled out in order to get this position. And nowhere on this filing form does it say that I need to be an attorney. My constituents did not take that into consideration. They just knew of a man of a good...that could represent himself and represent his constituents. I am not an attorney, but I do respect those who are. And I do respect Senator Chambers who went through law school. And I do try to learn from them, and that is what we are doing here today is a learning process. I respect Senator Pansing Brooks for bringing a bill like this in support of children that she cares about. But let me read the Sixth Amendment to our constitution: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for

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obtaining a witness in his favor, and to have the Assistance of Counsel of his defense." Nowhere in there does it say an attorney will be appointed for you and then you have the right not to accept it. It says, you have the right to have an attorney. It does not say you have the right to deny the attorney. But that is also ascertained from this. Because you have the right to one or the right not to have one. It does not say you will have them and then you can deny it. That is in our constitution. Senator Williams spoke about our rights earlier. This is our right. It's in the Sixth Amendment. I stand in favor of the bracket because of this right. I'm not against children having an attorney. I believe as parents we should all tell our children that they do have the right to an attorney, and that attorney may know more than what the child knows...matter of fact, in an adult. I am learning that here on the floor that Senator Wayne is a very bright, young man. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR LOWE: And Senator Chambers is probably the brightest of us all here. It took time to go through law school, and so I'm not going to degrade the attorneys. But let's not create a division of us who are attorneys and for them that are not, because that is not what we're here to do. We are here to solve the problems of our state and that is all. Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Pansing Brooks. [LB158]

SENATOR PANSING BROOKS: Thank you, Mr. President. First of all, I would totally agree with Senator Lowe that we should not create divisions and that we need to work back and forth across the spectrum. And I had been planning to stand after Senator Chambers said a couple things. And I wanted to say that one of the things that I'm most grateful for is our ability to work back and forth across the spectrum. And I've been fortunate enough to be able to work with Senator Scheer and Senator Lindstrom on human trafficking issues. We've made real changes and real positive change in our state. I've been able to work with Senator Clements on cyber bullying. I've been able to go across the state and look at reading and dyslexia with Senator Linehan; we've come up with some really positive legislation. I've been able to, as Senator Chambers mentioned, go with Senator Brewer and work on Whiteclay, Native American issues. Senator Thibodeau and I have been talking and working on how we might be able to address human trafficking as it relates to the bottle clubs. So I get this broad spectrum that we have here. It's important. I would agree with you. But I would also say that as a lawyer, that's my profession. Just like the farmers have their profession and we defer to the people with the most knowledge on some of these things. I cannot go through an entire constitutional law class right here to say why the Sixth Amendment applies to children. I've tried to tell that. Why you can still waive counsel, it's hard to go through all that. So, again, the idea is that we have a spectrum here,

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and we try to listen and give credence to some of those who arguably know the most in that area. Senator Wayne, Senator Chambers, Senator Hilgers, Senator Williams have all stood up in support of this ideal of making sure that children are represented. But I'm going to continue to search and to try to foster that broad support across the spectrum of our body from Hilgers to Hansen and Williams to Wayne, I feel grateful that I have been able to work today or work for the past couple of years to make a difference in the lives of Nebraskans. And today we have an opportunity, my friends, to do some great things for our kids. In that respect, I was asked off the mike, what if a county decides they have so many cases they need to hire a public defender? That's perfect. This is exactly what it's meant for. Based on the numbers, a judge can say to the county board, we have too many cases and we need to hire a public defender. Then they could apply for the grant under this amendment that's following. So that's exactly what this is meant to do. Counties...and furthermore counties could ostensibly hire a public defender together. Counties that may not have enough in their county, but if you get two or three counties together and decide to hire a public defender that could... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR PANSING BROOKS: Thank you. ...represent juveniles, that's perfect, that's exactly what this fund is meant to do. And as it is now, the way things are, you have no opportunity to apply for any funds whatsoever on any indigent juvenile case. If you want to just continue with the status quo, that's your choice. But you're making that decision for your counties. We have an opportunity here to create an indigent juvenile defense fund. We have an adult juvenile defense fund, this will be so counties can apply for money to represent juveniles. Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Friesen. [LB158]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. This is the first time I've really been on the mike this year on this bill. I guess I will just say that I remain steadfast in where I was. I've had none of my county attorneys approach me about this as a problem. We seem to be operating pretty good. I've visited with several of them over the years with the...or the last two years with this, so I feel comfortable where I'm at. Let's keep moving forward. I'll yield the rest of my time to Senator Groene. [LB158]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Groene, 4:10. [LB158]

SENATOR GROENE: Not a lawyer, don't have to be to understand court cases or to read a court case. Faretta v. California 1975, I'll just sum it up. It was an individual who went to the Supreme Court about representing himself and being appointed attorneys. Senator Stewart, I believe it...I

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mean, Judge Stewart, in the opinion said--the Sixth Amendment made applicable to the state; the Fourteenth guarantees that a...a defendant in a state criminal trial...criminal, that's what we're talking about here, you heard somebody earlier say about when you're removed from your home. We're only talking when you're removed from your home in a criminal case you have to have an attorney, not in custody sometimes. The individual juvenile had to have committed a crime. Sadly, a lot of kids removed from their homes for other reasons. The defendant in a state criminal trial has an independent constitutional right of self-representation, and he may proceed to defend himself without counsel when he voluntarily and intelligently elects to do so. And then it goes on to say the Sixth and Fourteenth Amendments of our constitution guarantee that a person brought to trial in any state or federal court must be afforded the right to the assistance of counsel before he can be validly convicted and punished by imprisonment. This clear constitutional rule has emerged from a series of cases decided over the last 50 years. The question before us now is whether a defendant in the state criminal trial has a constitutional right to proceed without counsel when he voluntarily and intelligently elects to do so. Stated another way, the question is whether a state may constitutionally hail a person into its criminal courts and there force a lawyer upon him; even when he insists that he wants to conduct his own defense. It is not an easy question, but we have concluded that a state may not constitutionally do so. That's English. That's English. That's not lawyer talk. That's a judge talking to the people. That is case law. That is what we should follow in the state of Nebraska. We ignore it. We are ignoring it with this bill. So how are you going to vote? Are you going to agree with Justice Stewart or are you going to agree with a few lawyers here in town...in this building? What are you going to do? I have some other instances here about how this affects rural Nebraska. Arraignment days and times for the minor may be different than days set aside for court appointment counsel. Cases depending on the county and judge's schedule; judges and attorneys travel in greater Nebraska as many counties do not have a sitting judge. Also, many public defenders are part and are in private practice, not housed in the courthouse or near a court or even in the same county. Many judges, if not most, use a rotation schedule to appoint attorneys... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: ...when there's no public defender or a conflict. By the way, my county, before a public defender in the budget didn't do juvenile cases, they were appointed. But the overwhelming changes in custody cases and HHS cases, they finally had to raise the budget and hire a juvenile attorney. This also means that most judges who use the rotation system will wait to appoint counsel at the first appearance. Even the statute...proposed statute says "at the first appearance," not beforehand. Let's be friendly. Let's get along. Let's read the statutes and not react on what we feel would be good for a juvenile. Thank you. [LB158]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Halloran. [LB158]

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SENATOR HALLORAN: Thank you, Mr. President. I want to thank Senator Pansing Brooks for the data that she provided me through Voices for Children, but looking at both the map and the data that developed the map, it's at some level, and I know it's not intentional, but at some level it's a little misleading. The map that was provided, as it says, breaks down the rate of access...juvenile access to counsel by county. And I can, again, only speak for Adams County very personally, but I think it's true of many counties. Adams County has 100 percent access to counsel for juveniles. But on the data that built the map, it suggests that the total number of cases were 223 in Adams County for juvenile, 35 percent with counsel. Now, that's two different things. They were all offered counsel numerous times. The judge says at the first appearance, the first thing he does is he informs the juvenile that they can and they should have counsel. And then he says, as the proceedings proceed, if it appears to him in his own discretion, and he is the judge, and we often talk about how important it is that we place people in that position so that they have some level of discretion, that's why they're judges, but if he sees that the juvenile is not representing himself well or is not representing well by his parents, if that's the case, that he will intervene and not recommend, but he will mandate that that child has counsel. So the map is very colorful, but in the data, again, it talks about percent with counsel. They've all been...they've been offered counsel in Adams County, significant percentage turned it down. It wasn't a judge, I know this judge, he's a very solid judge, and he has compassion and empathy for juveniles, and he would not try to talk a juvenile out of counsel if, in his judgment, he felt that juvenile should have counsel. So several times are offered, but the data here only suggests that 35 percent of the time they're offered; they're offered 100 percent. Sixty-five percent, either through the parents or the juvenile, decided to go it without counsel. And so, you know, statistics are good, but it all depends on, I guess, who puts them together, and then I guess it is some perception of who reads those statistics how they judge those statistics. But I will yield the balance of my time to Senator Groene. [LB158]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Groene, 1:50. [LB158]

SENATOR GROENE: Thank you, Senator Halloran. Also I wanted to make the point, if I can find it, sometimes things get cluttered, a lot of information. Oh, as to the point, I'm getting this from legal, a very well known, very learned but experienced J.D. and also in the judiciary system. Can you appoint in advance of a hearing in rural Nebraska? The language of LB158 says, no, it's done at the hearing. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: First practical problem, a large number of parents and juveniles fail to bring their papers...their paper we require now back to court or mail it back before court. We must then wait until they get to court to fill out the written waiver of attorney form, even when

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one was sent. They just don't do it. Second practical problem--no discovery requirement that provides that the county attorney send written reports to counsel in advance of court in the bill. Some county attorneys will not provide reports to opposing counsel until ordered or after the attorney gets to court or for other reasons related to ongoing investigations. I'll finish that later, but now we got discovery; now we got an attorney going to do his ethical duty, and this keeps rolling. More money to the middle class family, a law bill that's getting sent to them. Really? More work for the county attorney. [LB158]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Krist. [LB158]

SENATOR KRIST: Thank you, Mr. President. Again, good afternoon, colleagues and Nebraska. And once again, I want to set the record straight. Senator Groene, the reason I didn't bring that bill back is not that you have some superpower on this floor, it's that the people who asked me to bring it asked me not to bring it, and they were waiting for you to leave, to be quite honest, because once you have your mind made up, you're not going to change your mind. And by the way, you're CDC numbers are still in contest. There are still doctors who believe that in one side or the other it is the best thing to do to inoculate and vaccinate our kids. I think you were in the committee, or maybe not, when we saw the child, now a young man, come in without arms, without feet who overnight became a victim and how easy it would have been to give him the vaccinations that he needed. So it's not that I was afraid to bring it back or that you had more prowess on the floor or that you had better data. What you had was a group of people that were listening to facts that were brought up over and over and over again, that were one side of the story or one part of a story. Now back to the subject at hand. This is not, and has been said earlier, this is not a filibuster-kind of bill. It's a bill that we should have moved on from, from General to Select; tried to fix it in between time and spent less time on it as we got into the next level. There are demonstrated facts in our pilot projects that have been very successful in the state of Nebraska. And if the county judges are telling both you and Senator Halloran and others anything different than what we're hearing in those other counties, then maybe they haven't experienced the kind of process that we're talking about. Senator Groene keeps saying that it is a tax, and it is a bill upon middle-class America. We've had several other examples of how if a child is not permitted or given legal counsel, it can be much more expensive to that individual in the long-term, both in terms of what he or she is capable of becoming in their lifetime, but also in their earning potential when something follows them through to adult life. You won't change my mind, and I'm not going to change yours. It is something that I have worked with, the ten years I've been here in juvenile justice. Its been demonstrated as the facts. If there are...if there's data given to you and it's just not brightly colored enough, Senator Halloran, or if those statistics don't read the right way, then I would invite you to ask another expert, because that data is the same data that I've been looking at and I trust that data. So again, let's stop berating the judges that are telling us that the process works, the counties where it is working, and stop making this a rural-urban divide once again. I would invite Senator Groene to end all the madness, pull his

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reconsider motion. Let's take a vote up or down on General File; move it to Select, and you can have all the intelligent or lack of intelligent conversations you want to between now and Select File and we can deliver it then. And then maybe...neigh, whinny, whinny...we will get to your bill sometime today, and maybe it will be treated fairly. Thank you. [LB158]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Hansen. [LB158]

SENATOR HANSEN: Thank you, Mr. President; and thank you, colleagues. I rise in continued support of Senator Pansing Brooks's LB158. I want to, kind of, address the attorney, non-attorney divide that Senator Lowe brought up. I do agree that that is actually a concern of mine that there's too much rival camps in this body and we too quickly descend into tribes or groups or whatever term you want to use that look at an issue through very, very strict glasses, you know, and kind of are blinded to potential options of choice or compromise or what have you because one person who's on our side feels strongly and we can't ever go. This is an issue that I think you can listen to the lawyers, you know, there are, we kind of generally support it, but that we also generally have the experience in courts or in the process. And for me, through the Judiciary Committee, and some are others, and it's not an issue that I don't think people who aren't attorneys can have an expertise on or can have an opinion on. I certainly, I'm an attorney, and I certainly vote on issues related to everything from accountants to doctors to ag to things that I don't have anything to know, and that's absolutely correct. I've been elected by my constituents to represent their best interest and the state's best interest using my judgment. And there's no possible way anybody in this body could have enough professional experience to be an expert on all the things, even just on today's agenda. That being said, if somebody gets up on the microphone and starts challenging your area of expertise to things that are just demonstratively wrong, you know, if I got up on the microphone, for instance, and all of a sudden denied that there was a property tax crisis and property taxes were too low and they had a (inaudible) up, I think there would be about 15 members of this body ready to run over, rip my microphone away from me just because we know, and you know, and you've shared with me from your experience that that is not correct. That is not how it is actually working in your field and your experience and with your professional life and your personal life. So when there's another group who has experience with the court system from a certain way, they get up and talk about it. Don't think that because you're not an attorney we don't think you can have an opinion of it, but just recognize Senator Wayne is a practitioner of this literally day to day. I'm Vice Chair of Urban Affairs and I've had to cover for him because he did a hearing in juvenile court in the middle of an Urban Affairs hearing. That's how live and that's how real it is to some of us here in the body. But I don't necessarily think you can't have a good opinion on it, you can't have a valid opinion, or you can't necessarily be exercising your best judgment. With that being said, I just wanted to kind of continue to rise up. We've had a lot of things in debate that I'm sometimes I'm not always sure what points to rebut. It's expensive, it's not expensive. We're focused too much on the counties, we're not focused enough on the counties. We're not focused enough on the child.

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We're not focused enough on the family. We're putting the child's interest above the parent's interest; we're putting the parent's interest above the child's interest. You can kind of view it however lens you want, but the fact of the matter is, this is a really difficult situation for children to be in. They are looking at something that has life-long consequences. And, I mean, juvenile court, I'll bring it up again, we've had bills on this, we've talked about it. You can go into juvenile court for something small like a marijuana possession and end up in solitary confinement halfway across the state in a juvenile facility because that's things we've built in our law, and that might be a good situation and the correct course of outcome for that particular child... [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR HANSEN: ...but it is still a possibility. It's not say there aren't stakes here and you can kind of treat it cavalierly. I mean, from my perspective, all I want to know is Senator Lowe and Senator Groene have mentioned the voluntary and intelligent right to waive counsel. I want to make sure that's truly voluntary and truly intelligent. And I think having somebody other than the judge have a five-minute conversation with you to explain the stakes and explain what your basic options are is a very simple and easy way to make sure we are complying with Sixth Amendment case law. With that, I would encourage all my colleagues to continue to support LB158 and the committee amendments. Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Chambers. [LB158]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Groene read some things from a case. Senator Lowe made some pertinent observations about constitutional rights. But I think I should tell both of them that the words in the constitution are not the final word. It's the constitution as interpreted and construed by the United States Supreme Court. And there have been things written into the law by the court which are not in the constitution such as a defendant must be advised of his right to counsel. Must be advised of the right against...in other words, these advisories were put into the law as a result of the U.S. Supreme Court and not because the words were in the constitution. But the court had said that for this right that is mentioned in the constitution, these are the steps and these are the factors that must be observed by the state when it's going to charge somebody in order for the right to have meaning. But here's something I would like to just read into the record. A criminal defendant may waive his right to counsel and proceed pro se, but the waiver of that right must be made voluntarily, knowingly, and intelligently, Faretta v. California 422 U.S. 806. The state has the burden of establishing a valid waiver of a defendant's Sixth Amendment right to counsel. That's Michigan v. Jackson 475 U.S. 625. In determining whether a defendant's waiver of counsel was voluntary, knowing, and intelligent, an appellate court applies a clearly erroneous standard of review. In Johnson v. Zerbst, Z-e-r-b-s-t, 304 U.S. 458, the United States Supreme

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Court said the following: It has been pointed out that courts indulge every reasonable presumption against waiver of fundamental constitutional rights and that we do not presume acquiescence in the loss of a fundamental right. A waiver is ordinarily an intentional relinquishment or an abandonment of a known right or privilege. The determination of whether there has been an intelligent waiver of right to counsel must depend in each case upon the particular facts and circumstances surrounding the case, including the background, experience, and conduct of the accused. Once again addressing the court's obligation to explain waivers of the constitutional right to counsel, the U.S. Supreme Court said the following: This protecting duty imposes the serious and weighty responsibility upon the trial judge to determine whether there is an intelligent and competent waiver by the accused. To discharge that duty properly, in light of the strong presumption against waiver of the constitutional right to counsel, a judge must investigate as long and as thoroughly as the circumstances of the case before him demand. The fact that an accused may tell him that he's informed of his right to counsel and desires to waive this right does not automatically end the judge's responsibility. To be valid, such waiver must be made with an apprehension of the nature of the charges, the statutory offense included within them, the range of allowable punishments thereunder, possible defenses to the charges and circumstances in mitigation thereof, and all other facts essential to a broad understanding of this whole matter. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR CHAMBERS: A judge can make certain that an accused, professed waiver of counsel is understandingly and wisely made only from a penetrating and comprehensive examination of all the circumstances under which such a plea is tendered. That is not done by these judges. And a lot of people may have heard me read that and don't even understand what is required of the judge. If the child says I don't want a lawyer, that's not enough. If the parents say, we don't want a lawyer and we want to plead, that's not enough. You can take what the Supreme Court said or you can take what Senator Groene and his counsel say, but the facts are what they are. And this is a very serious matter and I'm taking it extremely seriously. Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Clements. [LB158]

SENATOR CLEMENTS: Thank you, Mr. Chairman. This bill, I have spoken to some people about this, and they've told me that they're feeling that the judges involved are very sensitive to the needs of the juveniles and stretching it to statewide is not something that I think is needed right now. I'd like to yield the rest of my time to Senator Groene. [LB158]

PRESIDENT FOLEY: Thank you, Senator Clements. Senator Groene, 4:30. [LB158]

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SENATOR GROENE: Thank you, Senator Clements. Here's what happens in the courtrooms in rural Nebraska and Lincoln County. The first appearance is an arraignment where a minor and parent or guardian are advised of the allegations, charges, right, and disposition in open court. The court on the record gives an advisement to the minor, parents, concerning the minor's right to an attorney of their choice. And if they cannot afford an attorney, then one will be appointed by the court to represent the minor. This is done without exception. Nobody brought a case or an instance to us, an example where somebody, a young person who was not capable of making that decision was not given a lawyer. The judge surmised he needed one. Remember this is 14- to an 18-year-old; this is not young folks. If you're going to be removed from your home, you will have a lawyer in criminal court. This is not about HHS and custody and bad parents where the child didn't do anything wrong but is removed from the case. This doesn't concern those issues. This is when the juvenile created a crime or is charged with creating that crime. That's what we're talking about here, criminal court. There seems to be some back and forth. I appreciate Senator Chambers' calmness, and I'm catching on, trying to do the same thing as we finish up here. Things get said, hopefully we forgive and forget. He mentioned to Senator Lowe and myself about the constitution in Supreme Court case, what I quoted was the same case he did, Faretta v. California. That is the ultimate case law, the Supreme Court of the United States. And that Supreme Court, the same case he said in its findings, I will repeat, the defendant in a state criminal trial has an independent constitutional right of self-representation and that he may proceed to defend himself without counsel when he voluntarily and intelligently elects to do so. Later on they said--the defendant in a state criminal trial has a constitutional right to proceed without counsel when he voluntarily and intelligently elects to do so. Stated another way, the question is whether a state may constitutionally hail a person into criminal courts and there force a lawyer upon him: LB158. Even when he insists that he wants to conduct his own defense, it is not an easy question, but we have concluded that a state may not constitutionally do so. Why did I stand here for six hours? I believe in the constitution. Did I make a deal? I could have bowed down and said, Senator Chambers, please help me with equine massage. I'm hard-headed. I really take my position as a state senator very seriously. I'm affecting people's lives. People are working right now and their children might get in trouble; don't have the slightest idea that they might have their rights removed from them with the passage of LB158. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: But I know that, and I'm here representing them. I'm representing them, not the courts, not the lawyers, not the bar association, not the ACLU, not the Voices for Children. I'm representing them. That's why they sent me here. I'm not representing a party, a cause. I'm not trying to build my resume. I came here because the good lord gave me the talent to do so, and I stepped up and said I'm going to go down there and represent you, the average person. And that's why I'm standing here six hours later; and a lot of times we've heard this. And Senator Krist, don't read things into what I said. I never said that I could out debate you or I

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could take you down or that you feared me. Where did you get that? What I said is you know and the drug companies that brought you the bill the first time you brought it understand about the Academy of Pediatricians' recommendation to not mandatory give that vaccination. [LB158]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Watermeier. [LB158]

SENATOR WATERMEIER: Thank you, Mr. President. I'm going to yield my time to Senator Groene here in just a minute. In my opinion, I struggle with this bill. I can see the good intent and there was a good description made earlier about how, certainly, in Omaha and Lincoln it would be a good idea. It would be justified and then you get the gray area about who could justify it in the rural side of things. And I'm going to suggest that we have a cloture motion here in five to ten minutes, the way it looks to me. And I'm going to vote red on the cloture, and hopefully we can put this to bed. And with that I'll yield the rest of my time to Senator Groene. [LB158]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Groene, 4:30. [LB158]

SENATOR GROENE: Thank you, Senator Watermeier. You made some good comments. You do have the knack of saying what takes me three hours, and Senator Chambers in a few, to just make your point and sit down. We forced this on three counties, not because the people said they wanted it, because the system said they wanted it. Lancaster, Sarpy and Douglas County citizens are now weighed down by this, a loss of right; that's fine. We don't have the results yet back in it. Its been less than a year and a half. I understand they were pretty much doing it anyway, but talked about a court case. Senator Pansing Brooks said, what's going to happen when somebody sues? What happens when that one 17-year-old stands up and says, I don't want an attorney. Signed up for the marines, he's going to go...when he gets out of high school and he got an MIP. That's my terminology; might be a new term for it. And the court appoints that lawyer. And he says, I don't want you. And then he tells and instructs that lawyer, he went to public school in rural Nebraska and learned his civics. And he said, the first action I want you to take is to do a petition that my constitutional rights have been infringed. I want you to take that county court that I don't want you, I don't want your representation. Now, he's poor; the county is paying for it. And it keeps climbing the...and this young lawyer said, boy, I'm going to make my name; I'm going to defend this kid's right to an attorney. I'm appointed. Goes all the way to the Supreme Court. Who's going to pay that legal bill? That could easily happen, folks. All you got to do as young attorney is start quoting Faretta v. California, 1975. But we know more than the Supreme Court. We know more than the writers, Founding Fathers, who wrote the constitution and the amendments. And we worry about one child, you think, that might not...should have had a lawyer and didn't get one. I'm worried about the one who didn't want a lawyer and lost his rights. And the 10 and the 20 and the families that lost their right. That's who I'm concerned about. You

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can focus on the one that you might have met. I bet their lives are just fine. They didn't complain about it. The system worked. Nobody...250 years more, how many years is it now? Two hundred and sixty or so since 18...16...87...was that when we had the Bill of Rights? We've gotten along just fine without laws like this. A hundred and fifty-some, one year is going on 151 years in the state of Nebraska...one of my tenants down here is, don't create a panic if your law doesn't get passed. We got along just fine in the state of Nebraska for 151 years. [LB158]

PRESIDENT FOLEY: One minute. [LB158]

SENATOR GROENE: But that young person out there has only got one shot at life, and he gets picked up. And next 151 years of youths in the state of Nebraska have the right to deny...to not to have counsel. When this passes 90 days from here and goes into action, the next one that goes in there and tries to do that will be given a lawyer; his parents will be sent a bill. That's a tax. I call it a tax. You're going to be sent a lawyer's bill. And they didn't want a lawyer. They lost their freedom. So we're going to get close here. Vote red on cloture. No hard feelings; everybody means well. But meaning well doesn't allow you to take the rights away from your citizens that you represent, no matter how well you mean for them. You can't do that. We should not do that. Thank you, Mr. President. [LB158]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Pansing Brooks. [LB158]

SENATOR PANSING BROOKS: Thank you, Mr. President. Well, we have an opportunity today to do some really wonderful things. I hope that you will...I think we'll be having a cloture motion soon, and I hope that you will vote green on cloture. Oh my gosh. Yeah, yes, green on cloture. You know, we have the ability to do something really positive for our kids in the state today. And, clearly, the court administrator's office said that it's going to raise about \$350,000 a year through this fund. Those are funds that will be available that have never been available before for the counties to help pay for juvenile indigent defense. Seems like a really positive thing. But some people are just having some issues with it. But I want you to know that I feel really positive about this. I will continue to work to fight for these kids. I'm hopeful. I don't have an opponent, so I will be doing this for quite a while. And if it isn't this, we'll just continue to fight for these juveniles in our state. This is a workforce development issue, my friends. The number one issue for the state chamber is workforce development. And you start having these kids get charges precipitously without giving them an ability to either go to diversion first...there's no need for an attorney if you send them to diversion, that's a giant county cost savings. So we have the ability to do some good today. Some counties are already doing this 100 percent of the time across the state. Why is that fair? Why is it that kids in one county get lawyers and get things explained to them, and in other counties they've got to come forward and plead guilty and then hear what their rights are, and they've already plead guilty, and then they've got to leave have the...and then

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maybe they'll get an attorney appointed for them. So I feel really positive about this. I'm grateful to those of you who have agreed to vote for cloture. We have one member that's racing back. So I hope this all works, but no matter what, I appreciate the dialogue. I appreciate the fact that this came out 8-0. Some people have flipped, and that's fine; they've heard things they think really changed their minds on this, and that's fine. But I feel happy about what's been said. I feel happy about the fact that I have a chance and that we all have a chance to stand up and fight for the rights of juveniles...the right to counsel for juveniles to be able to understand and have informed waiver of counsel rather than just saying in front of a courtroom with a judge staring down--do you want counsel or not? You have a right to counsel. And a kid's supposed to go, uh, uh, uh, well, uh, uh, uh, I guess not. Literally, we're talking about constitutional rights here, my friends. And no matter what happens, because we're very, very close, I feel proud of the work that we're doing and the discussion that we've had. And I hope that this is going to go forward and we can make a difference in the lives of some very vulnerable Nebraskans. So with that I ask you to vote yes for cloture, vote green for cloture. I ask you to vote against the bracket. And then vote for amendment, AM145 and AM158, and then we can get to the other amendment that's on there that's really important too. So thank you, Mr. President. I appreciate all your time, everybody; we've heard it nine hours in the past two sessions. So hopefully you know a lot by now about constitutional rights for juveniles, but you'll hear more in the future. Thanks so much. [LB158]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Mr. Clerk, you have a motion on the desk. [LB158]

ASSISTANT CLERK: Mr. President, priority motion: Senator Pansing Brooks would move to invoke cloture on LB158 pursuant to Rule 7, Section 10. [LB158]

PRESIDENT FOLEY: It's the ruling of the Chair that there has been a full and fair debate afforded to LB158. Senator Pansing Brooks, for what purpose do you rise? [LB158]

SENATOR PANSING BROOKS: A call of the house, please, in reverse order. [LB158]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, please. [LB158]

ASSISTANT CLERK: 21 ayes, 2 nays to go under call, Mr. President. [LB158]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Unauthorized personnel please leave the floor. The house is under call.

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Senator Howard, Senator Hilkemann, Senator Wayne, McDonnell, Wishart, Walz, Morfeld, please return to the floor and check in. The house is under call. Waiting for Senators Hilkemann, Morfeld, Walz, Wishart, McDonnell. Senators Morfeld, Walz, Wishart, McDonnell, please return to the floor. The house is under call. Senators Morfeld, Walz, Wishart, McDonnell, please return to the floor. The house is under call. All unexcused members are now present. The question before the body is whether or not to invoke cloture. There's been a request for a roll call vote in reverse order. Mr. Clerk. [LB158]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 977-978.) Vote is 31 ayes, 8 nays to invoke cloture, Mr. President. [LB158]

PRESIDENT FOLEY: The motion is not adopted. Items for the record, please. I raise the call. [LB158]

ASSISTANT CLERK: Mr. President, your Committee on Transportation reports legislative bill, LB994, to General File with amendments. Enrollment and Review reports LB944 to Select File with amendments. Committee on Judiciary reports LB845 to General File with amendments. Amendments to be printed: Senator Friesen to LB994; Senator Lindstrom to LB1132; Senator Harr to LB861; Senator Morfeld to LB873. (Legislative Journal pages 978-993.) [LB994 LB944 LB845 LB1132 LB861 LB873]

Mr. President, Senator McCollister would move to adjourn until Thursday, March 15, 2018, at 9:00 a.m.

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