

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

SCHEER: Morning, ladies and gentlemen. Welcome the George W. Norris Legislative Chamber for the thirty-fourth day of the One Hundred Sixth Legislature, Second Session. Our chaplain this morning is Senator Flood-- Senator Blood. Would you please rise.

BLOOD: Please join me in thoughtful prayer. Dear God, today I pray and ask that all in our body remember the fruit of the spirit. The fruit of the spirit is comprised of love, joy, peace, long suffering, kindness, goodness, faithfulness, gentleness, and self-control, because against such things there is no law. While we ponder bills today, our relationships with other officials, staff, and our constituents, let us remain acutely aware that just like the seed of the fruit, we must be planted in good soil, watered, and nurtured so that we might continue to grow in knowledge, in compassion, in understanding and unyielding love for others. As we yield to the Holy Spirit, let the offered fruit remain evident in our life, finding joy in the mundane, growing gentle in our disposition, and truly forgive others when we are wronged. Please help us to remember the people we serve in our daily thoughts and give us the courage to always act in their best interests, remembering the importance of the fruit of the spirit described in the Book of Galatians, as we strive daily to be better humans and better legislators. In the name of the Father, the Son, and the Holy Spirit, amen.

SCHEER: Thank you, Senator Blood. I call to order the thirty-fourth day of the One Hundred Sixth Legislature, Session-- Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

SCHEER: Thank you. Are there any corrections for the Journal?

ASSISTANT CLERK: No corrections this morning.

SCHEER: Any messages, reports, or announcements?

ASSISTANT CLERK: None at this time, Mr. President.

SCHEER: Thank you, Mr. Clerk. Senator Vargas, for what purpose do you rise?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

VARGAS: Point of personal privilege.

SCHEER: Please proceed.

VARGAS: Thank you. Good morning, members. I'm rising because I wanted to hand out-- you'll get a hard copy here in a second. I'll have the pages hand this out. I had a lot of questions recently about the Planning Committee and some of the annual reports that we do, which is really helpful. So it's all electronic. So those of you that should know, the Planning Committee, the Legislative Planning Committee, which I'm proud to be Chair of, I serve on that with John McCollister, Jim Scheer, Hilgers, Stinner, Clements, DeBoer, Hansen, and Williams, and John McCollister is the Vice Chair. This committee works on long-term strategic planning. For the most part, we usually meet in the off session and we try to work on trying to identify priorities that we look at across the state and try to figure out what should we be spending our time on over the next five to ten years. And so in a little bit-- a bit of that strategic planning, we look at data grounded in what are some of the needs across the state, and so this is already on-line. It's already been posted. It's been posted as of the end of the year. But some people asked me to hand this out in hard copy. So we have hard copies of the very short annual report side that provides some recommendations. But I-- what I think is really helpful, and I just want to call out a little bit of this, is just the-- the data. So there's really, really helpful data here about the changing landscape, some of the things that we debate here about Nebraska's workforce, about the growing aging population, education and youth and education and governance, our aging Nebraska population. Specifically, you'll notice our diversity in our changing socioeconomic numbers. But some numbers that stood out to me is that we are number one in the country relative to all the other states in terms of labor force participation of single mothers with kids under the age of six, 82 percent. We are number one in the country for the number of individuals between the ages of 55 and 64 that are in the labor force. We are number four in the country for the age-- for people that are older than 65 that are currently in the labor force, that's 22 percent. We are number four in the country for the portion of workers that have more than one job. And we're also number four in the country for the-- the people that are in the labor force participation that are currently between the ages of 16 and 19. Colleagues, this is really helpful information as we-- time-- during this time in our long sessions, we're starting to debate about issues, and what I thought would be really helpful is that we're debating on issues and trying to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ground ourselves in the data that's telling us some of the different issues and data points that support those different issues as we're debating. In this packet, you're gonna also see profiles, quick facts for every single legislative district. If you have questions about other people's legislative district and how it's different from yours, this will give you a little bit of a quick look into that. But I also encourage you to go on-line, check out the website for the Center for Public Affairs Research that we partner with that has all of the reports from all the Legislative Planning Committees from the past. Remember, this was put into place by our-- our fellow senators from the past because they felt like it was needed for us to take a step back and ground. I hope we can utilize this and some of the data here when you move forward in some of your debates on any of these different things. And if you have any questions, please come and talk to me. But I just want to, again, thank the members of the committee. This is something that we put together by the end of last year but I thought it would be helpful for us to have as you move into full-day debates. Thank you for your support in this, and I appreciate the time.

SCHEER: Thank you, Senator Vargas. Mr. Clerk reading the first item, LB899.

ASSISTANT CLERK: Mr. President, LB899 is a bill for an act relating to public power districts; provides certain powers relating to biofuels and biofuel byproducts; to harmonize provisions; repeals the original section. It's a bill by Senator Hughes. It was read for the first time on January 9 of this year and referred to the Natural Resources Committee. That committee placed the bill on General File with committee amendments. The committee-- committee amendments were adopted. There's currently a motion to recommit pending from Senator Wayne.

SCHEER: Thank you, Mr. Clerk. Senator Hughes, could you refresh us on LB899?

HUGHES: Thank you, Mr. President. Good morning, colleagues. LB899 is a bill that will allow public power districts to do research into renewable fuels as a carbon-free source of energy for us. There has been some discussion on the bill that it is infringing upon natural gas, and I would like to point out to you, there is specific-- there is a specific prohi-- prohibition on public power districts providing natural gas services in the state. If you look at the green copy of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

the bill, on page 4, lines 1 and 2, which is existing law, Nebraska Revised Statutes 70-625, (5) makes that very clearly. So I guess I'm not clear why we're having so much trouble with natural gas being concerned about this bill. Public power does not wish to get into the natural gas business. It does specifically assign-- say that this is only for wholesale purposes. It does not include retail in any way, shape, or form. So with that, Mr. President, I look forward to continuing our debate.

SCHEER: Thank you, Senator Hughes. Senator Wayne, would you like to refresh us on your motion?

WAYNE: Yes. Thank you, Mr. President. My motion is to recommit. Although there is a prohibition on the retail of natural gas, it does allow particularly NPPD and other public power to get into the wholesale market of natural gas. They are com-- directly competing with the private market, and particularly, outside of Omaha, they are competing with Black Hills Energies [SIC], where I thought public power was gonna stay out of the private market in this area, and we are allowing them to open the door to compete with Black Hill Energies and other natural gas providers, which I don't believe is the intent, nor has it ever been the intent for this body to allow public power or any government agency to compete with the private sector. Thank you, Mr. President.

SCHEER: Thank you, Senator Wayne. Going to floor discussion, Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. Good morning, colleagues. It was a good discussion yesterday on this bill, LB899. And in that regard, just to complete the record, I wonder if Senator Hughes would stand for a question.

SCHEER: Senator Hughes, would you please yield?

HUGHES: Of course.

McCOLLISTER: Thank you, Senator Hughes. Just so the record is complete, what is an advanced biofuel? If you'd be so kind to define that term.

HUGHES: Advanced biofuel means the stock-- the feedstock for that is a nonfood product, so that would be grass or manure digester, something

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

like that, from a livestock operation. But it is any biofuel that is processed from a nonfood crop.

McCOLLISTER: Nor is it any kind of ethanol product, is that correct?

HUGHES: I don't know that I can go quite that far.

McCOLLISTER: OK. Thank you, Senator Hughes. Thank you, Mr. President.

SCHEER: Thank you, Senator McCollister and Senator Hughes. Senator Wayne, you're recognized.

WAYNE: Thank you, colleagues. Again, this is-- I won't spend all three hours on this. I think it's better for me to do that at Select. And I will have some-- some-- some specific amendments that I will add on Select File to make sure that if it's good for the public power, it should also be good for private industry. If they can research and do things around other fuels, then maybe the public-- the private sector should be able to do so. Again, I just want to point out, the advanced biofuels, I think there's questions there of what that definition means. But the bigger issue is-- can you get copies of this? Thank you. Sorry. What the bigger issue is, is the other fuels. Other fuels, again, is natural gas. This is government overreach at its best. You will be getting an article that's handed out where Loup City Public Power District has basically said due to debt service, due to debt service over the next 10 to 12 years, they're projecting an increase in public power costs, local public power cost of somewhere around 20 percent, and that just came out in the last two weeks. I'm sending that article around. I believe it was The Columbus Telegram who pro-- who put that out from their public meeting. And the reason I raise that, colleagues, and the reason you'll be getting that, is because it is the debt service that is causing that to go up. That debt service is not unique to Loup Public Power District. It is-- it is not unique to Omaha Public Power District. It is not unique to NPPD. It is a problem we have across our entire state. The business model of a public power entity is not the same business model that was created when we started public power. Why are we in the generation business anyway? Think about that. I think public power does a great job with maintaining transmission lines, and I think they do a great job of-- from-- from the transmission line, what they call the highway lines, to the-- to the streets, to the homes. I think they do a great job doing that. But as far as generation, we are walking down a path where we are gonna see significant tax increases, whether we call it rate

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

increases, whether we call it fees, as Senator Clements said, whether we call it actual rate increases. I got to initial that, don't I? Sorry. I meant to pass this around, but I forgot to initial it. So this is, again, from the-- Loup rates are going up 20 percent over the next ten years because of their debt service. And my question to individuals who are-- who are into contracts or have contracts, cities who have contracts with NPPD, what happens when the coal plant of \$1.3 billion in debt becomes a stranded asset? What happens? And it's not a matter of if; it's truly a matter of when. If Tesla or some organization comes up with a more economically affordable and feasible battery, that could happen tomorrow. And we have a \$1.3 billion asset. Not just that, we have a nuclear power plant, one that recently shut down, at a tune of a cost of a billion dollars that my ratepayers in Omaha are paying. But then we also have a coal plant in North Omaha in my district, which is being converted partly into natural gas. But at the end of the day, that could become a stranded asset. What are we doing, colleagues, to allow local government, local entities, local cities to make better decisions and to have the data to make those decisions? I would encourage anybody from this body to go talk to somebody from South Sioux City--

SCHEER: One minute.

WAYNE: --and ask why did they get out of the contract. Why are they buying from the private market? Because it's a better rate for their payers. It's still public. The city is the one distributing it. But their wholesaler is private. It's cheaper. What are we gonna do with our debt service that we are having and we are facing today? We want to talk about property taxes? We could probably solve that this year, but in three to four years we're gonna have a \$1.6 billion debt that we are gonna be looking at. Who's gonna pay for that? Who's gonna bail that out? I'll tell you what, if I'm in this body, it won't be this body, because we didn't bail out Omaha when we had a \$5 billion super-- sewer separation project. So why would I support bailing out rural Nebraska when I'm talking about it today and we're doing nothing about it? So this, this bill, while it would allow us to compete with the private market, we have a bigger issue structurally--

SCHEER: Time, Senator.

WAYNE: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

SCHEER: Thank you, Senator Wayne. Senator Moser would like to recognize the doctor of the day, Dr. Kip Anderson, of Columbus, who is serving as our physician of the day. He's seated under the north balcony. Would you please stand and be recognized. Thanks so much for what you do. Returning to the floor discussion, Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. Well, I think this might be an opportune time to talk more about maybe what happened up at Loup City Power. Senator Wayne, would you yield to a question?

WAYNE: Yes.

SCHEER: Senator, yield-- Senator Wayne, would you please yield?

WAYNE: Yes.

FRIESEN: Senator Wayne, do you know why they had this debt service or what happened that suddenly they had to announce these rate increases?

WAYNE: Well, according to the article, it was a 2012 bond to build some more infrastructure and their projections are, as rates go up and down over the next 20 years, in order to maintain the payments on their debt service and cash reserves, they're gonna have to raise rates.

FRIESEN: Do you also realize that they had severe flood damage during the flooding that happened last year?

WAYNE: I do realize that.

FRIESEN: Were they covered by FEMA or anybody else in their damage?

WAYNE: I don't know. If you know the answer, I would love to hear it.

FRIESEN: I-- I don't think they were. Somehow they were probably excluded from some of that. So, I mean, they have some unusual costs in maintenance of their canal system. Their canal was breached. Their-- their head gate was totally wiped out. They had some-- I don't know the dollar amount of damage, but it was in the millions of dollars of damage to their canal system. And they do have kind of unusual costs in having to clean sand out of the canal. So, I mean, yes, their costs are going up, but they're-- they're a very small

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

generator, as far as I know, but they're also a distribution, like a-- the local power districts also. Would you agree with that?

WAYNE: Yes.

FRIESEN: So, I mean, they have some unusual costs, I guess. And I'm not-- I'm not sure I'm seeing that across any of the other power districts that we're seeing these cost increases. I think the ones that serve me at least have held their costs pretty well flat. Now some of them are trying to unbundle their-- their rates so that they can get their actual production cost and their transmission cost separated. But like the smaller power districts, that's all they do is distribute energy, so the cost increase are not gonna come for most of the power districts. Would you agree with that statement?

WAYNE: I would agree, but I think you're proving my point.

FRIESEN: It's-- the generation is-- I'm-- I'm not disagreeing with what-- some of what you're saying. But as we go more what I would call green energy, our costs are gonna go up. We now have to provide three different generating systems for every kilowatt. Back before we had this, the green energy movement, so to speak, we had our coal plants running and they ran a fairly stable rate, the more wind energy or the more solar energy you-- the-- the intermittent generating sources that you introduce into the system, the more unstable the grid becomes, and so you have to add natural gas generation. Now, whether or not NPPD should be building natural gas generating stations because the cost is so low, we could do that. Could we have private industry do it? Sure, we could. But I look at NPPD as it's a public utility. We own it. So what can we do to-- we are shareholders, so to speak. We can make it go bankrupt. They had huge debt trying to maintain the mission's requirements from the federal government-mandated equipment upgrades, and that's where most of their debt lies. But again, we-- we can hurt the bondholders. We can-- we can put them into bankruptcy. But what good would we do the citizens of Nebraska by doing that? If we can look at the big picture and-- and look at a transition to where you could slowly let private generators into the market, maybe that's a possibility. But without an in-depth study, to just say that we want to disband public power--

SCHEER: One minute.

FRIESEN: --and move to some other source, I think that's-- that's kind of a rash decision to make when we still have one of the lowest cost of electricity in the state. So I-- I still think that in the broader discussion or a longer study to see ones where we could transition to, I'm-- I'm open to that. But to just say now that public power has not done its job, I-- I would disagree with that. We still have low costs. We still-- are there problems? Sure, there are. But I still think it's one of the better systems in the country so far. Thank you, Senator Wayne. Thank you, Mr. Speaker.

SCHEER: Thank you, Senior Friesen and Senator Wayne. Returning to the queue, Senator Groene, McCollister, and others waiting. Senator Groene, you're recognized.

GROENE: Thank you, sir, Mr. President. I got a notice just when I was home this week from Dawson Public Power. My rates are going up 2 percent, and cost. Senator Friesen made a good point. Why is cost-- it's green energy. Guess who has to build the transmission lines to these wind farms? The-- the ratepayer. That's who builds them. We're building one and-- and my citizens have been fighting, from Sutherland to the north, the power plant claiming they're gonna go north. But the real re-- one of the big reasons is they want to tie into the wind farms. Transmission lines are not cheap. Maintenance on transmission lines are not cheap. When you have a single power plant, like a nuclear or a fossil fuel plant, you only need one transmission line that-- what spurs off of it. That's why your rates are going up. Green energy is not cheap. I have a question for Senator Hughes.

SCHEER: Senator Hughes, would you please yield?

HUGHES: Of course.

GROENE: As I said earlier, this is good for my Sutherland power plant, and yours in your area, too, if we're parochial about the situation. But is advanced biofuels, there-- is there a description in the law or is that just the industrial definition?

HUGHES: The EPA, the federal Environmental Protection Agency, does have a definition of advanced biofuels. And if you'll bear with me, it does include: ethanol derived from cellulose, hemicellulose, or lignin, not corn kernel-based ethanol; ethanol derived from sugar or starch, other than corn starch; ethanol derived from waste material, including crop residue, other vegetative waste material, animal waste,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

and food waste and yard waste, bio-- biomass-based diesel, biogas, including landfill gas and sewage treatment gas produced through the--

GROENE: Thank you.

HUGHES: --conversion of organic matter--

GROENE: Thank you.

HUGHES: --from renewable biomass.

GROENE: But they could use milo. Is that right? Milo is becoming a product that ethanol plants are using also, which is a--

HUGHES: That is-- that is considered a food crop.

GROENE: It doesn't-- it said corn in that definition.

HUGHES: So advanced-- advanced biofuel is a non-- source from a nonfood crop--

GROENE: But you just--

HUGHES: --or a nonfood source.

GROENE: You just mentioned corn.

HUGHES: I-- you can make ethanol out of any starch base.

GROENE: Thank you.

HUGHES: You can make it out of wheat, milo--

GROENE: Thank you.

HUGHES: --corn.

GROENE: Thank you, Dan-- or Senator Hughes. Normally in a bill, when you-- when you create a new term in Nebraska Statutes, there's a description. There's a definition apply-- put to it in the legislation. I would sure like to see that in the bill. EPA can change things quickly. I want to protect my ethanol plants, corn based and milo based, from government taking over an industry. And as far as the wholesale, that's what-- I-- I don't understand that argument because that's what all natural gas companies do. They wholesale it. They wholesale it to the city, who then-- they wholesale it to a lot of--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

they wholesale it to power plants that are run on propane-- I mean on-- not propane, but natural gas. So that one, I-- I don't understand if-- that completely--

SCHEER: One minute.

GROENE: --because I really don't want my power plant to turn into a burning natural gas. I have the largest rail yard in the world, classification rail yard, and we haul coal, so there I go, parochial again. I want to protect that, that they're burning coal. It's good for America. It's good carbon for our corn crops, does a lot of good things. Anyway-- but I'm probably gonna support this. I wish it was a lot cleaner. And-- and the purpose for this thing is just darn foolish. Because they want the carbon offset, we're gonna let a government entity go into the private industry of ethanol production and biofuel production, because of the EPA regulation. There's got to be a better way. Can we allow them to buy the credits from the ethanol plant, you know, give the ethanol plant--

SCHEER: Time, Senator.

GROENE: --free electricity or whatever. Thank you.

SCHEER: Thank you, Senator Groene and Senator Hughes. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President and colleagues. The Loup power situation was brought up earlier in-- in our discussion, and I would contend that the Loup power situation is simply an aberration, a unique situation that only applies to them. If you were to take a look at the rates that we've had in Nebraska, because of the SPP, they've held very steady. And in fact, this area, SPP area, has some of the lowest electric rates in the entire country. That is an absolute fact. In fact, I will bring up statistics that-- that bear that out. And I think the low rates that we have are likely to continue that way. Why do I think that? Mainly because of smart grid technology is likely to enhance the ability of renewables. Battery technology will also improve such that renewables will be even-- even more effective. So I'm-- I'm very curious. You know, any comments that our rates are gonna go up simply because we're now incorporating more renewable energy is just not true. And-- and in the next day or two, I will bring up statistics that prove that out. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

SCHEER: Thank you, Senator McCollister. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. I will find-- to Senator McCollister's point about Nebraska rates, I remember the Omaha World-Herald did an article, and I passed it out my freshman year and I will pass it out today if this keeps going. I did tell Senator Hughes I'm not gonna go the full three hours. So whoever's left in the queue, you can keep talking if you want to, but on Select File there will be some amendments that I am bringing that I think will help the private sector feel comfortable with this, and along with make me feel comfortable with it. But to Senator McCollister's point, there was an article done by the Omaha World-Herald about rates and how our rates have drastically increased across the last 10 to 15 years. And we went from one of the lowest in the country to now middle of the pack. And in fact, there was a recent article where Missouri got a solar farm, with Nucor as their company doing it, and Nebraska wasn't even a part of the discussion. I do know that Nucor and Valmont and some of these industries that have high energy costs, that their plants here in Nebraska had-- went from the lowest cost 20 years ago to now some of their highest plant costs, and it has everything to do with the cost of energy. What's more, I guess, disturbing is that many of these same companies want to do power generation behind-- what you call behind the meter, that they are looking at solar farms, they are looking at things behind the meter, and these power companies are making it unaffordable. In fact, I had a bill on it this year and in there, there was a letter of support from Skutt Catholic High School. And for those who don't know how I got involved in public power, I was the president of the school board, and we led a bond, a \$421 million bond. And during that conversation, when I would travel across the country, I learned of school districts, because of the nature of high schools, in particular, flat roofs, that they are very good ground for solar projects and it dropped costs for those public schools tremendously. So we actually looked at that for Omaha Public Schools, and it would save anywhere from \$1 million to \$2 million. And we had off-the-record, kind of just informal conversations about that, putting solar on-- on Omaha Public Schools and the cost and the-- the rigmarole we had to go through just to have a conversation about solar was unbelievable. And then I started talking to more people about the same situation. And we have a net metering law that basically says at 25 or less you can do it, and that's for residential. But you have companies, huge transportation companies' warehouses that are prime

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

for solar power. But once you go over 25, it becomes a negotiation and just so happens to be that public power always makes those costs not economically feasible for those companies. So what's gonna happen if Arkansas, Missouri, and other people have cheaper cost and Nucor decides to leave the Norfolk area, that some of the steel plants that I'm familiar with, and Valmont, around Omaha decide to leave Omaha or the Valley area. We're talking thousands of jobs over energy costs. So to say that our rates have not gone up is just simply not true. And again, I will find that article and pass it out. Whether we stay on this bill or not, I'll pass it out to the body because I think it's important to understand that our energy rates are moving faster than everywhere else. Now we can have debates about wind and Sandhills and all that. That's not my point. My point is simple. We have to look at a new model. And whether Loup City is an outlier or not, at the end of the day, it proves my point. There are going to be more floods. We had a resolution that was debated here about the Army Corps of Engineering.

SCHEER: One minute.

WAYNE: NRDs are doing their best and they even said there's likely more floods this spring. So if we know that going in, what are we doing to change the business model? And to Senator Friesen's point, if I am a shareholder, how come I can't have information? You tell me what shareholder or what company can't have access to information. We have made it so that the second house cannot even get FOIA requests. Our press cannot understand how deals are being done with public power because of a bill that we passed, we passed. So if nothing else, I think we vote this bill down just to make public power come back to the table so we as shareholders can have a conversation.

SCHEER: Time, Senator. Thank you, Senator Wayne. Senator Briese, you're recognized.

BRIESE: Thank you, Mr. President. And good morning, colleagues. I'm gonna support this bill, LB899, because I think it's good legislation. It's good for rural Nebraska, and I-- I think it can ultimately expand biofuel production in Nebraska, and that's good for rural Nebraska. I think our discussion here has really veered off to the issue of public power versus privatization of the power industry. And personally, I'm skeptical of privatization essentially on the issues of reliability, service, cost, and for me those issues aren't simply public power talking points. They are the reality. If I have an irrigation well go

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

down because of-- if the service to an irrigation well goes down, seven days a week, day or night, I make a phone call and I've got a crew out there working on it almost immediately. You know, could I be guaranteed of that under a private-- private power model? I'm skeptical. We have a blizzard out where I come from and we lose electricity because of a snowstorm, that crew is out there in conditions that you or I would not venture to go out in. And would a private model be that responsible and react that quickly? I'm skeptical of that also. And as far as cost, irrigation costs out there, to me, my irrigation costs are extremely reasonable, in my view, on my electric wells. And I say that-- I compared my irrigation cost per acre, my irrigation electricity cost per acre to my property taxes per acre, and property taxes run three to four times higher than my irrigation cost. So we could start talking about property taxes here, but I don't think it's quite the day to do that. We'll do that another day. But anyway, I'm gonna support this bill. Thanks, Senator Hughes, for bringing it. Thank you, Mr. President.

SCHEER: Thank you, Senator Briese. Seeing no one in the queue, Senator Wayne, would you like to close?

WAYNE: Yes. Thank you, Mr. President. So first, colleagues, I am not advocating for privatization of power across the state. What I am saying, to Senator Friesen's point, we are shareholders and yet we have access to no information. And what we are going to do is, as Senator Briese said, allow government to get into the biofuels and the, quote, other fuels. Other fuels includes natural gas. This is not an Omaha issue. I will say across the state we have a bigger issue regarding public power business model. I'm not advocating for privatization. I think right now, based off the numbers that I see, we should get out of the generation business, but we should still maintain lines, to Senator Briese's point. I think they do a great job of that. Generation, we're losing money and we-- it's a loss leader. We're just losing money and we're not doing anything about it. But to this particular bill, this particular bill is about government overreach. And the reason I'm making the decision to allow this vote to go, because I actually want to do a roll call vote and I want to see where people are at, because this can't get more basic than allowing NPPD and public power to get into the private sector space. That's exactly what this bill does. It allows them to enter into the private sector space. We passed grants-- we passed-- allocated money for biofuel research. We have a whole biofuel part of the Department of Economic Development to where we are encouraging the bio sector to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

come to Nebraska, of which all the rural senators voted 100 percent yes. Now we're gonna send the message to those same companies that if it's related to biofuel, government gets to play in that area. In addition to just playing in that area, there's no way for you to compete. They get to go out and bond at a lower rate than you can borrow. They don't pay taxes as-- as a private company will. So it's not even close to a level playing field. We are truly allowing them to enter into a private market and really exploit it to a point where all the other bills that we did, which I'm gonna bring up and we'll-- we'll look when their budget comes out, we're-- I'm gonna put some line-item motions in to scratch them out. There is no point of trying to encourage people to come here and be in the bio industry and biofuel industry and offer incentives for them to be here, especially in rural Nebraska, especially ethanol when ethanol is kind of-- is included in this. We don't know, but he kind of-- Senator Hughes said, well, I can't go that far, so that means it is. Why are we offering incentives to private companies when government can do it? And if government can do it without taxes, and theoretically they should be able to do it cheaper and better and more efficiently. So let's eliminate all those incentives. That will put some more money into your property tax debate because that-- it costs us money. It costs us about \$10 to \$15 million. Or we can say and pass this bill and say, you know what, government, NPPD, go ahead and compete. But I stood on the floor for four years fighting land bank where I kept hearing we are allowing government to compete with tax liens, liens that stay on a roll for 12 years and property just sits there, dilapidated, and nothing happens and it becomes a nuisance and it becomes a criminal haven and it becomes a hazard to the community. But we don't want government to participate in that industry. But we're gonna let government participate in a growing--

SCHEER: One minute.

WAYNE: --industry, in a growing industry around biofuels and-- and greenhouse-- I guess reducing greenhouse emissions. I don't know what's more of a classic government overreach than this bill right here. If it moves forward, I'll have amendments on Select, but I hope we just stop the bill right now and people stay true to their principles about government entering into the private market. With that, I withdraw my motion to recommit.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

SCHEER: Without objection, so ordered. Seeing no one in the queue, Senator Hughes, you're welcome to close on LB899.

HUGHES: Thank you, Mr. President. I appreciate the-- the conversation this morning on LB899. This is a good bill. It gives our public power districts the ability to do research, looking at new ways of reducing the carbon footprint of the fuels that they are using to generate electricity to keep our lights on. I agree with Senator Briese that reliability has to be number one, cost number two. We don't realize how fortunate we are here in Nebraska of the pretty close to the top, if not the top, state in reliability of our electric system, and we are very close to the top in affordability of our electricity for our constituents, for our population. That is a big deal. That's a huge draw for industry that wants to come to Nebraska. All we're asking for in this bill is to give our public power sector, who has been doing an excellent job serving the state of Nebraska for decades, a little more flexibility of looking at ways to reduce the carbon footprint of generating electricity. With that, Mr.-- Mr. President, I will finish up and certainly would ask for a green vote on LB899. Thank you.

SCHEER: Thank you, Senator Hughes. The question before us is advancement of LB899 to E&R Initial. All those in favor please vote aye; all opposed vote nay. There's been a request for a call of the house. The question is, shall the house go under call? Mr. Clerk.

ASSISTANT CLERK: 18 ayes, 3 nays to place house under call.

SCHEER: The house is under call. All unauth-- all unauthorized personnel please leave the floor. The house is under call. All senators away from the floor, please return to the floor. Senator Kolowski, could you hit your light, please? Senator La Grone. Senator Murman, would you hit your light, please? Senator Hilgers, Hilkemann, Stinner, Kolterman, and Pansing Brooks, the house is under call. Please return to the floor. Senator Kolterman, would you please check in? Senator Hilgers, please return to the floor. Senator Bolz, would you please hit your light? Thank you. I'm sorry?

WAYNE: Reverse order [INAUDIBLE]

SCHEER: OK. We are all here and accounted for. Mr. Clerk, roll call vote in reverse order, please.

ASSISTANT CLERK: Senator Wishart.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

WISHART: Yes.

ASSISTANT CLERK: Voting yes. Senator Williams.

WILLIAMS: Yes.

ASSISTANT CLERK: Voting yes. Senator Wayne.

WAYNE: No.

ASSISTANT CLERK: Voting no. Senator Walz.

WALZ: Yes.

ASSISTANT CLERK: Voting yes. Senator Vargas.

VARGAS: Yes.

ASSISTANT CLERK: Voting yes. Senator Stinner.

STINNER: Yes.

ASSISTANT CLERK: Voting yes. Senator Slama. Senator Scheer.

SCHEER: Yes.

ASSISTANT CLERK: Voting yes. Senator Quick.

QUICK: Yes.

ASSISTANT CLERK: Voting yes. Senator Pansing Brooks.

PANSING BROOKS: Yes.

ASSISTANT CLERK: Voting yes. Senator Murman.

MURMAN: Yes.

ASSISTANT CLERK: Voting yes. Senator Moser.

MOSER: Yes.

ASSISTANT CLERK: Voting yes. Senator Morfeld. Senator McDonnell.

McDONNELL: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ASSISTANT CLERK: Voting yes. Senator McCollister.

McCOLLISTER: Yes.

ASSISTANT CLERK: Voting yes. Senator Lowe. Senator Linehan.

LINEHAN: Yes.

ASSISTANT CLERK: Voting yes. Senator Lindstrom.

LINDSTROM: Yes.

ASSISTANT CLERK: Voting yes. Senator Lathrop.

LATHROP: Yes.

ASSISTANT CLERK: Voting yes. Senator La Grone.

La GRONE: Yes.

ASSISTANT CLERK: Voting yes. Senator Kolterman.

KOLTERMAN: Yes.

ASSISTANT CLERK: Voting yes. Senator Kolowski.

KOLOWSKI: Yes.

ASSISTANT CLERK: Voting yes. Senator Hunt.

HUNT: Yes.

ASSISTANT CLERK: Voting yes. Senator Hughes.

HUGHES: Yes.

ASSISTANT CLERK: Voting yes. Senator Howard.

HOWARD: Yes.

ASSISTANT CLERK: Voting yes. Senator Hilkemann.

HILKEMANN: Yes.

ASSISTANT CLERK: Voting yes. Senator Hilgers. Senator Matt Hansen.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

M. HANSEN: Yes.

ASSISTANT CLERK: Voting yes. Senator Ben Hansen.

B. HANSEN: Yes.

ASSISTANT CLERK: Voting yes. Senator Halloran.

HALLORAN: Yes.

ASSISTANT CLERK: Voting yes. Senator Groene.

GROENE: Yes.

ASSISTANT CLERK: Voting yes. Senator Gragert.

GRAGERT: Yes.

ASSISTANT CLERK: Voting yes. Senator Geist.

GEIST: Yes.

ASSISTANT CLERK: Voting yes. Senator Friesen.

FRIESEN: Yes.

ASSISTANT CLERK: Voting yes. Senator Erdman.

ERDMAN: Yes.

ASSISTANT CLERK: Voting yes. Senator Dorn.

DORN: Yes

ASSISTANT CLERK: Voting yes. Senator DeBoer.

DeBOER: Yes.

ASSISTANT CLERK: Voting yes. Senator Crawford.

CRAWFORD: Yes.

ASSISTANT CLERK: Voting yes. Senator Clements.

CLEMENTS: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ASSISTANT CLERK: Voting yes. Senator Chambers.

CHAMBERS: Yes.

ASSISTANT CLERK: Voting yes. Senator Cavanaugh.

CAVANAUGH: Yes.

ASSISTANT CLERK: Voting yes. Senator Briese.

BRIESE: Yes.

ASSISTANT CLERK: Voting yes. Senator Brewer.

BREWER: Yes.

ASSISTANT CLERK: Voting yes. Senator Brandt.

BRANDT: Yes.

ASSISTANT CLERK: Voting yes. Senator Bostelman.

BOSTELMAN: Yes.

ASSISTANT CLERK: Voting yes. Senator Bolz.

BOLZ: Yes.

ASSISTANT CLERK: Voting yes. Senator Blood.

BLOOD: Yes.

ASSISTANT CLERK: Voting yes. Senator Arch.

ARCH: Yes.

ASSISTANT CLERK: Voting yes. Senator Albrecht.

ALBRECHT: Yes.

ASSISTANT CLERK: Voting yes. Vote is 44 ayes, 1 nays [SIC] to advance the bill.

SCHEER: Thank you, Mr. Clerk. LB899 is advanced to E&R Initial. Mr. Clerk, next item, LB1155. I raise the call.

ASSISTANT CLERK: Mr. President, LB1155, introduced by Senator Vargas, is bill for an act relating to economic development; adopts the Middle Income Workforce Housing Investment Act; creates a fund; provides for the transfer of funds from the General Fund; provides a civil penalty and declares an emergency. The bill was read for the first time on January 22 of 2020 and referred to the Urban Affairs Committee. That committee placed the bill on file with committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Vargas, you're welcome to open on LB1155.

VARGAS: Thank you very much, Speaker. Good afternoon, colleagues. LB1155, or the Middle Income Workforce Housing Investment Act, creates a program and directs funds to low-income neighborhoods defined as qualified census tracts for the construction of new or rehabbed existing middle-income, owner-occupied housing. Now there are a few reasons that I introduced this bill. First, there's a shortage of this type of housing in my district and across districts across Omaha and in Lincoln and in the districts of many other senators in Sarpy and Lancaster. Now my district specifically, there have been a lot of new construction of higher-end condos and higher-priced rental units. Now, while the investment in the neighborhoods has been positive in many ways, it has also resulted in long-time residents being pushed out and unable to afford to continue living in their homes. In many of the neighborhoods that I represent, there are older homes that need to be remodeled or rehabilitated next to higher-end new construction, and there is a big gap in moderately priced homes that would be suitable or attractive to first-time homebuyers or middle-income working families. Additionally, LB1155 falls within the priority areas of the Legislative Planning Committee, which I chair. Over the last decade, the committee has worked with the university to establish what our state would do to prepare for the future and given the projected changes in demographics and population. Now one of the priority areas for the Planning Committee is to enact policies that will retain and attract 18- and 35-year-olds, and I'll remind us that that's not something that we are alone in. Many different other entities have been focusing on this, including Blueprint Nebraska. Housing is a big part of this goal. LB1155 targets urban areas for owner-occupied, middle-income housing, which will help first-time homebuyers find homes that are affordable and in vibrant and diverse areas of the city. Here's the really good thing. LB1155 is very similar to the Rural Workforce Housing Act that we passed unanimously within just the last few years and for very good reasons. While the Legislature has

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

recognized that it's very important to build workforce housing in rural areas, we should also recognize the gap in middle-income workforce housing and pri-- prioritize addressing this issue as well. I'll be introducing a corresponding A bill that will fund this program, but my thought is that we can make sure-- we could see how far this program gets, as it would be a one-time appropriation, and then make sure that we look for a more dedicated funding stream in the future. Finally, I'd like to note all the supporters and I'd like to thank them publicly. Want to thank the Omaha Chamber, the State Chamber, the Lincoln Chamber, the League of Municipalities, and many, many others, the Realtors Association, the Home Builders Association, the Nebraska Developers Association, and many other people that came and testified. I also want to thank the Urban Affairs Committee for push-- pushing this bill out 6-1, and then further, also want to thank those members of the legislative committee that have identified, and we've had this discussion, that housing is a priority. We are lucky to have a rural workforce housing that has prioritized this specific type of focus in housing. And I believe this is also important in urban Nebraska, specifically in our lower-income areas. With that, colleagues, I thank you. Again, this bill came out 6-1. It had no neutral and no opposition testimony. I ask your support of LB1155 so we can continue to prioritize economic development, retaining our 18- to 35-year-olds, and make sure we're not only investing in rural Nebraska, which I have voted for and continue to do with the housing bills that we've had in the past, but also do this in regards to what we do for urban Nebraska. Thank you.

SCHEER: Thank you, Senator Vargas. As the Clerk noted, there is a committee amendment from Urban Affairs. Senator Wayne, as Chair, you're welcome to open.

WAYNE: Thank you, Mr. President. Thank you, colleagues. AM2482 makes several technical changes to the bill. It adds a definition of qualified census tracts, updates various references to federal statutes, clarifies the maximum valuation limit for workforce housing units eligible to receive the grant under the act, and I would ask for your green vote on-- to adopt AM2482. Thank you, Mr. President.

SCHEER: Thank you, Senator Wayne. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Lindstrom would move to amend the bill with AM2691.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

SCHEER: Senator Lindstrom, you're welcome to open on AM2691.

LINDSTROM: Thank you, Mr. Speaker. And good morning, colleagues. I introduced LB767 to amend the Nebraska Condominium Act in the Banking, Commerce and Insurance Committee on February 1, 2020. The bill made several technical changes, but the underlying goal is to make Nebraska's condominium law more conducive to the construction of condominium projects and to the ownership of the units, especially as it relates to residential condominiums. By making these changes to the Act, condominiums can be used as an effective tool for housing and homeownership across a number of different demographics. LB767, as amended, provides the necessary changes that finds a balance between protecting condo owners and mitigating the excessive liabilities placed on developers to incentivize a form of alternative housing that is largely absent in the state. LB767 was advanced unanimously from the Banking, Commerce and Insurance Committee with AM2412. AM2412, which becomes AM2691 and replaces the bill, responds to a specific concern that the State Bar raised about a mandatory mediation requirement and eliminated the provision of the bill. AM2691 becomes the bill and accomplishes the following: Number (1) requires written notice and an opportunity to cure for three months to the declarant before commencing construction before litigation. Originally, LB767 included a mandatory mediation provision, which AM2619 strikes at the request of Nebraska State Bar Association, totals the statute of limitations during the cure period so a declarant cannot run out the litigation clock on unit owners while claimants make repairs. Number (2) changes the minimum threshold for requiring maintenance plan for four units to 15 units. Number (3) requires an 80 percent vote of the association to commence construction defect litigation to ensure unwilling owners are not dragged into litigation by an overzealous association board of directors that might represent a fraction of the owners, and might not represent their true interests, but could bring them into costly litigation. Number (4) allows the declarant to maintain control of the condominium association for longer to allow any defects more time to appear while the declarant can still fix them, rather than association having to do so or suing the declarant to force repairs, avoiding litigation if possible. Number (5) allows the declarant to control the association board longer, so any defects that are more likely to appear will-- will-- can be repaired rather than any new association board requiring them to go through litigation. Number (6) reduces the time to challenge failure to repair and to regard improvements to real property subject to the Nebraska

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

Condominium Act. I'd be happy to answer any questions you may have with regards to AM2691 and would supp-- ask for your support on the underlying amendments and LB1155. Thank you, Mr. Speaker.

SCHEER: Thank you, Senator Lindstrom. Going to the queue, Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr.-- thank you, Mr. Speaker. Good morning. As I look at these two bills that have been attached, that are going to be amended into, I have several questions about that. First of all, I have a question whether Senator Lindstrom's bill is germane to the LB1155 that Senator Vargas has introduced. That's my first question. My second concern is Senator Vargas, as Chairman of the Planning Commission [SIC] and he chooses a bill that comes out of Urban Affairs as his priority bill. Those are two very significant questions that need to be answered. And I have several questions to ask about this bill, but before I get to those, I need to share with you my opinion of what this legislation is trying to do. What this legislation is trying to do is trying to circumvent the fact-- or trying to disguise the fact that we have extreme property tax--

SCHEER: Senator Erdman, excuse me for interrupting, but are you-- are you questioning the germaneness of the amendment?

ERDMAN: I will later.

SCHEER: OK. Thank you.

ERDMAN: OK? Thank you. Anyway, what they're trying to do is they're trying to solve the problem of high property tax. So the reason that these houses are not being refurbished and built and-- and rehabilitated is because property tax are too high. And so what we do here, and we've done this for 50 years, is we put a Band-Aid on the problem. The problem is we spend too much, which makes our property tax too high, and then we try to incentivize people to do things that the common investor would not do. And so we do workforce housing, whatever that means. So the bill says that any house up to \$150,000, not greater than \$250,000. That's a pretty significant house. So the common investor is not doing this because there's no money in it. So we're gonna set up a nonprofit organization to manage these funds and it's gonna be directed by the director of Economic Development. And it's government's idea on how to fix the problems that the private sector has. We continuously do that here. And it is peculiar to me to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

understand or think that government is the answer. See, government is a monopoly. And because it is a monopoly, you can't get a different government if you don't like this one. So because government's monopoly-- a monopoly, it'll never be efficient, effective, or accountable. It just won't. And so government functions on taxes that you and I involuntarily pay. And if we don't pay the taxes on our property, they take our property in three years. And if you don't pay your income tax, they throw you in jail. So government will never be efficient, effective, or accountable because of those reasons. And so we have some misconception or notion that we can figure out how to make workforce housing-- housing available through government programs. And as I said earlier, government is not the answer; most often, it is the problem. And so we're gonna compete. This bill is gonna allow contractors, or whoever else applies for the grant or the money, to compete with private industry. That is peculiar. They're gonna have to explain to me how this is going to work and the value of it before I will vote for LB1155, and I don't think that's possible. Thank you for your time.

SCHEER: Senator, did you-- are-- did you request a germaneness ruling or are-- I'm-- I'm not sure.

ERDMAN: Mr. Speaker, I do request the germane-- germaneness of the bill.

SCHEER: OK. Senator Erdman and Senator Lindstrom, would you please come forward? We'll stand at recess for a sec-- or at ease for a minute. Colleagues, it's the ruling of the Chair that the amendment is not germane. LB1155 directs low-income funding to neighborhoods for construction and rehabilitation of homes with a-- essentially is a \$10 million funding grant. AM2691, Senator Lindstrom's bill, which is the greater portion of LB767, changes the Condominium Act and many timelines to mitigate legislative-- legislative litigation risks to developers, which in my perspective would be a liability risk. Senator Vargas' is a funding mechanism. Although they may both deal with building, I do not believe that they meet the threshold of germaneness in relationship to the two, and my ruling is that AM2691 is not germane to LB1155. Senator Lindstrom, for what purpose do you stand?

LINDSTROM: I would like to challenge the ruling of the Chair, please.

SCHEER: Thank you, Senator Lindstrom. You will have the opportunity to open. Colleagues, after he opens on his request to overrule the Chair,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

each individual has the opportunity to speak once. You cannot yield your time to anyone and you cannot pass it, but each one of you have one opportunity to speak on the mike if you wish. Senator Lindstrom, you're recognized.

LINDSTROM: Thank you, Mr. Speaker. Again, I'll-- I'll let everybody know what AM2691 is and what it does and how it relates to LB1155. The underlying-- the-- the bill that I presented, which deals with the Condominium Act, deals specifically with workforce housing, as does LB1155. When we talk about workforce housing in the state, oftentimes not only in Omaha and Lincoln but across the state, you have condominiums and you have single-family homes. And I know you hear it in your backyards when it comes to affordability of-- of new housing, new construction. And what AM2691 gets at is helping to fill that void in between the condominium-- or in between apartments and single-family homes. We have-- when it comes to homeownership, not every young person or individual wants to own a single-family home; not every single one-- person wants to own apartment. If you're trying to build equity in-- substantial equity, you're gonna-- you're gonna maybe look at doing a condominium. And right now, we're-- we're prohibited or not as able to-- to do some of those or develop some of those projects across the state. It's what my bill gets at, is workforce housing in the same-- same way that LB1155 deals with workforce housing. So if it comes down to one specific term, one specific issue, it is workforce housing, and that is what AM2691 and the underlying bill both get at. So I'd appreciate you voting yes to overrule the Chair and we can move forward on-- on the debate. I'm not sure what the argument is, but I'm sure we'll hear about it from Senator Erdman shortly. Thank you, Mr. President.

SCHEER: Thank you, Senator Lindstrom. Those in the queue: Senator Vargas, Williams, La Grone, and others. Senator Vargas, you're recognized.

VARGAS: Thank you very much, Speaker. I just want to address a couple of concerns and appreciate Senator Erdman chiming in here. One thing that I've really tried to do in my time here is ensure that I'm looking at things that work. We don't always get to work on new ideas here, but it's always good for us to then look at things that have a track record. This body, two years ago, three years ago nearly, supported a bill that did a really, really great thing. It invested in rural workforce housing. Every single person here voted for it, 49-0, and we supported that policy idea. And that's what I'm really asking

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

you to do here. This cannot be funded unless we go down the route of having an A bill, which is a whole separate bill. But my ask to you is-- this is right in line with the recommendations we're hearing from Blueprint Nebraska, from the chambers, from all the entities that are focusing on economic development that we will also discuss when we're coming up with LB720. And because it's in alignment and because it's an existing program, especially a program that DED has done a very good job of managing and running and making competitive, and they have very, very clear lines on how they want to make sure they utilize the rural workforce, that is why I brought this bill, because it is in full alignment with the things that are currently working in our government system right now, especially in the executive branch, and we should be focusing on things that are working. And also, to address part of Senator Erdman's concern about different committees, Legislative Planning Committee does not have its own hearing process. So just like, let's say, Tribal Relations that gets to prioritize a bill that's in another committee, that is essentially what we did in this. So that's what I did in this specific scenario, prioritizing a bill that's in a different committee. So, colleagues, I'm rising because I know we're gonna have a little bit of this conversation here on AM2691 and the germaneness. But for the underlying bill, LB1155, we have all been in support of this specific type of idea, this specific type of structure. And I have continued to support rural workforce because it's doing really good in our communities. And if you have questions on the two pieces-- sheets of paper that you have, you could see the existing strong outcomes that we're seeing across the state from many of these projects and the-- how this is fitting in with a larger development of Nebraska. And so, colleagues, I want to thank you and hopefully you'll continue to support LB1155 as we have this conversation about germaneness.

SCHEER: Thank you, Senator Vargas. Senator Williams, you're recognized.

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. I did want to talk just a little bit this morning. I've-- I've had the opportunity to talk a lot about workforce development or middle-income development of homes in our state. It is the number-one thing stepping in the way of economic development and growth. It is more dramatic even in our rural areas, but it is also there in our low-income areas and other areas of our state which are being addressed by Senator Vargas' bill. Specifically, though, I would like to talk about Senator Lindstrom's bill that was heard in the Banking Committee on February

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

11, LB767. Senator Vargas talked about what's working and what's not working. Well, I will tell you right now, the condominium laws in our state are not working. LB767 was heard, as I said, and came out of committee on an 8-0 vote with no opposition testimony and pointed out that our current condo laws slow down or even stop the development of condominiums in our state. We heard testimony from Robert Reynoldson from the General Contractors Association. He talked about why they don't build in Nebraska and why they are building condos all across the-- the United States in other areas, and it's the plain fact that the-- the laws in our state have not kept up with the liability issues, the insurance issues, all of the things that are necessary to have this changed that are addressed in LB767. We also heard testimony from Josh Moenning, the mayor of Norfolk, who strongly supported LB767, recognizing again that if he is to have the opportunity to grow Norfolk as they need to and the areas that are available, the condo laws need to be updated. LB767 is an attempt to help move our state forward and solve these problems. Again, it was advanced 8-0 with no opposition. There certainly could be a question of germaneness here, but I would argue that the underlying issues that we are addressing with LB767 and the underlying bill of Tony Vargas' LB1155 are the same: looking at ways to fix issues in our state that need fixing, addressing the issue of middle-income housing so that we have the ability when that new teacher moves to town, when the nurse at the hospital moves to town, we have housing that can be affordable and housing that is suitable for them. With that, I will talk later at some length on Senator Vargas' bill, because it tails off a bill that we passed in this body in 2017, LB518, the workforce housing grant program, but I'll save that for another time. Thank you, Mr. President.

SCHEER: Thank you, Senator Williams. Senator La Grone, you're recognized.

La GRONE: Thank you, Mr.-- thank you, Mr. President. I rise in opposition of the motion to overrule the Chair. I don't disagree with anything Senator Williams said about Senator Lindstrom's bill. Senator Lindstrom's bill is a great bill that I think we need to find a way to get done this year. That being said, its merits do not make it germane to Senator Vargas' bill. And I think there's a disconnect here that when we talk about germaneness, we need to look at. There's often confusion of germaneness with the single-subject rule. And I-- since I wasn't expecting to get into this, I don't have the case that clearly outlines the single-subject rule for-- as it relates to legislation

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

and Nebraska's law. But basically the single-subject rule is much simpler to satisfy than the germaneness rule. There just has to be some overarching connection. And I think what we have heard so far about the similarities between the Lindstrom bill and the Vargas bill meet that overarching connection, so I don't think there would be a single-subject issue. But I do think there is a germaneness issue, and germaneness isn't governed by a single subject but governed by Rule 7, Section 3(d) which says no motion, proposition, or subject different from that under consideration shall be admitted under the color of an amendment. Any amendment that is not germane is out of order. Germane amendments, and here's the part that governs, relate only to the details of the specific subject of the bill and must be a natural and logical consequence of the subject matter of the original proposal. Colleagues, creating one act which funds workforce housing, another act, an entirely different act, that deals with this-- that governs how condominiums operate, is not germane to how you fund workforce housing. Those are two very separate, very distinct ideas. They can all fall under a subject of creating more affordable housing, but that's not the standard for germaneness. And I think that it's very important that we continue to hold ourselves to the standards of our own rules, regardless of how valuable or valid an idea may be. And like I've said, I-- I really think Senator Lindstrom's bill is a great bill. But we need to stick to our rules. This is not germane to LB1155, so I'd urge you to vote no on the motion to overrule the Chair. Thank you, Mr. President.

SCHEER: Thank you, Senator La Grone. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker. So we have heard a lot about-- from Senator Vargas about the underlying bills and we've heard from Senator Williams about the bills. But when you look at Rule 7, 3(d), it talks about germaneness. And it said germane amendment-- germane amendments relate only to the details of the specific subject of the bill and must be in neutral [SIC] or logical sequence to the subject matter and the-- of the original proposal. A nongermane amendment includes one that relates to a substantially different subject. So on one hand, we have Senator Vargas creating a fund. He's gonna create a fund for workforce housing development. On the other hand, we have a liability issue with LB767 that's being amended by Senator Lindstrom. Those are two separate issues. Those are not germane to each other. And I understand they're both with housing, but it's a different concept. Excuse me. So I will be voting against overriding the Chair, and I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

would encourage you to do the same because of the rule that I just read you, and you can look it up, Rule number 7, 3(d). Read it for yourself. These two bills are not germane. Thank you.

SCHNEER: Thank you, Senator Erdman. Senator Groene.

GROENE: Thank you, Speaker. I will be voting red. I believe that's the right way to vote on the germaneness rule. It is not. I happen to support Senator Lindstrom's bill because it makes sense, I-- because it-- there is some over burdensome regulations on condominium ownership and cost to owning one. But I'm fully against LB1155. The process was abused. We-- just recently we gave the Performance Audit-- and I call it the central Planning Committee. Maybe it's Perform-- but the ability to have a priority. Last year, Senator Geist and the-- and the Legislative Performance Audit Committee came up with a bill in committee, what they wanted to do. They took it to Exec. Exec sent it to Revenue, and then the-- the Performance Audit prioritized it and it passed. That is the process, not the Chairman, not the Chairman bring it up, no concept in the committee, no idea within the committee of a bill that they-- they thought would be, and then taking it to Exec through the Chairman's name and having it sent to a committee for a hearing and then prioritize it. This ideal where the Chairman just picks one of his own bills, never discussed in the ch-- in the committee before, until the last minute, as gonna be their priority, is not proper. It should be a committee-created bill and sent to Exec and then have a hearing. Can the committee take any bill they want, the Chairman? The Chairman has three or four bills in Education. Could have he just took one of those for the Planning Committee? The process is broken already and this has only existed a couple of years, I believe, with the Planning Committee having a priority. It needs to die. I think Senator Lindstrom can find a better vehicle. There's got to be something for him to bring a-- his amendment related to banking or-- or-- or I think it came out of Banking. We need to do that, but-- but this isn't the answer. I mean, I can't vote for either if that helps LB1155 pass. It's a bad bill. It's for housing and it's only for nonprofits. We're talking free-enterprise con-- condominiums and then we're talking, and then the other bill, we're talking about nonprofits having a-- a grant program, unrelated, unrelated. You-- you could-- you could claim you could put zoning bills into this thing or anything you want if it involves a house. You know, kind of the rule I follow on germaneness is what the constitution says about petitions. It's got to be one subject; should be a subject that was heard in that committee. This-- these two bills were heard in separate, different

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

committees with different purposes. They are not germane. So I would encourage, as I tried yesterday-- we have to uphold the integrity of this institution and the rules we have created. We keep bending them. We keep bending them, not because it's good law, because we don't want to offend somebody's-- another senator. If we all--

SCHEER: One minute.

GROENE: --follow the rules, nobody gets offended. We keep stretching them and we keep stretching them and we keep playing games with each other, as happened yesterday on my bill. And we sit there and blink and nod, and we vote for bad stuff and we vote for things that we know isn't right. AM26-- AM2691, Senator Lindstrom's amendment, is not germane, completely different subjects. Thank you, Mr. Speaker.

SCHEER: Thank you, Senator Groene. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. Speaker. Thank you, Mr. President. Good morning, colleagues. I would like to thank Senator La Grone for reading the rule that I was going to read, so that kind of caught us up ahead in debate. Colleagues, I think I've decided to not overrule the Chair, not necessarily on-- I think I would have, had I been in the Chair, ruled this germane. But I think you kind of have to have the two different layers of respecting the ruling of the Chair, respecting the presiding officer. I know I've made a motion to overrule the Chair here in my tenure, and I don't necessarily always in retrospect-- did not necessarily think that was the-- the best idea. That being said, I think there is an argument for germaneness, so if you wanted to overrule the Chair, I think that's a fair argument as well. We've read the rules. We've read Rule 7, Section-- Rule 7, Section 3(d), and we know what the rule says. OK, and that's fine at all, but the point I wanted to talk about is process. We have the literal text of the rules in front of us, and we also have the rules in the-- in the norms and the-- the understanding of what these rules mean. And if we're going to take this section right here and say that, for example, kind of, two bills from different committees can't be amended together or, you know, if a bill has a funding source and, you know, kind of-- if-- I guess-- I guess I won't get into the merits here. But if we're going to take a very strict rule on germaneness such that a bill that deals with condominiums and a bill that does with multifamily housing are not germane because of the intents behind them-- one's a liability and one's a funding source-- I think it's a fair interpretation we could stake. I think we've had way more tenuous

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

amendments adopted so far this session, and I think we're probably gonna have way more tenuous amendments adopted elsewhere in this session, which is fine, because usually it's something we as the body can support. But this is something we've got to keep in mind. Do we want to get into germaneness fights for the rest of the session? I'm not planning on that, but I just want to flag that as an issue that if we take a very strict rule on germaneness, and an individual senator uses that to beat an amendment rather than trying to whip 25 votes, you should just be prepared that that starts becoming the new norm, that starts becoming the new strategy, and people may use that for an amendment you like or a package you like. I think we are doing a fair number of packages this year. I think there's been some great work and collaboration from senators to make sure all the bills that are needed in a short session have some viability. But that's the ruling and the thought I want people having here in the back of their mind when we get into this germaneness argument. As to some of the other things, I don't think any of the rules or the process or any things have-- has been abused this morning. Senator Lindstrom brought a bill as an amendment. You know, Senator Erdman made a motion that he cared about. The Speaker made a ruling. But going back to Senator Groene's point, Senator Vargas has the authority as the Chairman to prioritize something in the Planning Committee, and this is absolutely, 100 percent in the vein of what the Planning Committee have. And let's not pretend that every Chairman, every time, goes through and talks to their committee and gets complete consensus from day one on what the committee priority is going to be. That's not a norm we've ever had in any committee. I certainly have tried as a Chairman to make sure my committee is aware of what the committee priorities are gonna be before I prioritize them and make sure they are--

SCHEER: Excuse me, Senator. Thank you.

M. HANSEN: Thank you, Mr. President. But-- but just saying that you have-- the only thing that could be a committee priority is a bill that pre-session you come together and plan and announce is not a standard or an understanding that we've ever applied to any other committee, so let's not pretend that this was an expectation or understanding that the Planning Committee had to do this time. With that, that's kind of explained my thought process on-- although I do think it's germane. I think I'm gonna show some respect in deference to the ruling of the Chair and not move-- vote to overrule. But I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

understand how everyone is going to vote on this issue. So with that, Mr. President, thank you, and thank you for your time.

SCHEER: Thank you, Senator Matt Hansen. Senator Morfeld, you're recognized.

MORFELD: Thank you-- thank you, Mr. Speaker. Colleagues, I just wanted to rise and note just a few things in response to Senator Groene. With all due respect to Senator Groene, I've served on that committee now for six years, served there for four years under his leadership, and a lot of the things that he's describing he's done exactly himself. And so I-- I think we all need to take a step back a little bit and look at ourselves in the mirror that if we're gonna talk about committee Chairs just picking priorities and doing that without consulting the entire committee or providing process, those are things that Senator Groene has done himself. And that's fine. That's the prerogative of the Chair. A Chairperson can include their committee in deciding what the priorities are or what not the priorities are of the committee, or they can just do it themselves. That's the prerogative of the Chair. And I respect that. I mean, obviously, I have a preference towards one approach which is more collaborative. But the fact that Senator Groene takes his own approach, that's his prerogative, and he was elected fairly to be Chair of the committee. I would like to also note that just because a bill goes to a certain committee, doesn't mean that it's not germane to another subject matter of another committee. Those are discretionary decisions that are made by the Exec Board. And in fact, there are several bills on this floor that I don't think should have gone to a certain committee. One is Senator Linehan's bill. I think that that is a bill that should have gone to Education Committee. And she says it's a tax bill, but it deals with education funding, TEEOSA, and a bunch of other stuff. So-- so, I mean, we can have reasonable disagreements on these types of things, and we will, and I know Senator Linehan and I probably will not agree on that, but those are discretionary things that are made-- those are decisions that are made that could go either way. So just because one bill went to one committee, doesn't mean that it's totally not germane to another committee's jurisdiction or subject matter. So I just-- I just want to step back real quick. I want to point those things out. I think it's important that we be consistent, that we look ourselves-- at ourselves in the mirror and-- and we're being fair about what we're saying and-- and about the standards we're holding ourselves to. I respect that different committee Chairs have different ways of doing things. I respect that they can be more collaborative or inclusive in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

how they make decisions. I respect that the Executive Committee has the ability to be able to reference bills in certain committees. I think it's fine. All these things are subjective, discretionary things. But just because we have used our subjectiveness or our discretion in one area does not preclude it being able to be seen in another area or be germane in another area as well. Thank you, Mr. President.

SCHEER: Thank you, Senator Morfeld. Senator Lindstrom.

LINDSTROM: Thank you, Mr. Speaker. I appreciate the debate this morning. I've had conversations off the mike and I think we have an understanding from multiple people that are vested in this. And so with that, I will pull my overruling request and pull AM2691. It's my understanding that LB808, which is on the agenda later, is a better vehicle for that, and so I appreciate that-- appreciate that, Mr. Speaker. Thank you.

SCHEER: Without objection, so ordered. Thank you, Senator Lindstrom. Returning to floor discussion, AM2482. Senator Linehan, you're recognized.

LINEHAN: Thank you, Mr. Speaker. I have several questions on LB1155. But right now, alls [SIC] I want to do is respond to a suggestion that was made a few minutes ago regarding, I think, LB974, but it could be LB1202, because both of those bills have been attacked for not being in the Education Committee but the Revenue Committee. They're both tax bills. It is-- it-- it's a false argument. We haven't on LB974 touched anything on the need side, which clearly belongs in Education Committee, of which I also serve. I know the difference between tax policy and education policy. The Executive Committee put it in Revenue. It-- I-- I don't know why this keeps coming up. It's a tax bill. It's all about taxes. It's about property taxes, which I keep hearing everybody say they care a great deal about and I see press releases where it's our number-one issue. But we're not acting like it. It is a tax bill. That's why it's in the Revenue Committee and it's a Revenue Committee bill. On LB1202, again, tax policy, it's a tax credit. So this idea that keeps coming up that somehow those two bills don't belong in the Revenue Committee is inaccurate. They are both tax policy. Thank you, Mr. Speaker.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

SCHEER: Thank you, Senator Linehan. Senator Ben Hansen, you're recognized.

B. HANSEN: Excuse me, Andrew.

La GRONE: Oh, sorry.

B. HANSEN: Thank you, Mr. Speaker. I was hoping Senator Vargas would yield to a couple of questions, just a couple of clarifying questions about the bill.

SCHEER: Senator Vargas, would you please yield?

VARGAS: Yes, absolutely.

B. HANSEN: Thank you. So just to make sure, because I-- I read through the bill thoroughly last night and I'm trying to just wrap my head around it a little bit more today, so just to make sure, the grant money that we're giving, is it only eligible for nonprofit industry?

VARGAS: That's correct.

B. HANSEN: And is there a reason why we just don't open that up to for-profit as well?

VARGAS: The reason is because it's what's been working, so the rural workforce housing program that we unanimously passed three years ago 49-0, and working within the DED that has been-- is only working for nonprofits right now. And so many of them-- Central Nebraska Economic Development Corporation, North Platte Chamber of Commerce, Lincoln County Community Development Corporation and many others, which is on the second page of this-- those are nonprofit development corporations. It's a good best practice, and so that's the reason why we did it. And it's modeled off of something that works.

B. HANSEN: OK. Thank you. And also, is this-- and somebody may have already talked about this a little bit. I just want to make sure I get it right. Is it to build new homes or is it to rehabilitate old structures or kind of a mixture of both?

VARGAS: Yeah, it's a great question. It's a mixture of both. So it would do-- creating new structures or rehabilitating old structures to get at the level of middle-income housing.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

B. HANSEN: OK. But there's a cost associated with it, like the house has to be worth so much? OK.

VARGAS: Yep. And it's very similar to-- not exactly the same because there's a little different costs from urban and rural, but it's very similar to the actual bottom and then top rates of costs that you see in the rural workforce housing bill.

B. HANSEN: OK. And again, just to clarify, this is-- this would pretty much-- only Omaha and Lincoln would be pretty much the only two cities eligible for this grant money?

VARGAS: Yes, the rural workforce housing only makes rural Nebraska eligible. That was a bill, again, we supported and I-- I-- we plan on continuing to support counties of less than 100,000. This would be for counties for more than 100,000. But it is also further qualifying that it has to be in a qualified census tract, which is defined by the federal government, and that was basically a lower-income area with high unemployment and high poverty. So that's-- it can't be just built anywhere in urban Nebraska. It has to be built in a qualified census tract in a county more than 100,000.

B. HANSEN: OK. Thank you. And maybe-- maybe one more, and this-- and if you can't answer now, that's fine. I can get it from you later. Do you know how many nonprofit organizations, development organizations would be eligible for this grant in Omaha and Lincoln? Is there a certain number that would be eligible, did you know of, by chance?

VARGAS: Any nonprofit development corporation would be eligible and--

B. HANSEN: I was just unsure of how many there are in Lin-- in Lincoln.

VARGAS: What a good practice that technically tends to happen is there will be a creation of a nonprofit development corporation, and that nonprofit development corporation will then apply for the grant, so there are many. And again, this is a list of some that are all across Nebraska. Some of these obviously are not gonna qualify because they're outside, but there are some that are in Omaha.

B. HANSEN: OK. And who makes up-- I know it's a board of directors, I think, that the director of Economic Development will-- will create. And do you know who would make up this board of directors to-- to give out the funds? Is there certain-- like somebody has to be from a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

certain district or has to have a certain background or is there just-- somebody has to-- just gets appointed?

VARGAS: This is what really works with the program. The rural workforce housing side is the Department of Economic Development. We're lucky to have our new Economic Development Director Tony Goins. Dave Rippe was the previous economic development person and--

SCHEER: One minute.

VARGAS: --he led the charge on this and determined-- DED determines which competitive grants are competitive and are not competitive. So it is really left up to DED to decide which are the most competitive grants.

B. HANSEN: OK. Thank you. I appreciate you answering those. Thank you, Mr. Speaker.

SCHEER: Thank you, Senator Ben Hansen and Senator Vargas. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. I rise in opposition to LB1155 and AM2482. When we've-- continue to look at how we can subsidize different things because of the way we do our business model in the state, instead of trying to drive up wages, which our Advantage Act in the past has created a lot of part-time, minimum-wage jobs without benefits, and when we continue to do that and then we have to subsidize housing, we have to subsidize healthcare, we have to subsidize our food stamps, and at the same time we're allowing our employers, who need these people to live there, to hold down their wages. We're subsidizing companies again. If you need employees and you need them to live close to their place of employment, you're gonna either have to start paying them so they can afford housing or you'll lose your employees. This is either a company subsidy-- I don't know what to call it, but we keep subsidizing different levels. We have beginning workforce development of housing. Now we have middle-income development of housing. Next year, we'll bring upper-level-income housing subsidies because they can't afford to make that jump. When do we stop? To me, the more we subsidize something, the higher the prices will rise. And as we look for different ways of doing this, I just keep feeling we're chasing our tail. Again, we're looking at a new incentive program that, again, can qualify some people for-- to-- businesses to create jobs that still have them qualifying for Medicaid

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

expansion, still qualify for SNAP program. And so now we've allowed a company again to hold down wages and benefits, and we'll subsidize their employees' housing because they can't afford to live there. Sooner or later, we have to account for the cost of living and the cost of living in the state. Whether it's high property taxes, high income taxes, we can argue that all day long. But the more things we start to subsidize, the more we're showing that businesses don't have to participate in this. They just get their low wage levels. They can continue to do business as usual, and we'll subsidize all the necessities that everyone needs. I just keep looking at the bigger picture, our long term. What is our tax policy gonna look like? We subsidize transportation because people can't get to their jobs. Maybe these companies should locate in north Omaha, where the people are. Maybe they should invest there. There's incentive programs for doing that in extremely blighted areas. Maybe those companies can move to where the people are at, and maybe they can pay a decent wage to where they can afford to live in that house they're living in and they can afford to upgrade that home into a livable structure, or they can maybe even afford to build a new home. It doesn't have to be a fancy five-bedroom, five-bathroom home. It just has to be a nice, comfortable home. When we start talking levels of housing here, I mean, I-- you know, your beginning workforce housing, that's-- again, if I need employees, I'm gonna find a place for them to live. I want a good employee. I want to keep him. I'm gonna subsidize his housing. I'm gonna bump his wages so he can afford to stay and work for me.

SCHEER: One minute.

FRIESEN: This is how business should work. And as we keep jumping in all of these different programs, and we've got lots of them, you know, if a community wants to do this, more power to them. If they've got the philanthropic people who want to donate money and create these types of programs for their community, let's do it. But this just doesn't work everywhere, and I don't think it's needed. I think we need to focus more on getting our wages up to where people can afford to live here and maybe lower our property taxes so they don't keep buying their house over and over and over again. Thank you, Mr. President.

SCHEER: Thank you, Senator Friesen. Senator McDonnell would like to introduce his friend, Todd Morehead-- he is an Omaha firefighter-- and his daughter, Kayrson Morehead. They are seated under the south bank-- balcony. Kayrson attends the Anderson Grove School in Omaha. Would you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

please stand and be recognized by the Nebraska Legislature? Returning to the queue, Senator Briese, Erdman, Albrecht, and others. Senator Briese, you're recognized.

BRIESE: Thank you, Mr. President. And good morning, colleagues. I was one of the six that voted this bill out of committee, and I voted this bill out of committee, as I told Senator Vargas, so he could have the discussion on this policy. And I don't necessarily disagree with the policy we're talking about here. We're talking about encouraging the development of workforce housing and we're talking about a grant program that is based on a-- a demonstrated need for workforce housing in low un-- or, excuse me, in high-unemployment areas and in communities that demonstrate a commitment to expanding their inventory of housing. And so those are reasonable guardrails, in my view, but I'm not completely convinced we have shortages in urban areas. I know we have shortages in rural areas. I had a banker tell me a couple of years ago that in his town of about 1,000 to 1,200 people, there were absolutely no houses for sale, nothing on the market in a town of 1,000 to 1,200, zero. And if you're talking 300 to 40 homes in a community that size, that was an amazing statistic. And I-- I don't know if any of our urban areas would approach that level of shortage. But if there is a shortage of housing in urban areas, this could be a good tool. But I am concerned about the fiscal note. Senator Vargas mentioned LB518 that we passed a couple years ago, and I actually cosponsored that bill and that was the rural workforce housing program. But the big difference there versus what we're talking about today, there, we repurposed existing funds. We repurposed funds from the Affordable Housing Fund to the Rural Workforce Housing Fund, and we don't have that option here today. We're talking about a General Fund expenditure here. And-- and-- and on the floor a couple of years ago, I noted-- one of the first things I noted in my support of that bill was the fact that we had existing funds to repurpose to do that. Not-- not the case here today. Find a source for funding and I might be a green on this, but when we're talking \$10 million fiscal note and we haven't accomplished anything on property taxes, I'm not in. If we're talking a \$10 million fiscal note and Nebraskans are still waiting for us to get something done on property tax reform, I'm gonna be a red. Get something done on property taxes, get something done on property tax reform, and I may be a little more generous someday. Thank you, Mr. President.

SCHNEER: Thank you, Senator Briese. Senator Erdman, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ERDMAN: Thank you, Mr. Speaker. I am standing in opposition of LB1155. This bill has a lot of issues that need to be dealt with and we were gonna-- we'll go through those. I have numerous questions, and I have a-- an opinion that this is deviating from our current standard of assessment, and I will go through those one by one. So I was wondering if Senators-- Senator Vargas would yield to a question.

SCHEER: Senator Vargas, would you please yield?

VARGAS: Yes.

SCHEER: Senator Vargas, do you have a copy of AM2482?

VARGAS: I could pull it up.

ERDMAN: OK.

VARGAS: What's your question?

ERDMAN: Let me know when you get it.

VARGAS: Oh, go ahead.

ERDMAN: OK. Line 7 on-- on AM2482, line 7, starting with: For the purpose of this subdivision (c) and subdivision (d) of this subsection, housing unit after-construction appraised value shall be updated annually by the department based on the most recent increase or decrease in Producer Price Index and for commod-- Index for all commodities, published by the United States Department of Labor and Bureau of Labor Statistics. So tell me, what exactly does that mean?

VARGAS: This is a best practice, so we're making sure that the-- the actual appraised value is just updated annually in regards to the Consumer Price Index. We wanted to make sure that this was a tool that essentially provides the department with some guidance on what they should be doing to then update the-- the actual cost. We have clear bottom and top lines for what the appraised value is for after construction and rehab, and we just wanted to make sure that this is in line with best practices.

ERDMAN: OK. So what you're doing here is you're taking the assessment value out of the hands of the county assessor, right?

VARGAS: Did not say that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ERDMAN: Pardon me?

VARGAS: I said I did not say that.

ERDMAN: I said I didn't hear you.

VARGAS: I said I did not say that.

ERDMAN: No, I-- I'm saying that.

VARGAS: Oh, OK.

ERDMAN: OK. This is my question to you. OK? It says right there, the department, based on the most recent increase or decrease in the Pri-- PI-- PPI of all commodities. You're gonna set the value of the housing. So what you're saying then is that-- currently the assessor is the one that sets the value of houses. That's my understanding. And so what you're saying is we're gonna take that authority away from the assessor and give it to the department, because the department is gonna be the one, the director is gonna be the one that appoints the board and they're gonna set the value of these properties based on-- on the CPI, rather than the assessed value that we normally get from the county assessor. Is that correct?

VARGAS: Senator Erdman, it sounds like you're offering an amendment, and I'm happy to work with you between General and Select. If this is a genuine concern that you want to try to improve the bill. I will work with you on that.

ERDMAN: No, I'm not--

VARGAS: We wanted to make sure to just put in some best practices that we see and--

ERDMAN: No.

VARGAS: --look at what existing programs do.

ERDMAN: No, you've misconstrued what I'm trying to say. I'm not interested in making any amendments. What I'm trying to get you to answer me is, are you taking the assessment procedure out of the hands of the county assessor and placing it into the department's hands instead of the assessor?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

VARGAS: Currently, right now, the assessment value and that determination is done by DED, so I'm not necessarily sure it's done outside of the county assessor's hands. But again, if that's something that you want to work on, we can work on that if it's a genuine concern.

ERDMAN: It-- well, it looks pretty simple to me. I mean, that's what it says. It says the department will determine the value annually. All right? Doesn't say anything about the assessor. The department has nothing to do with the value. It's all done by the county assessor.

VARGAS: And it's very similar-- actually, it's the same as the language that we passed in rural workforce housing that you voted for three years ago.

ERDMAN: OK.

VARGAS: We wanted to make sure we're utilizing existing programs that do work, as opposed to starting something from scratch.

ERDMAN: All right. Well, that-- that--

SCHEER: One minute.

ERDMAN: You know, you-- and you stated that it was passed 49-0, and I understand that, but you need to also understand that when we passed that workforce housing, that that money was taken out of a cash fund, and what you're trying to do is take it out of General Fund. Would you agree with that?

VARGAS: Senator Erdman, you're making the case that the language-- and you have concerns with some of the policy language. But if the policy language is similar, the exact same to a bill that you voted for three years ago and now you're pivoting to the cost, I'm not really sure what question you want me to answer.

ERDMAN: OK. What question I want you to answer is, is there a difference between funding the workforce housing bill that we passed two years ago, or three, taking the money out of a cash fund and this bill is taking money out of the General Fund? Would you-- would you agree that that is what we're doing?

VARGAS: This bill is not taking money out of the General Fund. It is-- would take money out of the General Fund if we vote for the A bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

This would actually create the loan program that's an economic development workforce tool--

SCHEER: Time, Senators.

VARGAS: Thank you.

ERDMAN: Thank you.

SCHEER: Thank you, Senator Erdman and Senator Vargas. Waiting in the queue: Senator Albrecht, Wayne, Friesen, and others. Senator Albrecht, you're recognized.

ALBRECHT: Thank you, Speaker Scheer. Good morning, colleagues. I do rise to ask Senator Vargas just a few quick questions.

SCHEER: Senator Vargas, would you please yield?

VARGAS: Yes.

ALBRECHT: Thank you for yielding. We did visit a little bit about this. I know in your opening you had mentioned just Omaha, Lincoln, and Sarpy County. So is-- is that who you're just trying to-- to effect in this bill or would-- would we be able to go out further into the other 90 counties with this bill?

VARGAS: It's a great question. This is only for counties that have a population above 100,000. So, yes, it would be for those three counties that you mentioned: Lancaster, Sarpy, and Omaha-- or Douglas, and it would not expand beyond that. But the reason it wouldn't is because there is an existing program that has been around that will continue to be supported, is supported by the-- by the Governor and the executive branch. That's the rural workforce housing that is already eligible to counties that have a population less than 100,000 that are rural.

ALBRECHT: And would you be able to elaborate on that other plan that is going to be funded, and how much and where is that money gonna come from?

VARGAS: We work in the appropriations process, and it is the support of the Governor for us and the support funding that existing program. That is something that we-- we are continuing to work on when we put out the budget. But I'm hopeful that we continue to support rural

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

workforce housing because it is a priority that came out of our committee and it's a priority that we've identified as a Legislature.

ALBRECHT: Well, thank you for the-- those answers. Colleagues, I just want to express to you that three years ago this was a priority of the Business and Labor Committee when I was chairing it. It was one that I chose. Rural workforce housing is still an issue. We had \$7 million to work with. We certainly could have used probably a lot more than that. I know Senator Gragert and I were invited to Wakefield over the interim and wanted them-- they wanted us to understand their frustration. Even though Wakefield was one of the homes that they built, probably for \$250,000, that only helped one person. We had Waldbaum's come and instead of expanding in Wakefield, they went over to Iowa and expanded because there wasn't enough housing for the employees that they need to fill those positions in Wakefield. So I'm anxious to hear more about the rural part of it. I would hope that if we don't have the funding for continuing rural workforce housing, that we expand this one to the whole state because-- I guess I look at it in the-- in the broader picture of if Omaha-- and I guess I do have one other question for Senator Vargas, if you-- if I could ask him.

SCHEER: Senator Vargas, would you yield once again?

VARGAS: Yes.

ALBRECHT: OK. Senator Vargas, would these-- would this-- you say you want it modeled after LB518. Would you be building \$250,000 homes for these low-income folks to live in?

VARGAS: And so I'm gonna clarify here. There is a bottom and top in terms of the after-construction valuation, and this is not for just lower-income individuals. This is for middle-income workforce individuals.

ALBRECHT: OK, so if it's middle-income workforce, aren't they building those homes already? I mean, our bigger picture on the rural side is that we don't have enough builders to come into our areas and build what we need. But yet in Omaha, I believe they're doing a very good job and they are all busy and they are all taking care of it. So-- so are you saying that these homes would just go into certain pockets of the area to build \$250,000-or-more homes?

VARGAS: And so I want to make sure to clarify. The after-construction appraised value is \$150,000, but not to exceed more than \$250,000 for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

the home. The second thing I want to address is-- and I'm pretty sure--

SCHEER: One minute.

VARGAS: --Senator Wayne is gonna respond to this as well. We do have housing shortages in Omaha and in Lincoln and Sarpy. We have severe housing shortages. And particularly in communities that are lower income, it's nearly impossible to find a middle-income-housing home, which means that when we have a workforce, teachers, firefighters, police officers, they can't find housing in specific communities. And we're trying to continue to diversify the socioeconomic areas and make sure we have a vibrant life between-- and-- and also retaining 18- to 35-year-olds. That's what we're missing. And I think-- I'm glad that you support the rural workforce housing, which again-- and I appreciate your support on that when you were Chair. It-- I also appreciate that you're talking about the economic impact of that, because that's the same thing that I want to happen in our lower-income communities in-- in-- in counties of \$100,000-- 100,000 or more.

ALBRECHT: Well, thank you very much. I just hope that people realize it's tough to build a \$150,000 home. You have to have the-- the land available and different things like that. So I'm hoping that if we continue either one of these programs--

SCHEER: Time, Senators.

ALBRECHT: --that-- thank you.

SCHEER: Thank you, Senator Albrecht and Senator Vargas. Senator Wayne, you're recognized.

WAYNE: Thank you, colleagues. Thank you, Mr. President. Colleagues, I have to ask a serious question today. Is today our D-Day? Is today our D-Day? Is today gonna be the day that we are divided from urban and rural? What I passed out was a bill that passed 49-0 with a fiscal note of \$7.3 million for rural workforce development of housing, for housing, rural workforce housing development. We passed, 2017, Senator Williams' bill with a fiscal note of \$7.3 million. This body said for rural communities, workforce development housing was important. What Senator Vargas did this year was mirror that language when we have revenue streams that are higher than we've had since we've been in this body for the last four years and mirrored the same fiscal note as

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

the fiscal note sitting right now in Appropriations for \$10 million for urban workforce housing. So today is a critical day in this body. Are we going to say what's good for rural is good for urban when it comes to workforce housing? Senator Erdman, yes, you voted for that bill in 2017, along with 49-- 48 others. It passed 49-0. To your question about the county assessor, the county assessor still has the role, in the constitutional role, of making sure property taxes and the assessed value of that home for those property taxes is conducted. What DED will be doing is what they currently do for rural development workforce housing, which is assessing the value for the purpose of the grant. Those are totally two separate tracks that don't cross-mingle in a sense of removing their constitutional obligation for the county assessor to assess the property. So again, I'm not gonna spend a whole lot of time on this bill, but I-- I will tell you, without urban senators, property tax relief does not get done, based on the numbers, period. Tax incentives do not get done, based on the numbers, when we talk about urban senators, period. This is not a threat. But I'm warning everybody that this is a simple bill that is mirrored off of rural housing development, of which we gave \$7.3 million at a time when we were cutting a billion dollars from our budget. You remember that our first year, that the budget didn't even pass a filibuster the first year, and we were cutting \$900 million? But we found some extra money in the Affordable Housing Trust Fund of 7.3 and passed the bill that is success-- is successful in rural Nebraska. They couldn't get enough grants. They are building houses. So at a time when revenue streams are up \$200-300 million, a \$10 million dollar ask that is exactly the same as the ask that we gave, that I supported, that Senator Vargas supported for your community, we're saying, no, that can't happen now. But two years ago, when we were cutting a billion dollars from our budget, we found the money to make it happen. Do we see the-- the problem here? We've still got to debate the A bill. It's gonna sit on Select File until the budget comes out, until it's approved. We can continue to have that fight about \$10 million, maybe it's \$5 million, maybe it's \$3 million. But we have to establish the program so we can start talking about the funding.

M. HANSEN: One minute.

WAYNE: Colleagues, we had to cut a billion dollars our first couple years here, and we found money to create this Rural Housing Trust Fund-- Workforce Housing Trust Fund, and we passed it for \$7.3 million, and we're gonna get up here and say, urban, no, you can't have it. If we want to walk down the path of urban-rural divide, we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

can start today, and then we can talk about sales tax staying exactly where it is and where it comes from and see how that treats the rural community, when most of the sales tax comes from urban areas. Let's not go down that path. What was good for you guys is good for ours, our community, and that's all we're asking. And I hope people take that seriously and remember what I just passed out: 49-0, \$7.3 million for workforce housing and rural development. Asking for \$10 million when we have the greatest economic streams that we've seen--

M. HANSEN: Time.

WAYNE: --since we've been here, it's not too much to ask. Thank you, Mr. President.

M. HANSEN: Thank you, Senator Wayne. Colleagues, Senator Hunt would like to welcome 27 students from the fourth grade at Holy Name School in Omaha. They are seated to the north balcony. Would you students please rise and be recognized? Thank you for visiting the Nebraska Legislature. Returning to debate, Senator Friesen, you are recognized.

FRIESEN: Thank you, Mr. President. Senator Vargas, would you yield to a question?

M. HANSEN: Senator Vargas, will you yield?

VARGAS: Yes.

FRIESEN: Senator Vargas, how does-- how does your bill vary from the rural workforce development in process or dollars or income levels? Does it-- is it the same?

VARGAS: Nearly the same. We changed some of the after-construction appraised value. We provide some definitions and guidelines for who qualifies, specifically qualified census tracts. It is for counties that are greater than 100,000 population. And then as you mentioned before, for-- as Senator Erdman mentioned before, we added some language in there about the CPI adjustment for-- for valuation. But other than that, it's largely the same in terms of the structure.

FRIESEN: So why-- why is it you use the term middle-income housing instead of low-income workforce development housing?

VARGAS: It's because it is targeted for middle income. Three years ago, when we had funding, the funding source for this came from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

affordable housing. Still supported it then and then I understood that, and I think we all did. This is specific to middle-income housing.

FRIESEN: So if-- but if-- we if we build more low-income housing, don't people transition into middle-income housing? Isn't that the idea of you get them started and-- and wages again should be creeping up and to where you could afford the middle-income housing?

VARGAS: Colleagues, and this is to Senator Friesen, passed out a two-pager. I encourage you to read it. The two-pager very clearly includes information on our housing need. The problem isn't that the people might not be able to transition. There is a question about wages. The, really, problem is whether or not we have housing inventory. We have stark contrast in housing across this state, and it's also in urban Nebraska. In urban Nebraska, we see very low-income housing, and then we see very high-priced housing. There is no middle-income housing, very, very little of that housing stock that exists for people, and that's the problem we're trying to solve.

FRIESEN: What other housing programs are available in the metropolitan areas? The TIF funding-- go down the list. Are there-- are there other avenues of, I guess, incentives to build housing?

VARGAS: I can't list every single one of them, but this is a very, very specific, nuanced program. And you wouldn't be eligible for most of the affordable housing programs under this. You couldn't have gotten funds from those. You have to be basically a new applicant.

FRIESEN: Could-- could this program access any of those others?

VARGAS: If you are a person applying for this, it-- there's clear language that says you can't qualify for some of those other programs.

FRIESEN: You couldn't use TIF funding?

VARGAS: I don't know about TIF, but I know for a lot of the other affordable housing loan programs, you could not qualify.

FRIESEN: OK. So when-- when we look at our overall-- when we talk about economic development and housing and-- what-- what is it we as a state should focus on? Is it job creation? Is it trying to push wages up to where people can afford these things? Because if-- to me, when we are at lowest unemployment ever, and I know there's areas that are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

not, they-- they're extremely blighted. Senator Wayne has brought numerous bills dealing with that. How do we get businesses to locate there and pay a decent wage to afford the house? Because longer term, if we don't push up those wages or-- it-- to me, it's-- it-- where do we find the balance? What do we-- what are we incentivizing? Are we incentivizing job creation to where people can't afford that house, or are we incentivizing a house so people can afford the job?

VARGAS: You can tell I have a terrible poker face. Senator Friesen, and I'll repeat it again, we do not have the housing inventory for middle-income people--

M. HANSEN: One minute.

VARGAS: --in urban Nebraska. That's the problem we're trying to solve. Now everything that you said is true. It's not an either/or. We should be focusing on all of these different things. Economic development is about workforce training. It's about job training. It's about making sure that we can put people into existing jobs. It's about making sure we have jobs for the middle-income individuals that are working in these areas. It's about making sure that we're not further marginalizing and segregating communities in Omaha. But right now I have across the street in different communities in my district, you have \$100,000 homes next to \$300,000 condos, \$350,000 condos. And that stark contrast means middle-income people cannot find homes in parts of Omaha, Lincoln, and in Sarpy, some of those counties, so that's the problem we're trying to solve, Senator Friesen.

FRIESEN: Yeah, our-- our problem, I think, was that beginner home. We had homes as people transition out of and it seems like we're gonna have more of that as we--

M. HANSEN: Time, Senators.

FRIESEN: Thank you, Mr. President.

M. HANSEN: Thank you, Senator Friesen, and thank you, Senator Vargas. Next in the queue, Senator Groene, you are recognized.

GROENE: Thank you, Mr. President. Senator Vargas, would you take a couple questions?

M. HANSEN: Senator Vargas, will you yield?

VARGAS: Yes.

GROENE: So the way I read this, a duplex that somebody put up, or a triplex or a rental unit or somebody putting up an apartment complex wouldn't qualify. Is that correct?

VARGAS: That is correct.

GROENE: Because it's owner occupied, owner occupied.

VARGAS: Correct.

GROENE: So you're trying to build-- so if there's federal grants out there-- I believe there still is for housing-- if they get that, they can't get this? You just said something about if they can't qualify for two programs.

VARGAS: There are certain programs that you wouldn't qualify for. You couldn't qualify for this and those other programs, for the applicant specifically.

GROENE: And then the nonprofits, would Habitat for Humanity qualify?

VARGAS: Let me qualify something about a nonprofit. The nonprofit is the entity that would originally receive the funds. The nonprofit development, many instances, nonprofit development corporation can include both for-profit and nonprofits. And you can see by the list, and I encourage everybody-- and I can actually read aloud some of them because this is very good for the record: Nebraska Development Corporation, York County Development Corporation, Hastings Economic Development Corporation. We're talking about nonprofit entities that have for-profit entities that are a part of it.

GROENE: All right. Thank you.

VARGAS: Yes, yes.

GROENE: That brings up a question. What is considered urban? This is an urban, it says, bill. Does York qualify as an urban center?

VARGAS: Counties larger than 100,000 is how we qualified that.

GROENE: All right. I didn't catch that. All right. Thank you. You know, I got a bill called-- a micro-TIF, I call it, in Urban Affairs that was promised me would come out. It's my-- and that's statewide

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

opportunity. Would you support that, sir, where the-- actually, free enterprise does the work instead of government? You don't have an answer for it? All right. I figured that.

VARGAS: No, no. Go ahead. Ask-- go ahead.

GROENE: What's that?

VARGAS: I didn't hear anybody ask me a question. Go ahead.

GROENE: I have a bill in Urban Affairs where it would cover the whole state, called micro-TIF, where one individual, free enterprise, an individual would-- would buy an old house and fix it up and then would be given tax increment finance on that house for the next ten years. Would you support that? That's-- that's about a basic as workforce housing there is, is there-- is that not?

VARGAS: If it gets out of committee and we debate it up here, just like anything, we give it a chance, so I'd have to look-- look at that language.

GROENE: [INAUDIBLE]

VARGAS: If it's based off of best practices, which is-- this is, and it's based off a program that's successful--

GROENE: Thank you, sir. I-- you-- I asked you a question. You answered it. Thank you, sir. You just heard never Groene again. Anyway, we-- I'm not gonna be scared off by threats, Senator Wayne. I'm tired of them. I'm tired of "mountain lion" moments. Let's work on every bill and see how it works, because I'm about ready to drop IPPs, indefinitely postpones, on your bills like you did on my LB147 about working together, but I won't do it because of collegiality. And I believe the old rule about do unto others as you would have them do unto you. So I'm hoping I will see you remove that IPP on a very popular bill of mine, now Senator Murman's bill priority, and it will come off because I want to believe what you said about working together. Let's try it. Thank you.

M. HANSEN: Thank you, Senator Groene and Senator Vargas. There are a number of senators in the queue, including Senator Erdman, Senator Clements, and Senator Murman. Senator Erdman, you are recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ERDMAN: Thank you, Mr. President, and I appreciate it. So as we continue to work our way through this bill and what it actually does, I listened to Senator Wayne's comments. Senator Wayne, this may be a shock to you, but I understand that the urban senators are a significant number in this body. I get it. And so when you say this is not a threat but you want to remind us of that, I get that. And my people in my district understand that thoroughly because, you see, when you go west of 9th Street in Lincoln, there's only 30 percent of the population lives west of 9th Street. I get it. And so you're talking about the urban-rural divide. Senator Vargas, it's not hard for my people to figure out what that means. So you have been, and Senator Vargas has been, talking about the vote of 49 on the workforce housing for rural Nebraska. Let me remind you, and you sometimes overlook the facts, that came-- if you look at the vote that you sent out, the page, it said the funds came from the Affordable Housing Trust Fund. I tried to get Senator Vargas to admit that this was \$10 million from the General Fund, and he evaded that and said LB155 [SIC] does not do that; it's the A bill that does. He didn't say that. I'm telling you that. All right? It's General Funds. I still have to wait and hear-- I'm still waiting to hear why it is government's problem to create housing. I never-- I've never understood that. Government is not the answer. OK? Why do we have a workforce shortage in the state of Nebraska? It's because our taxes are too high. And so I have a bill in the Revenue Committee-- it's LR300CA-- eliminating all property tax, all inheritance tax, income, both for businesses and individuals, as well as personal property tax and sales tax, one flat consumption tax that solves all those problems. So if we were a state that people would want to live in, why do people leave Nebraska? Why do old people like me leave? It's because when they bought their house 30 years ago, their mortgage, insurance, and taxes were less than their taxes are today. That's why they leave. They don't move to Florida because they like 110 degrees. They don't move to Arizona because they like living in the desert. They move there because they've got to make a decision. Do I pay for my healthcare medications or do I pay my property tax? So they leave. So this is a situation we find ourself in, and we're gonna put a Band-Aid on this workforce housing, and I'm not sure what exactly that means, \$150,000 house, a pretty nice house, even here in Lincoln. And so I'm not sure how this is gonna work, so I was wondering if Senator-- Senator Vargas would yield to a question.

M. HANSEN: Senator Vargas, will you yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

VARGAS: Yes.

ERDMAN: Senator Vargas, if you have a moment, pull up the bill, if you would. I want to ask you some questions about what the bill says. Maybe you can clarify it for me.

VARGAS: Sure.

ERDMAN: OK. On page 3, line 13, it says matching funds-- excuse me, let's go to 19. Qualified activities include purchase guarantees, loan guarantees, loan participation, and other credit enhancements related to eligible activities of the workforce housing investment-- can you explain what that means about loan guarantees and-- and those kind of things? Can you explain that section?

M. HANSEN: One minute.

VARGAS: It says qualified activities and it lists out the qualified activities. The Department of Economic Development has a choice on, with these parameters, which qualified activities would work for this loan program.

ERDMAN: So they can-- they can apply for and get loans?

VARGAS: Yes. Actually, the majority of the ones from the rural workforce housing are loans. They're not grants.

ERDMAN: OK.

VARGAS: It's why it was a one-time appropriation.

ERDMAN: All right. So can you explain to me-- give me an example who a nonprofit would be that would be overseeing this-- this proposal.

VARGAS: I can't tell you who might apply for this. I can tell you who applied for the rural workforce: Holdrege Development Comp-- Corporation, the Economic Council of Buffalo County, Hastings Economic Development Corporation.

ERDMAN: OK. So then moving on down then, in that same bill, go down to line--

M. HANSEN: Time, Senators.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ERDMAN: Time, you said?

M. HANSEN: Yes.

ERDMAN: Thank you.

M. HANSEN: Thank you, Senator Erdman, and thank you, Senator Vargas. Colleagues, Speaker Scheer would-- announces the following guests are visiting the Legislature. Catholics in the Capitol, from all across the state of Nebraska, they are located in the north balcony, if they would please rise and be recognized. Thank you for joining us today. Colleagues, Senator Murman would also like to announce guests visiting the Legislature: 45 seniors and 3 teachers from Minden High School in Minden. They are in the south balcony, if they would please rise and be recognized. Thank you for joining us today. Returning to the queue, Senator Clements, you are recognized.

CLEMENTS: Thank you, Mr. President. I rise in opposition to the bill, LB1155. I wanted to also talk about the 49 votes in 2017 for LB518. It's definitely from the Affordable Housing Trust Fund, and we didn't really find new money at that time to fund that \$7.3 million. It was a transfer from one fund to another. We did not have the dollars otherwise to do that. This bill specifically in the text says it's going to be from General Funds. In the Appropriations Committee, we've-- we had about 35 bills asking for funding this year, and I think they added up to about \$70 million worth of requests. It looks like we've approved a little over \$15 million worth of requests on all of those bills, and it's been a matter of pri-- prioritizing. And this extra \$10 million would be, you know, two-thirds of the amount that 35 bills are getting. And so I am not ready to allocate that large of an amount for this particular bill. I think if he would find a different cash fund, like the Affordable Housing Trust Fund, they would have a lot more likelihood of support. The-- with the-- the number of requests that we had in Appropriations was very large, and we're going to still have some more requests, more A bills to discuss, and this-- this amount is outside my comfort level of what I think the budget can afford this year. And with that, I would yield the rest of my time to Senator Erdman. I don't think he was finished with his discussion.

M. HANSEN: Thank you, Senator Clements. Senator Erdman, you're yielded 2:40.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ERDMAN: Thank you. Thank you, Mr. President. Thank you, Senator Clements. So continuing my conversation on the bill, I was wondering if Senator Vargas would yield to a question again.

M. HANSEN: Senator Vargas, would you yield?

VARGAS: Yes.

ERDMAN: Senator Vargas, on page 6, line-- starting on line 5, if you would look at that, if you pull that up, I'll read it to you. You ready? OK, here it goes. So what it says here, the Middle Income Work-- Middle Income Workforce Housing Investment Fund shall receive a one-time transfer of \$10 million on or before July 1, 2020, from the General Fund. OK? Did-- did you understand that that is what it's going to do?

VARGAS: Yes.

ERDMAN: OK.

VARGAS: That is what's in here.

ERDMAN: All right, so when I asked that question earlier, you said this bill does not do that, the A bill does that, or whatever you said. The fact is--

VARGAS: That's true.

ERDMAN: --the fact is that this does transfer \$10 million. So--

VARGAS: This bill does not transfer the \$10 million. We can't actually transfer the money for the purposes of this--

ERDMAN: Right.

VARGAS: --without an A bill.

ERDMAN: But it's setting up the mechanism to do that. Would you agree with that?

VARGAS: Yes--

ERDMAN: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

VARGAS: --just like any of our other bills set mechanisms up that have a fiscal note.

ERDMAN: OK. Back up a bit to page-- page 4, page 4 of the bill, line 14, and it talks about a workforce housing investment fund means a fund that has been created by a nonprofit development organization and certified by the director to encourage development of workforce housing in the urban communities.

M. HANSEN: One minute.

ERDMAN: Can you explain to me how that fund is going to be distributed? And what does it mean-- if you can, describe what does it mean to the person who is buying the house or lives in the house. What does it mean to them? How do they get-- how do they get relief that they're able to buy or afford that house that they can't do now?

VARGAS: This bill is not targeting the individuals like you're saying. This bill is creating-- is solving the problem of our old housing stock and not having middle-income housing, so it's creating middle-income housing. It--

ERDMAN: Oh--

VARGAS: So your question, that's not what this bill is doing.

ERDMAN: OK. So-- so tell me how it works. There's a house on a street in your district that has need of repair. Say it's a \$75,000, \$80,000, \$100,000 house and you're gonna go and refurbish that, so who-- who gets the--

M. HANSEN: Time, Senators.

ERDMAN: Thank you.

M. HANSEN: Thank you. Thank you, Senator Clements, Senator Erdman, and Senator Vargas. Next in the queue, Senator Murman, you're recognized.

MURMAN: Thank you, Mr. President. I haven't spoken on this yet, so I want to take this opportunity. I realize that in 2018 the Legislature passed LB518, which allowed a one-time transfer of \$7 million or so from the Affordable House-- Housing Trust Fund to the Rural Workforce Housing Investment Fund. But that was a transfer that was-- was not out of the General Fund, so that is the difference here where we're--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

the transfer would come out of the General Fund, which I hope we're-- we're leaving whatever funds that are available in that fund for property tax relief. And I don't agree with the premise of the bill anyway, because I don't think the government needs to be in subsidizing housing. As has been mentioned many times on the floor before, the housing problem in this state is a result of high property taxes and with lower property taxes and lower taxes overall in the state, it wouldn't be necessary for government to do this. Government is not effective or efficient in doing these types of things, and that's not the role of government. I would like to ask Senator Vargas a question or two if he would yield.

M. HANSEN: Senator Vargas, would you yield for a question?

VARGAS: Yes, I would.

MURMAN: Thank you. If we keep taking \$10 million out of the General Fund here and there, how do you perceive that we would have enough left for property tax relief?

VARGAS: Senator Murman, you're asking a question that is-- I'm gonna try to answer it. We don't normally have funds to then invest in things. This is the first year we've maybe had some funds that we can actually make sure we are protecting and supporting Nebraskans and supporting programs that work. And Senator Clements did mention that we did that in Appropriations and we do that, many of things that were supported by the Governor. And in this instance, I don't see it as an either/or. We're gonna try to do both. That's what we've been trying to do. That's what these debates have been about. So I don't view it as we don't-- if we have \$10 million for something else, or \$5 million or \$4 million for any different type of program, that it means that we can't then continue to have a conversation and look at what property tax relief looks like.

MURMAN: Thank you. From my perspective, we've been having that conversation about property tax relief for years, and it's-- this year is that-- right now is the time to get something done about that. So-- so that's my number-one priority. If we would get substantial property tax relief, I'd be a lot more open to other programs that-- that government needs to spend money on. I got to apologize. I meant to ask Senator Vargas, give him a warning a little bit about another question I'd like to ask. But would you yield, Senator Vargas, for another one?

M. HANSEN: Senator Vargas, would you yield?

VARGAS: Yes.

MURMAN: LB1155 allows the department to administer the fund, but it's not clear if those funds could be used to pay staff or contractual costs or to administer the fund-- fund. I mentioned a little bit about how government is not very efficient in what they do. Would the \$10 million be used to pay staff at all?

M. HANSEN: One minute.

VARGAS: Similar to the Rural Workforce Housing Fund, a portion of the \$10 million will go to then make sure that some of the staff within DED can then carry out this program, so that is noted in the fiscal note. And I think there are aspects of government that work. Governor Ricketts supported the DED and the rural workforce housing in LB518 and continues to support funding for it, not only from us and this year, but the program itself, it has been working. And so that's the program that we're modeling it off of.

MURMAN: OK. Thank you, Senator Vargas. How much time do I have left?

M. HANSEN: Twenty seconds.

MURMAN: Thank you. I'll yield the time back.

M. HANSEN: Thank you, Senator Murman, and thank you, Senator Vargas. Colleagues, there are a number of senators in the queue, including Senators Albrecht, Halloran, Wayne, and others. Senator Albrecht, you are recognized.

ALBRECHT: Thank you very much. Do I address you as Speaker Hansen at the moment? Thank you. Colleagues, I've asked Senator Williams if he would yield to a question.

M. HANSEN: Senator Williams, would you yield?

WILLIAMS: Yes, I would.

ALBRECHT: Thank you. What I'd like to visit about, and we're gonna go back, you know, four years ago when-- when LB518 was passed, it was a good bill. You and I visited over the summer about how we should try to figure out how to continue that. But, you know, my-- my question is-- I understand through Senator Vargas that you also have a-- an ask

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

in Appropriations to continue LB518 in the manner in which it is set up. Is that correct?

WILLIAMS: That-- that's certainly the case. Not only did we pass LB518 in 2017, it's been administered and been administered extremely successfully. The \$7 million that was used, that was taken from the Affordable Housing Trust Fund, turned into over \$10 million of local matching grants and nearly \$100 million in construction costs of 577 housing units all across our state. So the program has been very successful. You are correct. I have a bill in the Appropriations Committee this year to extend LB518, again, so that we can do round two, I will call it. We initially had almost three times as many applicants, dollar amounts for the grants, as we had money to match those grants.

ALBRECHT: Thank you. So, colleagues, the reason I-- I want you to understand that that is in Appropriations as we speak, as Senator Clements alluded to, that-- that there's a \$10 million ask there and a \$10 million on this one. Senator Williams, do you know where they're going to get the \$10 million from? Is it the same fund that Senator Vargas is asking here?

WILLIAMS: I do not know positively, Senator Albrecht, what the Appropriations Committee will do with that. It appears that they are working in a direction other than passing the bill itself, using the budget somehow to do that.

ALBRECHT: OK. So thank you. Again, I don't believe it's D-Day. I do believe that, Senator Wayne, if you do have two more votes to send our way on LB974, it would be much appreciated. But here's what I'm-- I'm kind of taking a step back and thinking about: How do we help the whole state in one full swoop? And maybe it's directing, as a body, the Department of Ec-- of Economic Development, and-- and I need to go look into this, but can those funds that are currently there be used for both programs? And what I found, you know, four years ago, is they weren't using the money. The money wasn't even being asked. Nobody even asked. You know, if you had a situation where you needed some help on some housing, there-- there was a flaw in the program because it was just-- the money was just sitting there. So if this-- if-- if the funding could be worked out and it doesn't come out of a cash fund or, you know, an-- an area that we need those funds to help with our property tax relief-- you know, I believe that this session truly is about property tax relief. I believe that's the call of our whole

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

state to ask us to do something about it. And we shouldn't be holding bills up. If you don't vote for this, I won't vote for that. A bill should stand on its own. You know, we are not defined whether, you know, we got something passed or we didn't. It's all about what's for the greater good of our state. So I would like to continue this conversation. I think that we all have needs in all of our areas. But again, when it's used for the greater good of the whole state--

M. HANSEN: One minute.

ALBRECHT: --I think that's where we need to capitalize on finding the resources. Again, I had a priority bill that I stepped back because I knew I needed to know where that funding was gonna come from. And if I can't sell it 100 percent because it's the right thing to do, I-- I had to-- to wait. You know, I'll figure it out over the interim and I'll-- I'll have a strong bill coming. But-- but the point is that the-- there are funding sources out there. And we all need to decide as a body-- maybe we need to go back to take a look at that Affordable Housing Trust Fund and find out, is it a federal issue that we can't do, we can't touch that, and it has to go out a certain way, or is it something that is legislated right here from this floor? So thank you.

M. HANSEN: Thank you, Senator Albrecht and Senator Williams. Senator Halloran, you're recognized.

HALLORAN: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. We've heard a lot from two very articulate senators: Senator Justin Wayne, Senator Tony Vargas. And we've heard a lot of comments from others in the body. But it would be interesting, I believe, to hear from some more supporters of the bill, and I'd like to call on a few-- few members of the Urban Affairs Committee who sat through the hearing on this bill. Would Senator Hunt yield to a question, please?

M. HANSEN: Senator Hunt, would you yield?

HUNT: Yes.

HALLORAN: Thank you, Senator Hunt. Can you give us-- other than being for the bill and saying you're for the bill, can you give us your interpretation of why this is a very necessary bill?

HUNT: Why it's a necessary bill?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

HALLORAN: Why you-- yes, why you support it.

HUNT: Well, in my district, we have a lot of-- of mixed housing; we have a lot of multifamily units; we have a lot of single-family units. And then interspersed among all of that, we have a lot of houses that are actually used as places of business. And so mixed-use housing has been very good in my district. I received a lot of feedback from my constituents that this was a bill that they saw as bringing the benefits that we have in our district to other parts of Omaha, other parts of Lancaster and Sarpy County, where access to housing for middle-income folks is not really there, like the inventory isn't there of the houses. I'm a middle-income person myself, and so when I-- you know, I'm-- I'm kind of looking to expand my own living situation, and there just really isn't a lot on the market. So based on the testimony that we heard in committee, based on feedback from my constituents, based on my own values and what I see as effective in my neighborhood, I know this is good policy. Also, because of the three-hour rule, I know that you're all aware that sometimes supporters of the bill kind of stay off the mike in order to give opponents all the time to take up the three hours if that's their plan. So out of courtesy to the introducer, I don't take up the time on their bill.

HALLORAN: OK. I appreciate that. I just wanted to give you the opportunity to express your support of the bill. I see Senator Crawford doesn't seem to be available on the floor and Senator Hansen is busy. It's probably not appropriate to ask the Speaker or the President to speak on the bill. If I could also maybe ask-- who else can I ask? Senator Blood, would you yield to the same question, please?

M. HANSEN: Senator Blood, would you yield?

BLOOD: I'm sorry, I won't yield because somebody was talking to me and I didn't hear the question, but thank you.

HALLORAN: That's fine. I really haven't asked-- the same question I asked Senator Megan Hunt. Would you yield to that question?

M. HANSEN: Senator Blood, would you yield again?

HALLORAN: I know you're not on the committee, but I'm--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

BLOOD: Again, I'm sorry, I didn't hear the question because someone was speaking with me and I don't feel it's appropriate to answer a question I didn't hear, so I will not yield this time. But thank you.

HALLORAN: OK. Thank you, Senator. I yield the balance of my time to Senator Erdman.

M. HANSEN: Senator Erdman, 1:45.

ERDMAN: Thank you, Mr. President, and thank you, Senator Halloran. Interesting. So as we continue to work through the bill, what it means, what it does, off the mike I had asked Senator Vargas about how did the funds get to the people who are buying the house or the construction--construction people who are doing the remodeling. So if you cut-- if you cut down to the bottom of the bill, the very last section on page 8, Section 9, it says the department may adopt and promulgate rules and regulations to administer and enforce the Middle Income Workforce Housing Act. So I would conclude from that it's whatever the director wants to do, the director of the Department of Economic Development. So--

M. HANSEN: One minute.

ERDMAN: Thank you. So I don't know if I have enough time to ask Senator Vargas a question, but here's the question. The board that's gonna be set up-- and I see the bill talks about adopting a board that's gonna oversee this. My question would be to Senator Vargas, and he can think about this, is, who appoints the board and what compensation do they get, if any, and how do we know that they're accountable to somebody except the director? That will be my question the next time on the mike. Thank you.

M. HANSEN: Thank you, Senator Erdman and Senator Halloran, Senator Hunt and Senator Blood. There are a number of senators remaining in the queue, including Senator Wayne and Senator Lowe. Senator Wayne, you're recognized.

WAYNE: Thank you, colleagues. Some things are worth responding to but, Senator Groene, your comments, I don't believe, are. The reality is, Senator Friesen, my community, Senator Vargas' community, we want the same thing that most of rural Nebraska wants. We want good-paying jobs. Why? Because if you have a good-paying job with disposable income, 80 percent of the social problems we see in our community go away, if not more. We want the same things, good-paying jobs and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

affordable housing. Affordable housing means different things, and we do the best that we can define them. And in this case, I want to be clear about two things. This applies to census tracts where 50 percent of the household incomes is less than 60 percent of the Nebraska median income. So we're talking about areas that are poverty, but not all the way poverty. We're not talking about building homes in west Omaha. We're talking about north and south Omaha. Second, there is a matching grant to this. There is a matching fund to this grant. You cannot just go out and just get this money and not have funds raised to help offset that cost. So there is a skin in the game from the nonprofit or developer standpoint. There was a question about low-income housing. So right now, east of 72nd in Omaha, except for the Blackstone District, the only house being built, the only apartments being built are low-income housing, and it's through the Low-Income Housing Tax Credit, which is a federal program. And what happens there is you have-- you can't make more than basically \$900 a month. So if you go out and get a job where you're making \$15-16 dollars an hour, you have to pick between your house or that job. But this bill goes a step farther. It says it's housing, owner occupied. We're not talking about apartment complexes. That is what we're missing. Senator Friesen mentioned he was missing the starter home. That's what we're talking about. We are missing that home. That's a \$150,000-170,000, east Omaha. The reason that price, the floor is a little higher, is because we're trying to negate the nonprofits who want to come in and rebuild \$90,000 homes. We're trying to find that middle-income housing because there is low-income housing for apartments, something you can't build wealth on. And I don't need to reeducate this body on red-lining in Omaha. We have plenty of apartments for low-income housing. What we don't have is housing in north and south Omaha that is middle, middle-income housing where you're just above the poverty line, where you're making your career and you want to buy that first starter home. We don't have that. Rural didn't have that. Will Senator Clements yield to a question or two?

M. HANSEN: Senator Clements, would you yield?

CLEMENTS: Yes.

WAYNE: Senator Clements, what would you-- how would you categorize our cash fund? What is our cash fund, since you're on Appropriation?

CLEMENTS: We have--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

WAYNE: Cash Reserve-- Cash Reserve Fund, what is-- what is that?

CLEMENTS: The-- we call it the rainy-day fund. It's the excess Cash Reserve.

WAYNE: Would you say that that Cash Reserve Fund is directly tied to our General Fund; typically, it's usually extra money we bring in?

CLEMENTS: It is the excess revenues over budget forecast.

WAYNE: OK. So if it's tied to a budget, and I-- I-- I appreciate that. But there was a bill, LB773, Senator Williams' bill, and there was a record vote in that committee regarding \$10 million going to the Rural Housing Workforce Fund. Do you remember that vote?

M. HANSEN: One minute.

CLEMENTS: I'm-- I'm not 100 percent sure about that but I--

WAYNE: Well, there was a vote--

CLEMENTS: --I do remember that bill.

WAYNE: Well, that vote, you voted-- the only person who voted no was Senator Erdman in that committee. You voted to move \$10 million from our Cash Reserve Fund to fund Senator Williams' bill for rural community, and I'm asking you to do the same thing here for urban community. That's not a question. I'm just making a statement, and I appreciate you taking time to get on the mike, but this is no-- Cash Reserve Fund is no different than General Fund. It comes from our General Fund. I'm asking people to be consistent. I'm not asking for D-Day to happen to start a divide. I'm saying this is how it starts. Last year I stood up when Senator Briese had a bill and we started to get divided, and I stopped it early and said don't let this become an urban-and-rural-divide situation. And that's the same thing I'm saying right now. It's not a threat. I'm not gonna use Cardi B and say it's a warning. I'm just telling you that that's the reality.

M. HANSEN: Time, Senator.

WAYNE: I did the same thing last year on Senator Briese's bill. I said, hey, this is D-Day, we're starting down that path, let's stop.

M. HANSEN: Time, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

WAYNE: It's all I'm asking for today. Thank you, Mr. President.

M. HANSEN: Thank you, Senator Wayne, and thank you, Senator Clements. And, Senator Wayne, that was your third time speaking. Colleagues, Senator Blood announces the following guests are visiting the Legislature: 52 students from the fourth grade at Anderson Grove Elementary in Bellevue. If they would-- they are in the south balcony, if they would please rise and be recognized. Thank you for visiting the Legislature. Up next in the queue is Senator Lowe. Senator Lowe, you are recognized.

LOWE: Thank you, Mr. President. We're talking about workforce housing here. Workforce housing has never been brand-new housing. Workforce housing is that first house, the affordable house, the house that you can afford. My son just bought a house this year-- well, end of last year. It's not in the area that I wish he would live in, but it's a house he chose because he could afford it. It was not \$150,000; it was not a \$200,000 house. It was a \$100,000 house that is a fixer-upper, or maybe it should have been a "tearer-downer," because he's spending all of his free time fixing up that home that he wants to build, that he bought, that he could afford. And that's what workforce housing is. There's no government loan. There's the loan he-- that he went and he got from the bank because the bank said, you can afford that. That's what workforce housing is. When I was in college, workforce housing was a trailer house, a trailer house. You could live there. It had two bedrooms or three bedrooms, a bath, a shower, a kitchen, a living room, and it was affordable. You owned the trailer that occupied somebody else's land. It had a fenced-in yard outside so you could have an animal. That's what workforce housing is. We've made it almost impossible to build trailer parks in this state now. We're the ones causing the problem. We're causing the problem, so now we have to have government fix it for us. Now we have to take \$10 million out of the General Fund so we can afford things. How did that money get there in the first place? It was taxed. It was taken out of our pockets and placed in trust of the government so that now we give it out to someone else. We gave \$7,300,000 out of the Affordable Housing Trust Fund. Now that sounds like it was made for what we did with it. We took money out of the Affordable Housing Trust Fund to give for affordable housing. With this bill, it is asking us for \$10 million out of the General Fund, because that's what it says in the bill, out of the General Fund. That's not the Affordable Housing Trust Fund. That's money that was taxed by people. And it seems like-- because in the amendment it says that it will be adjusted by the Producer Price

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

Index for inflation, I'd like to see the senators that are-- that are in favor of this vote for LB974 because LB974 in it has that is adjusted by the CPI-U, those that are against LB974, and vote for this because it is not enough in LB974 for the schools.

M. HANSEN: One minute.

LOWE: Thank you, Mr. President. We're talking about workforce housing. Workforce housing has never been brand new unless you've got a great job, you can afford a brand new house. Workforce housing is that first house that you're trying to get out from underneath a landlord, a renter. Workforce housing is something affordable. Houses are out there. Houses can be bought. They may not be in the neighborhood you wish to live in, but it's up to you to change that neighborhood, change it for the better, because that's what we need to do. Thank you, Mr. President.

M. HANSEN: Thank you, Senator Lowe. Mr. Clerk for items.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Health and Human Services reports LB977 and LB1183 to General File, both having committee amendments. Amendments to be printed: Senator Crawford to LB1061; Senator Clements to LB870. LR332, introduced by Senator Crawford, that will be laid over. Finally, Mr. President, Senator Bostelman would move to recess the body until 1:30 p.m.

M. HANSEN: Thank you. The question is, shall the Legislature recess-- recess until 1:30 p.m.? All those in favor say aye. All those opposed say nay. We are in recess.

RECESS

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

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

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

ASSISTANT CLERK: Not at this time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

HUGHES: I would like to announce six individuals from McCook Leadership 2.0. They are seated under the north balcony. They are Andy Long, Lori Beeby, Jared Muehlenkamp, Rhonda Graff, Tyler McCarty, and Kyle Dellevoet. If you would, please stand to be recognized by your Nebraska Legislature. Thank you for being here. Thank you, Mr. Clerk. We'll proceed to the first item on the afternoon's agenda.

ASSISTANT CLERK: Mr. President, the first bill this afternoon is LB1155. It is a bill for an act relating to economic development; to adopt the Middle Income Workforce Housing Investment Act; to create a fund; to provide for a transfer of funds; and to declare an emergency. This bill was under consideration this morning at the time that we recessed; currently pending were the committee amendments. I now have an amendment to the committee amendments.

HUGHES: Senator Vargas, you are recognized to open on your amendment to the committee amendment.

VARGAS: Thank you very much, President-- President Hughes. Colleagues, I want to thank everybody. I think this has been a really good conversation about what we're talking about when we're talking about middle income and workforce housing and the needs. I just want to remind everybody, this is a bill that was heard in a hearing. It got support out of Urban Affairs, but particularly, the list of individual associations or members: Realtors Association, Metro Home Builders Association, League of Municipalities, Omaha Chamber, State Chamber, Lincoln Chamber, the Developers Association; all are in support of this because they view this as an economic development tool. But I'm also cognizant to some of the feedback that I've received, specifically that Senator Erdman referenced about the General Fund appropriation, that language that's in here that would mean that we're appropriating General Funds right now in this bill if we were to vote on it. Given that, I introduced this amendment that removes that language so that this wouldn't be funded right away. I would have to find a-- some sort of vehicle to then fund this appropriately. And in the end, we're still moving forward on a tried-and-true program that we have seen work really well for the rural workforce development side within DED, but also still allows us to then move forward. So, colleagues, I ask you to support this amendment. It is no longer referencing the \$10 million in General Funds so that it will still be incumbent upon me and the supporters of this bill to find a revenue source that will work. And in the end, we're still supporting a good policy idea and that wouldn't move forward unless we found the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

adequate funding source for it. So, colleagues, I want to thank you. I ask for your support for AM2754 so that we can move forward and ensure that we are supporting economic development and supporting our housing needs, specifically our middle-income housing that we're seeing as a scarcity in urban Nebraska as well as in rural Nebraska. Thank you.

HUGHES: Thank you, Senator Vargas. Those in the queue are Senators Ben Hansen, Vargas, Groene, Williams, Erdman, and others. Senator Ben Hansen, you're recognized.

B. HANSEN: Thank you, Mr. President. I think one of my biggest concerns with this bill, and it's something you guys have heard me say before, is that good intentions with bills most times, in my opinion, don't lead to good outcomes. And I think-- and I do appreciate Senator Vargas' intentions with this bill because he is looking out for his district. He's looking out for his community. This bill would significantly help out, I believe, his community. And he does bring a good point about-- also how in 2018 or 2017, we passed the-- or the Legislature passed the rural workforce housing bill, which is very similar to this, a bill that I probably shouldn't say on the floor I would not have voted for. I would have been probably one of the lone dissenters and I'm-- probably not the best thing to say in my best interests. But when the government decides to pick winners and losers, especially when it decides to pick a nonprofit over the free-market business, I believe in the long term, that causes more conflict, more problems, more inefficiencies than it does help people, which I think in-- in-- in a way, I think, is what we're trying to do here. And so that's what-- that's what gives me the biggest heartburn with this bill is when government decides to try to decide what's best. And I'm-- I'm not-- I think the more I've learned, especially with incentive programs, the more research I've done on incentive programs, which in essence this is what this kind of is in some way, is that long term, they do not turn out the way that we hope for. And so the luster of incentive programs has started to wane, in my-- in my opinion, the more I look at how much taxpayer dollars, some that Senator Lowe, I think, alluded to, the money that-- that we take from people, because this is money that people in my district, every hour that they've work, we take-- we-- we take some of their money and decide what we think is best for it, which, again, what's the old adage? If a government had control over the Sahara Desert, we'd be short on sand in five years. And so I, a lot of times, don't think government is the best approach to our problems and our concerns. I'd like-- I'd like-- I'd like to have-- for us, as senators, to have a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

little bit more forethought when we bring bills like this. But again, I-- I-- I understand Senator Vargas' good intentions with this, but I feel it's "behooven" upon me to at least express my feelings about it. And so with any remaining time, if Senator Erdman is on the floor, I know he had a few thoughts he wanted to give. I'll yield the rest of my time to him.

HUGHES: Senator Erdman, 1:45.

ERDMAN: Thank you very much. Thank you, Mr. President. And thank you, Senator Hansen. I appreciate that. We're going to deviate just a little bit from talking about this bill. And I don't see Senator Wayne on the floor. I don't see Senator Stinner either. What I'm going to talk about today is what we do in Appropriations. In Appropriations, we don't normally record the vote when a vote is taken on a bill to see if there's five hands, it passes. But on numerous occasions, I have called for a roll-call vote. At the end of the session in '19--

HUGHES: One minute.

ERDMAN: --my first year on the Appropriations, I called the Appropriations Committee clerk and asked for all recorded votes that were recorded in Appropriations. Those are not available. You can't have those. So I talked to Patrick; same thing. So it's peculiar to me to see that Senator Vargas was able to figure out who voted no. So we're going to have this discussion until we figure out what the reason is. We have a secret vote when we vote for committee Chairmen, but I don't know that anybody in the body, except those on the Appropriations Committee, understands that we have another secret vote and that's the vote that's taken in Appropriations. Whether that needs to be a rule change or what needs to happen there, but we need to make it open and transparent. The media is in there. They televise those hearings, but I can't get a record of what we voted on. Perhaps none of you--

HUGHES: Time, Senator.

ERDMAN: Thank you.

HUGHES: Thank you, Senator Hansen and Senator Erdman. Senator Vargas, you're recognized.

VARGAS: Thank you very much, President. Colleagues, I just want to try to respond to Senator Ben Hansen's remarks. So there's a little bit of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

a misconception here, specifically in regards to this. This bill, it creates a non-- it provides the ability for a nonprofit development corporation to apply and assembles it. And they're the ones that would be managing the funds that DED then awards to them if they're the ones that get awarded. It's only made it available for a developer who applies and can get the project done and meets within the project guidelines. This is the reason why developers are also supporting this type of bill. It's not, in any way, to then get around it. It's just to ensure that we're aligning with best practices, what we've seen in another successful housing program in our community. I don't want to belabor the point too much because we're-- in front of you-- in front of you, there's enough data that supports why we need middle-income housing. If you hear the exasperation in my voice, it's because I am. Blueprint Nebraska, the Chambers of Commerce, the Realtors Association, and several other individual entities that represent thousands of individuals and organizations and businesses, believe and support this idea and notion and they believe it's going to be an economic development tool. And it's not because it's a wildly new idea; it is because we've seen it work within Senator Williams' rural workforce housing and Senator Briese's rural workforce housing bill. So I'm asking you, with this amendment, to then do what we did there; find an alternative funding source that can then meet the needs of this program. And it won't be able to move without an affordable funding source; it won't be passed into law. That will be incumbent on a future amendment that I would need to bring. But this amendment would remove that reference to the \$10 million for the grant or the loan side of this program. And then we can move forward. We can make sure that we're in alignment with all these other really important strategic priorities that have been highlighted by business leaders all across the state and in alignment with what we already do within DED and what we do within the executive branch through the rural workforce housing program. So, colleagues, I ask for your support for this amendment so we can move on. It addresses the concerns that have been raised about funds, addresses the concerns about making-- making a point that we'd be taking funds from the General Fund right now and doing that in this vote. And so let's please move forward, please support AM2754 and the underlying amendments and LB1155. Thank you very much.

HUGHES: Thank you, Senator Vargas. Senator Brandt would like to announce the following guests visiting the Legislature. We have 75 fourth graders from Crete Intermediate School. They are seated in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

north balcony. If you would please rise to be recognized by your Nebraska Legislature. Thank you for coming. Senator-- Mr. Clerk, for items.

ASSISTANT CLERK: One announcement, Mr. President. The Natural Resources Committee will meet in Executive Session at 2:00 in Room 2022. That's the Natural Resources Committee in Room 2022 at 2:00.

HUGHES: Thank you, Mr. Clerk. Proceeding to the queue, Senator Groene, you are recognized.

GROENE: Thank you, Mr. President. I was told, and I checked with Senator Williams, that this bill mirrored the rural econ-- workforce housing, but there's one big piece missing. It's called a sunset. The rural one, to get-- so Senator Williams could get this passed, to prove it would work without a burden down the road of funding it, his bill, there's-- a sunset date was in LB518, which was his bill, for June 30, 2022. The bill provides that any funds held in the Rural Workforce Housing Investment Fund shall be transferred back to the Affordable Housing Trust Fund beginning July 1, 2022. I need to see a sunset in this one also to make sure that future legislators get to revisit it. You know, sunsets are a good thing, especially with term limits. The new senators down the road, four years or so, can look at it and have another chance to look at it and review the history. We've lost institutional knowledge with the term limits, but sunsets are a good thing to bring it back; just like right now with Senator Vargas' bill, we're rehashing what-- how we got about to having the Rural Workforce Housing Investment Fund. So I'd really like to see a sunset. And, you know, I really took to heart what Senator Wayne said about urban/rural. And I'm-- I'm really-- think we ought to do that. We ought-- when-- when LB974 comes back, we could see the urban senators' help with the economic development of rural Nebraska by pumping millions of dollars into our main streets through-- through finally-- finally funding education with state dollars in rural Nebraska. When I see that cooperation, my heart will be gladdened about the cooperation between urban and rural, and then I would find it easy to support Senator Vargas' bill. Really, right now, I think both of them should sit and both of them should ponder about how we help each other with cloture votes, and so we can have further debate on these major issues of workforce housing and, and property tax and school funding. And I'd be willing to look at both, but I really would like to see a-- a sunset date in this. I appreciate Senator Vargas' overture to not fund it. I went to Senator Williams and Senator Vargas, said, what about

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

this \$10 million that's already appropriated? Why don't we split it, 60 percent rural because it's a proven-- proven commodity and maybe \$4 million to this? But of course, we had the urban/rural split again. And I don't blame Senator Williams. He's already got it for-- for rural Nebraska, \$10 million. He doesn't want to share it in the Appropriations Committee. But I got an email from a prominent person that a lot of people know in this state. It totally agrees with our stance and what Senator Lowe said about-- she's telling me they started with a \$4,000 trailer house, her family, then she worked her way up to a new one, did a budget. That was workforce housing; you buy what you afford. My wife and I started with a \$13,000 house, proud as we could be, fixed it up some, sold it. We went through four or five houses and moved on up the ladder. Something's wrong with a generation that thinks they ought to move right into a \$200,000 house or a \$250,000 house and have the government--right out of mom and dad's house that mom and dad worked their way up the ladder right into the same house that mom and dad has.

HUGHES: One minute.

GROENE: That's probably why we have a problem with older homes not being fixed up, plus the property tax issue. We've got-- if you want to own a home, a third of your mortgage payment is property taxes, or more, up to 40 percent of your mortgage payment. If you want to make-- entice homeownership for the younger generation, let's get our property taxes down to where they're reasonable, let's get LB974 back to the floor, and let's get that cooperation from urban Nebraska about giving a cloture vote on it so we can go on with these issues and debate them fully over-- over and into Select and then to Final Reading. Thank you.

HUGHES: Thank you, Senator Groene. Senator Williams, you're recognized.

WILLIAMS: Thank you, Mr. President, and good afternoon. And thank you, Senator Groene, for bringing that up. And I would absolutely support LB974 all the way, as-- as you would. I think that is something we need to get back out here and need to get done as soon as we can because that's the elephant in the room that stops other things from happening. On to Senator Vargas' bill, with the amendment that he has offered, I think we have a different discussion than we were having this morning. But part of our discussion goes to a definitional issue that is happening around the body right now. We're throwing around

terms like "affordable housing," "workforce housing," "middle-income housing." Each one of them has a different definition and connotation, and be sure that you understand that workforce housing and middle-income housing are the same type of housing. We-- when we passed LB518 in 2017, the term of art that was used was "workforce housing." In between that time, you see the handout that Senator Vargas passed out today, which I helped with getting Josie Schafer from the Center of Public Affairs Research at UNO to do. She changed that definition to "middle-income housing" from "workforce housing" because there is a connotation that workforce housing is lower-income housing, and that's not what we're talking about. The housing that we have built with LB518 is middle-income housing. It's the house for the new teacher that moves to town, for the new nurse that works at the hospital. It's not necessarily the first home for somebody, so think about that when you're talking about this thing. There are a couple of facts that are going on that are brought out in the brochure that I think we need to pay attention to. These are not kind facts for our state, but it's the way it is. In Nebraska, our number of households are growing faster than the number of homes we are building. So our households are growing faster than the homes. What do you think that does to price? What do you think that does to availability? The second thing is our average household income in Nebraska that's growing at 8 percent over the last three or four years is not-- is growing slower than our average home prices. Average home prices over that same period of time have risen 28 percent in our state. The reason LB518 worked is because we put together a program that required a local match. That is still included in-- in Senator Vargas' bill. Again, as I said on the mike this morning, we were able to take \$7 million from the Affordable Housing Trust Fund, funds that were not being used. That turned into a \$100,000 construction price in our state; 577 housing units were built between 2017 and today under that program. Think about what that did to property tax. You've got \$100 million on the property rolls now that we didn't have before LB518. Think about the sales tax that was collected when all those homes were built and the materials that were purchased for them. I hope some people made some income and there was some income tax paid. But for the \$7 million investment, we have more than-- than paid back over this period of time.

SCHEER: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

WILLIAMS: And remember, it's a grant program. Would Senator Vargas yield to a question?

SCHEER: Senator Vargas, would you please yield?

VARGAS: Yes.

WILLIAMS: Senator Vargas, would you-- under your amendment, you strip out the ask for the \$10 million, is that correct?

VARGAS: Correct.

WILLIAMS: Also, would it be my understanding that if you found some source for that, you would have to bring that back and to-- basically to this body to ask for the permission to use those funds to pay for your program?

VARGAS: Correct.

WILLIAMS: Thank you, because I think that makes all the difference in the world into what we're looking at here. LB518 worked; it's a proven product. Senator Vargas' bill uses the same machinery. Also, Senator Groene asked you the question about a sunset. It would be my reading of the bill that it currently has a sunset included. Is that your reading and would you explain that, Senator Vargas?

VARGAS: Yes. Since this is not an ongoing appropriation, as it was originally drafted, and it would've been a one-time, beginning July 2025, any of the funds in the department would be transferred to the Affordable Housing Trust Fund, that is essentially a sunset of the funding.

SCHEER: Time, Senators.

WILLIAMS: Thank you, Mr. President.

SCHEER: Thank you, Senator Williams and Senator Vargas. Colleagues, can we hold the conversations down just a little bit? Thank you. Going back to the queue: Senator Erdman, Linehan, Slama. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker, and good afternoon again. I want to continue my conversation about the secret vote. I was wondering if Senator Wayne would yield to a question?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

SCHNEER: Senator Wayne, would you please yield?

WAYNE: Yes.

ERDMAN: Thank you. Senator Wayne, earlier in the conversation, you had made mention that I was the only one that voted against the workforce housing in the committee. Can you tell me-- can you share with us how you got that vote?

WAYNE: I asked multiple people from the Appropriations Committee.

ERDMAN: OK.

WAYNE: I didn't know it was a secret ballot.

ERDMAN: Yeah, it is a secret ballot--

WAYNE: Oh.

ERDMAN: --and that is a problem for me. I would ask Senator Stinner a question, but I don't see him on the floor. I had a conversation or I sent him a text last summer and asked why I can't have that vote. He said he was going to get back to me. I haven't ever heard from him. To say I was a little upset by that is an understatement. I would ask Senator Clements if he would answer a question for me.

SCHNEER: Senator Clements, would you please yield?

CLEMENTS: Yes.

ERDMAN: Thank you, Senator Clements. Senator Clements, you're on the Appropriations Committee with me, correct?

CLEMENTS: Yes.

ERDMAN: Would you say there has been several times I've called for a roll-call vote?

CLEMENTS: Yes.

ERDMAN: What-- when we did that, what did you think the results of that roll-call vote would be?

CLEMENTS: What do you mean by the results? I thought they'd be recorded by the clerk and made available.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ERDMAN: And someone could review that if they wanted to?

CLEMENTS: Yes.

ERDMAN: So at the end of '18-- '19, I asked the committee clerk for those votes. I could not get them. I see Senator Stinner is back. Thank you, Senator-- Senator Clements. Senator Stinner is back. Will you yield to a question?

SCHEER: Senator Stinner, would you please yield?

STINNER: Yes, I will.

ERDMAN: Senator Stinner, explain to me why, when I called in to the committee to get the recorded votes, I could not get those.

STINNER: Both you and the Governor called me and wanted roll-call votes. I refused to give them because I refuse to pay-- play politics within-- within that committee.

ERDMAN: So every other committee-- would you agree every other committee records the vote as it taken?

STINNER: Hey, I'm only Chairman of one committee. It's my decision.

ERDMAN: So what you're saying is forget it, we're not releasing those?

STINNER: Yeah, that is true. We're not playing politics.

ERDMAN: How does that play politics? All the other committees record their vote and send them out to the floor.

STINNER: The first two years I was here, I saw what was happening in the committee when we did report it. Certain people were called out and talked to. That is not going to happen in my committee when I'm Chair. So if you don't have-- if you've got a problem with it, you can go to another committee, but that is not going to happen in my committee.

ERDMAN: That was a real congenial answer. I appreciate that. So we have two secret votes in this body, one of them when you vote for committee Chairmen, and the other one is in Appropriations. So if you want to know what happened in Appropriations, you better take notes or you better ask the media or somebody who was in there taking notes if you want to see what the vote is. That is the most peculiar excuse or

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

reason I've ever heard anybody share on the floor of the Legislature why a vote should be secret. Every vote that I've made on those committees before I got to Appropriations were public, every one. And when people came to testify on those bills and we had those bills on the floor, they would call me out and say, why did you vote as you did? So if we make it a secret vote on Appropriations, then I think we should make it a secret vote in all committees. This doesn't make any sense to me at all. I am not at-- I'm not at all-- not at all pleased with the fact that the committee Chairman decides what is best for the body. It doesn't make any sense.

SCHEER: One minute.

ERDMAN: This bill here-- did you say time?

SCHEER: No, Senator, one minute.

ERDMAN: Thank you. The bill that Senator Vargas brought, and you do an analysis of what the need is, I got a call over the noon hour from somebody in Omaha that said that they were basing the need in the index on 100 units in Omaha and they were using the Kansas City HUD cost-of-living index to determine the value. I asked the question of Senator Vargas, who is the nonprofit or what are the nonprofits that are going to be available or have-- eligible to do this? And the answer I got was the ones that did the workforce housing in rural Nebraska. I never received an answer back on any of those nonprofits that he believes or has an understanding who may apply for this. We're going to set up a board. It's not listed in the bill how many is on the board. It's not set up on who appoints them exactly and if there's any recall of those people. This is out of line and I am not supporting LB1155, and I need to talk about AM2754 and exactly what that means the next time.

SCHEER: Thank you, Senator Erdman, Senator Stinner, and Senator Clements. Senator Linehan, you're recognized.

LINEHAN: Thank you, Mr.-- excuse me. Thank you, Mr. Speaker. I have not made up my mind on LB1155 yet. I-- it's been a long time ago, but I did ask Senator Vargas earlier that I was going-- is he here? Yeah, there he is-- if he and I could have a discussion. So would you yield to a question, Senator Vargas?

SCHEER: Senator Vargas, would you please yield?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

VARGAS: Yes.

LINEHAN: I really appreciate the information that you handed out this morning. It helps. Considering all the other things I've been doing, it's very helpful to see the strain on families trying to afford a house. So if I understand this right, median income for Nebraskans is \$56,675 and then it's-- for the range of middle income, it's right on the top of the sheet, \$37-- or almost \$38,000 to a little over-- well, \$300-- excuse me-- \$113,350. So it's a pretty big range, right? And then it goes on to say that you can-- that would allow-- that income would allow you to either purchase and own a \$143,000 home or a \$427,000 home. And your-- the legislation, the way it's written, if I read it on my phone correctly, these houses would have to be between \$150,000 and \$200,000?

VARGAS: \$150,000 to \$250,000.

LINEHAN: So \$150,000 to \$200,000 [SIC]. Then would these-- would there be a mortgage on these homes?

VARGAS: This is just creating the framework for the homes to then be created. What happens after the homes are created is-- that's completely up to whoever is working on those homes. But the construction costs and the rehab have to be within that range.

LINEHAN: But you would anticipate, wouldn't we, that people aren't going to come buy that are middle income, that are going to have \$250,000? So they're going to have to have some kind of mortgage probably.

VARGAS: Of course.

LINEHAN: So I was just-- and this-- I'm not going to beat on this too hard, but just a little bit. So I tried to sit here and figure out, if I have a \$200,000 mortgage, and not being a banker, but I've checked a couple places. If my interest rate is 5 percent, my mortgage is going to be about \$1,073 a month. If my interest rate is 3 percent, it's going to be about \$954 a month, which sounds about right. So then I checked what-- you know, if this is in Omaha or Lincoln, you're probably going to have a \$2-- \$2 all-in mill levy, so your property taxes are going to be, on a \$200,000 house, about \$33-- \$333 a month. Does that sound about right, \$333 a month? Because it-- it's just-- whatever it would be, \$200,000, it would be \$4,000 a year.

VARGAS: I trust your math. [LAUGHTER]

LINEHAN: Well, you should check it because I haven't had anybody else check it. But here-- here's what I see as a problem, not just for these middle-income, low-income, all Nebraskans. If you add that-- because the bank won't give you a loan without an escrow account. So if you add the property taxes to the mortgage payment, that brings the payment-- your monthly payment up to \$1,406, which means on this \$200,000 mortgage, 25 of your-- percent of your payment every month is property taxes. So thank you, Senator Vargas. So I just want to point this out because there's a lot of concern that, you know, we're just trying to fix property taxes for rural Nebraska. That's not true. If you're a young couple, married, starting out, you've got student loans, you go to a bank to get a mortgage, they got to figure out what your property taxes are. Our property taxes, the way they are right now--

SCHEER: One minute.

LINEHAN: --affect what you can get on mortgage. So think about that. You-- you're young. You got a \$500 or \$600 student loan payment. I have children in this situation, so-- and then your property taxes are going to be \$300, \$400 a month. That doesn't leave you a lot for a house purchase. So I think that also might be part of the problem is that we aren't having workforce able to afford a house because we-- as many have said previously, we have a property tax. And as Senator Williams said and Senator Groene said, we need to get that back to the floor and we need to solve that problem, and that will help with a lot of the other issues we're discussing. So thank you, Senator Vargas, and thank you, Mr. Speaker.

SCHEER: Thank you, Senator Linehan and Senator Vargas. Senator Matt Hansen, Senator Groene, Senator Gragert. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President. Colleagues, I just kind of wanted to talk a little bit. First of all, I do rise in support of the Vargas bill, the Urban Affairs amendment, and the Vargas-- Senator Vargas' amendment. I know Senator Halloran wanted members of the Urban Affairs Committee to speak earlier, but I had the luck to be presiding for the first time ever this morning, which I enjoyed. And thank you for that opportunity, Mr. Speaker. But I did want to get up and talk about this. So Senator Vargas is focused at middle-income housing, and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

there's a lot of terms floating out here and some of them apply to the same category of house; some don't; some are looking at different things. Middle-income housing is an intent-- is-- is my understanding, is housing for people who are what we would describe as the middle-income. And Senator Vargas has put the range of homes with the intent of increasing homeownership with homes between the \$150,000 and \$250,000 range. And we see, kind of in our housing stock, that there is a demand for those types of homes or a need for those types of homes. And this is an effort to increase that housing stock. It is not an intent to just say-- give everybody who walks out of college a free house with no down payment, no mortgage. It is an attempt to incentivize a type of home in a type of area that we find we need and for whatever reason, a variety of reasons, we cannot focus on. This is different than affordable housing because affordable housing is not necessarily tied to homeownership. Affordable housing is tied to making sure that you're spending less than a third-- less than 30 percent on your income on your rent or your mortgage. And we see that across the state. We see that in my district. I have some census tracts in my district where 60 percent of-- according to a new city of Lincoln study, where 60 percent of my constituents are what are called cost burdened. They're paying more than 30 percent of their income on the rent in any given month. There's huge neighborhoods in my district where there just aren't affordable options. But that's affordable housing. That's different from middle-income housing. Similarly, there's occasionally some talk on middle housing that gets you-- the term "middle housing" or "missing-middle housing" is talking about middle-density housing, which, again, is separate. And that is kind of more of looking at a different type of housing in terms of being between a single-family home and, like, say a five-story apartment complex. That would be missing-middle or middle-density housing. So we have a variety of these terms going around. And I just kind of wanted to be clear and take a step back. This is looking at middle-income housing. This is looking at providing housing for those families, those individuals who are kind of in the middle of the housing market, because we see nowadays that we do have a surplus in-- or some opportunities for lower-income housing, affordable housing, kind of some of those categories. I think we personally need more there, too, but just because we have a problem in one area, it doesn't say we can do this. And similarly, high-end or high-income housing, those are the people who have the luxury and the ability and, frankly, the free market is very much taking care of in all the, you know, SIDs in west Omaha to build those housing and we were doing custom homes. And it's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

taking care of middle-income folks, so it's folks who are-- maybe have rented for a fair amount of time, are starting their families in rentals and are making that jump to their first house. It's not their first time living alone. It's not the first thing out of college, but it's the first time they are going to invest in a home. And there is not the housing stock available to them-- available to them that they would desire and they can afford. And that is the attempt we're looking at here. We've heard this time and time again. Several years ago, Senator Wayne, we had an interim study that traveled across the state and we looked at housing across the state and we heard in Omaha, we heard in Grand Island, and we heard in other small towns where they're just-- we just simply need more housing in the state of Nebraska. It is something that we are falling behind on, on a lot of different avenues. And we kind of do need it at all sorts of different price points. I know there's going to be other bills this semester-- this semester [LAUGHTER], excuse me-- other bills this session--

SCHEER: One minute.

M. HANSEN: Thank you, Mr. President-- this semester, too, but this session looking at dealing with affordable housing. But this is an opportunity for us to focus specifically on middle-income housing, so the-- the housing for the middle price range, the middle-income range. And that is what we're-- we're focusing on here. So I just kind of wanted to address those variety of terms because I think some people, you know, talk about workforce housing, which overlaps but isn't the same thing, and so on and so on and so on. So I wanted to just to kind of focus in. I appreciate Vargas-- Senator Vargas really taking the lead on-- on this issue this semester [SIC] and making sure we have an opportunity to promote middle-income housing, and I would encourage my colleagues to support it. Thank you, Mr. President.

M. HANSEN: Thank you, Senator Matt Hansen. Senator Groene, you're recognized.

GROENE: Senator Vargas, would you take a question or two?

SCHEER: Senator Vargas, would you please yield?

GROENE: I do appreciate Senator Vargas addressing this issue that he sees need in.

VARGAS: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

GROENE: So there really isn't a sunset in here. It says over a two-year period, with no more than \$5 million cumulative for any single grantee through fiscal year 2022-2023. And then it goes on: Unallocated funds on June 30, 2000 [SIC] shall be returned. That's just talking about the nonprofits. If they haven't allocated it by June 30, they have to return it back to the fund; is that true?

VARGAS: No. On page 6 where it says, "any funds held by the department," so that means any of the funds held by the department beyond July 2025-- July 1, 2025, would be transferred to the Affordable Housing Trust Fund. And remember, this is a-- would have been a one-time appropriation, so-- and then it ends.

GROENE: So it sunsets then on-- on July of 2025?

VARGAS: Correct.

GROENE: All right, thank you. I-- I stand corrected. Earlier, I assumed, because I just asked some folks instead of reading it myself, there was no sunset. Anyway, Senator Vargas, is there anything in here about income limits for the people who can buy this-- these homes?

VARGAS: No.

GROENE: So it could be the chief of police that-- not just the poor little fireman making \$50,000 or \$60,000. It's-- it could be the-- the chief, too, who makes a couple hundred thousand, could buy it.

VARGAS: The problem that we're trying to solve is-- here is making sure that we're addressing the housing stock issue, the growing need for--

GROENE: I understand.

VARGAS: --homes in this income level, so there's nothing saying--

GROENE: I understand. I understand, but there's no-- there's no-- the way I read this, they're still-- it's the free-market price, so if there is demand for housing and they get these houses-- it said \$150,000 to \$250,000. They can charge \$250,000 even if it's a \$150,000 house because that's what the market demands. So there's-- there's-- there's still a free market. I understand you're trying to put more apples into the free market to bring the housing price down, I'm assuming, because supply and demand, but I-- I don't see where this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

does that. I just see another profit motive for the-- for the contractor, that he can also do this and then also get his full price for his home that he built. So that's a little "disconcerting" to me. Like I said, we need to help-- homeownership is great. It's better than renting. It gives you a tie to the community. You're paying the property taxes. You understand property taxes are high then, and then you-- then you call your representative and you say, please help pass LB974 because I could sure use some property tax relief. So I understand that full circle of the housing market. But like I said, when we-- we address-- giving property tax relief to the homeowner will incentivize more house building, more house purchases than anything else we could do in this body. Nothing more could we-- and that would be everybody, folks. That wouldn't be picking winners and losers of the person who decides to buy one of these houses. It would be everybody. Everybody who's having a hard time doing their mortgage payment today would get property tax relief if LB974 passed, everybody. A young couple went to the bank, and prior, when they looked at that \$200,000-- \$150,000 house, the taxes on it were \$3,200. And they said, we just can't make that mortgage payment; divide 12 into \$3,200, that's how much each month your mortgage payment would be added by property taxes. You take 20 percent off of there, or 25 percent, suddenly it fits into their budget. Suddenly, it fits in their budget that they can buy that home.

SCHEER: One minute.

GROENE: And we're completely funding our schools. It's one of the most unique, best property tax relief, economic development, homeownership incentives legislation that I've seen in six years on this floor, in one bill. And I've got individuals worried that their superintendent won't make \$600,000 a year and won't get a raise if we slow down growth and spending just a little bit so we can catch up, so the economy and the taxpayer can catch up. Think about it, folks. We don't need these bills if we do an overall property tax fix. It's what people pay a month for their mortgage payment, not how much they pay for the house. That is what they worry about, paycheck to paycheck. That's what I worried about in every house I bought.

SCHEER: Time, Senator.

GROENE: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

SCHEER: Thank you, Senator Groene. Senator Gragert, you're recognized.

GRAGERT: Thank you, Mr. President. I've just been sitting and listening to the debate all morning, most of the afternoon now. But as Senator Clements mentioned earlier, as priorities in the Appropriations Committee-- and, yes, housing is an issue, both rural and urban. But as I currently understand it, that LB974 lacks the votes to bring back to the agenda. With LB974 being the bill with the substantial property tax relief, I suggest we get the bill back up for debate so we can continue to try to work together in, first, providing property tax relief; and second, then we can work together to try to fund as many priority bills as possible, such as this, this bill on housing that is much needed. Thank you.

SCHEER: Thank you, Senator Gragert. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President. I was the one lone no vote when the bill came out of Urban Affairs Committee. I didn't agree with it then. I don't agree with it now. I don't agree with these plans, especially when they're spending money out of the General Fund. When they say they will look for another way to fund it, it will be through another bill. That money will come out of the General Fund somewhere, not through this bill but through another one, through another funding source. It will come from the taxpayers. We look at what the taxpayers already do for this middle-income people that we're looking to build these houses for or to provide the funding for these houses. We've given them student loans, student loans that are way outside their means, because we've promised them the gold. And that's what we're doing in here. We're indebting our people to the government, and that's not what we're supposed to be about. We need to free up our people. We need to make them so they're freer, so they keep more of the money in their pocket by tax relief. LB974 does that. LB974 will keep more money in the people's pocket. We need to look at it that way. Affordable housing, workforce housing, that was trailer houses. Matter of fact, I still live in a modular house, so it is not first generation. Modular houses are OK. Mine isn't brand new. It doesn't have the new, spanky, quartz crystal countertops. It's a 50-year old modular house, 50-plus now. They're not beginner houses. They are houses. Mobile homes are pretty nice now. You can buy them-- I looked them up and they're about \$100,000 for a-- for a decent couple-of-year-old house. So we don't need \$150,000 houses; we don't need \$200,000 houses for workforce. If you want to entice workforce into your community, make your housing affordable. Right now, we have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

stipulations on how wide our streets need to be, and do they really need to be that wide? Do they need to be curbed? Does the infrastructure need to be what it is? That raises the cost on the lots. Every lot we build and every new stipulation costs the homeowner money. Those are facts. We need to look at what we are asking our people to forego because we will not lower their property taxes. If this body wants to pass any more bills, we need to pass property tax relief. With that, I'd like to give the rest my time to Senator Erdman.

SCHEER: Senator Erdman, 1:05.

ERDMAN: Thank you. Thank you, Mr. Speaker, and thank you, Senator Lowe. So I looked up the rule and it is Rule number 3, Section 16, and it says the following: Executive Session shall mean any meeting or portion of a meeting which is closed to the general public, and the proceedings of which are electronically recorded and transcribed, unless the committee so provides, but the records of which shall be available for public inspection. Executive Sessions shall be open to the members of the media who may report on the actions taken on all decisions in Executive Session. Seems a little peculiar that we have a Chairman that can decide if it's going to be recorded and made public or not when the rule says that it must, so we'll have to have a discussion about adhering to the rules. But let me talk about AM2754 for just a second. He has taken out the provision to put General Fund in this year, but what that means is it will set it up to do General Fund next year--

SCHEER: Time, Senator.

ERDMAN: Thank you.

SCHEER: Thank you, Senator Lowe and Senator Erdman. Senator Erdman, you are next in the queue, however.

ERDMAN: All right. Thank you, Mr. Speaker. I appreciate that. So here-- here's what that means, all right? And I'll use this example so you'll understand it. Two years ago, Senator Walz had a bill on ADRCs for the area agency on-- area offices on aging. And we funded that with cash funds, and that was not to be funded with General Fund at that time. It's just getting the program set up. Fast-forward two years, now we are funding it from General Fund. So what Senator Vargas is doing there, he's trying to get us to understand that he's going to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

take out the requirement to do it this year, but he's setting this up that he can do it in subsequent years, and so, consequently, it changes the bill not at all. So that is what that amendment does. And so it doesn't change the bill. If you think it does, you need to read what has happened in the past, and so that's how we set this stuff up. Senator Vargas, will you yield to a question?

SCHEER: Senator Vargas, would you please yield?

VARGAS: Yes, Senator Erdman.

ERDMAN: Thank you, Senator Vargas. Senator Vargas, explain to me-- run through the-- the procedure to set up the board. How many and how do you do that?

VARGAS: The board for what?

ERDMAN: There's a board going to be appointed by the director. That's what the bill says. Who are those people? How many is there?

VARGAS: We leave it up to the Department of Economic Development to then create the structures to then carry out this program, the same way that we do it for the rural workforce housing program that the Governor supports.

ERDMAN: So we don't know how many it could be? They could have whatever-- they have the latitude to do whatever they would like to do?

VARGAS: If you have concerns with the structure, then it sounds like you have concerns with the rural workforce housing program that has existed for the last three years.

ERDMAN: OK. So can you give me an example of a nonprofit in your district that would be applicable for this grant to do this?

VARGAS: I could not and this is part of the reason. Nonprofit development corporations are some examples of the nonprofits that would be eligible. But as I said before, a nonprofit is what would be applying. But any for-profit can then work and apply and work with this nonprofit development corporation as the applicant. They just need to make sure that they qualify under--

ERDMAN: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

VARGAS: --the program guidelines.

ERDMAN: So can you tell me, if you would--

VARGAS: Um-hum.

ERDMAN: --what and why don't people who invest money in properties, restoration, why don't they do this?

VARGAS: We're missing middle-income housing in communities, and there is not an actual pathway for people to then create housing in this area. People build really high-end houses and then they allow low housing stock to continue. If you come to north or south Omaha, you will see low housing stock that has been very--

ERDMAN: OK.

VARGAS: --very old and dilapidated--

ERDMAN: OK.

VARGAS: --and homes that are single-family homes that haven't been touched for a very long time. And what I want to do is ensure that we are providing a pathway--

ERDMAN: All right.

VARGAS: --to increase some of this rehab and create some new middle-income housing homes--

ERDMAN: I understand.

VARGAS: --to diversify the community.

ERDMAN: I understand what you're trying to do.

VARGAS: Um-hum.

ERDMAN: Here's my question: Why don't private investors and contractors do that now? Why don't they do that?

VARGAS: So you're asking a question and my answer to you is they're not doing it. The more important question is, what can we do to try to then address this? It is already being addressed right now through the rural workforce housing, and so I wanted to do it within urban.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ERDMAN: OK. Well, one of the things that you need to take into consideration, I believe, is the fact that the reason that private investors don't do that, it's not economically feasible. Would you agree with that?

VARGAS: That's one potential reason why it might not be the reason they do it.

ERDMAN: OK, so-- so then this is going to create an-- an instance where government is competing with private business.

VARGAS: As I said before, private businesses are part of these nonprofit applicants. They work--

SCHEER: One minute.

VARGAS: --in concert.

ERDMAN: Well, that I don't understand. And so government is the answer here. That's the-- that's the sum total of what you've said. And if it were feasible, economically feasible, somebody would buy these houses, fix them up, and sell them. But without the provision that you're going to put in place and give them a break, they're not eligible to do that or not willing to do that because it's not economically feasible. That's-- that's the sum total of it. Thank you.

SCHEER: Thank you, Senator Erdman and Senator Vargas. Senator Groene, you're recognized.

GROENE: Senator Vargas-- thank you, Mr. President. Senator Vargas, you asked the question-- you know, I really like your concept here, but the-- I just have a lot of questions.

SCHEER: Senator Vargas, would you please yield?

VARGAS: Yes.

GROENE: Is there a limit-- there probably is. I keep trying to read this quickly. Is there a limit to how much a developer can-- can receive? Is there a percentage of the property that is limited to how much they can be paid for by this grant?

VARGAS: Yes, there is a cap on the award that can go to any entity at any given-- for any different project.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

GROENE: Is that's the \$2.5 million or is that the \$2.5 million for the nonprofit?

VARGAS: Any non-- so it's-- it "shall not exceed two and one-half million dollars to any one nonprofit development organization over a two-year period."

GROENE: Then where is it which says how much on a-- somebody comes to the nonprofit and announces I want to build a house here where this-- and sell it where this burned-out house is and-- and it's going to cost \$150,000, my cost. How much of that can they request for a grant?

VARGAS: If what you're asking is how much can people request, there are-- there's very clear guidelines here, from lines 21 to 31 on page 4, that say exactly how much they can request. More important is, what can DED give out? DED has been running this program successfully, and it's the reason why I'm bringing it.

GROENE: No-- excuse me, but, no, you didn't answer it. It says, "a nonprofit development organization may apply to the director for approval of a workforce housing grant." That's-- that's how much money the nonprofit can get. It doesn't tell me, after the nonprofit gets this money, how much they can grant then to the individual developer. I have-- I see no guidelines that Joe's brother wants to build a house and the-- and the administrator of this nonprofit says, well, how it going to cost? Well, \$150,000. Well, I'll give you a grant for \$150,000. I don't see the guidelines here.

VARGAS: So to answer your question, Senator Groene, if-- my bigger concern is sometime--

GROENE: Not that-- I don't want a bigger concern. I want to know about that.

VARGAS: The guidelines were not in place and we're provided [SIC] the rules and regs for the Department of Economic Development to create, so the rules and--

GROENE: You will do-- they get to create it?

VARGAS: Yes.

GROENE: All right, thank you. That-- you're answering my question.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

VARGAS: And that's how it was in the rural workforce development program.

GROENE: All right, that's fine. I understand--

VARGAS: Um-hum.

GROENE: I fully understand that you-- this is pretty much a copy of the rural one and I understand that. Like I said, I have no qualms about it, about where the money comes from. I just wonder if \$10 million-- and you've said you're going to try to find money elsewhere. You do sit on the Appropriations Committee and that will help you. But \$10 million could be spread out across the state in LB974 or some program like that where everybody is treated equally, not just the ones in the know that-- that this program exists, not picking winners and losers. We-- we-- you know, I'm more to the guy-- everybody gets a tax break or everybody gets help buying a house or nobody does. I'm commonly more in that vein, but I understand we have targeted areas. I, you know, at the end of the day, helped Senator Wayne with his extremely blighted language of that constitutional amendment because I wanted to focus in that one area. But I-- a little bit concerned about this. I still have questions and I'd love to see some amendments-- maybe you could work on before we bring-- you bring it back and so I could give you a-- a cloture vote. But when I see that amendment and some of the-- I'd gladly work with you, Senator Vargas, and-- and see if we can improve it and then see how it fits into LB974 after that passes because it's a big-- it's-- you know, it's an overall picture here that we need to look at what causes housing-- why is housing--

SCHEER: One minute.

GROENE: --too affordable to the average working person? And in Nebraska, it's property taxes; that's what the big chunk of their mortgage payment is. And this doesn't relieve that. That person is still going to have-- buy the house at market price, the homeowner is, and still, if it's a \$200,000 house in the city of Omaha, pay-- come up with \$4,400 or something like that-- I think it's 2.2 or a little bit over, their levy-- \$4,400, \$4,500 in property taxes. And that person you're talking about here that makes \$60,000 or so, or maybe \$80,000 between husband and wife, that's a pretty good chunk of their pay. And if we could get that down a couple of thousand dollars over time here with some long-term property tax relief, I think this would really be a boom to the workforce buying a home. And that's why it's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

so critical. We really do-- as the-- as the bedrock, the cornerstone of how we do workforce housing, we pass LB974. And when we do that, we can fill in around it with these minor bills. But when we get there, cornerstone, I'll-- I'll work with anybody on filling in those--

SCHEER: Time, Senator.

GROENE: --with mortar those holes.

SCHEER: Thank you, Senator Groene. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. In looking at this bill, I was looking through it some more also, and I see the term "middle-income families," but I don't see a definition for that. The two-pager that was handed out talked about middle-income range, but it's not in the bill. I think it would be wise to define that. Does it say whether it's Nebraska middle-income families or Kansas City or where that might be? And so that would be, I think, an improvement that needs to be made. It does talk about houses being \$150,000 to \$250,000 plus a future producer price index, and so that is going to increase as time goes along. It's been discussed about the vote I took on the rural workforce housing bill in committee. And it was pretty surprising to me to have somebody who wasn't on the committee to bring up the vote that I made because I did know that we weren't able to-- those of us who hadn't recorded votes last year weren't able to find out what votes were on specific bills. I think that it would be good for us to look at that rule. Anyway, on the rural workforce bill, it was one of about 35 bills that we considered. And it was originally a General Fund request and I was not real comfortable with that because of all the requests there were. But then we did have testimony that the rural workforce housing that had \$7 million funding had had \$20 million worth of requests and that it had a proven track record that it was successful. And then the proposal was made not to use General Funds, but Cash Reserve Funds, and that did help me be able to support it. Now I do agree that General Funds are-- General Funds are taxpayer dollars, but Cash Reserve Funds are also, where this is another situation where we're asking taxpayers to subsidize a few winners, rather than the property tax bill, LB974, which has been discussed, is a higher priority, in my opinion, that the Cash Reserves come from taxpayer dollars and the LB974 is-- is going to be from the General Fund. But it's money that's going back to the taxpayers in a more fair manner than what we have had with the school aid bill, with school

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

finance, and I hope that we can bring it back for a discussion. So I appreciate the offer to, you know, put in AM2754 and not require the General Funds right now. But I'm still not prepared to move on forward with this bill at this time. And with that, I think that's all the comments that I had, Mr. President. Thank you.

SCHEER: Thank you, Senator Clements. This bill has exhausted its first three hours. We will move onto-- on the agenda. Mr. Clerk, for items.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB1131 and LB931 to Select File. The Health and Human Services Committee reports two confirmation reports to the Board of Emergency Medical Services and to the State Board of Health. That's all I have at this time.

SCHEER: Thank you, Mr. Clerk. Returning to General File, LB848.

ASSISTANT CLERK: LB848, introduced by Senator Pansing Brooks, is a bill for an act relating to government, to amend Section 25-2221 and 62-301; to rename Columbus Day as Indigenous Peoples' Day; and repeal the original sections. The bill was introduced on January 8 of this year. It was referred to the Government, Military and Veterans Affairs Committee. That committee reports the bill to General File with committee amendments attached.

SCHEER: Thank you, Mr. Clerk. Senator Pansing Brooks, you're welcome to open on LB848.

PANSING BROOKS: Thank you, Mr. President. Good-- good afternoon, Nebraskans. Our state's unique motto is "Equality before the law," so know that whoever you are, wherever you are on life's journey, and whomever you love, we want you here. You are loved. So today I am bringing before you LB848, which establishes Indigenous Peoples' Day in Nebraska. The establishment of this holiday would recognize the significance of the first people indigenous to those lands that are now known as the-- as the Americas, and specifically including Nebraska, and many of the important contributions made by the first people. This holiday would take place on the second Monday in October of each year, which is an existing state holiday, so the bill would create no fiscal impact. The bill, as originally written, replaced Columbus Day; however, the committee amendment, which Senator Brewer will introduce shortly, would keep Columbus Day and Indigenous Peoples' Day within a shared state holiday. It's not a perfect

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

compromise, but I believe it moves us in the right direction. It allows our Native brothers and sisters and all those who want to honor our first people to have an alternative to celebrating Columbus, who many objected to both because of his treatment of Native peoples and because of the myths associated with his "discovery." For instance, Columbus didn't actually step foot in North America. He did use exceptional navigational skills to sail to the Bahamas and there-- therefore, the Western Hemisphere. But I feel that I grew up learning an inaccurate history. Many of you may be surprised that a majority of the states do not even recognize Columbus Day at all. North Dakota, South Dakota, Wyoming, Iowa, Oklahoma, Arkansas, Kentucky, and Texas are among the states that do not observe Columbus Day. In fact, only seven states west of the Mississippi recognize it, which is more than a 2:1 ratio. South Dakota unanimously replaced Columbus Day in 1989 with Native American Day. South Dakota's wholehearted acknowledgment of its own history has been positive for that state. And while I take away nothing from South Dakota's history, Nebraska's own first people have their very own unique history of culture, art, and stories that need to be told to celebrate that history and to be able to teach them to our future. In recent years, we have taken important steps to try to play catch up. This includes telling the magnificent story of Chief Standing Bear, who is now recognized and celebrated in the U.S. Capitol's Statuary Hall and on our own Centennial Mall here in Lincoln. He was celebrated as part of the state's 150th birthday when First Lady Susanne Shore kindly distributed free books about Chief Standing Bear's role in Nebraska to Nebraska fourth graders across our state. He-- Standing-- Chief Standing Bear is a symbol of civil rights throughout the United States. Standing Bear's journey is a history of which all Nebraskans can be proud. There are many other remarkable leaders of the state's indigenous people from our four head tribes headquartered here as well, including, but not limited to, Chief Blackbeard [SIC]-- Blackbird, excuse me-- Chief Blackbird from the Omaha Tribe, Chief-- Chief Little Priest from the Winnebago Tribe, and Big Eagle from the Santee Sioux and-- as well as the La Flesche Sisters. Clearly, there are many other important and fascinating histories to be recounted about our state's first people. So I brought LB848 to keep this Nebraska history alive and to give our state the-- an opportunity to have an important day of reflection of the contributions of our first people each year. Nebraska really only has one official state holiday that is unique to our state. That holiday is Arbor Day. And while that is also a very important holiday, I believe it's every bit as important, if not more so, to recognize our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

state's history and our magnificent first people. In celebrating Indigenous Peoples' Day on the second Monday in October, we are using an existing holiday and, therefore, not any-- adding any expenses for the state. You will see that the original bill had a fiscal note. The committee amendment clarifies that the state would handle the holiday the same as it currently does and that agencies have operations open on-- that have operations open on holidays would remain open, including Games and Parks [SIC] and others. Unfortunately, the original phrasing in the bill led some agencies to believe otherwise. We clarified this with the amendment. Passing this legislation will put Nebraska within a growing number of states and cities which have changed laws to observe Indigenous Peoples' Day. These states and cities have also gone further by "eliminating" Columbus Day entirely. Only 20 other states currently celebrate Columbus Day. Under our compromise, we are not doing that. At the hearing for LB848, it became apparent that many Italian-Americans view Columbus Day as a day of recognition for Italian-Americans and their own immigration story to the United States and to the state of Nebraska. While it is difficult for me to understand the significance of Columbus for Italian people, I am willing to continue the recognition of the amazing contributions of the Italian-American immigrants and their continuing cultural contributions to our society today. This compromise allows us to acknowledge that Italian-Americans-- while also celebrating our original indigenous people and their ancestors who lived, bled, and died on this very land, which ultimately became our beloved state of Nebraska. With that, I ask you to advance LB848 and the following amendment, AM2578, and I thank you.

SCHNEER: Thank you, Senator Pansing Brooks. As the Clerk noted, there is a committee amendment from the Government Committee. Senator Brewer, as Chair, you're welcome to open on AM2578.

BREWER: Thank you, Mr. President. So AM2578 to LB848, the Government Committee-- Government, Military and Veterans Affairs Committee held a public hearing on LB848 on 25 Feb. 2020. We had 13 individuals that came in and testified in favor of the bill. Most of those were tribal or Native representatives from different reservations. There were six that testified in opposition. The-- the general concern was that we were going to remove an existing day and the Italian-American concerns, I thought, were very fair. They were also very courteous about explaining their positive feelings toward having a Native Amer-- a Indigenous People Day. So in the end, the committee voted to strike a compromise and the vote was 6-1-1. We did not feel that it was right

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

to take away this important day from Italian-Americans. So we also believe that the Native culture and people deserve to be honored. The committee amended [SIC] with AM2578 would leave Columbus Day where it is, but that day would also be celebrated as Indigenous Peoples' Day. I believe this strikes a fair balance, even though in the end there will be plenty that will be unhappy about it. The Tribal Affairs Committee met on 21 February and prioritized LB848. Our hope is that this bill is a vehicle for two other bills addressing Native issues, the first being LB849 from Senator Pansing Brooks, which is here on General File, and a version of my tribal flags bill, LB937, on Select-- that will be voted on by the Exec Committee. I have an amendment to this committee amendment which adds the first of those two bills, and I will address it in a moment. Thank you, Mr. President.

SCHEER: Thank you, Senator Brewer. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Brewer would offer AM2723 to the committee amendments.

SCHEER: Senator Brewer, you're welcome to open.

BREWER: Thank you, Mr. President. This amendment adds Senator Pansing Brooks's LB849. This would help foster youth and tribal wards who are aging out of the system. Right now, we have some Native youth who are aging out at 18 and some at 19. This amendment would make sure that a youth isn't being turned out without-- turned out on the street without having any options for care. This is common with the current system and this bill would correct that. I will let Senator Pansing Brooks provide more detail on LB849. Thank you, Mr. President.

SCHEER: Thank you, Senator Brewer. Going to floor discussion. Senator Wayne, you're recognized.

WAYNE: Thank you, colleagues. This really isn't a discussion on the bill itself. I was going to use a point of personal privilege, but it's just a matter of-- you can push your button and still talk about whatever you want. Colleagues, I just want to help you guys understand the words "articulate" and "well spoken" when using to describe someone who is speaking from a minority background, whether it's Native American, African American, and Latino. While oftentimes it is considered to be a compliment, the history for the last 20 years of saying "articulate" or "well spoken" to a professional or

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

nonprofessional, I guess, for anybody with minority descent or ethnic background other than Caucasian, is-- is very disrespectful. It started publicly a long time ago, in the '60s and '70s, but it became famous when Colin Powell wanted to run for-- or thought about running for President. And on CNN, NSBC [SIC], Fox, everybody kept describing how articulate he was. And the answer from the community I represent and others is, well, what did you expect? He's a professional. He is a-- a general. He is all these things. And so while some may think what I'm saying is some type of oversensitivity, what it does is it sends this idea that because you are educated or because you speak so well, we weren't expecting that; we weren't expecting you to complete sentences and have a full conversation, so when you speak, Senator Wayne, you are very articulate. And I would venture off to say, how many times do we describe our other colleagues who don't look like me in those terms? I would tell you we don't. So I just want to remind people when we use words to say a senator is speaking very articulately or is very well spoken, my answer is, what else-- or my question to you is, what do you expect? We read laws. We make laws. We study. We represent a community. We should be able to get on the mike and have a conversation and do so in a professional manner. So I noticed that word was used earlier and I think it wasn't used intentionally. I think it was used in a-- a-- a compliment to the conversation that was going on. And rather than speaking on that bill, I waited until this moment to just remind everybody words matter. And although sometimes it might come across as a compliment from the speaker, how those words are heard are completely different. And the fact of the matter is, is by saying somebody is speaking-- or is well spoken or articulate, you are presuming that you wouldn't expect that from them because if you did, you wouldn't have to say that. So I just want to make that point. And I've-- it's not new. I had the same conversation, Senator Vargas will remember, on the school board when the word was used to describe somebody who came and talked at our public setting. It's just very disrespectful. And again, I can tell you that this is not new. There is a current President candidate who is running for office who said that of former President Obama, he was very articulate, and there was a huge backlash throughout the community--

SCHEER: One minute.

WAYNE: --because what else would you expect? So I would just remind people that as we talk-- and I'm not into personal attacks at all and this one wasn't at all. This was actually a compliment that I think

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

was said in a very positive manner, but I want to make sure the body is aware of that. When I get on the mike or I talk to you individually, or anybody who may look like me, the word "articulate" is disrespectful; "well spoken" is disrespectful. It's because you may not think that somebody like me can speak in that manner and we can. Thank you, Mr. President.

SCHEER: Thank you, Senator Wayne. Senator Vargas, you're recognized.

VARGAS: Thank you very much. I want to thank Senator Wayne for that. It saves me a little time. It does, it really does. I appreciate it. But all that rings true. We have these experiences. And-- and the uniqueness of this is, you know, Senator Wayne and I, along with two others, are the only people in the body that identify as people of color. And for those of you who did not know that, we also had a Black and Brown Legislative Day the other day, and this will connect, I promise. And that Black and Brown Legislative Day, we had nearly 150 youth that all identified as people of color coming here to advocate on different bills, to get educated, to engage with senators. And it just reminds me that part of what we do here is also to get educated about the diversity of not just race and ethnicity, but also thought and perspectives. As I heard-- I hope that you heard Senator Wayne and you internalize that to try to seek to understand more, rather than my-- well, I wouldn't make this assumption, but rather than seeing it as something that I don't necessarily agree with. So thank you, Senator Wayne, for that. I-- I do want to pivot this to the amendment. And I want to thank Senator Pansing Brooks, Senator Brewer, members of the committee. So some members of my community in my district testified in opposition to the underlying bill, LB848. And the reason why connects a little bit to this notion, to the idea of how we identify with our own culture and ethnicity. I, myself, was-- I'm in support of this underlying bill, but some of the concerns I also heard was that people really did identify with Columbus Day as Italian-Americans; that they felt a personal connection, given that that individual was born in Italy, and that connection was a point of personal pride for a community and that the community saw it as something that they wanted to hold on to. And they thought that removing the day, not in replacement but just removing it altogether, was hard for a community of Italian-Americans in Omaha, all across our state, that have a very, very deep pride. And so I heard that from my constituents and they were very civil. To what Senator Brewer mentioned, they were civil and-- and offered their perspective in a way that I think was not only courteous and well received, but got us

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

to this place where we have this-- this compromise. So I do want to thank Senator Pansing Brooks for-- for leading this charge because sometimes compromise in these scenarios can be really difficult when we're dealing with how people view and how important a part of their identity is regarding their ethnicity or culture. And so I want to ask for your support for this because I think it strikes a compromise that encourages and values the perspectives of different individuals, also is elevating those indigenous individuals that, all across the state, are looking for and deserve more attention and recognition for what they bring to this great state. So, colleagues, I ask for your support for the underlying amendment. Not everybody is happy. I think we've-- we've-- we've shared that. But I want to make sure that we're honoring people's individual cultures, ethnicities, and perspectives. And we're doing that with this compromise. Thank you.

SCHEER: Thank you, Senator Vargas. Senator Pansing Books, you're recognized.

PANSING BROOKS: Thank you. Thank you, Senator Vargas. And also, thank you to Senator Wayne for your thoughts and comments today. I just want to get back to a little bit about what this amendment does, AM2723, because what it does is it closes a gap of eligibility for tribal youth that are in the Young Adult Bridge to Independence program. This program supports young people that are aging out of the foster care system with monthly stipends, healthcare, and case management support. So if-- this, this amendment focuses on an oversight in state statute to ensure that Native youth have access to the program. So the age of majority under Nebraska law is 19, but for some tribes, a few of the tribes, the age of major-- of majority is 18. So there are some fos-- some Native youth in the tribal foster care system who age out at 18 and, thus, are ineligible for services for a year, so that prevents these youth from participating in the program. That was never intended originally. It was an oversight that people didn't realize about the different-- the differences between the ages of majority between the sovereign nations and the state of Nebraska. So those kids are falling through the cracks and services available, so this amendment eliminates the gap and allows youth aging out of the tribal-- out at the tribal age of majority to be eligible for the program just like anyone else. It was always the intent that these youth be eligible, but the gap wasn't recognized when the law and the statutes were written originally. So it will affect about 20 youths. So as some of you know, I'm one of the legislative representatives on the Children's Commission and while-- when I attended one of our meetings last year,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

I learned about the problem we're now addressing in this bill and in this amendment. And the Children's Commission has made LB849 one of its top priorities and is recommending that the Legislature pass it this session to help cover those kids. The adult-- the Young Adult Bridge to Independence program has been enormously beneficial to kids aging out of foster care. And the HHS bill-- committee-- or committee passed this bill unanimously and there was no opposition to the bill at the hearing, so I ask you to support AM2723. Thank you and the following-- the-- the bill from-- the amendment from Government and LB848. Thank you, Mr. President.

SCHEER: Thank you. Senator Pansing Brooks. Senator Albrecht, you're recognized.

ALBRECHT: Thank you, Speaker Scheer. And, colleagues, I just rise in favor of LB848 and the amendment, AM2578. I think it would be a travesty not to recognize the Natives on the same day as Columbus Day. I think it's a-- a wonderful thing that I was kind of sitting back hoping that-- that they would have a good public hearing, and obviously they did. And the Italian in me says, you know, thank you that they-- they, too, came to the table and-- and they were heard and agreements were made, and I just thank the committee for hearing that. I do represent both the Winnebago Tribe, and the Omaha Tribe as well, in Thurston County. But I do have a question, quickly, if Senator Patty Pansing Brooks can take a question?

SCHEER: Senator Pansing Brooks, would you please yield?

PANSING BROOKS: Sure.

ALBRECHT: OK, I'd certainly like to also say that I'm in full support of AM2723, but was that also heard in the Government Committee?

PANSING BROOKS: That-- that one was heard in HHS.

ALBRECHT: In H--

PANSING BROOKS: And so what happened is that the committee had wanted to put together an amendment, too, but the Speaker clarified that on-- the-- the Tribal Affairs Committee can only bring one bill and not do a-- a Christmas tree bill.

ALBRECHT: OK, so would this--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

PANSING BROOKS: So we had to add it on now.

ALBRECHT: So this would be the-- the-- the committee or the-- the Tribal's request that AM2723 be brought on to this bill, correct?

PANSING BROOKS: Yes, yes.

ALBRECHT: OK.

PANSING BROOKS: That was the plan, yes.

ALBRECHT: And just-- just for verification, when that did come before HHS, was there-- what was the-- I mean, who came to speak? Was it voted out of that committee unanimously?

PANSING BROOKS: Yes, it was.

ALBRECHT: OK, very good, so--

PANSING BROOKS: And I can look up who came to speak and show it to you off the mike, if you'd like to see.

ALBRECHT: That would be great. That would be great.

PANSING BROOKS: OK.

ALBRECHT: Thank you very much.

PANSING BROOKS: Thank you.

SCHEER: Thank you, Senator Albrecht and Senator Pansing Brooks. Senator Groene, you're recognized.

GROENE: Thank you. I appreciate the-- doing the heritage of an American ethnic group. On March 17, the Irish are just going to have to do it on their own; celebrate their heritage with no government, with no government intervention. We never liked government intervention. Appreciate Senator Wayne bringing up the-- attacking some-- the way somebody speaks and-- and-- because I've had that done to me quite frequently. I always admire what a person says, how [INAUDIBLE] they are. And I-- see, I could be attacked the way I pronounce that or what they say. And I've always been that way, but some want to attack how you say things and how you pronounce a word or two. I understand your pain, Senator Wayne. Anyway, my problem with this is this-- is this. On Friday after Thanksgiving, President George

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

Bush signed into law legislation introduced by Congressman Joe Baca to designate the Friday after Thanksgiving as Native Americans Heritage Day. We already have a day that celebrates Native Americans. And last year, in Senator Slama's civics bill, we added-- she added to the list of celebrations was George Washington's birthday, Abraham Lincoln's birthday, Dr. Martin Luther King Jr.'s birthday, Native American Heritage Day. I see a conf-- a little bit of confusion here that-- Senator Pansing Brooks, could she answer a question? Oh, she's not here. How about you, Senator Brewer?

SCHEER: Senator Pansing Brooks, would you--

GRAGERT: I'll-- I'll ask Senator Brewer.

SCHEER: OK. Senator Brewer, would you please yield?

BREWER: I would.

GROENE: Did you look-- did you look to see if there was any other states that had their own Indigenous Day?

BREWER: Well, in some states, it's a different title. It can also be Native American Day, so essentially it means the same.

GROENE: But it isn't-- do they have a certain day or do they follow what the federal government does on-- on the Friday after Thanksgiving?

BREWER: Well, there's a few states that recognize that because, of course, it's known as Black Friday and that just didn't seem like a good mix.

GROENE: But anyway, thank you, Senator Brewer. I'm not disparaging anybody here. I'm just saying it's redundant and it's confusing that we have already a national day. And if you wanted to bring a bill that said you can pick your day off, federal government-- state employees, you can either take off Columbus Day, which we allow them to do now, or you can take off Friday after Thanksgiving and-- and just say you get your 13 days off. I think it's only-- it is 13. That's not only-- you get holidays-- say, which one do you want to celebrate, the national holiday of Native American Day that's that was created back in-- it was in 2008. It hasn't been that long ago. We put it into our civics bill of what-- you know, that was never there before. And Senator Brewer was on the Education Committee and he was part of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

reasoning for that. He brought it up. This is-- I don't know how you do it, but this isn't necessary. This is absolutely unnecessary. There is a day for Native Americans to celebrate their heritage and that is the Friday after Thanksgiving. It's a federal day, not just one state deciding to create a holiday, which I don't know, if I was-- if I was Irish and you told me you were going to do St. Pat's Day on Columbus Day, that I'd be too excited--

SCHEER: One minute.

GROENE: --because I wouldn't be real crazy about sharing a day with somebody or Hanukkah-- say it's the same day as Christmas-- to-- to take the day off. I'm-- I think we need to keep them separate. Let the Native Americans have their day. Let the Italians have their day. Like it or not, the history is what it is. It's why we're here, why we came here. One individual went out, risked falling off the edge of the earth, and came to America, just like we did-- our-- the guy-- the first man to walk on the moon. It could have been a lot of people. I don't know anything about the first astronaut. I don't know about his personal life or what he did. I know he did something. I know Columbus did something. And I don't know why. It's the origin of the culture today in America.

SCHEER: Time, Senator.

GROENE: Thank you.

SCHEER: Thank you, Senator Groene. Senator Hilkemann, you are recognized.

HILKEMANN: Thank you, Mr. Speaker. Good afternoon to everyone here. I'm rising to speak as the Chair of the State-Tribal Relations Committee. This statute states that the intent of the Tribal Relations-- State-Tribal Relations Committee is to foster better relationships between state and federally recognized Indian tribes within the state. Judy gaiashkibos, our executive director of the Nebraska Commission on Indian Affairs, has urged our committee to make this a committee priority, and we have done just that. And so I rise to support LB844 [SIC] and urge the body to move this forward. Thank you.

SCHEER: Thank you, Senator Hilkemann. Senator Chambers, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

CHAMBERS: Thank you. Mr. President, members of the Legislature, I support the bill. There is so much ignorance in this body. Senator Groene is the resident individual who says more about things he knows nothing about than anybody I've encountered in my life. Yesterday, when we were discussing his bill, he said using the term "white" to designate people can be racist. He doesn't know that white people are the ones who set up all these terms and designations for every-- every group. Asians are not yellow, but white people said they are. Native American persons are not red; white people said they are. White people are not white. White people designated themselves white. So he's right; they are racist for identifying people by color. Black people are not black. Let me tell you why I use that designation to identify myself. It goes counter to what white Americans think I ought to use as a term to identify myself. They use the term historically, "negro" with a small "n." It's just the Spanish word for black. My skin is not literally black. Yours is not literally white. But a funny thing, if we were to take a room that would hold 1,000 people and you had 1,000 so-called white people and you stood back at a distance, it's just one mass of pink, or as they say with the crayons, flesh color. Well, if it's flesh color, why don't they designate red flesh color? Why don't they make Band-Aids yellow and designate those flesh color? But the ones who are called white and call themselves white are so arrogant, so disregarding of other people that they feel saying something makes it so. People who are so-called "of color" are what color? That generally had been used to describe people who are also self-described as black. And if you took all those who are described or designated by white people as black and put 1,000 in that room, they would run the gauntlet from people paler than you all to people darker than I am. So this idea of race was established by white people and the goal was to designate some people as superior and others inferior. I'm glad when Senator Groene speaks because people watch us and their response is, who is that crackpot? Who is that ignoramus? He knows what people say. He should listen to himself. I don't have to back off and treat him like a child.

SCHEER: One minute.

SCHEER: He butts into everything that he doesn't understand. I particularly appreciate what my brother, Senator Wayne, said. I've been described in more national publications probably than all the senators who have been in this body put together. Life Magazine described my role in a documentary that was nominated for an Oscar, and it came in second to a documentary called Anderson's Platoon

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

[SIC]. And that was a black sergeant in Vietnam and the theme song of that documentary was "When a Man Loves a Woman" by Percy Sledge.

SCHEER: Time, Senator.

CHAMBERS: Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Senator Groene, you're recognized.

GROENE: Hmm. Thank you, Mr. President. The same people that sends me emails aren't the same one apparently sends Senator Chambers. I get a lot of emails saying thank you for standing up for that-- to that bully all the time, that racist call-- who attacks you all the time, personally attacks people. I never do that. Senator Wayne don't do that. It doesn't gain you fans, Senator Chambers. It gains me fans. I appreciate that; made it easier for me to get reelected, the more you attack me, so thank you. It makes me more effective. Here's another problem I have with this bill. I don't know who did the research, but it has been notified to me that Nebraska already has a Native American Day. Statute 84-104.06, passed in 1903, says: The Legislature finds the American Indians were the first residents of the state of Nebraska. The Legislature further finds that these residents have made advances to the growth and development of the United States, the State of Nebraska, and their local communities, first through history and now through human and natural resources. The Legislature also finds that American Indians have made significant contributions and will continue to make contributions to the development of business, industry, education, the arts, and other areas which have made this country and this state a good place in which to live. The Legislature also finds that many of these contributions are unknown and unrecognized by many Nebraska citizens. 84-107.07 [SIC]: American Indian Day; manner of observe-- observance. "It is hereby declared that the fourth Monday in September of each year shall be known in Nebraska as American Indian Day and that on this day, schools, clubs, and civic and religious organizations shall be encouraged to recognize the contributions of American Indians with suitable ceremony and fellowship designed to promote greater understanding and brotherhood between American Indians and the non-Indian people of the state of Nebraska." Now we're going to have three days, three days; the national one, Friday after Thanksgiving; the one that's in statute; and now we're going to have another one. Should we repeal-- let's at least repeal-- put an amendment on and repeal this one if we're going

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

to have three of them. Did anybody do research when they looked into writing this bill? Did the-- bill writing find this and say, wait a minute, we'll put it here because it's-- already exists? That's my problem. I want them to celebrate their heritage, just like I will, just like I do. But first I celebrate my Americanism, that I'm an American. I-- it's a feel-good bill, I understand that, but the Legislature addressed this in 1983. If it's been overlooked, that's sad. Senator Slama, in her civics bill in-- in the Education Committee finally put some emphasis into it. But we picked a national day, that it shall be taught to our children about Native American Day the Friday after Thanksgiving. Now that's doing something. That's doing something, keeping-- teaching the heritage to our children in our school and putting it in our civics bill. We already have a day, folks. We have a national day; we have a state day. Now we're going to have another day. Let the Italians-- let Columbus have his day. Let the American Indians have 100 percent of their day. Let the Irish have their day. I'm sure the Czechs have a day. The Germans have got the whole month of-- my other part of my heritage, I have the whole month of October. But since I don't drink, I don't celebrate that month. But anyway--

SCHEER: One minute.

GROENE: --there already is a American Indian Day celebrated in the state of Nebraska. It is "the fourth Monday in September of each year shall be known in Nebraska as American Indian Day." And it is encouraged by Nebraskans to help our friends with that heritage celebrate their heritage. Thank you.

SCHEER: Thank you, Senator Groene. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, in my community, people like Senator Groene are referred to as a "fatmouth." Let him bring all of his emails, probably with grammatical errors, misspellings, and I am going to bring the articles written about me and the work that I do, my visit to the White House when Carter was President and my conflict with him over whether or not America is a racist country, and it was his White House and he wound up running out of the room because he couldn't contend with me. I was invited to testify before the Kerner Commission, otherwise known as the Riot Commission, who put out a report and concluded that America is two societies; one white, one black. I'm going to give this information to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

you all. You can throw it away if you want to, but I'm going to show you my record, not things written by some-- he said emails or whatever they are. Let him bring them and show us how many people said he is an intelligent man, he is knowledgeable about history, he understands and knows the law and applies it, he understands the constitution, he has won cases in court, as I have done. Everything I'm telling you here, I have done, and I'm going to demonstrate it. And if he wanted to take the time to do some research, he'd find how many laws exist on the books now because of what I did. Before he got on his hobby-horse, with reference to me, before he even came down here, he was aware of the fact that I got legislation through to give all these white senators and the one black one expense money-- a per diem, it was called now-- during session. I did it. I brought the legislation. I forced a lawsuit, and in that lawsuit the Nebraska Supreme Court came down on my side, not the side of the white Attorney General. Look on the census. Is the word-- is the designation for "white" there? I didn't write the census forms. Senator Groene talks without understanding. He's like the wind: It blows where it listeth. He's like a brook: He babbles. But it's easy for us to self-identify and describe ourselves, so I'm going to give you all information, which you can throw away and you will. But it's going to show you that a black man did more as a member of this body than anybody who's ever been in this body in the history of this state, not up here yapping and beating my gums against anything that is brought to try to bring some justice and recognition to those who have been systematically placed on the underside of the garment. Life Magazine, in describing my role in that film-- it was called A Time for Burning-- as is astonishingly articulate, astonishingly articulate. People thought that I was an actor when they saw the film because black men can't talk like that, especially one as young as I was. They thought I was speaking from a script. And there was a white minister who did not come off very well at all. And that film is being sold today. People have made money off my name.

SCHEER: One minute.

CHAMBERS: There was a group selling garments with the first letters W-W-E-D: What would Ernie do? Female garments, onesies for little babies, sweaters, shirts, Senator Groene cannot match that. Oh, he's loud. He talked about the Irish. Nobody put them in chains and brought them here. They came here and they were willing to put themselves in indentured servitude to come here. Black people are the only ones who were forced to this hellhole and treated worse than everybody else,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

and such is the case now. But those days are gone. Not every black man is going to swallow spit and let some fatmouth yippity-yap as Senator Groene does and get away with it. If he's going to bring it up on the floor, I'm going to contend with him on the floor, or anywhere else he wants to, anywhere. Now I'm just a little slip of a man--

SCHEER: Time, Senator.

CHAMBERS: I've been threatened many times.

SCHEER: Time, Senator. Thank you, Senator Chambers. Senator Morfeld, you're recognized.

MORFELD: Thank you, Mr. Speaker. Colleagues, I'd just like to see a show of hands here of how many people knew about American Indian Day before Senator Groene brought it up on the floor. OK, two, three, four. Would Senator Linehan yield to a question?

SCHEER: Senator Linehan, would you please yield?

LINEHAN: Yes.

SCHEER: Senator Linehan, I did not know--

LINEHAN: Are we going to talk about taxes?

MORFELD: I did not know-- I did not know that there was American Indian Day until, actually, Senator Groene brought it up. Are you aware of when American Indian Day is?

LINEHAN: No, I-- I think--

MORFELD: Yeah.

LINEHAN: --what I'm recalling is when my-- and I'm going to probably walk myself into a trap here, but when my kids were in school--

MORFELD: OK, yeah.

LINEHAN: --because I have four kids and they did things.

MORFELD: Yeah.

LINEHAN: You know, they celebrate the days, which is a good thing.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

MORFELD: Yeah. I had no clue that this day existed so you have one up on me. And I didn't know when it was, which is apparently the fourth Monday in September of each year. It's a proclamation day, yeah.

LINEHAN: It also could have been when I was working in government that we did something.

MORFELD: Awesome, thank you--

LINEHAN: Thank you.

MORFELD: --Senator Linehan. I appreciate it. Sorry to put you on the spot. In any case, colleagues, I think that-- number one, number one, I support Senator Pansing Brooks' bill and really appreciate her efforts in the Government Committee, and Senator Brewer as well, in this. And number two, this is going to elevate a day that needs to be elevated, given the history not only in our state but nationwide and in our continent, actually, and give it the respect that it deserves and I support it. Thank you, Mr. President.

SCHEER: Thank you, Senator Morfeld. Senator Chambers, you're recognized and this is your third time at the mike.

CHAMBERS: Thank you. Mr. President, I believe in object lessons. I'm going to bring some paddles on this floor and display them on my desk. And I want somebody to tell me we do not allow props in this Chamber. How many of you have heard that props are not allowed in the Chamber? What are all these American flags? White people can bring their flags. Those are props. But when it's white people, it's invisible and it's all right because they do it. I'm going to bring my paddles and I'll take my paddles away when you take those flags down. And you know where I got the paddles? I went into white schools where black children went. You know why I say white schools? Because white people run the schools. And these-- when you see these sadist boards, as I call them-- were in the school. And this little slip of a man went into those schools and physically went behind the desks of principals and took those paddles and dared the principal to touch me. That's the way I operated when I was younger. Then I came here around you all to demonstrate how legislators ought to do their business by preparing, by reading the law, by being careful and circumspect in the way you write legislation, and it fell on deaf ears. So I'm going to begin handing out my "ERNIE-GRAMS," and you all can throw them in the trash, as you do anyway, but there are other people who get them and they

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

learn from them. And I am going to say, like Saint Paul, your impostor-- he was one of the most arrogant, self-centered, prideful individuals anywhere in the "Bibble." He even wrote one of his epistles and said, oh, if I wanted to boast, I, too, could boast. And then he goes and boasts, lays out all of the great things he is and all the great things he has done, and you all don't know that, and it's in your "Bibble," because you talk it, but you don't read it. I read these things. I read your constitution, I read your Declaration of Independence, and I whip you with them, your words. I don't try to impose my standards on you. I go by those things you say mean something to you, and they don't mean a blip on the radar screen to you. But I'm going to bring my paddles and nobody's going to come and take them off my desk. And I will voluntarily remove them when you take down these flags. Who was offended by these flags? Because it's a white symbol, liberty and justice for all white people. You all don't know anything about adversity. You could not function, as I have for 46, in a hellhole like this if it was full of black people who were just like you as white people and you were the only white person there; why, some of you tuck tail and run now among your own-- from your own. You all are the ones who backbite, downgrade each other, scheme, trick, lie to each other-- to each other. This is a white Legislature. I'm not a person of color. I am a black man. And there was a man who started an organization that became known as the Nation of Islam. Elijah Muhammed was his name.

SCHEER: One minute.

CHAMBERS: He referred to those people who were formerly called "Negroes," so-called "Negroes," and applied and attached the term "black." And I like his philosophy and I accept that-- or African-American if you want to hyphenate us like Italian-Americans, Jewish-Americans, Scotch-Americans, all the other hyphenated Americans, German-American. And I'm going to have to, from time to time, teach Senator Groene some things about Irish. Ireland-- Irish people were not enslaved by the British. They were not owned and traded by the British as slaves. Irish women were not raped by the king. Babies were not made on Irish women by British men and then sold in open livestock markets. Senator Groene said one slavery is as bad as the other.

SCHEER: Time, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

CHAMBERS: He doesn't know anything. Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Seeing no one in the queue, Senator Brewer, you're welcome to close on AM2723.

BREWER: Thank you, Mr. President. Well, probably start by thanking Senator Groene for wasting another half-hour of my life. The-- the issue at hand here is that the fourth-- fourth Monday of September is a-- it is a proclamation. And, I mean, you can, you can Google it and look for yourself. It says: In many parts of the United States, Native American Day is celebrated on the fourth Friday of September. Although not a national holiday, Native American Day is a time set aside by individual states if they wish to honor, recognize, or appreciate the rich culture of Native Americans. So with that said, understand that we compromised, and there are those of the tribes who are not happy with me for compromising, but I believe it was the right thing to do. We had no right to take away the-- the heritage and history of-- of Italian-Americans. And they were very courteous. And as a matter of fact, they shared Native American history and talked about how willing they were to accept and understand some of the challenges of sharing a day. So I understand that if the temptation is to not vote on this because you think there's a controversy involved with it, but I think you need to understand that the bill itself, with the amendment, is a-- a fair compromise and that we need that in order to also have AM2723. And that just simply would help us with foster care youth to fill that year void that, right now, they're not taken care of. So there's no crazy plan to have three or four or however many holidays. This is just to have a holiday designated, and then it also is going to be a conduit to-- to include other needed bills. So with that said, thank you, Mr. President.

SCHEER: Thank you, Senator Brewer. The question before the floor is adoption of AM2723 to AM2578. There's been a request to call the house. All those in favor please vote aye; all those opposed vote nay. Please record.

ASSISTANT CLERK: 21 ayes, 0 nays to go under call, Mr. President.

SCHEER: The house is under call. Unauthorized personnel please leave the floor. All senators away from the floor please return to their seats. The house is under call. Senator Crawford, could you check in, please? Senator Clements, would you check in, please? Senator Crawford, could you check in, please? Senator Brewer, we are just

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

absent-- Senator Brewer, we are just absent Senator Stinner. Would you like to wait or go forward? The question before us is the adoption of AM2723 to AM2578. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Senator Brewer, would you like to vote? Please record.

ASSISTANT CLERK: 45 ayes, 0 nays on the adoption of Senator Brewer's amendment.

SCHEER: AM2723 is adopted. Seeing no one in the queue, Senator Brewer, you're welcome to close on AM2578. He waives closing. The question before us, adoption of AM2578 to LB848. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bolz, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Halloran, Matt Hansen, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McDonell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Not voting: Senators Groene, Ben Hansen, Hilgers, La Grone, and Lowe. Vote is 44 ayes, 0 nays, 1 present and not voting, Mr. President.

SCHEER: AM2578 is adopted. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President. Thank you, Mr. President. I just wanted to kind of draw on a point that actually Senator Albrecht raised briefly earlier. So actually, would Senator Pansing Brooks yield to a question?

SCHEER: I raise the call. Senator Pansing Brooks-- Pansing Brooks, would you please yield?

PANSING BROOKS: Yes, I will.

M. HANSEN: Thank you, Senator Pansing Brooks, and thank you for bringing this legislation. Just for clarity's sake, LB848 was referenced to the Government, Military and Veterans Affairs Committee, correct?

PANSING BROOKS: That is correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

M. HANSEN: And the-- and it is the vehicle and which originally dealt with Columbus Day and Indigenous Peoples' Day?

PANSING BROOKS: That's correct.

M. HANSEN: Thank you. And then you amended your LB849, which, as I understood, did [SIC] with eligibility for state services for certain Native American youth?

PANSING BROOKS: There was a plan for the-- the Military and the Tribal Affairs Committee to merge together all the bills that dealt with Native American issues. And so then we went to the Speaker and he clarified that since the Tribal Affairs Committee is really only allowed one bill and not a Christmas tree bill, that we would then have to go forward and amend these all on-- on the floor.

M. HANSEN: OK, and thank you. And so then LB849 was originally referenced to the Health and Human Services Committee, correct?

PANSING BROOKS: That's correct.

M. HANSEN: All right. Thank you, Senator Pansing Brooks. Colleagues, I wanted to just raise this point, and I chose to raise it after the end of the amendments. We had a discussion on germaneness earlier today and I think we took a harsh stance on bills that were probably about as related as are here. Now I'm very appreciative of the bills Senator Pansing Brooks brought today. I voted for them. I'm going to continue to vote for them. I'm a cosponsor of LB848. But this morning, we started talking about how we shouldn't be combining bills from other committees and that was something that was all of a sudden taboo or unrelated. And then here it is, literally the next bill on our agenda, and we overwhelmingly-- 44, I believe, votes-- just agreed to do it. So in terms of kind of just the norms and standards and procedures of the body, I'd like us just to kind of all reflect on that. I think our germaneness rule is a valid rule and we have it for a reason, but let's be careful and kind of consistent in how we choose to apply it. With that, I appreciate everybody's time and I would support Senator Pansing Brooks' LB848. Thank you, Mr. President.

SCHEER: Thank you, Senator Matt Hansen. Senator Groene, you're recognized. Excuse me, Senator Groene, can you hold for one second? Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ASSISTANT CLERK: Senator Pansing Brooks, you had filed AM2263, but I have a note to withdraw.

SCHEER: Without objection, so ordered. Now, Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. I want to make it very clear. I'm not filibustering this. I don't-- it doesn't mean much to me. I just like facts. I'd like the people in Nebraska to understand what Senator Brewer-- and I've showed it to him-- there's 84-104.06, which is the legislative findings and there's 84-107.7 [SIC], which creates a American Indian Day. Then 84-108.08 [SIC], which Senator Brewer said, we instruct the Governor to do a proclamation every year to announce that the-- the fourth Monday in September is American-- American Indian Day. We instruct the Governor to do that or ask him to do that with 84-104.08. We have an American Indian Day in Nebraska. Why it hasn't been celebrated, I don't know, Senator Morfeld, but I will tell you what: our committee, Senator Slama, refined the civics bill that something is finally done about that. In that bill, we chose the national day for American Indian Day-- Native American Day-- we got names all over the place-- is the Friday after Thanksgiving. And that day shall be-- activities should be done in our schools to celebrate that day, first time ever, in that civics legislation so that something is done to teach that heritage and explain to our-- our children about who was here first and who are the Native people of this state. We already have an American Indian Day. It is hereby declared that the fourth Monday in September of each year shall be known in Nebraska as American Indian Day and that on this day, schools, clubs, and civic and religious organizations shall be encouraged to recognize the contributions of the American Indian. There is a day. Now we will have another day. I guess there's nothing wrong with it. There's a lot of tribes, maybe we can, maybe we can just-- each of them can pick a day to celebrate. Nothing wrong with it, but it is redundant and it does water it down. It waters it down that that one day is special and it's their day, the Friday after Thanksgiving. That's a national-- and Senator--President Trump last year had a-- a great proclamation about celebrating American Indians Day. They are a great part of our heritage, but they are Americans like the rest of us. We all have our ethnic background, but we are Americans. With all the education piled on top of each other and knowledge we've gained as a society, we continue to go back to try to define [INAUDIBLE] each other differently, that we're not humans, we're not all the same. You know, I had a-- I'm a country hick,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

according to Senator Chambers, but I had a nun taught me in the country school. She had a pile of dust there and she told us kids, do you know that when everybody, the end of time when they die and they return to the earth, they're a pile of dust? And do you know what? The best scientists in the world can't figure out what nationality you were, what sex you were, how old you were when you died.

SCHEER: One minute.

GROENE: We are human beings. And I just never could figure it out after that nun told me that. When I-- when people told me about this race, that race, this one, this one, I just laughed. I said, what are you talking about? We're human beings. We're men; we're women. We have different backgrounds. Now we got a bunch of people wanting to define themselves by their sexual activity as they're different. Why? With all the knowledge piled on top of each other in this world, we turn back to our basic-- basic hates and dislikes and tribalism. This, to me, is just foolishness. There is a day to celebrate those individuals, to get together and celebrate their heritage, just like St. Pat's Day will be March 17 and Columbus Day will be for the Italians. I've never celebrated--

SCHEER: Time, Senator.

GROENE: --Columbus Day since I was in grade school.

SCHEER: Time, Senator. Thank you, Senator Groene. Senator Brewer-- or, Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I've said all I intend to say on the bill, but I'm going out-- I just happen to have my paddles in my car. I don't want people to think I'm cutting and running. I'm going to go get my paddles. I'm going to bring them back and put them on my desk. I just don't want people to get too elated and think that they're rid of me for the rest of the day. Thank you, Mr. President.

SCHEER: Senator Brewer, you're recognized.

BREWER: Thank you, Mr. President. All right. Let's kind of backtrack just a little bit here to look at some of the comments made. I understand Senator Groene's point with it being a date in September, which appears to be a bit ambiguous. If you look at the-- the national blog on Native American issues, it has in there that it's the fourth

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

Friday of September. In this statute that he gave me, it's the fourth Monday. Let's just focus on having a day, which is exactly what we're trying to do with LB848 and the amendment, and just say that that is a day that we can use to celebrate. And it-- for one, it will be one that people remember and know. You know, we've gone on and on for absolutely no reason, and I feel bad for Senator Pansing Brooks because she's taken on so many issues. She's been very kind to the Native American community, even though for her, there's no-- no gain in that, except she's just a good person with a good heart who's trying to help. So to-- to have this bill go through the mauling that it has, unnecessarily, I find a little disturbing. So I would just ask that we focus on the fact that what we're trying to do here and-- and I think it's a good cause because if you look at the amendments, and this is going back to Senator Hansen's comments, I don't think you can put it in the same category that he was talking about because when you have the Tribal Relations Committee, they do not have hearings. No one testifies. So you can't take a bill that they prioritize out of there and treat it the same as the bills coming out of a committee that does have hearings, so it has to be attached somewhere else. So I just want to, for one, thank Senator Pansing Brooks for putting the time, the effort, and energy she's put into trying to help here and would ask for your support for LB848. Thank you, Mr. President.

SCHEER: Thank you, Senator Brewer. Senator Hunt, you're recognized.

HUNT: Thank you, Mr. Speaker. I was just gearing up. I thought maybe there were a couple more people in the queue, but there is really power in a name and in choosing who it is we're going to honor. And designating a day to honor a person, a community, an event, a group of people, it makes a big statement about who we are as a society, and I know that all of us understand that. American Indian Day is created by a proclamation. It's not a federal holiday. And, Senator Groene, we know about American Indian Day. We know about the existence of that. I sit on the committee where this bill was heard and the existence of American Indian Day was brought up many, many times in committee. We did our appropriate duties as committee members and we worked to understand the issue, and we voted this out because we thought it was worthy of passage. And that's something that Senator Groene would understand if he was on the committee and had heard the testimony, which he isn't, or if he had asked anybody who is on the committee about what was discussed during the testimony. I was in favor on this committee of getting rid of Columbus Day altogether, which was the original intent of the bill, which with the amendment that we adopted

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

is no longer what the bill does. Christopher Columbus was a rapist. He was a colonizer. And for generations, Native Americans have endured having to celebrate the colonization of their communities by celebrating a day dedicated to this man, the colonization of their land, of their culture, and the decimation of their communities at the hands of white settlers. No bill can remedy that. Nothing that we can do can fix that, but this bill is a small step toward reconciliation that I think is important because it can raise awareness every year of the first people who inhabited the Americas, including the land that became the United States. As Senator Pansing Brooks said, Christopher Columbus never actually came to the United States, but every year we are asked to reflect on that colonization. And I think it's important that we understand who Christopher Columbus really was and we join the other states in saying maybe that's not something that we want to celebrate. My favorite thing that happened during the committee hearing was a Native American woman came and she shared with us a land acknowledgement that they use in the public schools here in Nebraska. And what it said was: We acknowledge that we are meeting on the traditional land served by the Otoe and Pawnee people-- that's where we are today in the Capitol-- we honor America's first people and all elders past, present, and emerging, and we are called on to learn and share what we learned about the tribal history, culture, and contributions that have suppressed-- that have been suppressed in the telling of the story of America. This is a land acknowledgment which I first learned about last summer when I was meeting with other elected officials from around the world. And I talked to an elected official who would be, like, our counterpart in Australia, and he was very surprised that we didn't do any land acknowledgements normally in the United States, especially given our rich history of indigenous people, like they have as well in Australia. So that was the first time that I learned about land acknowledgement. And it occurred to me that it would be a very good thing for our Legislature and for Nebraska if we added a land acknowledgment to our tradition of opening our legislative sessions. In the morning, we begin with the pledge. We follow that with a prayer. And I think it would be a good thing for the Legislature to add the land acknowledgement, saying that this is the land of the Otoe and Pawnee people, and we are here using the land, and we acknowledge how that history has been suppressed in the telling of the story of America. Thank you, Mr. President.

SCHNEER: Thank you, Senator Hunt. Senator Erdman, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

ERDMAN: Thank you, Mr. Speaker. I listened to the comments by Senator Hunt and I have printed off information from Columbus' journal. It has his voyages across the ocean. And I disagree with Senator Hunt's understanding of who Columbus was or what he did. And his journal goes on to say: And your highnesses, as a Catholic Christians and the princes devoted to the holy Christian faith and to the propagandas thereof and the enemies of the select [SIC] Mahomet-- Moham-- Mahomet-- and all adulterers and heresies, resolved to send me, Christopher Columbus, to said religions-- or said regions of India, so the said princes and peoples and the land and the disposition of them and all-- manner in which may be undertaken their conversion to the holy faith, and ordained that I should not go by land, as usual, to the Orient, but to the route of the ancient [SIC] which is one-- to this day, no one for sure has-- anyone has gone. And he goes on to talk about on October 12, 1492, two hours before midnight, appeared-- land appeared at a distance of two legions. They handed all the sails and set the treo, and-- which is the mainsail without a bonnet, and they lay-to waiting for the daylight on Friday, when they arrived on the island of the Bahamas that was called by the Indians San Salvador. So they might be well disposed towards us, for I knew that they were a-- were a people to be delivered and converted to the holy faith rather than love-- rather by love than by force, I gave some of them red caps and others glass beads, which they hung around their necks, and many of these things were of slight value. At-- at this, they were greatly pleased and became so entirely our friends so that was-- we-- so that it was a wonder to see. I believe they would easily become Christians, so it seemed to me that we had no-- they had no religion of their own. Our lord willing, when I depart, I shall bring back six of them to your holiness, to Your Highness, that we may learn their own language and they may learn ours. October 16, 1492: I didn't recognize in them any religion and I believed that they were very promptly-- very promptly would turn to Christians, for they are a very good and interesting people. Christopher Columbus died a pauper, and he was not what our current history teaches us that he was. And those were from his journal. Christopher Columbus discovered America. He was not a slave trader, and he did not do those things that some people on the floor think that he did. That's who Christopher Columbus was. Thank you.

SCHEER: Thank you, Senator Erdman. Seeing no one in the queue, Senator Pansing Brooks, you're welcome to close on LB848.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

PANSING BROOKS: Thank you, Mr. President, and thank you all for this discussion today. I wanted to just add that there's a very different history by the people who were sailing with Columbus, but I-- I chose not to get into that very morbid history, so if anybody wants to come see it, I have it all. But I just want to thank the Tribal Affairs Committee for-- for going forward and supporting this and also for Governmental Relations and Military Affairs [SIC] for supporting these bills. And I also want to thank the Health and Human Services for their support as well. So-- and finally, I want to thank Judy gaiashkibos, who is the executive director of the Indian Commission for Nebraska, and she's been very helpful in-- in making sure to be able to communicate with the tribes and to work with Senator Brewer and I and to figure out, you know, how to best go forward on all of this. And then finally, I want to thank Senator Brewer for his vision and strength in going forward on all of these issues. He wanders a fine line between military and Native issues, and I really admire what Senator Brewer brings to this body. Thank you, Mr. President.

SCHEER: Thank you, Senator Pansing Brooks. The question before us is advancement of LB848 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Been a request for a record vote. Mr. Clerk.

ASSISTANT CLERK: Voting aye: Senators Albrecht, Arch, Blood, Bolz, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Chambers, Clements, Crawford, DeBoer, Dorn, Erdman, Friesen, Geist, Gragert, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Slama, Stinner, Vargas, Walz, Wayne, Williams, and Wishart. Voting nay: none. Vote is 43 ayes, 0 nays, Mr. President.

SCHEER: LB4-- LB848 is advanced to E&R Initial. Next item on the agenda is LB247. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB247, introduced by Senator Bolz, it's a bill for an act related to advance health care directives; to adopt the Advance Mental Health Care Directives Act. Bill was introduced on January 14 of 2019, referred to the Judiciary Committee. That committee reports the bill to General File with committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Bolz, you're welcome to open.

BOLZ: Thank you, Mr. President. Today I bring LB247 for your consideration, an act establishing mental health advance directives. LB247 increases patient choice and self-determination. The issues implicated in advance planning for mental healthcare and treatment are distinct from advance planning for healthcare and end-of-life care. LB247 provides a legal process specific to the planning for individuals' mental healthcare. This is not a new concept. Psychiatric or mental health advance directives were first introduced in the 1980s as a tool for persons with mental health diagnoses to retain choice and control over their own mental health treatment during person-- periods of decisional incapacity. Mental health advance directives are typically completed-- completed by patients who have severe mental health conditions that may periodically impair their thinking, judgment, or insight. As amended by AM2206, mental health advance directives provide instructions for specific types of mental healthcare and treatment that would be used in the event that an individual is decisionally incapacitated during a future mental health crisis. Simply stated, these directives contain written instructions detailing the wishes of a person living with a mental health diagnosis about their preferences for their treatment. To date, 30 states have enacted mental health advance directives. Additionally, both the American Psychiatric Association and the Federal Substance Abuse Mental Health Administration have recognized this tool as a best practice. Mental health advance directives are necessary because they close an important statutory gap that allows individuals the right to maintain their voice in their own healthcare. A few additional ways in which the provisions of LB247 are valuable include the following: LB247 and mental health advance directives contain provisions to allow for mental health-specific treatment instructions, revocability of those instructions, and the creation of a self-binding agreement for future mental healthcare. These directives typically convey mental health treatment preferences more accurately and specifically than mental health advance-- than medical advance directives or living wills. Patients with a history of mental health challenges are able to shape preferences defined in mental health advance directives based on previous personal encounters with their mental healthcare providers and medications. Like medical advance directives, mental health advance directives have a great deal of potential to help guide difficult mental healthcare decisions for persons lacking the capacity to make those decisions. This tool would

provide the means for people to fulfill their wishes regarding their own mental healthcare when they cannot effectively speak for themselves. Mental health advance directives offer a form of self-protection against the potentially adverse consequences of one's own decisions during a future state of mind impaired by acute psychiatric illness, for example, when someone experiencing a mental health crisis refuses to take medication when, under normal circumstances, they take that medication in order to keep themselves healthy. Advocates for mental health advance directives have found that the very process of preparing these documents can enhance a patient's sense of trust and collaboration with providers, thereby strengthening the therapeutic alliance and engagement with treatment. Colleagues, I know we've had a long day and I-- I know we've got lots of issues on our minds here at the end of the session, but I do ask for your attention as I make what I think is a very important point. Mental health advance directive-- directives can help prevent unnecessary involuntary commitments and incarceration. They improve individual and public safety. In other words, colleagues, we can relieve pressure on our hospitals, jails, and institutional settings by giving people the tools that they need to continue to receive mental healthcare when they have a mental health crisis, as opposed to getting sicker and making poor or even criminal decisions. A mental health advance directive is a legal document that allows a patient to consent or refuse future mental health treatment in the event of an incapacitating psychiatric crisis by documenting care instructions in advance. LB247 is intended support-- to support individuals' self-determination at times when they are particularly vulnerable to loss of autonomy, to help them ensure that their mental healthcare preferences are known, and to minimize unwanted or involuntary treatment. I want to provide a couple of other comments here. One is that, while there were some individuals who raised concerns about this bill when we introduced it last year, one of the reasons that it was appropriate to be requested as a Speaker priority is that over the interim we worked on the amendments that you'll hear about from the Judiciary Committee, and all of those in opposition are currently in support. The Bar Association is in a neutral capacity because sometimes they are involved in the legal dynamics of advance directives. So rest assured that we have smoothed out all of the wrinkles in this bill and addressed all of the questions and concerns that have been brought to us by various stakeholders. I also want to thank a few folks, including all the members of the Judiciary Committee; Speaker Scheer, for adding this to the Speaker's priority

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

list. And Senator Linehan, who has been a cosponsor and a strong supporter of this legislation all along, I appreciate her partnership on this bill. So in closing, I ask you to advance LB247 as amended by AM2206. It will improve the quality of life for individuals with mental illness and help to prevent further incarceration, institutionalization, and hospitalization. Thank you, Mr. President.

HILGERS: Thank you, Senator Bolz. As the Clerk noted, there are committee amendments. Senator Lathrop, as chair of the Judiciary Committee, you're welcome to open on AM2206.

LATHROP: Thank you, Mr. President. Colleagues, good afternoon. LB247 was heard by the Judiciary Committee on February 1, 2019, and was advanced to General File with committee amendment AM2206 earlier this year. Both the bill and the amendments were adopted on 8-0 votes. AM2206 is a white-copy amendment that reflects very diligent work by Senator Bolz over the interim to address the concerns of various stakeholders on this issue to remove opposition and other concerns to the original proposal. The amendment makes several changes to the green copy of the bill. These changes include reorganizing the act to place findings and declarations together and place topics such as the form and requirements of the directive at the roles of the-- and the roles of the principal and the power of attorneys together within the act. The amendment also adds HIPAA waivers where appropriate and adds a sample form for a directive into the statute. AM2206 replaces the role of an agent with the person holding a power of attorney for the principal and provides for the interaction of the general healthcare provider power of attorney and the advance mental health directive. The measure allows the directive to be included in a general power of attorney. The amendment clarifies that decisions made by a person with capacity will control over an advance directive, even if irrevocable. I would urge the body to adopt AM2206 and to advance LB247 to Select File. Thank you.

HILGERS: Thank you, Senator Lathrop. Debate is now open on AM2206. Senator Clements, you are recognized.

CLEMENTS: Thank you, Mr. President. Would Senator Bolz yield to a question?

HILGERS: Senator Bolz, would you yield?

BOLZ: Sure, I'd be happy to.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

CLEMENTS: Thank you. I just wanted to delve into the need for these directives. And I'm aware that there is a healthcare power of attorney that a person can give, and what-- how is this different from giving a healthcare power of attorney?

BOLZ: Thank you for that question. It's a good one. There are three major ways that this-- this mental health advance directive varies from a healthcare power of attorney. The first is that it provides specific parameters and instructions related to mental healthcare, specifically hospitalization, electroconvulsive therapy, and the provision of medication. Those three things are required by the American Psychiatric Association to have individuals' approval before providing those services, and that's why they're appropriate to be added to the statute. The next piece is that it allows for revocability. If you have a power of attorney related to-- to end-of-life care, there's really not a need for revocability. But in a mental health circumstance, there might be a change of circumstances or a circumstance in which someone gets better and no longer needs the power of attorney or the mental health advance directive and, therefore, it's appropriate to be revoked. The last piece is that it allows for a self-binding agreement. And you'll see in the bill language there's a model form that can be used. That is a form that an individual experience-- who is-- has a diagnosis of a mental illness, can fill out when they are of sound mind to provide future instructions about their mental healthcare specifically, and they get to make those determinations into the future. All of those things are specific to mental health needs and are different from the existing healthcare power of attorney.

CLEMENTS: Yeah. The next question was, is there any conflict if you have both the healthcare power of attorney and this directive?

BOLZ: That's an-- that's also an excellent question. The bill provides that when or if there is both a power of attorney and a mental health advance directive, the provisions of the mental health advance directives are to be followed but that they are to be separate from any healthcare directives. So in other words, when a conflict is brought up, they-- the health-- mental health directive controls the mental health pieces; the physical health directive controls the physical health pieces. You can look at page 8, line 25, that says: If an individual has a power of attorney for healthcare and an advanced mental health correct-- directive, and there is any conflict between

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

the two documents, the mental healthcare directive controls with regard to any mental healthcare instructions or preferences.

CLEMENTS: Thank you. And finally, are there any other states who have this type of directive act?

BOLZ: There are 30 other states that provide this type of mental health advance directive. I would actually say that Nebraska is behind the curve. Many other states adopted such directives in the 1980s and they are a SAMHSA, or a federal Substance Abuse and Mental Health Association [SIC] best practice.

CLEMENTS: Thank you. I believe that answers the questions that I have, and I believe that you have addressed all those issues very well and I plan to support the bill.

BOLZ: Thank you, Senator Clements.

CLEMENTS: Thank you, Mr. President.

HILGERS: Thank you, Senator Bolz and Senator Clements. Senator Chambers, you are recognized.

CHAMBERS: Mr. President, members of the Legislature, I just want everybody to know that I keep my word. These I took from schools in Omaha. Now, one was at Horace Mann. These paddles were made in the wood workshop. One was from Kellom grade school. And when I went up to the school, somebody must have given the word because the principals were gone. And when I went and took the paddles, I said: Let somebody stop me. Let the ones who use these sadist boards on these children use them on me. I don't just "fatmouth" like some of the people around here. If there's an issue that needs to be resolved in my community, I was there. I didn't hide. And when I went to those places, was no singing "We Shall Overcome." It was, "you better stop." Lo-- Lothrop school, where they read Little Black Sambo to me, was about a block from the barbershop when I was cutting hair. And kids would run to the shop and tell me the teachers were doing something to somebody, and I would go right to that school. And one time I went, and in the hallway they used to have these sinks that were long and they had little fountains all along them. And this one little black boy was down on his knees, and all these white teachers had made a semicircle, and I forced my way among them and told him, get up. And he looked around. I said, get up, and none of these people is going to make you get on this floor. And I told them, don't let me catch this again, and I'm

going to be visiting this school. They didn't call the police, but no children were on their knees again. And when my children wound up going to Lothrop school, I went to the teacher and I said, don't put your hands on my child; you don't buy their clothes; you don't buy their food; you don't provide their shelter. Don't touch my children. Oh, Mr. Chambers, we wouldn't do that. I said, and by the way, my children are reared to be sensitive to the hurt of other people, so don't put your hands on any child in the classroom where my children are attending because it makes them nervous. Now you call-- come down here and call yourselves conservatives, and this kind of thing goes on in these schools, and you strut around here, you prance across the floor and talk about being a conservative, and you are some of the most hateful, cowardly people I've ever been around. This kind of stuff should never have happened. And you know who resisted it? I finally got a bill through when I got in the Legislature to get rid of corporal punishment, and the teachers and their unions opposed the bill-- opposed it. And ministers opposed it. And I said, you want it for the children; do you want it for yourself? Do it to me. You all hate me. Come get me. I don't carry guns. I never carried a weapon. I didn't need a weapon. In those days when I was younger and stronger, I was a weapon. And I'm not boasting. Nobody ever whipped me. And they can try even now. I'm 82 years old. I'm an old man. An old man's got no business talking to these big "fatmouths" here like I talk to them when they holler at other people. Let him come grab me. And all these white cowards running around here scaring you all, I don't carry a gun when I leave this place. I don't carry a gun when I come to this place. And you all are the ones who want the guns. Who are you afraid of? You want to carry a gun? What kind of man are you? Are you a man or are you a mouse? I don't belong in a place like this. But in another sense--

HILGERS: One minute.

CHAMBERS: --in a broader sense, this is exactly where I belong, to show you something by example. You will not come across a man like me anywhere, certainly not in your churches, not in your neighborhoods. Everybody's packing pistols-- cowards, scared of your shadow. I need my gun for self-defense. From whom? But I wanted you to know that I keep my word. These are going to stay on my desk. And I'll carry them out of here when I go in the evening because somebody will come up here and sneak when I'm not here and take them, but when I'm here, they are here. When the flags go, these go. When the flags are here,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

these will be here, if I am here. And now, if you all really want to do something, pay attention to that verse in the Bible that says--

HILGERS: Time, Senator.

CHAMBERS: --come, let us reason together.

HILGERS: Thank you, Senator Chambers. Senator Lathrop, you are recognized.

LATHROP: Thank you, colleagues. I'd like to bring us back to LB247 and the amendment for a moment. I-- I hit my light so I could talk a little bit about what I think is a significant concern. As you know, I spend a little bit of time on Department of Corrections issues and I see the problem mental health problems are causing that are exacerbating the overcrowding problem at the Department of Corrections. I think Senator Bolz's bill is an important bill. I believe it is an important bill, and here's the difficulty the bill attempts to address. Somebody goes into a psychotic state and a physician wants to treat them. The family is trying to get them to medical care. You take them to the emergency room and they say, I don't want the care. And the doctor says, well, I can't make the person accept the care; if they refuse it, I can't provide the care; I can't give them the shot; I can't give them the care that they need critically at this point in time. You may be under the working assumption that if somebody comes in and they are not of their right mind, that a doctor is free to just begin care, and that's not the case. Over at the Department of Corrections, they have people that refuse care and then they got to go try to get a court order to allow them to provide involuntary care. What Senator Bolz's bill does is essentially allows somebody who is in their proper state of mind to execute one of these things, not unlike a healthcare directive, and say, if I'm in a place where I can't make these decisions then I want you, my power of attorney, to do it for me, even if I'm saying no. Now they-- you can-- you can provide that, you can revoke it, which is-- it-- it's sort of a half measure at that point. But you can make these irrevocable, where your family sits down with you at a time when you are of your right mind and have capacity and say, look, you have these episodes and we need to make sure you get the care that you keep refusing when you're not with proper capacity. The short, the short-- long and the short of it is this is an important bill. And I want to compliment Senator Bolz, also Neal Erickson in my office who worked with the Bar Association. They did really good work to think through

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

all of the contingencies and make sure that this thing, and you can see it's a little on the lengthy side, that it's done properly, that they've thought it through. I think it's well thought through. And the concerns that were expressed during the committee hearing have been resolved. The Bar Association and the lawyers that do this work-- and believe me, I don't, they do, they have experts in the area of these kind of matters-- have been engaged with Senator Bolz and legal counsel to iron out the details. This is a good bill and necessary and appropriate. And hopefully it provides an opportunity for people to get care they wouldn't otherwise get. They might end up on the street. They end up getting in trouble when they are in some kind of a psychotic state. And it is a consequential bill, and I would appreciate your support of both the amendment and the bill. Thank you.

HILGERS: Thank you, Senator Lathrop. Senator Dorn, you are recognized.

DORN: Thank you, Mr. Chairman. I spoke with Senator Bolz there a little bit ago and I wanted to ask a question of her. But I think maybe if Senator Lathrop would instead, my question kind of relates to some of his conversation.

HILGERS: Senator Lathrop, would you yield?

LATHROP: I'd be happy to.

DORN: Part of what we've had discussions this year is with our mental health issues that not only in the prisons, but it's also in the court system or whatever. So, for example, if someone is in an institution and they have not signed this directive, how then does the-- does a family still-- can they still come in and, I guess, do this or does that individual himself have to have a power of attorney to do it? Or clarify that.

LATHROP: So if a person-- let's say that you break with reality and you're in a psychotic state and somebody takes you to a facility and you refuse treatment. Then, you got to get a court order to provide for the care; some judge has to listen to the circumstances and say, I'm going to authorize involuntary care.

DORN: So to do that way, you'd have to have a court order. But if that individual is of sound mind or whatever and in that institution and they then would sign that while they are there, instead of a court order, then this would, I guess, take precedent?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

LATHROP: So if they-- if they're in the institution already and they want that care, they can consent to the care, right? If they refuse the care, then you have a problem. Typically, these things are signed and executed before they ever get to an institution. So they're having a good day. They're in a-- they're in a place where they have capacity to, for example, execute a will or any other kind of a legal instrument. They sign this in front of a notary or a couple of disinterested witnesses and it provides the authority for the person designated to consent to care, even if the person's screaming, I don't want it, I don't want it.

DORN: OK. Thank you for the clarity. Then one other question, can an individual not sign this and a parent or an attorney fill this out and sign it for him?

LATHROP: No, I think that's one of the things. So a parent can consent to the care. If I take my-- a child in, my child, and they're 14 years old and they-- they won't-- I mean, it's like any other care. You can-- you can consent to the care or treatment. This, you-- if you don't have one of these, you can't consent to the care. And the principal, the person being designated as a power of attorney, can't fill it out and they can't be one of the witnesses either.

DORN: Thank you. Thank you. Thank you very much for the clarity there. I yield the rest of my time.

HILGERS: Thank you, Senator Dorn and Senator Lathrop. Seeing no one else in the queue, Senator Lathrop, you're welcome to close. Senator Lathrop waives closing. The question before the body as the adoption of AM2206. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: 41 ayes, 0 nays on the adoption of committee amendments.

HILGERS: Committee-- committee amendments are adopted. Turning to debate on LB247. Seeing no one in the queue, Super Bolz, you're welcome to close.

BOLZ: I'll close briefly, just to address a couple of questions that were raised. This bill applies to individuals who are 19 years of age and older. So it is-- it does apply to adults. There should be a different system and process for juveniles. It may apply in a civil or criminal commitment set of circumstances. It would apply a little bit

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

different because those commitments are required. But some of the provisions of a mental health advance directive may still apply; for example, someone may still have a preference about which medication they take once they are in a treatment center like the Lincoln Regional Center. I will very briefly share that Director Frakes at the Department of Correctional Services shared with me a book, *Crazy: A Father's Search Through America's Mental Health Care* [SIC] *Madness*. In that book there is a heartbreaking scene where the father has to make a decision about whether or not to accuse his son of being a threat to him so that he can get mental healthcare through the criminal justice system or to take him home and continue to watch him deteriorate. If that family had a mental health advance directive, those directives could ensure that his son would have been provided that mental healthcare and avoid the criminal justice system altogether. So I am so grateful for your support of the Judiciary Committee amendment and again ask for your support for LB247. Thank you, Mr. President.

HILGERS: Thank you, Senator Bolz. The question before the body is the advancement of LB247 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: 40 ayes, 0 nays on the advancement of the bill, Mr. President.

HILGERS: The bill advances. Next item.

ASSISTANT CLERK: LB865, introduced by Senator Wayne; it's a bill for an act relating to Nebraska educational savings plan trust; to authorize and provide an income tax deduction for employer contributions as prescribed; provide for the contribution of income tax refunds; define terms; require that employer contributions not be recognized as income for certain purposes; harmonize provisions; provide an operative date; and repeal the original sections. Bill was introduced on January 9 of this year, referred to the Revenue Committee. That committee placed the bill on General File with no committee amendments.

HILGERS: Thank you, Mr. Clerk. Senator Wayne, you are welcome to open on LB865.

WAYNE: Thank you, Mr. President. This is a interesting bill. We passed it last year and it was vetoed not for this bill, but for an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

unconstitutional issue of another part of a bill that didn't pertain to this portion at all. I do have an amendment, I believe, on this bill, don't I? I'd rather just wait until we get to my amendment, just kind of talk about the whole bill.

HILGERS: Thank you, Senator Wayne. Mr. Clerk for an amendment.

ASSISTANT CLERK: Mr. President, Senator Wayne would offer AM2732.

HILGERS: Senator Wayne, you are welcome to open on your amendment.

WAYNE: Thank you. What this amendment does is strike most of my bill, and it's because Senator La Grone has a similar bill with similar-- similar language, but the language was different enough that I had to mirror the language to match his bill. So that's what this amendment does is it matches his bill. The difference between my bill and Senator La Grone's bill-- it actually works together in the sense that we are trying to solve the cliff effect. Those who were-- remember last year when I introduced this bill, what has happened in my district is-- and actually across Nebraska-- across Nebraska, but I became aware of this when I met with two employers in my district who were offering \$11-an-hour jobs to start. And then they would go to people and say, you're a great worker, we're going to offer you \$14.50. And those individuals had to choose between losing their day care or-- we had a conversation earlier about low-income housing-- or losing their house in order to take a job that pays them more. So what we were trying to do over the interim, at least two years ago, we were trying to come up with a way to deal with, as Senator McCollister would call this, the cliff effect. And we were trying to do it in a way where we still focused on the children and focused on moving forward. And what this bill does is says simply if you take that money-- so theoretically, you'd be making \$11-an-hour and you decide when you get a \$15-an-hour raise, you take that \$4 and you put it into a 529 plan, that \$4 doesn't count towards your income. And if it doesn't count towards your income as state-- not-- not for tax purposes, but for Title XX and the vouchers in-- in Section 8-- as far as the state's concerned, it will basically be Title XX-- it doesn't account towards that income threshold so you're not "caught in that cliff effect." The fiscal note is \$131,000; that's a programming fee. So what will happen is if we vote this through-- I'm assuming it will be since it moved through last year-- it will be held until after the budget is approved and it would go from-- from that part. But really, the bill is simple. I introduced this bill. I asked for a Speaker

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

priority. I want to thank the Speaker for giving me this priority. I had a bad round by attaching it to somebody else's bill that was unconstitutional, so we're going to go it alone and hopefully we can get it done this way. So that's the reason behind the bill. We're just trying to move this forward and try to help with the cliff effect. But at the same time, if the issue is a mother losing their childcare because they got a raise, we're going to still focus on that child by taking that raise and putting that into a 529 plan. So that child, if they want to go to college, if they want to go to a trade school, can start having income or start having money to put towards that. So this was a small way to deal with the cliff effect. And again, we were dealing with it at a time last year where we didn't really have a whole lot of money. And this was a novel way of trying to still provide for that child but provide for that child in a different way and make sure that those who are moving from that \$11 to \$16 dollars do not lose their childcare because, quite honestly, that \$15-- or that \$4-an-hour bump is not enough to pay for their daycare. And so literally hundreds of people across the state, if not thousands of people across the state, are making this decision every day to keep a lower-wage job just to make sure they keep their day care. So we are trying to solve that problem in one way. I hope we can do it in a more aggressive way as we-- as revenues and things come in better. But this is just one step to close that cliff effect. And with that, I would ask you to vote green on AM2732 and LB865.

HILGERS: Thank you, Senator Wayne. Debate is now open on AM2732. Seeing no one in the queue, Senator Wayne, you're welcome to close. Senator Wayne waives closing. The question is the adoption of AM2732. All those in favor say aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of the amendment, Mr. President.

HILGERS: The amendment is adopted. Turning to debate on LB865. Seeing no one in the queue, Senator Wayne, you're welcome to close. Senator Wayne waives closing. The question is the advancement of LB865 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: 38 ayes, 0 nays on the advancement of the bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

HILGERS: The bill advances. Next item on the agenda.

ASSISTANT CLERK: LB865A, introduced by Senator Wayne, appropriates funds to carry out the provisions of LB865.

HILGERS: Senator Wayne, you're welcome to open on LB865A.

WAYNE: Thank you, Mr. President. Again, colleagues, this just clarifies the-- again, it kind of mirrors Senator La Grone's bill in a sense, but the A bill has to do with the changing of the forms for employers and the programming fee. And again, this bill will sit on Select File. It is \$131,000. If the body, at that time, feels that we don't want to fund it, it will not be funded. But I would ask for a green vote, and this is mainly a programming fee for the Department of Revenue of \$131,000. And with that, I would ask you to support a green vote on that. And I'll answer any questions between here and Select if you have any. Thank you.

HILGERS: Thank you, Senator Wayne. Debate is now open on LB865A. Seeing no one in the queue, Senator Wayne, you're welcome to close. Senator Wayne waives closing. The question is the advancement of LB865A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted? Record, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill, Mr. President.

HILGERS: The bill advances. Next item on the agenda.

ASSISTANT CLERK: Mr. President, LB797, introduced by Senator Matt Hansen, it's a bill for an act relating to cities and villages; to change restrictions on annexation as prescribed; repeal the original sections. This bill was introduced on January 8 of this year, referred to the Urban Affairs Committee. That committee placed the bill on General File with no committee amendments.

HILGERS: Thank you, Mr. Clerk. Senator Hansen, you are welcome to open on LB797.

M. HANSEN: Thank you, Mr. President, and good afternoon, colleagues. LB797 changes current restrictions in city annexations and corrects a discrepancy between our Election Act and our statutes related to municipal annexation. Currently, Section 32-552 requires all adjustments to the boundaries of election districts to be completed at

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

least five months before an election as part of the state's Election Act. However, Chapter 19-3052 allows certain cities of the first class, cities of the second class, and villages to change their boundaries up to only 80 days before elections due to an annexation in contradiction of 32-552. While this discrepancy may seem minor, the 80-day limit would actually allow municipalities to annex land and change their boundaries for a city council or village board district after the incumbent Feb-- incumbent filing deadline for the elections in those districts, which causes obvious problems. Thus, LB797 would make the deadline five months before the election to be consistent with the Election Act and Section 32-552. Under the bill, municipalities that elect their city council or village board of trustees by district cannot annex any territory during the period from five months prior to the primary election through the general election if such annexation would bring enough new residents into the city or village that the city council districts or village board of trustee districts would have to be redrawn because of population imbalance. LB797 also requires that any redistricting required to maintain substantial population balance between the city council districts or village board of trustees districts must also be completed at least five months prior to the primary election in which candidates for city council or village board of trustees are nominated. At the hearing, we had the support of NACO, the Secretary of State, and a letter of support from the Sarpy County Election Commissioner. The bill was advanced unanimously from the Urban Affairs Committee and has no fiscal impact. I would like to thank Speaker Scheer for designating this, LB797, as a Speaker priority bill. I believe we need to pass it this session because it affects our time lines for elections of county election officials and will greatly ease the burdens on them. With that, I urge your green vote on LB797. Thank you.

HILGERS: Thank you, Senator Hansen. Debate is now open on LB797. Seeing no one in the queue, Senator Hansen, you're welcome to close. Senator Hansen waives closing. The question is the advancement of LB797 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill.

HILGERS: The bill advances. Next item on the agenda.

ASSISTANT CLERK: Mr. President, LB832, introduced by Senator Bostelman, it's a bill for an act relating to children; to provide for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

immunity from criminal and civil liability for removal of a child from a motor vehicle by forcible entry; harmonize provisions; repeal the original section. The bill was introduced on January 8 of this year, referred to the Judiciary Committee, placed on General File with committee amendments.

HILGERS: Thank you, Mr. Clerk. Senator Bostelman, you're welcome to open on LB832.

BOSTELMAN: Thank you, Mr. President, and good afternoon, colleagues. I would like to thank the Speaker for prioritizing this bill. LB832 was voted out of the Judiciary Committee unanimously with AM2293. This bill provides immunity for criminal and civil liability for someone entering a vehicle and removing a child in immediate danger. According to Kids and Cars, in the United States in 2019, 53 children under the age of 15 died from heatstroke after being left in a vehicle. On average, 39 children die the same way in the United States each year. That is one child every nine days and that number is consistently growing. I am bringing this bill as a result of a tragedy that occurred to a family in my district when a child was mistakenly left in-- in their vehicle and passed away. According to the National Highway Traffic Safety Association, heatstroke isn't about irresponsible people intentionally leaving children in cars. Most cases occur when a child is mistakenly left or enters into a vehicle unattended and becomes trapped. Twenty-one other states have taken action by enacting similar legislation since 2014. This bill is very important to raising our awareness that such tragedies have occurred and providing a measure in place to try and prevent future tragedies. I therefore ask for your green vote on AM2293 and LB832. Thank you.

HILGERS: Thank you. Senator Bostelman. As the Clerk noted, there are committee amendments. Senator Lathrop, as Chair of the Judiciary Committee, you're welcome to open.

LATHROP: Thank you, Mr. President, colleagues. Judiciary Committee held a public hearing on LB832 on January 31 of this year. The committee voted to amend LB832 with AM2293 and advanced-- [LAUGHTER] there's too many twos on my sheet-- and advanced the bill to General File on an 8-0 vote. AM2293 replaces the original bill. Nebraska's good-- the existing good Samaritan law, found at 25-21,186, provides immunity from civil damages for rendering emergency care at the scene of an accident or other emergency. AM2293 would expand the definition of rendering emergency care at the scene of an accident or other

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

emergency found in the good Samaritan law to include entering a motor vehicle to remove a child when necessary to avoid immediate harm to the child. I do want to say and add to what Senator Bostelman said. We had a hearing in which a lady who had experienced this and lost a child came before the Judiciary Committee. This is a-- this was a horrible tragedy, horrible tragedy. Our hope is, by moving this bill, this amendment and the bill, that we can raise awareness so that people that are looking in cars in the summer and they don't hesitate for a second to break a window, to damage the car, to get to a child that might otherwise perish. The statistics on-- and we had folks come in from Children's Hospital and other places, talk about how fast a car will get so hot that it will cause the-- the death of a child. And there's often--or most-- there-- there is almost always a good explanation for a parent forgetting their child is in the backseat; going into the office or-- or into a store. These aren't children that are generally deliberately left there, but accidentally and inadvertently. So our hope is that you'll adopt the amendment, the bill, and we can raise awareness to this problem of children who are killed as a result of being left in a vehicle during the summer heat. Thank you.

HILGERS: Thank you, Senator Lathrop. Debate is now open on AM2293. Seeing no one in the queue, Senator Lathrop, you're welcome to close. Senator Lathrop waives closing. The question is the adoption of AM2293. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of the committee amendments.

HILGERS: The amendments are adopted. Turning to debate on LB832. Senator Chambers, you are recognized.

CHAMBERS: Not on that amendment [RECORDER MALFUNCTION] advancement?

HILGERS: The advancement of the bill.

CHAMBERS: Thank you. Mr. President, members of the Legislature, and Senator Bostelman, this is a good bill. And I hope that some of the television stations will do public advisements so that those who have children may be reminded that they shouldn't leave their children in a car, but, more importantly, apprise the public of the fact that you will not be prosecuted if you break a window to release a child and,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

if it happens, the person who had left the child may be aware of the fact that whoever broke the window is not liable. I think this kind of bill, once it becomes law, should be publicized as widely and broadly as possible. And I don't know how many times I'll have a chance to thank Senator Bostelman. But, Senator Bostelman, when you do something or anybody does something for a child, it warms the cockles of me heart, if I had a heart. Thank you, Mr. President.

HILGERS: Thank you, Senator Chambers. Seeing no one else in the queue, Senator Bostelman, you're welcome to close on LB832.

BOSTELMAN: Yes, I'd just like to thank the-- the Judiciary Committee. When we did have the hearing, they were very accommodating to the-- to the mother who came in and testified. I appreciate that. So did she. I guess I leave this with you. As she said, broken glass and property can be replaced, but a child cannot. I ask for your green vote. Thank you.

HILGERS: Thank you, Senator Bostelman. The question is the advancement of LB832 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill, Mr. President.

HILGERS: The bill advances. Mr. Clerk, for items.

ASSISTANT CLERK: Mr. President, before we proceeded to the next bill, some items. Committee on Natural Resources reports LB1201 to General File with amendments. Amendments to be printed; Senator La Grone to LB1055, Senator Lindstrom to LB808. New resolution; LR333 is a interim study pertaining to the Platte River watershed. That's all I have at this time.

HILGERS: Thank you, Mr. Clerk. Next item on the agenda.

ASSISTANT CLERK: Mr. President, LB1152, by Senator Halloran, it's a bill for an act relating to hemp; change provisions relating to licenses, cultivation, testing, and transportation of hemp, violations, Department of Agriculture duties and powers, appointment of the Nebraska Hemp Commission; provide legislative intent regarding licensing and appropriations; provide a termination date; provide a penalty; harmonize provisions; provide an operative dates; repeal the original sections. Bill was introduced on January 22 of this year. It

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

was referred to the Agriculture Committee. That committee placed the bill on General File with committee amendments attached.

HILGERS: Senator Halloran, you are welcome to open on LB1152.

HALLORAN: Thank you, Mr. President. Good afternoon, colleagues. LB1152 is brought primarily to update the Nebraska Hemp Farming Act to reflect the requirements for state hemp plans under the USDA's interim final rule for implementing the hemp provisions of the 2018 farm bill. As you recall with the 2018 farm bill, Congress removed hemp from the federal Controlled Substances Act, but provided for the general commercial production and regulation of hemp under a new hemp subtitle of the Agricultural Marketing Act. Congress allowed states and tribes to assume primary regulatory oversight over hemp production, provided such regulation is according to a state plan consistent with minimal requirements for state hemp programs as specified in the farm bill and as further defined by USDA regulations. USDA published an interim rule on October 31 last year. There were a number of specific specifications for state plans contained in the interim rule that merit some adjustments to the Hemp Farming Act. Some of the more prominent clarifications made in the rule include the following. The rule introduces the concept of acceptable THC level as the trigger for regulatory compliance and intervention. The acceptable THC level is defined as a measurement of THC in combination with a margin of error reported by the lab. In other words, a lab would report the THC content as falling within a range and, provided the lower end of the range is 0.3 percent or less, the hemp is in compliance. To support this, the rule requires that labs utilized for THC testing be capable of reporting the measurement of uncertainty. Secondly, the rule defined the THC level to be reported as a total THC level, meaning the combination of THC actually present plus the additional THC potential from conversion of THC precursors, in addition to having capability to provide the total THC measurement and margin of error. Additionally, the rule provides that samples collected for THC testing be completed within 15 days of harvest and specifies persons who may collect samples. The sampling process must assure a 95 percent confidence that less than 1 percent of the plants in a lot exceed the acceptable THC level. Finally, the rule clarified the definition of negligent and non-negligent violations. Under the farm bill, negligent violations are not subject to criminal sanction. The USDA rule states that hemp having THC up to 0.5 percent does not exceed a negligent violation, provided the producer is otherwise in compliance. Hemp exceeding the acceptable THC level is still subject to destruction. The rule also

defines a standard for violation that exceeds negligence, which is incorporated into the bill. In addition to these primary changes, LB1152 proposes a number of additional clarifications to assist administration of the act. The committee statement is fairly detailed in describing these changes, but I wanted to touch upon some of those more significant. First, LB1152 would eliminate an exemption of heirloom hemp when cultivated for noncommercial purposes from regulation under the Hemp Farming Act. There has been uncertainty as to the purpose of the provision and it introduces a number of difficulties for the department and law enforcement in assuring hemp production is within lawful limits. While all deliberate cultivation of hemp is governed by the act, LB1152 does clarify that the mere presence of uncultivated feral hemp is not deemed cultivate-- cultivation for purposes of the act. Additionally, LB1152 would state legislative intent that the department accept all applications and that all qualified applications shall be issued a license. The bill as introduced includes legislative intent for \$50,000 per year General Funds available, if necessary, to supp-- supplement license and registration fee revenues to support the program for the first two years. The bill revises 2-515 of the Hemp Farming Act, which prescribes documentation to accompany hemp in the state. The act currently requires Nebraska licensees to be able to provide a copy of the license and the THC test results. LB1152 excludes hemp samples transported for testing purposes from the requirement to carry test results. The bill as introduced contained a requirement that licensees provide at least seven days' advance notice of hemp shipments. The bill relocates provisions governing the trans-- transport of hemp within the state by persons not licensed by the state, i.e., persons transporting hemp grown in other states, to the Controlled Substances Act. Finally, 11-- excuse me-- finally, LB1152 sunsets Section 2-5701, which provides for a state pilot hemp research program. The provision was enacted after the 2014 farm bill, which allows State Departments of Agriculture to allow limited cultiva-- cultivation for research purposes but does not allow general commercial cultivation. As you recall last year, the Legislature expanded this provision to allow some expanded hemp cultivation beyond just educational research institutions. The 2018 farm bill provides that the 2014 farm bill provisions expire one year after publication of the rules published by the USDA on October 31. All cultivation of any purpose will be governed by the 2018 farm bill. I'll conclude my opening here and speak further on the committee amendments.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

HILGERS: Senator Halloran, as the Clerk noted, there are committee amendments. You can continue.

HALLORAN: I may continue? I'm sorry. I [RECORDER MALFUNCTION] understood you.

HILGERS: You were recognized to open on the committee amendments. I'm sorry, Senator Halloran.

HALLORAN: Thank you, sir. AM2581 to LB1152: The committee amendment strikes a provision from the original bill that licensees give seven days' advance notice of hemp shipments. Testimony in the committee was very adamant that this would be impractical. The committee amendment would instead only require that licensees keep records of hemp shipments, which supports similar record-keeping requirements under our state hemp plan. The amendment does provide that licensees may voluntarily notify the State Patrol of intended shipments. The amendment additionally moves the exclusion of a requirement that documentation indicating THC test results does not apply to transporting hemp samples for testing. It is relocated to a new subsection of 2-515. The exclusion from the documentation required to accompany shipments of hemp and the record keeping for hemp shipments is expanded to include hemp shipped by a licensee between the licensee registered locations and for hemp-- for hemp seedlings received by a cultivator for planting. In response to testimony that the act continues to recognize the potential for preserving valuable genetics of commercial hemp varieties previously grown in the state that may be preserved in feral hemp, the committee amendment also adds an additional authority to the Hemp Commission to preserve and develop unique Nebraska heirloom hemp varieties. A revision to the definition of handle or handling, providing that storage, transport, or other handling of hemp materials incidental to the process of cultivation that does not require licensure as a processor or a broker includes the handling of hemp seeds incidental to the cultivation of hemp. Additionally, the amendment addresses a concern with the potential burden of the department in providing resources necessary to facilitate requests for repeated official testing of the crop. This arises from a regulatory experience in the temporary hemp pilot program where an official test was performed and the producer elected not to harvest a crop within the harvest window. This necessitated a second official test later to attempt to permit the producer to harvest the crop. Essentially, the amendment clarifies that the department is not obligated to provide multiple sampling and testing.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

Finally, the amendment strikes the legislative intent section from the bill. The intent statement that the department shall not limit license applications or issuance is replaced by revision to Section 2-507 that directly states that the department shall accept and consider all applications and shall issue a license to all qualified applicants. I would move the adoption of the committee amendment and advancement of LB1152.

HILGERS: Thank you, Senator Halloran. Mr. Clerk, for an amendment. OK, thank you. You are recognized to close on your committee amendment, Senator Halloran. I understand that your AM2747 is passed over?

HALLORAN: We wish to withdraw that one. We need to do more work on that amendment.

ASSISTANT CLERK: Senator Halloran, you're withdrawing AM2747?

HALLORAN: That's correct.

ASSISTANT CLERK: Thank you.

HILGERS: Without objection, that amendment is withdrawn. Turning to debate on AM2581. Senator Lowe.

LOWE: Thank you. I appreciate it, Mr. President. If I might, may-- may-- may I ask Senator Halloran a question?

HILGERS: Senator Halloran, would you yield?

HALLORAN: Certainly.

LOWE: Thank you, Senator Halloran. Last year in LB657, the THC level that was voted on by this body was 0.3. This year, it's been raised to 0.5 in your bill. Is there a reason for that?

HALLORAN: If it tested 0.5, there's, there's-- it's-- it's a question of whether there's any negligent intent on the part of the producer to do that, but it will be destroyed because it's over 0.3. It's just a question of-- it's an issue of whether or not there was negligence or intentional effort to produce it over that 0.5-- 0.3, excuse me.

LOWE: So that the level of the THC is still 0.3? Excuse me.

HALLORAN: 0.3 percent, that's correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

LOWE: All right, thank you very much.

HILGERS: Thank you, Senator Halloran and Senator Lowe. Senator Kolterman, you are recognized.

KOLTERMAN: Yes. Thank you, Mr. President. I was wondering if Senator "Ditch Weed" would answer-- I mean, Senator Lowe would answer a question?

HILGERS: Senator Lowe, would you yield?

KOLTERMAN: Senator Lowe--

LOWE: Yes, I will.

KOLTERMAN: --are you going to support this bill this year?

LOWE: No, I'm not.

KOLTERMAN: I can't-- I can't remove your nickname then.

LOWE: [LAUGHTER]

KOLTERMAN: We-- we really need your support on this bill. It's for agriculture.

LOWE: You know, I-- I believe this bill will probably pass through without my support.

KOLTERMAN: Thank you.

HILGERS: Thank you, Senator Lowe and Senator Kolterman. Seeing no one else in the queue, Senator Halloran, you're welcome to close on the committee amendments. Senator Halloran waives closing. The question is the adoption of AM2581. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

CLERK: 36 ayes, 2 nays on adoption of committee amendments.

HILGERS: The committee amendments are adopted. Turning to debate on LB1152. Seeing no one in the queue, Senator Halloran, you're welcome to close. Senator Halloran waives closing. The question is the advancement of LB1152 to E&R Initial. All those in favor vote aye; all

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 4, 2020

those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk,

CLERK: 37 ayes, 2 nays on the motion to advance the bill.

HILGERS: The bill advances. Mr. Clerk, for a motion.

CLERK: Mr. President, a couple of items. First, Senator Lathrop would like to print an amendment to LB881. Senator Blood would like to add her name to LB1155. Senator Lathrop would move to adjourn the body until Thursday, March 5, at 9:00 a.m.

HILGERS: Members, you've heard the motion. All those in favor say aye. Opposed say nay. Motion carries. We are adjourned.