

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate March 9, 2020

HUGHES: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-seventh day of the One Hundred Sixth Legislature, Second Session. Our chaplain for today is Pastor Jeff Ryan from Three Timbers Church, Bennington, Nebraska, Senator DeBoer's District. Please rise.

PASTOR RYAN: Will you pray with me, please? Father, as we gathered in this Chamber, we are reminded that we are here to serve not for ourselves, but for others. Father, we thank you for every man and woman in here who has heard the call to serve their community and said, here I am, Lord, send me. Father, I pray that you would bless each and every man and woman who is a part of this body, that you would give them wisdom, that you would give them discernment, that you would give them clarity and courage of purpose and courage of conviction. Father, your word tells us to trust in the Lord with all your heart and lean not on your own understanding. In all your ways, acknowledge him and he will make your path straight. Father, I pray that you would make the path straight on any and all issues that come before this body. I pray, Lord, that you would grant them wisdom beyond understanding, that they would trust in you with all of their hearts, their souls, and their minds. Father, I pray a blessing upon their families who have sacrificed greatly so that these men and women could come here and serve our communities. Father, we pray for wisdom as our communities deal with the Coronavirus. Father, that you would give wisdom to all on the best ways to protect our citizens. Father, we hear your truth tell us-- that says commit to the Lord whatever you do and your plans will succeed. Father, I pray that this body would commit all that they do to you and, Lord, that your plans would succeed. Thank you for the privilege of living in such a great state. Thank you for the amazing men and women who you have called and you have equipped, Lord, to lead us. May your blessing be on this house. May your blessing be on these individuals. May your blessings be on the state of Nebraska. And Lord, we ask this in the name above names, the King of Kings, the Lord of Lords, in the name of Jesus Christ, Amen.

HUGHES: Thank you, Pastor Ryan. I call to order the thirty-seventh day of the One Hundred Sixth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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HUGHES: Thank you, Mr. Clerk. Are there any corrections to the Journal?

CLERK: I have no corrections.

HUGHES: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, your committee on Enrollment and Review reports the following bills to Select File: LB755, LB899, LB848, LB247, LB865, (LB865A), LB797, LB832, LB1152, some having Enrollment and Review amendments. And that's all that I have this morning, Mr. President.

HUGHES: Thank you, Mr. Clerk. Senator Dorn would like to recognize Dr. Thomsen from Beatrice, who is serving as the family physician of the day on behalf of the Nebraska Academy of Family Physicians. He is seated under the north balcony. If you would please rise and be welcomed by your Nebraska Legislature? Senator Stinner wishes to announce the following guests visiting the Legislature, we have 26 high school students from Morrill Public High School in Morrill, Nebraska. They are seated in the north balcony. Would you please rise to be recognized by your Nebraska Legislature? Thank you for coming. Mr. Clerk, we will now proceed to the first item on the agenda.

CLERK: Mr. President, to LB848A is by Senator Pansing Brooks. It appropriates funds to implement the provisions of LB848.

HUGHES: Excuse me, Mr. Clerk. Mr.-- or Speaker Scheer, you're recognized.

SCHEER: Thank you, Mr. President. Colleagues, I wanted to address a few things this morning with you. The Governor invited Senator Hilgers and myself to participate in a conference call yesterday afternoon regarding the Coronavirus that is becoming a worldwide problem. First and foremost, I want to encourage you all, which seems sort of elementary, just start and continue to use preventative procedures on your own behalf. You know, wash your hands frequently, cover your mouth if you're going to sneeze or cough. If you're feeling ill, please stay home. If you start to feel ill during the day, please leave. If you feel the need, please don't shake hands anymore. I know we're all friends, we don't have to show it on a continuous basis. So if you want to elbow, I guess that's fine. Personally, I think just doing nothing is probably the best solution to any of that. Just say hi and that's about all you need to do. And probably the hardest and the most important, based on that conversation, is to try to eliminate

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any continual hand, finger touching to your face, mouth, or nose region. We all do that more than we realize. And the more that you can be conscious of it and avoid that, the better off we're all going to be. This is a serious issue. I want to first thank Senator Howard. She had set up a briefing Thursday morning for us in relation to this, but after the conference call yesterday afternoon, Senator Hilgers and I had decided that probably the sooner is better in regards to this. So we have set up a briefing for all senators tomorrow morning in the Warner Chamber at 8:00. And I can't encourage you enough to please be there. We believe there probably will be enough for our senators and one staff member. It's not that large, it only holds 100, 120 people. So if you-- please attend, you can bring a staff member. We are doing-- putting some things together, more will be in a letter that Senator Hilgers and I will forward out to the entire body a little bit later this morning. But for all intents and purposes, it is an important briefing and I would suggest that you make time available to yourself to be there and be aware of what the-- you know, possibilities are. I don't know what the probabilities are, but there's a lot of possibilities. And so I think we all need to be aware of that. The med center is also going to have a person exclusively for our use as far as your staff or yourselves. If you have questions, we'll be routed to the same individual so there will be a consistent response, a timely response to anything that would come either from a constituent or your staff or yourselves. So we're trying to be proactive. This is not meant to be as any type of scare tactic. No one is in imminent danger by any means, but we think it's important for everybody to understand exactly what we're dealing with and how to go about dealing with it. And Senator Hilgers and I and our staff are continuing to work to come up with contingency plans as we move forward as well. It doesn't hurt to have plans that you have available to you, even if you don't have to use them. So with that, I will turn the mike over to Senator Hilgers for anything that I might have forgotten or other comments. Thank you, Mr. President.

HUGHES: Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Thank you, Mr. Speaker. I want to thank Speaker Scheer for his leadership over the weekend and his proactive approach. I also want to thank Senator Howard for her proactive approach as well. I echo his request that every member attend the briefing tomorrow morning. I think that will be a very important briefing and I hope every one of us are there to attend. I do want to just make two other points: one is to encourage every

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senator to consider making contingency plans, continuity plans for their office in the event that people become sick in your office or, or there are preventative measures that require people to work from home. I would encourage you all to ensure that you have plans in place if the work of your office continues. And this morning, I'll be asking each director of the Legislative Council to make sure that they have their own continuity plans drawn up in the event that additional preventative measures need to take place. So thank you for your time this morning. I appreciate Speaker Scheer and his comments and look forward to seeing you at the briefing tomorrow. If you have any questions, please-- just please come out and reach out to Senator-- the Speaker or myself and we're happy to give you whatever information that we have. Thank you, Mr. President.

HUGHES: Thank you, Senators Scheer and Hilgers. Now proceeding to General File. I'm sorry, Senator-- Speaker Scheer.

SCHEER: Yes, Mr. President, would you please pass over-- I've had a request to pass over LB1056. And just one other note for the body today, we are-- they are working on the room below us. And part of that is they're sort of disconnecting and connecting the fire alarms. So at some point in time, that alarm might go off. Please don't panic. We will have security make sure that it's either a false alarm or the real deal. So until we make an announcement on the floor, just, you know, maintain your presence and we'll continue to do our work until we are notified any differently. But if the alarm goes off, please be aware that they are working on them underneath us. So I don't want to alarm people on that part either. So thank you, Mr. President. And if you will proceed to LB774. Thank you.

HUGHES: Senator Pansing Brooks, you're welcome to open on LB848A.

PANSING BROOKS: Whew, that was a lot. So good morning, Nebraskans. Our state's unique motto is, "Equality Before the Law." So know that wherever you are on life's journey and whomever you love, we want you here. You are loved. So today is just a quick bill that appropriates funds from the Department of Health and Human Services for Program 359 to aid in carrying out the provisions of the LB849 portion of the LB848 Tribal Affairs package. The LB849 portion of the bill closes a gap in eligibility for tribal youth under the Youth Adult Bridge to Independence Program. So I ask you to vote green on LB848A. And thank you.

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HUGHES: Thank you, Senator Pansing Brooks. Seeing no one in the queue, Senator Pansing Brooks, you're welcome to close on LB848A. Senator Pansing Brooks waives closing. The question before us is the advancement of LB848 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 27 ayes, 3 nays on the advancement of LB848A.

HUGHES: The bill advances. Next item.

CLERK: Mr. President, LB774, it's a bill by Senator Williams. It's a bill for an act relating to insurance; it changes requirements regarding credit for reinsurance; introduced on January 8 of this year, referred to the Banking, Commerce and Insurance Committee, advanced to General File. There are committee amendments by the Banking, Commerce and Insurance Committee.

HUGHES: Thank you, Mr. Clerk. Senator Williams, you're recognized to open on LB774.

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. I introduced LB774 on behalf of the Department of Insurance. LB774 amends certain Nebraska statutes governing credit for reinsurance in order to reflect the latest updates for a model law adopted by the National Association of Insurance Commissioners. Historically, U.S., excuse me, non-U.S. reinsurers have been required to hold 100 percent collateral within the U.S. for the risks they assume from U.S.-based insurers. The U.S. Treasury Department entered into the bilat-- bilateral agreement between the United States and European Union on prudential majors regarding insurance and reinsurance on September 22, 2017, and a substantially similar agreement with the United Kingdom in December of 2018, which eliminated this collateral requirement if certain criteria are met. These agreements specifically require states like Nebraska to eliminate reinsurance collateral requirements entirely for certain reinsurers within five years or be subject to federal preemption. Conversely, the EU and UK agreed to recognize a U.S. approach to group supervision of insurers. This bill implements the reinsurance collateral provisions of those international agreements and allows for flexibility in future jurisdictions receiving the same treatment. The Banking Committee heard LB774 on January 21. There was no opposition or neutral testimony. The bill was

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advanced on an 8-0 vote. And I will wait to open then on the committee amendments. Thank you, Mr. President.

HUGHES: Thank you, Senator Williams. As the Clerk stated, there are amendments from the Banking, Insurance and-- Banking, Commerce and Insurance Committee. Senator Williams, as Chair of the committee, you're recognized to open on those amendments.

WILLIAMS: Thank you, Mr. President. And I would remind the body that this amendment is a priority from the committee and a package of three additional bills that deal with insurance. The committee amendments, AM2558, appear as a white copy with the underlying provisions of the bill as introduced, along with the provision of three other bills related to the subject of insurance. Those bills are LB886, introduced by Senator Arch, and LB954 and LB1199, both introduced by Senator Lindstrom. Those bills were heard by the Banking, Commerce and Insurance Committee and advanced to General File with no dissenting votes. The first bill is LB886, introduced by Senator Arch. You will find that in the white copy amendment on page 21, starting at line 7 through page 28, concluding on line 2. This bill addresses the concerns about healthcare facilities that hold themselves out as network providers when such is not the case. The concern is that patients would be misled and faced with unexpected billings. The amendment embracing LB886 would enact a new section that provides two new restrictions. First, a healthcare facility shall not advertise or hold itself out as a network provider, including any statement that the facility takes or accepts any health insurance [SIC] unless the facility is an in-network provider with the health insurer. Second, the healthcare facility shall not place the name or logo of a health insurer in any signage or marketing materials if the facility is not a network provider for that health insurer. The amendments would provide that any contract entered into between the healthcare facility and a person covered by a health insurer is voidable at the option of the covered person if the facility violates this new section. A healthcare facility subject to these restrictions would be defined as an institution providing healthcare services or healthcare setting, including but not limited to a hospital or other licensed inpatient-- inpatient center, an ambulatory surgical or treatment center, a skilled nursing center, a residential treatment center, a diagnostic, laboratory, or imaging center, or any rehabilitation or other therapeutic health setting. The term does not include a physician's office. At the public hearing for LB886, there was no opposition witnesses. The proponent witnesses included Blue Cross, Nebraska State

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Chamber, Nebraska Department of Insurance, Medica, Nebraska Medicine, and Nebraska Hospital Association, the Nebraska Insurance Federation and American Health Insurance Plans, AHIP. LB886 was advanced with no dissenting votes. The second bill made part of the committee amendment is LB954, introduced by Senator Lindstrom, and it can be found on the white copy amendment on page 23, starting at line 3 to page 25, ending at line 17. It addresses matters involving dental insurance plans. Serious negotiations took place in order to get these provisions in good order. The bill was supported at the hearing by both the Nebraska Dental Association and the Nebraska Insurance Federation. There were no opposing witnesses. Here are a few of the highlights. The dental insurance plan contract or provider network contract with a provider shall not include any restrictions on methods of claim payment for dental services in which the only acceptable payment method is a credit card payment. When we refer to a provider, of course we are referring to a dentist or physician who provides dental services. Also, a dental carrier may grant a third party access to a provider network contract or a provider's dental services or contractual discounts provided pursuant to a provider network contract if at the time the provider network contract is entered into or renewed, the dental carrier allows a provider who is part of the dental carrier's provider network to choose not to participate in third-party access to the provider network contract. A dental carrier shall not grant a third party access to the provider network contract of any provider who does not participate in third-party access to the provider network contract. A provider is not bound by and is not required to perform dental services under a provider network contract granted by a third party in violation of these statutes. Again, there was no opposition to LB954 at the hearing and it was advanced on a unanimous vote. The third and final bill added to the package is LB1199, also introduced by Senator Lindstrom. It can be found on page 25, beginning at line 18 to the end of AM2558. LB1199 proposed the first comprehensive update to our Motor Vehicle Service Contract Reimbursement Insurance Act since it was first enacted in 1990. The bill was developed by the Service Contract Industry Council in consultation with the Nebraska Department of Insurance. There was no opposition to the bill at its public hearing. There was one proponent witness on behalf of the Service Contract Industry Council. The committee was told that over the past 30 years, our current law has become out of date and inconsistent with the model act language of the National Association of Insurance Commissioners with respect to the definition of motor vehicle service contract reimbursement insurance policy. The

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legislation would address this by authorizing what is known as a default insurance policy, in addition to what is known as a first dollar insurance policy. The legislation would also specify the ability of a consumer to file a claim directly with an insurance company issuing the reimbursement insurance policy if the insured motor service contract provider fails to pay a claim filed with the provider. These provisions would set out requirements for the form and content of motor vehicle service contracts. The Director of Insurance would be provided with cease and desist authority to stop the sale of contracts offered in violation of the act. Under our system, a motor vehicle service contract cannot be issued, sold, or offered for sale unless the obligations of the motor vehicle service contract provider to the consumer are covered by a motor vehicle service contract reimbursement insurance policy. Your service contract has an insurance backstop and this arrangement is overseen by the Department of Insurance. Again, there was no opposition testimony to LB1199 at its hearing and it was advanced on a unanimous vote. I would urge the adoption of the committee amendment and the advancement of LB774. Thank you, Mr. President.

HUGHES: Thank you, Senator Williams. Debate is now open on AM2558. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. I do support this underlying bill. But I do want to take a moment to just remind this body that we are three equal branches of government, and the reason I say that is because of a bill that was removed from the agenda. I think it does a, a disservice to us as a body that because somebody or the Governor or somebody outside of this body believes that Ducks Unlimited or the fact that I maybe want to buy a raffle ticket on-line equates to gambling, shut down a bill that was a comprehensive bill that actually had included some good things around art districts and things that I think Nebraska needs to move forward. Now I did make the warning that if they were to strike that provision, if we're going to consider it gambling, we might as well vote up and down on sports betting. What I passed out, colleagues, is just a little bit of information about sports betting, poker, fantasy sports, and the amount of income Nebraska can receive. We keep wondering about property taxes. We keep wondering about how to solve some of these issues. Well, right now in Iowa, for the last six months, since August to the end of December, they brought in over \$11 million with-- at a simple tax rate of 7-- 7 percent. What my amendment would do and what my bill would do that I was going to attach was increase our sales tax to 25 percent. That's

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roughly \$30 to \$40 million we could bring in a year for property tax relief and it was designated for property tax relief. Now while I find that interesting that nobody wanted to vote up or down on that issue, but we all claim we want property tax relief. Well, here's an amendment that we can bring this bill back up and have a straight up and down vote on property tax relief regarding it. So during Senator Hunt's bill regarding payers-- players being paid, I heard the arguments, as Senator Moser pointed out, of they're already doing it. We ought to, we ought to as a free market. But yet when it comes to gambling, we don't. And I find it very interesting that in our constitution, we dedicate dollars to Gambling Anonymous, yet we don't allow people to participate. We use general revenue funds and we get no revenue from it. In my district, you think you have to cross the river. That's not true anymore. Carter Lake now has a casino. And what my amendment actually does is not open up gaming across the entire state as far as a casino. What my amendment does, it says fantasy sports, sports betting, and poker are actually game of skills and the data supports it; no different than the bill that Senator Lathrop brought to this body last year, where I pointed out over and over, statistically speaking, bank shot is no different than sports betting. Because the human person, as they play, as they get more knowledge, they actually improve their chances. Same as poker. That's why Supreme Courts across the country have said that sports gaming, fantasy sports, and poker are not considered actual gambling. So I would encourage this body to speak to Senator Lowe, to speak to the Speaker, and ask them to put this back on the agenda to make sure we can get an up or down vote on the amendment the Governor wanted. And if that amendment passed and he considers it gambling, let's have an up or down vote on property tax relief as it comes to game of skills.

HUGHES: One minute.

WAYNE: Thank you, Mr. President.

HUGHES: Thank you, Senator Wayne. Senator Kolterman, you're recognized.

KOLTERMAN: Good morning, colleagues. I rise in support of the entire package of LB774 and AM2558. We heard all these bills in, in Banking and LB-- the emergency center bill that Senator Arch brought is, is a really-- a good consumer protection bill, as is the dental insurance bill, as, as is the service contracts for automobiles. All three of these bills, along with the original bill, were, were heard. We had

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absolutely no negative connotations with any of them. And I would encourage you to support them on, on General File. Thank you.

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

GROENE: Sorry, my button was pushed accidentally.

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

LATHROP: Thank you, Mr. President. Good morning, colleagues. I'd like to see if Senator Arch will yield to a question.

HUGHES: Senator Arch, will you yield?

ARCH: Yes.

LATHROP: First of all, I'm not in opposition. I appreciate that a portion of your LB886 has been incorporated into this bill. You and I have had a conversation about this. I think this is a very important subject matter, which is whether or not people are being misled by statements made by healthcare providers about whether they are in network or not in network. And your bill addresses a new phenomenon, which is some healthcare providers coming into Nebraska and appearing to be in network when in fact they're not. Do I have that right?

ARCH: That is, that is correct.

LATHROP: So here's the question for you. This, this bill, as I read the committee's statement, would appear to say that you can't put the logo of, for example, Blue Cross Blue Shield up in your marketing material or represent that you take Blue Cross in some way when you don't. And that's, that's the big picture version of your bill.

ARCH: Right.

LATHROP: Am I right?

ARCH: That is correct.

LATHROP: So here's a question for you that came up in the context of a constituent of mine who was insured by a health insurance carrier and I'm just going to use UnitedHealthcare. They have several different plans, depending on the employer. They might be a third-party administrator for some, so they might, they might have one plan in

which they have an agreement with the provider and seven of them where they don't. So do they get to put the logo up, the UHC logo or the Blue Cross Blue Shield logo, if they are a network provider in one of the plans, but not in several, or do they have to be a network provider for all UHC plans, for example?

ARCH: I believe that this bill-- the language of the bill reads a facility may advertise or hold itself out as a network provider if the facility is a network provider of the health insurer. And so I believe that if, if they are-- and, and, and you are, you are correct, Senator Lathrop. This is extremely complicated because a lot of the, a lot of the individual employers may have very different networks and different, and different arrangements with whatever the insurance company may be. Maybe in one, not in another, and so you're, you're absolutely correct. But I believe that this would allow that logo to go on if they are a provider in one of those networks.

LATHROP: So-- and I appreciate the work that you're doing and what you're trying to accomplish. Here's my concern, Senator Arch, and I'm happy to talk about this between General and Select, but if-- and I'm not picking on anybody, I'm not picking on any provider or any insurance company in, in the way I'm framing this question or my concern. But if CHI puts the Blue Cross Blue Shield logo up there and I happen to have a Blue Cross Blue Shield plan that-- in which CHI is not a network provider, I may be misled into believing that I'm covered. I go in and get the care only to realize later that I'm out of network. My Blue Cross won't cover me and I have to pay the bill out of pocket. I'm, I'm not sure what the solution is and they don't have enough pages on the Internet to put all these plans there--

HUGHES: One minute.

LATHROP: --but I think there needs to be some clarification so that people aren't misled by that logo that we're authorizing them to put on their page, even though some of the Blue Cross Blue Shield plans won't be covered. Does that make sense?

ARCH: Yes and I'm more than willing to work with you before Select.

LATHROP: Yeah, you might be thinking of a solution between now and then. I'm not sure what it is, but I really don't want to see people misled as my constituent was. Thank you, Senator Arch.

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ARCH: Yep, thank you.

HUGHES: Thank you, Senators Lathrop and Arch. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator-- or address a comment to Senator Lathrop if he would yield.

HUGHES: Senator Lathrop, will you yield?

LATHROP: Yes, I will.

CHAMBERS: Senator Lathrop, I don't often do this, but thank you, thank you, thank you. You're not the only one who's been approached about a situation such as that, but because of the negative reaction to me on most things, I didn't want to bring up the issue, but you explained it very clearly. And some things will have what are called unintended consequences. I realize that whatever service is being provided by a doctor, a lawyer, an insurance company, the underlying reason for it is to make money. Anything that will enhance the ability to make money will be done, anything that might impinge upon that ability will be opposed. But at some point, the public, which always is targeted by all of these groups, all of these individuals need somebody to speak in their behalf at a point such as this in the Legislature, where even if at that moment, a solution cannot be provided, attention will be called to the issue. And maybe those who are involved, all of them, I will presume these providers, these insurance companies to be honorable individuals having had this issue brought to their attention, maybe they can bring us something by the time we get to Select File. But if they don't, I'm like some of these people who say, I, I just can't promise what I will or won't do. And that's not to be taken as a threat, but I care more about one individual who is harmed or misled than I do all of the insurance companies, all of the providers, and all of the others. I'm doing a take of Blackstone's comment that it were better that one, that one hundred guilty persons go unpunished than that one innocent person be punished. That's all that I have to say this morning on that. But I want to say something on what Senator Scheer correctly spoke about, that's keeping your hands away from your face. And I have been a self-appointed guardian and I've done like the Puritans had always done. The thing that makes a Puritan angrier than anything else is to believe that there's somebody in the world with a smile on his or her face, enjoying

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himself or herself. And I just made my rounds, and I'm not going to keep doing it, talked to at least eight people after they got that caution and that warning, and I just walk up and say get your hands away from your face. Now there might have been a nicer way to say it, but it was so much fun being that blunt. And I'm not going to mention the individual, that while Senator Scheer was explaining you should keep your hand away from your face, that individual was locked into the discussion, the look on his face, but his hand was right here, right there, being told keep your hand away from your face. Senator Scheer, I'm probably the only one who pays attention to you around here all the time.

HUGHES: One minute.

CHAMBERS: Senator Williams can verify that I mean it when I say every move you make, every breath you take, I'll be watching you, but I don't always make a comment. But Senator Scheer created a situation that I could not resist taking advantage of, but he is correct. And I'll point out that I was way ahead of everybody, of everybody not shaking hands, because having been in this Legislature, the cleanest spot in the men's bathroom is the handle on the water faucet, nobody touches that. And even I, when I touch it, I use a piece of paper. So I know not to be shaking hands and I know to keep my hands away from my face. That's all that I have this morning. Thank you, Mr. President.

HUGHES: Thank you, Senator Chambers. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. Colleagues, I'd like to explain the concern that was brought to me by a constituent so you have some context for my exchange with Senator Arch. I had a, a lady that lives in my district, she went in and she required three surgeries. First two surgeries were at hospital A. I'm not going to out the hospitals or the carriers today because they worked through her problem with me. And this is a little bit of the, the surprise billing in a broader context that was addressed by Senator Morfeld in his bill. Somebody goes into a hospital and the hospital calls up and they say, you're coming in for a surgery, what's your health plan? My health plan is, you know, Acme Insurance. And they go, OK, thank you, we'll see you Tuesday. And you come in on Tuesday and, of course, they've got Acme's logo on their Web page. And at the business office, there's Acme Insurance, their logo is there. And only to find out after the surgery

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that they're not in network on this particular plan. They may take-- hospital A may take Acme's insurance, but they don't take this particular Acme insurance plan and that's the problem. If it's not covered, if you're out of network-- and it could be a hospital down the street from where you live-- if it's not covered under your particular plan, it's out of network. And if it's out a network, they're not paying anything. And you're in there getting surgery for your gallbladder or whatever it is and you get your explanation of benefits from the Acme Insurance and it says, yeah, you were out of network. And by the way, no one at the hospital told you that when they ask you about it, and-- or it could be as simple as the other problem not addressed in Senator Morfeld's bill. But if you go in to have your gallbladder removed and they say, yes, we take your plan, but they don't tell you the anesthesiologist doesn't, the surgeon doesn't-- and guess what, it's out of network and now you're paying, you're paying the full bill. And by the way, it's not discounted either. And so these are-- I understand Senator Williams and the Insurance Committee is trying to work through these issues. They're trying to work through them in Congress, but I don't know that we ought to allow a provider to put Acme Insurance Company's logo on their material unless they take all of their plans or they agree to adjust the bill to network numbers. I'm not exactly sure what the solution is. I'm happy to work with Senator Arch because we both recognize this is a problem and it's not fully addressed, surprise billing is not fully addressed in Senator Morfeld's bill that deals with emergency room visits, which you know, you don't have much choice, the ambulance takes you to the, the med center, you can't get soaked because you don't have a choice. That's addressed in Morfeld's bill, but this is a, this is a related topic and a very important one for us as it relates to the consumers. And I don't think the hospitals are trying to pull a fast one or the insurance companies are, but we need to make sure the consumer gets protected in this process. And with that, I would yield the balance of my time.

HUGHES: Thank you, Senator Lathrop. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. When I was reviewing this bill, I also was thinking about how-- about providers that are in network for one plan and not in network for the other, but I had a question for Senator Arch if he would yield.

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HUGHES: Senator Arch, will you yield?

ARCH: Yes.

CLEMENTS: Senator Arch, are pharmacies defined in the-- included in the definition of providers? I think--

ARCH: I believe the definition is in this, in this bill is our facilities. Facility means an institution providing healthcare services or a healthcare setting, including but not limited to a hospital or other licensed inpatient center, ASCs, treatment center, skilled nursing, residential. Pharmacies are not, are not listed there as, as a facility, the, the-- I don't believe the bill uses the term provider.

CLEMENTS: All right. Thank you. I was asking because I'm aware that there's a provider, an insurance company, that if you're over age 65, there is one pharmacy network that is in network. But if you're, but if you're under 65, your insurance is not good for that pharmacy. You have to go to, to a different one. And I, I know that the situation exists in-- within pharmacies, especially between CVS and Walgreens, which seem to get exclusive agreements with insurance companies, that if you-- if they'll-- if their, if their insurance is good for CVS, it won't be good for Walgreens and vice versa. And as a person who does sell insurance to people over 65 and under 65, I'm pretty careful to warn them where they can or cannot go for pharmacy benefits. And occasionally, they have to change because those contracts can change from year to year. But I thought that Senator Arch's bill was at least an improvement. Right now, there is no requirement, no restriction, and at least it does take a step forward toward alerting people of where-- if there's a private provider that doesn't take any certain insurance companies' insurance benefits then they can right now use their logo, but at least it would cut down somewhat. So I am support of-- in, in support of this bill. Thank you, Mr. President.

HUGHES: Thank you, Senators Clements and Senator Arch. Senator Williams, you're recognized.

WILLIAMS: Thank you, Mr. President. I, I appreciate the conversation that we're having here. What you are starting to see is the complication that we have with networks in and out of networks, different companies and different providers. Part of this issue was addressed in Senator Morfeld's LB977 [SIC LB997], the surprise billing

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bill that I believe is now on Final Reading. That bill addresses surprise billing in an emergency room setting. That is not totally what LB886 is trying to do and in this amendment. What we have had happen, Senator Lathrop talked about an example with a constituent of his, what we are seeing started to happen in Nebraska that there has been a lot of in Texas and some in Oklahoma is the establishment of freestanding emergency rooms. There is one now in our state in Omaha. And if you walk into the front door of that facility, there is a sign there that says we accept all insurance. And if you go to their Internet site, you will see further explanation of that, that we accept all insurance and they have logos of various companies on their website. The plain fact is that they are not in network with any of these companies. So you go in there believing that you are covered for whatever you're in there for and they will submit a claim. But then you will get what is called a balanced bill, which-- or another term, a surprise bill for many. That is the specific thing that is trying to be addressed with this legislation. And I would certainly agree that-- with what Senator Clements said. Right now, we have no regulation on the use of that logo by providers. This would at least create a link between the provider and the insurance company. It may not be a total link with all of their plans and that's something we could certainly begin to try to address between General and Select. The idea here is to not fix the surprise billing issue, but look at what I would call just an unfair and deceptive trade practice. So I would encourage your advancement of this AM and the underlying bill and our commitment from the Banking Committee and Senator Arch to work with Senator Lathrop and others if there are some amendments that can fine-tune this even better. Thank you, Mr. President.

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

MORFELD: Thank you, Mr. President. Colleagues, it's already been discussed a few different times here so I won't belabor the point too much. But I, I rise in support of Senator Arch's bill and the underlying bill as well, in the sense that there's a lot of different ways that we can tackle surprise billing. On one hand, making sure that we have truth in advertising and that we have good consumer trade practices, that's what this bill addresses. And then also my legislation, which I want to thank everybody for supporting, that will be on Final Reading here pretty soon, in the sense of tackling surprise billing where it makes sense and where we can get, I would say general consensus across the industry and across patients,

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particularly in the emergency setting, which is what LB997 addresses. The nonemergency situation is something that, quite frankly, I think the industry is trying to still grapple with and we need to grapple with, quite, quite frankly, because emergency bills are probably the most expensive types of bills. And particularly when you're going to an emergency room, oftentimes you're doing so in an ambulance or in another instance where you can't choose or do the research which hospital you're going to. And in some cases, in many of our communities, you don't have a choice of a hospital you're going to, even if you wanted to, because it's the only hospital in the immediate vicinity. So I think that this year I'm really happy, quite frankly, that we're addressing surprise billing from the approach of Senator Arch's approach, that we're doing it in a substantive way for patients that are in the emergency room and not able to make certain decisions, informed consumer decisions on where, where they're going and getting their services. And I think that there's still a lot of work to do on the national level and on the state level, particularly in a nonemergency situation. So I'd urge your support of Senator Arch's bill, this amendment, and also urge your continued support of my legislation on Final Reading. Thank you, Mr. President.

HUGHES: Thank you, Senator Morfeld. Senator Arch, you're recognized.

ARCH: Thank you. I appreciate the comments. Senator Morfeld, Senator Clements, both identified that we're taking steps in all of this. And due to the complexity, we're, we're being careful because when, when you have this situation where a patient comes in only to discover that they thought they were covered, it isn't-- at times, it isn't just the patient that thinks they're covered, but it's also the facility that thinks they're covered. When a, when a patient comes, there's really three parties involved. One is the patient knowing what insurance company plan they're under at that time, which means having a-- we all, those of us that are commercially insured receive a new card every year in January and we have to replace the old one and, and put the new one in. And sometimes that's not done and so we're carrying an old card with us and we provide that to the facility only to discover that something has changed with our employer over that year. And so sometimes the information that is provided to the facility is not accurate, but they bill under that information, which then goes to the insurance company. And the insurance company has the current information and says, well, that, that individual is no longer covered or perhaps a spouse has changed coverage or whatever it might be. So the patient has, has information that may not be accurate. The

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facility takes that information and in some cases, the insurance company has the ability to provide real-time information on-line and in other cases, they do not. And so the facility cannot look up at the time that that patient is checking in and say, oh, yes, you're covered. And there's times that the insurance company will say very clearly there's no guarantee. And so the facility in good faith is doing that. And so, and so all of these, all of these complications of the patient, the insurance company, the facility are all involved in this transaction. One of the things that this, one of the things that this bill addresses, that, that what has not been talked about as we talk about logo is this-- is the use of these other terms that are, that are sometimes confusing to the patients and that is that we accept all insurance. The use of the term "we accept all insurance" does not necessarily imply or even intend to imply that we participate in all networks. It simply means that if you provide us with a card from X insurance company, we'll bill that insurance company. That doesn't mean that we are in network with that insurance company or even have a contract at all with that insurance company, but we accept that insurance card in an effort to then bill the insurance company. But when that patient, when that patient steps up, we all sign an agreement that says you're still responsible for the bill. If that insurance company pays a part or not at all, or if we have a contract or don't have a contract, you, the patient, are responsible for that bill. That can be very confusing to patients and so we are saying in this, if you do not participate, you cannot say we accept, that is to, to a consumer, to a patient that says something very different than to the facility. They understand what that means. But if you are not in network and you have led that patient to believe that you accept that particular insurance company, that patient will be responsible for the full bill of, of that service. And not just the allowable charge, and here's-- it gets a little complicated, not just the allowable charge, because there is no contract, but the full charge, whatever the full charge of that facility is. So these issues are complicated. But as, as we say, we're, we're going to take a step here, we're going to--

HUGHES: One minute.

ARCH: --make it as good as we can in language. And so between here and Select, we'll be, we'll be trying to refine that language to make it even better. Thank you.

HUGHES: Thank you, Senator Arch. Senator McDonnell would like to announce the following guests visiting the Legislature. We have 40

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fourth-grade students from St. Thomas More Catholic School in Omaha. They are seated in the north balcony. If you would please rise and be recognized by your Nebraska Legislature? Thank you for coming. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I thanked Senator Lathrop before. I'm pleased to see the kind of discussion that's going on this morning. If the public is watching, they still are not going to have all of the answers provided by this debate. But they'll be aware that the issue is being taken seriously, that there are different senators who might bring a different perspective. And when they all work together, something should be done that is going to protect the patient. The insurance company is going to get away scot-free. The provider or the hospital is going to get away scot-free. The one most vulnerable, most in need of the kind of assistance that is being offered is the person that any of us can identify with. I don't care how many academic degrees you have. The thing that's being discussed now would not have been covered in the subject you were studying. Heavy-handed me, when it comes to protecting the small from the large, the weak from the strong, the uninformed from those who wrote the book, I would say that if at the point where the hospital should know or find out what these insurance companies that it has allowed its name to be associated with even tangentially and it doesn't turn out that way, the hospital is totally responsible and liable and held as though it were the way the patient thought it would be. If the insurance company is in a position when it hooks up with one of these hospitals even tangentially, but so that a member of the public will see that connection, then the insurance company also should be brought into the picture and the insurance company and the hospital, whoever provides that service and they are in cahoots. Jesse James and Frank James run the insurance company, the Dalton Brothers run the hospital. They know each other, they'll watch each other because they're all cut from the same cloth. But the banks don't know what's going to happen when Jesse and Frank walk in. The train doesn't know what the Dalton Brothers are chasing it for, but they are predators. I'm not saying, I'm implying that the insurance company comprises predator or predatory profession. Hospitals are known to take advantage of people even when treating them, they are not given the proper treatment. They have people who will not give the proper dosage or the dosage when it's due or somebody may be in a semicoma and have a very serious ailment and it will cause saliva to come out of their mouth and the nurse on duty, or whoever it is, will

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not wipe that person's face. I've seen these things happen. Hold the hospital liable, hold the insurance company liable, and let Goliath fight it out with Goliath's brother. The giant verses the giant, but not the giant verses the Lilliputian. And now that this matter has come to the Legislature's attention, I regret that my time here is up--

HUGHES: One minute.

CHAMBERS: --at the end of this session because I do not think this problem will be resolved this session to the point that it should be. If you all want to give me a token of your appreciation, do with this bill what you ought to do and hold somebody, anybody other than that unknowing, unwitting patient liable, where he or she was led to believe, misled into believing that there would be some coverage for what is going to be administered. Thank you, Mr. President.

HUGHES: Thank you, Senator Chambers. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. Would Senator Williams yield to a question?

HUGHES: Senator Williams, will you yield?

WILLIAMS: Yes, I will.

FRIESEN: Senator Williams, there's-- in this bill, there's everything from health insurance to auto insurance. Is there anything in here about crop hail and wind insurance that may have an impact on anything?

WILLIAMS: Not that I'm aware of.

FRIESEN: OK. Thank you, Mr. President.

HUGHES: Thank you, Senator Friesen and Senator Williams. Seeing no one else in the queue, Senator Williams, you're recognized to close on the committee amendment.

WILLIAMS: Thank you, Mr. President. And I would like to thank everyone who has participated in the discussions. I would also like to point out to the body that the giant Goliaths that Senator Chambers were talking about did come and voluntarily sit at the negotiation table

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and work towards the conclusion on Senator Morfeld's surprise billing bill. They have been in the room as part of the discussions on Senator Arch's bill also. Are we to where we need to be? Not totally, but I would assure you that Senator Arch's bill, LB886, is clearly a step in the right direction. Also under AM2558, please don't forget that there are two bills introduced by Senator Lathrop. One about dental insurance plans and one about motor vehicle service contract reimbursement insurance instruments. And I would encourage you to advance LB2558 [SIC AM2558] so that we can get to the underlying bill. Thank you, Mr. President.

HUGHES: Thank you, Senator Williams. The question is shall the committee amendment to LB774 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 37 ayes, 0 nays on adoption of committee amendments.

HUGHES: The amendment is, is adopted. Discussion on the advancement of LB774 to E&R Initial. Seeing no one in the queue, Senator Williams, you're recognized to close on LB774.

WILLIAMS: Thank you, Mr. President. And I would like to correct myself, I mentioned the two bills that were also included in the amendment, they were introduced by Senator Lindstrom, not Senator Lathrop. I would encourage your advancement and green vote on LB774. Thank you, Mr. President.

HUGHES: Thank you, Senator Williams. The question is the advancement of LB774 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 39 ayes, 0 nays on the advancement of the bill.

HUGHES: The bill advances. Next item.

CLERK: LB705, introduced by Senator Murman. It relates to Achieving a Better Life Experience program; it provides for distribution of accounts upon death. The bill was introduced on January 23 of last year. At that time, referred to the Revenue Committee. The bill was advanced to General File. There are committee amendments pending.

HUGHES: Thank you, Mr. Clerk. Senator Murman, you're recognized to open on LB705.

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MURMAN: Thank you, Senator Hughes. Last year, I introduced LB705, a bill that would allow an owner of an Achieving a Better Life Experience, ABLE, account to transfer their account balance upon their death. ABLE accounts in Nebraska were made possible through a bill brought by Senator Bolz in 2015. I want to thank Speaker Scheer for designating this as a Speaker priority bill. ABLE accounts are a qualified savings program under Section 529A of the IRS. These accounts offer tax-free saving options for education, housing, and other needs of a disabled beneficiary. ABLE accounts allow for disabled individuals, family members, and guardians to save for long-term needs without the, the designated beneficiary worrying about losing eligibility for Social Security income and Medicaid. The original intent of the bill is to allow an owner of an ABLE account to transfer the account balance to another individual who is utilizing an ABLE account. Right now, as it is in statute, ABLE account owners can only designate their accounts to a sibling. A very low number of families have more than one child that is disabled. LB705 and the ability to designate funds to another account was heavily supported in its original format by Treasurer Murante, Arc of Nebraska, First National Bank, ABLE account owners and their family members. ABLE accounts opened doors for their users. They could use this money for education, practicing job skills, transportation to work, medical appointments, classes, day programs, or even providing essential, essential assistance such as help with bathing, dressing, walking, toileting, eating, and needed supervision. Families are concerns-- concerned about putting money into these ABLE accounts because at the end of their loved one's life, Medicaid is allowed to claw back funds. It is extremely important that we do everything possible to keep this savings tool available for individuals with disabilities. The ability to designate the money to an ABLE account of a friend or somebody in need would encourage families to open ABLE accounts without hesitation of a Medicaid clawback. Currently, there are approximately 56,000 ABLE accounts open across the country, but we need 90,000 accounts to make this tool sustainable. Treasurer Murante shared that the Medicaid clawback is having a deterrent effect on investments through an ABLE. With the ability to designate, it will create a healthier trust. He also shared that by having a state policy whereby the state comes in and takes the money that's in the account that is savings and charitable giving largely from family members of the DD community, it disincentivizes that savings, which goes contrary to why an ABLE was enacted in the first place. I found that the Center for Medicaid and-- Medicare and Medicaid Services, CMS, states that they don't propose

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mandating that states file Section 529A claims. Eleven other states currently allow for accounts to be transferred to other eligible accounts without repercussions from the federal government and Medicaid. I want to reiterate that Treasurer Murante, Arc of Nebraska, First National Bank, ABLE account owners and their family members support the original intent of the bill. By allowing these families to designate account funds at the end of a person's life will ensure, will ensure financial security and peace of mind. Colleagues, I urge your support of LB705.

SCHEER: Thank you, Senator Murman. As the Clerk noted, there is a committee amendment from the Revenue Department and Senator Linehan, you're welcome to open on AM162.

LINEHAN: Thank you, Mr. Speaker. Good morning, fellow senators. Senator Murman-- as Senator Murman has explained, there was some confusion over the interim regarding this bill. That confusion has been resolved and Senator Murman now has a white copy amendment to the committee amendment. His amendment will allow his bill to do what it's intended to do originally with the ABLE accounts upon the death of a beneficiary. With that, I would ask that you adopt Senator Murman's amendment and advance the committee amendment. Thank you.

SCHEER: Thank you, Senator Linehan. Going to floor discussion. Seeing none, Senator Linehan, you're welcome to close. She waives closing on AM162. The question before us is adoption of AM162 to LB705. All those in favor, please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 35 ayes, 0 nays on adoption of committee amendments.

SCHEER: AM162 is adopted. Mr. Clerk, for an amendment.

CLERK: Senator Murman would move to amend AM2778.

SCHEER: Senator Murman, you're welcome to open on AM2778.

MURMAN: Thank you. Colleagues, I bring FA2778 to amend LB705. FA2778 returns LB705 back to its original intent. The original intent of the bill was to allow an owner of ABLE account to transfer the account balance to any individual who is utilizing an ABLE account. Right now, as it is in statute, ABLE account owners can only designate their accounts to a sibling. A very low number of families have more than one child that is disabled. LB705 and the ability to designate funds

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to another eligible account was heavily supported in its original format, format by Treasurer Murante, Arc of Nebraska, First National Bank, ABLE account owners and their family members. After the hearing, it was brought to my attention that CMS had released a letter saying that they did not propose mandating, mandating that states file Section 529A claims. Therefore, therefore, over the interim, I made the decision to push for this bill in its original format to allow these changes for ABLE account owners. There are 11 states that have made this change to allow for designation to a viable ABLE account. These states include Arkansas, California, Florida, Illinois, Kansas, Maine, Maryland, Oregon, Pennsylvania, Washington, and West Virginia. Right now, families are concerned about putting money into these ABLE accounts because at the end of their loved one's life, Medicaid is allowed to claw back funds. The money in these accounts was given by family members or friends for specific needs, like a new wheelchair, housing, or education. The ability to designate the money to an ABLE account of a friend or somebody in need would encourage families to open ABLE accounts without hesitation of a Medicaid clawback. In the amendment, it is addressed that to the extent permitted by federal law, the designation would need to be made before a person dies. And it has to be to another account under the program. Right now, you can designate only to siblings, but with this change, you could designate to another eligible account. Allowing these families to, to designate account funds at the end of a person's life will ensure financial security and peace of mind. Colleagues, I urge your support of AM2778. Thank you.

SCHEER: Thank you, Senator Murman. Going to floor discussion. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. Would Senator Murman yield to a few questions?

SCHEER: Senator Murman, would you please yield?

MURMAN: Yes.

LATHROP: Senator Murman, as I understand the way ABLE accounts work, you can-- like, parents could put money into an ABLE account for the benefit of a disabled child and that could be used for things not covered by Medicaid. But in the event that child passes away, Medicaid

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would be allowed to be reimbursed for any medical expenses they paid for, for that child. Is that your understanding?

MURMAN: Yes.

LATHROP: So that's the claw back, that's-- that is Health and Human Services clawing back money out of the ABLE account on the death of the disabled person for the purpose of reimbursing itself for Medicaid benefits paid for that child?

MURMAN: Yes, but the funds in the account are, are put in by family members quite often-- or totally--

LATHROP: Right--

MURMAN: --or friends.

LATHROP: --and they're not counted as a resource so the person, the disabled person continues to qualify for Medicaid, but the ABLE account funds can be used for things that Medicaid wouldn't cover. For example, a wheelchair, crutches, a walker, things like that.

MURMAN: Yes, that's, that's true.

LATHROP: OK. And can we currently allow that with the balance of those funds to go to a sibling on death of the--

MURMAN: Currently, yes, if the sibling has an ABLE account.

LATHROP: OK. And what you're proposing here is that could go to a stranger and Medicaid wouldn't be able to claw back what it's paid for that now deceased disabled person?

MURMAN: Well, it wouldn't go to a stranger. It'd be-- it'd have to be designated before the disabled person's death. And it would have to be to a person that has an ABLE account. So it would be another friend or a relative most likely.

LATHROP: OK, so somebody you know and somebody you designate, can that person then take the funds? The second-- the recipient of the, the disabled-- deceased, disabled person's ABLE account goes to person number two. When that person dies, can they designate a third person to be the recipient of those funds?

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MURMAN: Yes, I assume they could, as long as the person has an ABLE account.

LATHROP: Are ABLE accounts limited in dollar amount?

MURMAN: Yes, they're limited to less than \$100,000.

LATHROP: So a parent can put \$100,000 into an ABLE account and keep their child on Medicaid. And on the death of that child, Medicaid doesn't get reimbursed for all the things that they've paid for for that disabled person, which is--

MURMAN: Well--

LATHROP: --the current law now. And that person or the guardian can say, well, when my disabled child passes away, I want the money to go to somebody I met at church who's got a disabled child.

MURMAN: Yes, as long as the disabled child has an ABLE account. And as you-- I think you were indicating, it wouldn't be for inheritance because it's limited to \$100,000. And the person that when they die would have to be, according to federal law, less than 55 years old.

LATHROP: In other-- have other states done this, Senator Murman, if you know?

MURMAN: Yes, there's 11 states that have done it and I did list those.

LATHROP: OK. In the states that have--

SCHEER: One minute.

LATHROP: --in the states that have done it, Senator Murman, are there lists of people? Like, is this turning into a cooperative where these things-- Medicaid never has an opportunity to be reimbursed for the expenses it pays because these things are perpetually passed on to someone else whose name might appear on a list?

MURMAN: I haven't researched that. As far as I know, that wouldn't happen. Of course, the, the money in the account is put in by family members. So I would think they would want the account to go to friends or relatives, wouldn't be just to strangers and it wouldn't just keep perpetuating.

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LATHROP: But just to be clear, and I, I support the bill and the amendment, but to be clear, what we're doing is keeping money from the claw--

SCHEER: Time, Senators.

LATHROP: --of Health and Human Services.

SCHEER: Thank you, Senator Lathrop and Senator Murman. Senator Linehan, you're recognized.

LINEHAN: Thank you, Mr. Speaker. I just want to get up and make sure to state my strong support for this bill. I have been very lucky in life. I have four children, six grandchildren. None of them have disabilities, which would mean I need to open an ABLE account. I can't imagine what it's like as you become older and you have a child that's disabled that you're not going to be around to take care of. And it seems to me this is, like, one little small thing we could do for those people. It is-- and I went door to door this weekend. I came to a house, and as we go door to door, it's like, oh, five voters, this is great, I hope they're home. However, the children that were home were in their 30s and 40s because all the children were disabled. So you have a mom and a dad who are in their 70s taking care of adult children. Now I would think that we would want to do all we could to make sure that those parents could do all they could for the children that they have been raising for 35 to 40 years. So again, I hope we can all support this. Thank you very much.

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

PANSING BROOKS: Thank you, Mr. President. I'm, I'm just rising because I'm hoping somebody can explain to me the, the language about the 529. So maybe Senator Linehan, if she could, if she could answer some questions?

SCHEER: Senator Linehan, would you please yield?

LINEHAN: Yes, ma'am. Yes, sir. Sorry.

PANSING BROOKS: Thank you, Senator Linehan. So could you explain to me how the 529s are put to use in this, in this bill?

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LINEHAN: Actually, no, I can't. I can try to get that information.

PANSING BROOKS: OK, that would be great.

LINEHAN: I would assume the 529 law applies to disabled children just like it applies to any other child. I wouldn't think we would keep them from having 529s when every child in Nebraska is, is able to have a 529.

PANSING BROOKS: Right. So again, as we had had with all the previous-- oh, OK, Senator La Grone, I, I guess I can ask Senator La Grone. Thank you, Senator Linehan.

LINEHAN: Thank you.

SCHEER: Senator La Grone, would you please yield?

La GRONE: Yes.

PANSING BROOKS: Senator La Grone, do you understand how the 529s work here? And you know, we've had consistent discussions about making sure that it doesn't apply to K-12 private education.

La GRONE: Right. So 529s-- actually, they're called that because they're a section of the federal revenue code--

PANSING BROOKS: Yes.

La GRONE: --and so there's more than just the 529 educational savings accounts that fall under them. This is a different kind of 529 account. They're called that because it's a section of federal revenue code that they're referring to.

PANSING BROOKS: So do you know what, what this does relate to? Is it a broader version that deals with kids with needs-- special needs and how is that applied?

La GRONE: So it's, it's two entirely separate things. They're just referring back to the same type of savings account. One is for children with disabilities and the other is for educational savings accounts. So those are two separate entities, they're just under the same chapter of the federal revenue code.

PANSING BROOKS: OK. So this is not about K-12 funding of education?

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La GRONE: This is-- no, this is about dealing with individuals with disabilities.

PANSING BROOKS: OK. I'd like to ask Senator Murman a question, if I could. Thank you, Senator La Grone.

SCHEER: Senator Murman, would you please yield?

MURMAN: Yes.

PANSING BROOKS: So is it your understanding that this does not apply to K-12 funding of education, that these funds from the 529-- since the 529s are brought into this?

MURMAN: Yes, I-- it can be used for education, but I assume that would be typically beyond K-12.

PANSING BROOKS: OK. So is it your intention that it not be used for private education?

MURMAN: Yeah, that would be fine with me. I don't know exactly what the-- I know it mentions education is one thing it can be used for.

PANSING BROOKS: OK. So would you be willing to add an, an amendment just like we've added all last year and on Senator La Grone's bill this year that the funds not be used for, for K-12 education?

MURMAN: Yes, I would allow that.

PANSING BROOKS: OK. So we could work on that between now and, and Select; is that right?

MURMAN: Yes.

PANSING BROOKS: Thank you very much, Senator Murman. Appreciate it. Thank you, Mr. President.

SCHEER: Thank you, Senator Pansing Brooks, Senator Linehan, Senator La Grone, and Senator Murman. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. And good morning, colleagues. Just a few more questions for Senator Murman, if he would yield.

SCHEER: Senator Murman, would you please yield?

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MURMAN: Yes.

McCOLLISTER: Using Senator Lathrop's example, that second child needs to be disabled as well, correct?

MURMAN: Yes. In order to have an ABLE account, yeah, the, the person would have to be disabled.

McCOLLISTER: How do you define disabled and who does that?

MURMAN: I think-- I'm, I'm not 100 percent sure how that's done. I can research it further. I think it's done with federal and state statutes, but I don't--

McCOLLISTER: So is that done by Social Security or some other governmental agency?

MURMAN: Yes, I believe so.

McCOLLISTER: Well, I support the bill. But I'd like to get, get that better explained to me as the bill moves from General to Select. And I heard some mention, perhaps from Senator La Grone-- is there a connection between 529 accounts and, and these ABLE accounts?

MURMAN: No, I don't think there is.

McCOLLISTER: OK. And Senator Schumacher, when he was here, established a better clawback provisions. And I believe that clawback provision only lasts five years; is, is that your understanding as well?

MURMAN: I don't know about that. I'd, I'd have to research that.

McCOLLISTER: I believe that is the case. So that's something else that we should, should probably determine as well. And the clawback only applies to those Medicaid-- those expenses not covered by Medicaid, correct? The, the amount in the, in the ABLE account can be used for those expenses not covered by Medicaid. However, Medicaid likes to be paid back in the event of that person's death. Am I, am I missing something here?

MURMAN: Well, the way it is presently, it can be trans-- the account could be transferred to a sibling with an ABLE account. What we're doing here is to allow that to a friend or another relative with a-- that is disabled that would have an, an ABLE account.

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McCOLLISTER: Could it be transferred back to the parent if, if disabled?

MURMAN: No, it would have to be a disabled person with an, an ABLE account.

McCOLLISTER: Thank you, Senator Murman. That's all that I have at this point.

SCHEER: Thank you, Senator McCollister and Senator Murman. Senator Bolz, you're recognized.

BOLZ: Thank you, Mr. President. And thank you to Senator Murman, who has done really good work on this bill. I want to refocus this conversation on the underlying purpose and goal of LB705 and then hopefully provide a little bit of clarifying information about the ABLE account, which is based in a bill that I brought a couple of years ago. So first, I want to refocus the body's attention that Senator Murman's goal here is to add some flexibility and some reassurance to ABLE accounts and ABLE account beneficiaries to draw more people into the program. And that's very important because if we don't reach 90,000 individuals in the program, our ABLE accounts overall will be less stable and less self, self-sustaining. So the goal here is to grow the program and to provide the assurances to families of individuals with disabilities that they can use this as a tool and that they can be confident that their contributions to an ABLE account will be used for good purposes. So the next thing I want to address is the questions about the qualifying beneficiary. As I read Senator Murman's bill, qualifying beneficiaries need to be people who are otherwise eligible for ABLE accounts, which are individuals who already have a qualifying disability. I want to reassure the body that Nebraska's ABLE legislation is rooted and grounded in the federal legislation, so qualifying expenses and qualifying individuals line up with federal law and those definitions are related to the federal definition of disability and the federal list of qualifying expenditures. So the qualifying expenditures are a little more broad than a 529 account because the goal is, as the title insinuates, helping individuals with disabilities achieve a better life. And similar to a 529 account, they are planning for the future and they are intended-- and they are tax free. But those purposes are a little bit more broad than just higher education. They can be things like legal expenses in the future if someone is going to maybe need help navigating their family's estate or might need to make sure that their

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civil rights and other protections are taken care of. You can, you can purchase assistive technology with ABLE account dollars. So the purposes are a little more broad than a 529 account. To Senator Pansing Brooks's question, the goal of 529 accounts is those-- are those higher education purposes. ABLE accounts can be used for education and training, but the goal is that they be used after an individual fully utilizes the 21-- the, the K-12 education system up until age 21. And so you might be able to participate in the transition college program at Southeast Community College after you turn 21. You might be able to go through a skills training program at a, at a higher education institution. But the, the main purpose is that it is higher education. It is education and training post your, your K-12 education. So I do support Senator Murman's bill. I think the two main provisions are specifically to make sure that people know that they can designate an additional beneficiary so that they can have the confidence that if they are giving money to an ABLE account, those resources will go to an individual with disability. Whether that is their first designated beneficiary or their second designated beneficiary, they can have that confidence that their contribution will be used for someone who needs it.

SCHEER: One minute.

BOLZ: And second, the legislation is, is clarifying that the clawback provisions in line with federal law will, will not be utilized to the greatest extent of the law, but that, that the Department of Health and Human Services won't use those clawback provisions except for in specified circumstances. I hope that I clarified a couple of things. I do support the bill and encourage its advancement. Thank you, Mr. President.

SCHEER: Thank you, Senator Bolz. Senator Wishart and Pansing Brooks would like to welcome 40 students from the following schools: Everett Elementary, Park Middle School, Scott Middle School, Lincoln High, Lincoln Northeast, and Lincoln Southwest; all here in Lincoln, Nebraska. They are seated in the north balcony. Would you please stand to be recognized by the Nebraska Legislature? Thank you all for coming down. Returning to the queue. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, thank you Mr. Speaker. Good morning, Nebraska. Good morning, colleagues. I think-- I want to thank Senator Bolz, explanations of, of what we're talking about here this morning. And, and I had talked with Senator Pansing Brooks and Senator Murman both.

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I think probably what we're talking about is maybe moot at this point, but I did have a, a conversation with Senator Murman off, off mike and it really deals with the K-12, which I don't think this-- we're really discussing that this applies to a great extent at this point, but my concern was, was on if, if it would apply to a K-12 and if there is a student individual out there that needs special type of schooling, special help on a private side, that we do not restrict that from them, that they do have that opportunity to go into that, and maybe it's a speech development, maybe it's some other type of development program or schooling, they can have that we do not restrict them from that. And I wonder if Senator Murman would yield to a question?

SCHEER: Senator Murman, would you please yield?

MURMAN: Yes.

BOSTELMAN: Senator Murman, would you agree with me that if, if we do, which I don't think this really is going to apply to K-12 from what Senator Bolz had said, but if it would happen to have an individual did apply, would you agree that you would not want to restrict if there is those special needs in a private sector that would be provided-- say it's, say it's for, for speech or other type of schooling in those areas-- that, that would be something that you would not want to restrict from that student? You want them to have that opportunity to apply, to, to attend that type of training or, or specialty skilled or assistance that they may need that. Is that-- would you agree?

MURMAN: Yes, I would not want to restrict a, a disabled person from getting services they need no, no matter what school they went to as, as, as we talked about. As Senator Bolz mentioned, I don't think it applies to K-12, but I, I don't want to restrict it to-- any disabled person that needs these services should be able to obtain the services in any way they can.

BOSTELMAN: And I appreciate that. And I think that's something that we talked about off the mike. It's really something to make sure that we're, we're able to provide if that need arises, if that does fit that in that-- in those age groups, in, in that K-12 schooling process that it-- maybe it's a mobility issue, maybe it's something else on a learning side that they can get that help as far as education process, whatever it might be, that we don't restrict that. And I think Senator Murman agrees with that. And I did talk to Senator Pansing Brooks off

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the mike about it as well. And I think that's something that we need to make sure that we're not eliminating from the-- from statute when we-- if he does have to work on an amendment in this area. So thank you, Mr. Speaker. I yield the rest of my time back to the, the Chair.

SCHEER: Thank you, Senator Bostelman and Senator Murman. Senator Linehan, you're recognized.

LINEHAN: Thank you, Mr. Speaker. I, too, want to thank Senator Bolz for clarifications and her support of this bill and for her knowledge on these subjects. It is impressive and it will be missed. So thank you, Senator Bolz. To Senator McCollister's-- because my staff has got the information here, as far as the definition of disability, this is from U.S. Code 529A, which is why I guess we're having the confusion with 529s. In general, the term-- so this is right from this and I'll hand this out. In general, the term disability certification means with respect to an individual, a certification to the satisfaction of the secretary by the individual or the parent or the guardian of the individual that certifies that the individual has a medically-determined physical or mental impairment which results in marked and severe functional limitations and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months or is blind. So this is the definition. These are individuals who are dependent on society for help. So thank you, Mr. Speaker.

SCHEER: Thank you, Senator Linehan. Senator Moser, you're recognized.

MOSEER: Thank you, Mr. Speaker. I was wondering if I could ask Senator Murman a question?

SCHEER: Senator Murman, would you please yield?

MURMAN: Yes.

MOSEER: We have gotten into a discussion of the purposes of ABLE funds, what they can be spent for and where they can go. But your bill doesn't affect those regulations that these accounts are already authorized and can be taken care of-- can be used to take care of disabled people already, correct?

MURMAN: Yes, the rules are already in place on the accounts. This only affects the clawback.

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MOSEER: So this only affects what would happen to money that might be in someone's ABLE account when they pass on, that it could be designated for somebody else rather than--

MURMAN: Yes. If the other person has an ABLE account, yes.

MOSEER: OK. Thank you, Senator. So the worry about whether these funds are going to private schools or public schools or whether they're going to the pharmacy, for that matter, are really irrelevant to Senator Murman's bill because Senator Murman's bill only affects the clawback of these funds. So if we have issues with how 5-- these 529 funds are being spent, we'd have to address that in a, in a different bill. I don't, I don't see that being a problem as it is because the recipients are disabled and that these are primarily family funds that are put in there for the benefit of their disabled family member. And it's not going to go to, to the detriment of somebody's-- somebody else's education. These people have special needs and they-- these funds are there to help them bridge some of these gaps where they don't have funds for some things that they may want to spend money on. So thank you.

SCHEER: Thank you, Senator Moser and Senator Murman. Seeing no one in the queue, Senator Murman, you're welcome to close on AM2778.

MURMAN: Yes, thanks, thanks a lot. I think we had a good discussion. I just want to reiterate, reiterate that this amendment only brings it back-- LB705 back to the original intent and that was allowing the ability to claw-- eliminating the ability of the state to claw back the funds that were put in there by family members. And it was in this amended form, strongly supported by Treasurer Murante, Arc of Nebraska, First National Bank, and ABLE account owners and their family members, especially for the reason that family members, parents, family members were very hesitant to put funds in the account knowing that, that eventually they could be clawed back if their loved one dies and wasn't able to use those accounts-- or that-- those funding. So I urge your, your green vote on AM2778. Thank you.

SCHEER: Thank you, Senator Murman. Colleagues, the question before us is adoption of AM2778 to LB705. All those in favor, please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 39 ayes, 0 nays on adoption of Senator Murman's amendment.

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SCHEER: AM2778 is adopted. Seeing no one in the queue, Senator Murman, you're welcome to close on LB705. He waives closing. The question before us is the advancement of LB705 to E&R Initial. All those in favor, please vote aye; all those opposed vote nay. Please record.

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB705.

SCHEER: LB705 is advanced to E&R Initial. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR328. Mr. Clerk, next item, LB7-- or LB1028.

CLERK: LB1028 offered by Senator Lathrop relates to small claims. It changes provisions relating to commencement of actions in Small Claims Court; introduced on January 16 of this year; referred to Judiciary; advanced to General File. There are committee amendments pending, Mr. President.

SCHEER: Thank you, Mr. Clerk. Senator Lathrop, you're welcome to open on LB1028.

LATHROP: Thank you, Mr. President, and good morning once again, colleagues. I am going to introduce LB1028. That will be brief and then I'll have an opportunity to introduce an amendment. This is what we generally describe as a court cleanup bill. So what I'm going to share with you this morning in the bill and in the amendments are things that the courts have come to the Judiciary Committee with to clean up. Noncontroversial, shouldn't be a problem with any one of these, as you'll see from the subject matter. LB1028 makes simple changes to allow for electronic filing of cases in Small Claims Court. This bill would also allow the Supreme Court to establish rules for how the filing process would work, rather than spelling out that in statute. This is one of several technical bills I brought this year on behalf of the Court Administrator's Office. You'll hear about more of those during my opening on the committee amendment. And with that, I would ask for your support of LB1028.

SCHEER: Thank you, Senator Lathrop. As the Clerk noted, there is a Judiciary amendment. As Chairman of Judiciary Committee, you're welcome to open on AM2525.

LATHROP: Thank you, Mr. President. AM2525 contains the original provisions of LB1028 as well as language from LB1029, LB1030, and LB1032. The first two sections contain provisions from LB1029. This change changes current statute that provides for microfilming of court

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records to, quote, preservation duplicate, end quote, as provided in the Record Management Act. This would allow for digital copies of court records instead of requiring that they be microfilmed. Section 3 and 4 of this amendment contain provisions of LB1032, which amends the definition of a judgment so that it does not conflict with the definition of an order found in 25-914 that specifically excludes judgments. Again, it's a cleanup item. LB-- or pardon me, Section 5 of the amendment, you'll find the language from the underlying bill; Section 6, we have the language or portions of LB1030. That bill increased the time frame for the court to transmit funds due to the county from the forfeited reconnaissance bonds, fines, and costs to within 30 days instead of within ten days. That was something the clerks needed. All four of these underlying bills received no opposition when they were heard by the Judiciary Committee and both the amendment and the bill advanced from committee on a 7-0 vote with one member absent. And with that, I would ask for your support of LB-- pardon me, AM2525 and the underlying bill, LB1028. Thank you, Mr. President.

SCHEER: Thank you, Senator Lathrop. Seeing no one in the queue, you're welcome to close. He waives closing on AM2525. The question before us, colleagues, is adoption of AM2525 to LB1028. All those in favor, please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of the committee amendments.

SCHEER: AM2525 is adopted. Seeing no one in the queue, Senator Lathrop is welcome to close on LB1028.

LATHROP: My close is very brief. Thank you, Mr. President. I want to thank the Speaker for making this the Speaker priority and for your support of the amendment. I would encourage your continued support of LB1028. Thank you.

SCHEER: Thank you, Senator Lathrop. The question before us is adoption of LB20-- 1028 to E&R Initial. All those in favor, please vote aye, all those opposed vote nay. Have all voted that wish to? Please record.

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

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SCHEER: LB1028 is advanced to E&R Initial. Mr. Clerk, next item, LB1130.

ASSISTANT CLERK: LB1130, introduced by Senator Groene. It's a bill for an act relating to the Mutual Finance Assistance Act; changes provisions related to mutual finance organization agreement; changes certain deadlines for application notification; harmonize provisions; provides an operative date; appeals the original section; declares an emergency. The bill was read for the first time on January 22 of this year and referred to the Revenue Committee. That committee placed the bill on General File with no committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Groene, you're welcome to open on LB1130.

GROENE: LB1130 is intended to address concerns brought forward after our bill, LB63, past year that was concerning rural fire districts, mutual, mutual finance agreements. We discussed the changes made by LB63 with the State Treasurer's Office with local fire districts and determined some provisions as written created confusion. LB1130 clarifies those provisions. First, LB1130 established that all Mutual Finance Organizations, MFOs, agreements must have a duration of three years. Under current law, MFO agreements must have at least three years, but may be longer. That created confusion. Next, LB1130 provides that members of an MFO must include an agreed-upon maximum levy within a MFO agreement. We want to ensure the maximum levy can easily be determined by reviewing the agreement. There always was the maximum levy agreement, but it was only for one year in the past. LB1130 also clarifies that the MFO members do not all need to levy the agreed-upon maximum levy during the same year of the agreement. As written, current statute implies that all members must levy the maximum rate during the same year that all other members are leveling that rate. We want to make clear that so long as each member levies the maximum rate during one year of the three-year agreement, regardless of whether any other members are leveling the maximum rate during that year, they will be in compliance with the law. The final change made by LB1130 is a modification of the dates for application for funds under the Mutual Finance Assistance Act. The current application deadline of July 1 requires MFOs to set their levy prior to property valuation. By shifting the deadline to September 20, we can ensure that the levy rates reflect current valuations. To accommodate this date change, we worked with the State Treasurer's Office to adjust the, the rest of the fund-- funding time line.

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Currently, the State Treasurer must approve or deny application by August 15. LB1130 changes that date to November 4. The dates for disbursement of funds are also changed from the current dates of November 1 and May 1 to the dates of January 20 and May 20. Finally, current statute provides that any funds remaining in the Mutual Finance Assistance Fund as of June 1 must be transferred to the General Fund before July 1. LB1130 changes this provision so that the funds remaining as of June 20 shall be transferred before July 1. This bill also includes an emergency clause and an operative date of June 15, 2020, so that the new provisions will be effective for the 2020 application year and the rural fire districts' budget cycle. This legislation would help well-run, help well-run fire districts made up of individuals and volunteers serving their communities. No one testified in opposition and the bill has no fiscal impact. The Revenue Committee voted 8-0 to advance LB1130 to General File and I thank Speaker Scheer for selecting this important legislation for Speaker priority.

SCHEER: Thank you, Senator Groene. Seeing no one in the queue, Senator Groene's welcome to close. He waives closing. The question before us is adoption-- or advancement of LB1130 to E&R Initial. All those in favor, please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

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

SCHEER: LB1130 is advanced to E&R Initial. Mr. Clerk, next item, LB911.

CLERK: LB911, a bill by Senator Quick. It's a bill for an act relating to state veteran cemetery system; changes provisions relating to the state veteran cemetery system; states intent; eliminates obsolete provisions; provides for the conveyance of real estate; introduced on January 10; referred to the Government, Military and Veterans Affairs Committee. The bill was advanced. There are no committee amendments. I do have other amendments to the bill, Mr. President.

SCHEER: Thank you, Mr. Clerk. Senator Quick, you're welcome to open on LB911.

QUICK: Thank you, Mr. President, and good morning, colleagues. This is LB911, which would allow us to start the process of expanding the existing Grand Island Veteran's Home Cemetery by making it a state

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cemetery. I'd like to thank Speaker Scheer for making this a Speaker priority and to Senator Brewer for his help on this. I introduced this bill on behalf of advocates for veterans in Hall County who approached me last year and I've worked with them since to bring this idea forward on their behalf and on behalf of all of the veterans in our state. The Grand Island Veteran's Home Cemetery remained after the Veteran's Home was moved to Kearney. Recently, that land and cemetery was transferred from the state of Nebraska to the city of Grand Island. The process of turning it into a state cemetery can be lengthy so it is important to start this process as soon as we can. The first steps would be to pass legislative intent and prepare a program statement, which LB911 does. After that, the Department of Veterans' Affairs would be able to, to apply for federal grant money and reimbursement, a process that can take several years. The program statement is important in order to understand what the undertaking would be and what would, and what would be required of the city and-- city, county, and the state in this process, such as finance responsibilities and how many additional acres of land would be needed for future expansion. The bill also contains an important provision that would permit the city of Grand Island to give the land back to the state. At the hearing on this bill, we heard from, from several people from Grand Island: a funeral director, the Hall County veterans service officer, the chairman of the United Veteran's Club, the city of-- the city administrator from Grand Island, and a former mayor of Grand Island about how important it will be to-- how, how important it will be to veterans and their families, specifically in central Nebraska, to have a cemetery located closer to home. We currently have a state veteran's cemetery in Alliance and we have national cemeteries in Omaha and further west at Fort McPherson, but nothing in the, in the central part of the state. Grand Island is an ideal location as it will accommodate many of our veterans in the central part of the state. It would be, it would be meaningful for our veterans and their families to continue to celebrate and honor our veterans at this facility. I want to thank those in the Research Office, the Fiscal Office, and the Bill Drafting Office who have been so helpful on this bill, as well as the Department of Administrative Services and the Governor's Office for meeting with me. I especially need to thank Director Hilgert and the Department of Veterans' Affairs for being very helpful throughout this whole process. This bill is so important to our veterans in central Nebraska and my community. I appreciate

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your green vote on this bill and we'll have an amendment coming up that will address some of the issues. Thank you, Mr. President.

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

CLERK: Mr. President. Senator Quick, I have AM2735, but a note you want to withdraw that amendment. Mr. President, Senator Quick would move to amend with AM2818.

SCHEER: Senator Quick, you're welcome to open on AM2818.

QUICK: Thank you, Mr. President. Just to save time, I can open-- oh, excuse me, so on this amendment, it contains technical changes requested by the Department of Veterans' Affairs so that the program statement can be completed and federal funding secured before the transfer of title so that the Department of Veterans' Affairs is completing the program statement and also-- instead of the Department of Administrative Services. The amendment also addresses the fiscal note by specifying the city will not charge the state for the title of the land and directing the program statement costs to come out of the existing Nebraska Cemetery System Operation Fund. We added an emergency clause so they can begin the access of funds and start a program statement promptly instead of waiting for a few months. So I would appreciate your green vote on this amendment. It's important to move this forward so we can have the bill done in a correct form. Thank you, Mr. President.

SCHEER: Thank you, Senator Quick. Seeing no one in the queue, you're welcome to close on your amendment. He waives closing. Oh, excuse me, Senator Briese, you're recognized.

BRIESE: Thank you, Mr. President. Good morning, colleagues. Looking at the original bill, it occurred to me that we're possibly tying into something here that we don't know what it's going to cost us. And so I had a question for Senator Quick, if he would yield to a question, please?

SCHEER: Senator Quick, would you please yield?

QUICK: Yes, I will.

BRIESE: Thank you, Senator Quick, and I apologize for not talking to you here ahead of time, but just a couple simple things here or basic

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things. The amendment provides that we're going to get that property free of charge to the state.

QUICK: Yes, that is correct.

BRIESE: But the amendment also provides that we're going to have to go pursuant to the statute there to request funding, correct?

QUICK: So what, what happens is that we have to do the program statement first to find out the actual cost before we can actually apply to the federal government to get-- because they'll, they'll provide funding to, to establish the cemetery. And then we'd have to see what the ongoing maintenance costs would be.

BRIESE: OK, but I do see in the amendment there. We will have to initiate a request for funding pursuant to the statutory provision. But, but you can assure us, anyway, that the property under the amendment here, as pursuant to the amendment, will be acquired at no cost to the state?

QUICK: Yes. And then if I can answer, I think on that-- I don't know if that addresses the issue with the-- to do the program statement was \$275,000, but that comes out of an existing fund that they already have.

BRIESE: OK, very good. Thank you, Senator Quick. Appreciate that. Thank you, Mr. President.

SCHEER: Thank you, Senator Briese and Senator, Senator Quick. Senator Brewer, you're recognized.

BREWER: Thank you, Mr. President. I just wanted to weigh in real quick and support LB911 and the amendment. Just understand that there is an existing cemetery there now. So part of that's honoring those that are there, but also to have a place in central Nebraska where we can have a final resting place for the veterans. We have the new Veterans Home in Kearney, but there is no facility there for it. And the plan is to mirror what we have in Alliance now there. And I, I just think this is a, a great way to honor them and would ask for your support on both LB911 and the amendment. Thank you, Mr. President.

SCHEER: Thank you, Senator Brewer. Now seeing no one wishing to speak, Senator Quick, you're welcome to close on the amendment.

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QUICK: Yeah, and I think I will close on the amendment now. So I just want to make sure everybody understands that we-- with the amendments, we more or less took out the fiscal note on this. So we worked with the Grand Island-- city of Grand Island, we worked with, with Senator Hilgert-- or excuse me, Director Hilgert on, on the amendment, and we put a lot of time in on, on making sure that we did this the right way. And it's a great way to honor our veterans in the central part of the state. So with that, I encourage your green vote on AM2818 and LB911. Thank you, Mr. President.

SCHEER: Thank you, Senator Quick. The question before the body is adoption of AM2818 to LB911. All those in favor, please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 38 ayes, 0 nays on the adoption of Senator Quick's amendment.

SCHEER: AM 2818 is adopted. Seeing no one left in the queue, Senator Quick, you're welcome to close on LB911. He is waiving closing. The question before us is advancement of LB911 to E&R Initial. All those in favor, please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 39 ayes, 0 nays on the advancement of the bill.

SCHEER: LB911 is advanced to E&R Initial. Colleagues, Senator Arch would like to welcome 69 members of the fourth grade from Trumble Park Elementary in Papillion. They're seated in the north balcony. Would you please stand and be recognized by the Nebraska Legislature? I sort of jumped the gun there a little bit, colleagues, I think I'll wait for all of them to come in and be seated so that they all get to be recognized. Mr. Clerk, while they're filing in, we'll move to the next item, LB889.

CLERK: LB889 is a bill by Senator Hilgers relating to administrative law. It changes provisions relating to appeals under the Administrative Procedures Act; bill was introduced on January 9; referred to the Government, Military and Veterans Affairs Committee; advanced to General File; no committee amendments. I do have an amendment from Senator Hilgers.

SCHEER: Thank you, Mr. Clerk. Senator Hilgers, you're welcome to open on LB889.

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HILGERS: Thank you, Mr. President. Good morning, colleagues. LB889 is a bill that makes some technical changes to the APA, the Administrative Procedures Act. I want to first thank the Speaker for making this a Speaker priority bill, as well as the Government Affairs Committee, which passed this bill out of committee on an 8-0 vote. There are really three changes that this, this particular bill makes. The first has to do with the transmission of certified copies of the record and, and how those are treated at the district court level. So the Supreme Court had a rule in the Marr decision several years ago that essentially just said that district courts, when they hear appeals under the APA, do not have to take the evidence, the record that was created under the underlying administrative proceeding and reoffer it into evidence and remarket into evidence. In other words, what should happen is the, the APA, the administrative procedure-- proceeding, they create the record. They have the evidence and the district court can just-- a certified copy is sufficient for the district court to make a de novo review of that evidence under the terms of the appeal. So the first change is just codifying that Marr decision. The second change is to make explicit service of nongovernmental entities in those appeals. There isn't any statutory language that explicitly addresses how to do that. And so this just makes explicit what is already done through process and procedure. And the third change is to, to eliminate some obsolete provisions. So this is a fairly technical bill that maybe only lawyers will love, but I'd appreciate your green vote on LB889. And there is another technical amendment that's coming up here in a second that I'll speak on briefly. Thank you, Mr. President.

SCHEER: Thank you, Senator Hilgers. Colleagues, now that they've all entered, would the Trumble Park Elementary students please stand and be recognized? Thank you all for coming down and watching this morning. Mr. Clerk.

CLERK: Senator Hilgers would move to amend AM2690.

SCHEER: Senator Hilgers, you're welcome to open on AM2690.

HILGERS: Thank you, Mr. President. Good morning again, colleagues. AM2690 is, is another technical change that is part of this Administrative Procedures Act bill. And basically what this would do would be provide some statutory basis for a Supreme Court decision that came out a couple of years ago defining what a party participant is for these types of appeals. The Supreme Court in 2017 basically

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said what those are, but then the next year realized that there was no statutory basis underlying that decision. And so it found that that-- the '17 decision was just dicta without the statutory authority. So what AM2690 would just do would be to provide the statutory basis for what the Supreme Court has already determined. So I'd ask for your green light on this, this amendment and the underlying bill. Thank you, Mr. President.

SCHEER: Thank you, Senator Hilgers. Seeing no one wishing to speak, you're welcome to close on AM2690. He waives closing. Colleagues, the question before us is the adoption of AM2690 to LB889. All those in favor, please vote aye; all those opposed vote nay. Have we all voted that wish to? Please record.

CLERK: 34 ayes, 0 nays on the adoption of the amendment.

SCHEER: AM2690 is adopted. Seeing no one wishing to speak, Senator Hilgers waives closing of LB889. The question before us is advancement of LB889 to E&R Initial. All those in favor, please vote aye; all opposed vote nay. Have you all voted that wish to? Please record.

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of the bill.

SCHEER: LB889 is advanced to E&R Initial. Mr. Clerk, next bill, LB1166.

CLERK: LB1166 was a bill introduced by Senator Brewer. It's a bill for an act relating to school districts; it changes school district membership requirement provisions; introduced on January 23 of this year; referred to the Education Committee; advanced to General File. There are committee amendments pending.

SCHEER: Senator Brewer, you're welcome to open on LB1166.

BREWER: Thank you, Mr. President. I introduced this bill on behalf of the Loup County Schools. This is a, a bill about small numbers. It's a bill about rural Nebraska. In Nebraska law today, there is a very important number and that number is 15. If a high school is the only school in the county, it must maintain a roster of at least 15 students to continue operating. If the school drops below 15 students in grades 9 through 12, the law says it must be dissolved. This bill keeps that number the same. So understand I'm not asking to change that, but what we're doing is it buys the school time because that number is taken over a two-year period, not a once-a-year snapshot.

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About 25 counties in Nebraska have grown in population since 2000. Only three of them are in my district: Thomas, Blaine, and Dawes. And that growth is very little. Ten of my counties in the district are losing population. Loup County has lost one-fifth of its population since 2000. The population decline is in double digits in seven of those counties in my district. Now I know the first word that comes out of everybody's mind is, hey, just consolidate. The problem with that is that it is the last high school in the county and we have an issue that we've already consolidated numerous times. The distance and travel issues become a factor, weather and roads, it goes on and on of why it is so difficult to consolidate anymore than we have. This bill does not solve all the problems of western Nebraska and the challenges. It, it will never be the silver bullet, but it does buy some time for these schools to try and adjust and figure out how to make ends meet with the number of students that they have. Senator Groene will be introducing an Education Committee amendment, AM2310. This amendment just adds an emergency clause and would make the bill timely so that it affects this school year so that we aren't forced to close Loup County schools. So I ask for your green vote on both the AM2310 and on LB1166. Thank you, Mr. President.

SCHEER: Thank you, Senator Brewer. As the Clerk noted, there's a committee amendment from the Education Committee. Senator Groene, as Chairman, you're welcome to open.

GROENE: Thank you, Mr. President. AM2310 simply adds an emergency clause to the bill. This is necessary to avoid the Commissioner of Education having to begin the process of dissolving the Loup County schools-- it's in the town of Taylor, Nebraska-- before the bill would become operative. The amendment was adopted and the bill advanced to General File with unanimous support from the Education Committee. And now they get to go two years instead of one year dropping enrollment below 15 students in their high school. I encourage a green vote on AM2310 and LB1166.

SCHEER: Thank you, Senator Groene. Seeing no one in the queue, you're welcome to close on AM2310, which he waives closing. The question before us is the adoption of the AM2310 to LB1166. All those in favor, please vote aye; all those opposed vote nay. Please record.

ASSISTANT CLERK: 38 ayes, 0 nays in the adoption of committee amendments.

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SCHEER: AM2310 is adopted. Returning to the floor discussion. Seeing none, Senator Brewer, you're welcome to close on LB1166. He waives closing. The question before us is advancement of LB1166 to E&R Initial. All those in favor, please vote aye; all those opposed vote nay. Please record.

ASSISTANT CLERK: 39 ayes, 0 nays on the advancement of the bill.

SCHEER: LB1166 is advanced to E&R Initial. Mr. Clerk, next item, LB1080.

ASSISTANT CLERK: LB1080 was introduced by Senator Lathrop. It's a bill for an act relating to schools; defines terms; prohibits sexual conduct with students and former teachers [SIC] as prescribed; and provides duties. The bill was read for the first time on January 21 of this year in front of the Education Committee. That committee placed the bill on General File with no committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Lathrop, you're welcome to open on LB1080.

LATHROP: Thank you, Mr. President. And colleagues, good morning once again. LB1080 is part of the Legislature's response to troubling stories we've seen about students being manipulated or subjected to inappropriate conduct by teachers in Nebraska schools. I became involved in this issue last year after meeting with a mother and a school board member from Grand Island whose daughter was groomed by a substitute teacher. And I want to tell you, this clearly has had an immense toll on that family. As we were looking for ways for the Legislature and how we might prevent these things from happening in the future. The Omaha World-Herald then released a series of articles, which brought this issue into public focus. I think we owe these families a debt of gratitude for coming forward with their stories. LB1080 is one-half of our plan to address these type of incidents. We have several bills dealing with the criminal side of this in Judiciary Committee. You'll be hearing about those shortly. But the bill before us now deals with the administrative and procedural side. Specifically, in discussing this topic, we learned that while many school districts have policies regarding appropriate conduct between staff and students, that is not the case in every school district. LB1080 would make it a requirement for every K-12 school in the state to have one of these policies. The bill also establishes minimum standards for such policies. Each policy would need to describe and

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prohibit grooming. It would need to clearly define which communication platforms are appropriate for teachers to use with students. It would need to describe the process for reporting suspected misconduct and it would need to prohibit any sexual interaction between students and staff for a minimum of one year after the student finishes school. Finally, the bill also lays out the potential consequences of violating these policies that range from disciplinary action to firing or loss of a teaching certificate and referral to law enforcement depending on the circumstances. LB1080 was crafted with the assistance of the Department of Education, the NSCA, the Association of School Boards, and the school administrators. Each of these organizations recognized the seriousness of the issue and I want to thank them for working with us on the bill. I think we all recognize that individuals who abuse their position of trust in this way represent a small minority of teachers and school staff. The educators I represent, these people are committed professionals. I believe you all would say the same about the vast majority of teachers in your local school district, but even a few of these cases are too many. And with that, I would ask for your support of LB1080. I would also like to thank the Speaker for making this a priority and for the work of the Education Committee in moving this bill to the floor for your consideration. Thank you, Mr. President.

SCHEER: Thank you, Senator Lathrop. Going to floor discussion. Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. I stand in full support of LB1080. The testimony was overwhelming, convincing in the hearing. Most of us would think this was common sense and every school district would have solid policies in place. But I believe some don't, even some bigger school districts in which-- if you know, remember the history. Even an administrator was charged with a crime because he purposely looked the other way. This bill is well-written, common sense. And it goes back to when we drop our children off at the front door of a public school, we fully, fully expect that they will-- that this kind of stuff won't happen. So I stand in full support of LB1080. It came out of committee 8-0. Thank you, Mr. President.

SCHEER: Thank you, Senator Groene. Seeing no others wishing to speak, Senator Lathrop, you're welcome to close on LB1080.

LATHROP: I just want to once again express my appreciation for those folks in the education community that came together and without

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exception supported this concept and the need for LB1080. And I appreciate their input and I would appreciate your vote on LB1080. Thank you.

SCHEER: Thank you, Senator Lathrop. The question before us is advancement of LB1080 to E&R Initial. All those in favor, please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 39 ayes, 0 nays on the advancement of LB1080.

SCHEER: Thank you, Mr. Clerk. LB1080 is advanced to E&R Initial. Next item is LB1185. Mr. Clerk.

CLERK: LB1185 is a bill introduced by the Health and Human Services Committee and signed by its members. It's a bill for an act relating to Department of Health and Human Services; it changes provisions relating to criminal history record information checks for child care staff members and child care providers; defines a term; harmonize provisions. The bill was introduced on January 23 of this year, referred to Health and Human Services, advanced to General File. There are committee amendments pending.

SCHEER: Thank you, Mr. Clerk. Senator Howard, you're welcome to open on LB1185.

HOWARD: Thank you, Speaker Scheer. Good morning, colleagues. LB1185 is a, is a Health and Human Services Committee bill brought on behalf of the Department of Health and Human Services. I would first like to thank Speaker Scheer for designating LB1185 as a Speaker priority. Last year, the Legislature passed LB460 to ensure that Nebraska comes into compliance with federal fingerprinting and national criminal history record information checks for childcare providers under the Child Care Development Block Grant. Unfortunately, the department informed us that there was one group of childcare providers that were not included in the bills last year. LB1185 corrects that omission and helps Nebraska come into full compliance with federal law. LB1185 amends the Child Care Licensing Act to include childcare providers who are not required to be licensed, but who do want to participate in the Child Care Subsidy Program. These are childcare providers who care for no more than three children. These unlicensed providers can have an agreement with the Department of Health and Human Services to be a provider in the Child Care Subsidy Program. As a reminder, the Child

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Care Subsidy Program helps low-income families afford childcare by helping cover part of the cost. Under LB1185, beginning October 1, 2020, an unlicensed childcare provider who wants to participate in the Subsidy Program must request a national criminal history record information check for all existing and prospective staff members. This request must be made before the childcare provider can be approved as a provider within the Subsidy Program. If a childcare provider is already a provider in the program prior to October 1, that provider will have one year until October 1, 2021 to submit a request for a national criminal history record information check for child care staff members. Additionally, if a childcare staff member has already gone through a national criminal history record information check to become a licensed provider and is in good standing with the department, that person does not need to go through an additional background check. Under LB1185, the childcare staff member being screened must pay the actual cost of fingerprinting and the national criminal history record information check. According to the department, this bill would not apply to persons caring for a child who is a relative, such as grandparents caring for grandchildren. It's important to remember that if the state does not come into full compliance with the Child Care Block Grant requirements, it risks 5 percent of our Child Care Development Block Grant funding. So we would have to return about 5 percent of our current Block Grant funding or approximately \$1.4 million. This bill currently has no General Fund impact and as amended by AM2668, which Senator Arch will open for the committee on, it was advanced unanimously out of committee and I would urge its adoption today. Thank you, Mr. President.

SCHEER: Thank you, Senator Howard. As the Clerk noted, there is a committee amendment. Senator Arch, as Vice Chairman of the committee, you're welcome to open.

ARCH: Thank you, Mr. Speaker. Good morning, colleagues. I would also like to thank Speaker Scheer for designating LB1185 as a Speaker priority and the HHS Committee for including my bill, LB837, in LB1185 as AM2668. AM2668 replaces Section 3 of LB1185 and incorporates LB837, which amends that same section of law. Section 3 of AM2668 amends the Child Care Licensing Act to require the Department of Health and Human Services to seek federal funds, if available, to help childcare providers and childcare staff with the cost of fingerprinting and the national criminal history record information checks. AM2668 also inserts Section 5, which amends the Children's Residential Facilities and Placing Licensure Act. This section also requires the department

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to seek federal funds, if available, to help residential child-caring agencies and their employees with the cost of fingerprinting and the criminal history record information checks. As you may recall, last session, this body passed LB460 in response to the federal Child Care and Development Block Grant Act in the Family First Prevention Services Act, both of which mandates the fingerprint background checks. Had we not passed the bill, the state would have been at risk of losing significant federal funds. However, this mandate does place a financial burden on licensed day care providers, residential child-caring agencies, their staff and prospective employees. Each background check costs around \$45.25. Last month, the department did inform childcare providers and child-caring agencies that it did have funds available for the childcare and-- from the Child Care and Development Block Grant to cover the costs for individuals employed prior to October 1 of last year. However, this federal mandate will continue into the future and the provisions of LB837 containing the amendment require the department to continue to seek federal funds. Now if federal funds are not available or sufficient, then the providers and staff are responsible for those costs, which is the current law. If funding does become available, the department may pay all or part of the costs associated with the background checks. LB1185 as amended by AM2668 was advanced unanimously out of committee and I would urge a green vote on AM2668 and LB1185. Thank you, Mr. Speaker.

SCHEER: Thank you, Senator Arch. Seeing no one wishing to speak, you're welcome to close on AM2668. He waives closing. The question before us is the adoption of AM2668. All those in favor, please vote aye; all those opposed vote nay. Have all wish that-- all voted that wish to? Please record.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SCHEER: AM2668 is adopted. Returning to LB1185. Senator Howard waives closing. The question before us is adoption-- or advancement of LB1185 to E&R Initial. All those in favor, please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 35 ayes, 0 nays on the advancement of LB1185.

SCHEER: LB1185 is advanced to E&R Initial. Next bill, Mr. Clerk, LB1060.

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CLERK: LB1060, a bill by Senator Cavanaugh; relates to the Nebraska Fair Employment Practice Act; it defines a term; and harmonizes provisions. The bill was introduced on January 21 and referred to the Business and Labor Committee, advanced to General File. At this time, I have no amendments to the bill, Mr. President.

SCHEER: Thank you, Mr. Clerk. Senator Cavanaugh, you're welcome to open on LB1060.

CAVANAUGH: Thank you, Mr. Speaker. Good morning, colleagues. We're moving along quickly. So I will say I do have an amendment that will be coming, but it's with Bill Drafters right now and I have spoken to a few of you about that. I am proud to bring LB1060 today, which expands the definition of race under the Nebraska Fair Employment Practice Act to include hair textures and protected styles. Federal law in the United States currently has no provisions regarding the protection of natural hairstyles from discrimination by current and future employers and schools. African American men and women have reported that they, that they, due to their natural hairstyles, such as dreadlocks and Afro, have been unable to participate in school sports and even maintain their employment. There have been many well-reported instances of this happening around the country. The Perception Institute, a consortium of researchers, advocates, and strategists who translate cutting-edge mind science research on race, gender, ethnic, and other identities into solutions that reduce bias and discrimination and promote belonging, conducted a 2016 study of black and white women, which found that the majority of participants had an implicit bias against black women's hair texture. The study goes further to say that white women, on average, show an explicit bias against dreadlocks, Afros, and other natural styles. The study found that black women have to spend much more time than white women styling their hair to confront the Eurocentric-accepted hairstyles. This requires the use of expensive, caustic chemicals to temporarily or permanently change the texture of hair, causing severe, and at times, irreversible damage to the hair and scalp with the constant usage of hot tools such as flat irons, curling wands, and blow dryers. In addition, continuous wearing of wigs and extensions can result in hair loss and alopecia. Blueprint Nebraska report issued July 19-- July 2019 cited improvements in diversity inclusion, e.g., reduction in labor market discrimination barriers for women and black men have driven 20 to 40 percent of U.S. GDP per capita growth over the last 50 years. LB1060 builds upon the Nebraska Fair Employment Practice Act. While current law prohibits employer discrimination based on race,

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LB1060 expands it to include natural hair texture and protective styles. During the hearing for LB1060, we heard from a woman whose son had applied for a job and went in for the interview. On his way home, they called him to tell him they were impressed and wanted to continue the hiring process, but he would have to cut his locks. Again, his employment was conditional on cutting his natural hair because it was inherently viewed as unprofessional and inappropriate for the workplace, even though others with longer and straighter hair were allowed to keep their hairstyles. Clearly, that is discriminatory, discriminatory, but until we pass LB1060, it is legal. As we seek to find ways to recruit and retain a robust workforce in Nebraska, LB1060 is another no-cost way to make Nebraska an ideal location for a workforce looking for a state that values its workers. Thank you and I ask for your green vote on LB1060. If we do not have time to get to the amendment, I will be bringing the amendment between General and Select.

LINDSTROM: Thank you, Senator Cavanaugh. Turning to debate. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President, and good morning, colleagues. I wanted to rise early in this debate. There is not a committee amendment, but we did hear this bill in Business and Labor Committee. A number of different individuals and different groups testified in support of this bill, including quite a number of individuals just representing themselves and sharing their personal experience, including with hair textures in their employment practice, as well as the Heartland Worker Center, the Omaha NAACP, the Women's Fund of Omaha, the ACLU of Nebraska, and the Delta Sigma Theta Sorority, the League of Women Voters, and as well as Marna Munn, who is the executive director of the Nebraska Equal Opportunity Commission, testified in a neutral capacity, saying her organization, they felt, could handle any change in workload due to this bill. We did-- this bill did come out of committee unanimously. We had a lengthy and kind of spirited discussion in our Executive Session discussing this bill. And ultimately, I believe all members voted to, voted to forward this bill to the floor, to forward the discussion. But several of them did indicate that that was not necessarily representative of their final vote on the bill. So I appreciate all of my committee members viewing this as a worthy discussion issue for General File. And I know several of them are going to speak to how they view the bill here this morning most likely. With that being said, I do personally support this bill. I'm very appreciative of Senator Cavanaugh bringing it. This

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clarification is something we are seeing other states do. There are kind of a number of states that go out of their way to expressly include hair textures and hairstyles as an element of race-- racial discrimination because we have seen time and time again, kind of, allegations of this being a proxy for racial discrimination such that there will be a hair standard or something that does not conform to safety or health of the workplace that applies specifically to one particular racial or ethnic group disproportionately impacts them. There are ways under current law to argue that, that if there is a policy that, say, disproportionately applies to one race, currently you can argue that that is kind of de facto racial discrimination. So I think including a more specific definition in the, in the law is a, is a good step forward. I'm looking forward to the debate we'll have to hear today. And again, appreciate all of my members in the Business and Labor Committee doing the courtesy of allowing this to move forward with discussion and look forward to their thoughts this morning. With that, I would urge the body to support Senator Cavanaugh's bill. Thank you, Mr. President.

LINDSTROM: Thank you, Senator Hansen. Senator Ben Hansen, you're recognized.

B. HANSEN: Thank you, Mr. President. This is a, a discussion I had with some of the other senators during the hearing about this bill. And one of the reasons I voted this out of committee is I think-- I'm, I'm not against the fact this can get on the floor and have a proper discussion is one of the reasons. And so always in a sense of subjects like this, I first always have to give the caveat that I, I am-- I try to walk in somebody's moccasins the best that I can whenever I try to make a decision about a bill where people are coming from. And so I can't even imagine-- to put myself in the place of somebody, somebody else's culture or ethnic background or disparities that were put upon themselves or their race. And so I'm not even going to go there with that. I'm sure I'll have other discussion about that later. But like you've heard me say before, whenever bills like this or other bills come up on the, on the floor, is-- and this could be answered later on by somebody else's-- is, is this law currently even needed? I understand the emotional impact it could have, I understand the cultural impact it can have. I try to anyway. I, I may not. I don't know where everybody comes from. But right now, are we seeing a preponderance of, you know, lawsuits or complaints to this state that pertain to a law such as this? This is the same thing I've said with other-- any other kind of law, whether it's this or something else. Is

this law needed in the first place? And on point number two, what kind of Pandora's box are we opening with this bill? Could somebody then also, if we expand this law, if we start here, somebody who is of Japanese heritage feel disparaged if they don't have a kimono they can wear to work or somebody who says they have a Viking heritage and they want to wear a Mohawk or any other kind-- you know, where does it stop? You can pick pretty much any kind of background you want, like, kind of where does it stop? And so I'm trying to think like I, like I do with all laws. I try to think with my head and my heart here. Your heart kind of tells you something, your head tells you something else. And so I'm just trying to find that fine line, that balance. And these are some of the discuss-- some of the points I'm just bringing up because just some of the, the questions that I had about this bill and also something I said before is when we think of laws, we're always trying to protect certain people who we deem are victims. And so can we make a law to help the victims? And if that's the case, are there other victims, then, we are creating? I personally feel it is not a government's right to tell somebody who they love, who they should marry, what they should do to their body, what they want to do with their hair. But just as we respect that right, or at least I do, I also have to respect the right of the employer. What do they feel is best for their business? Again, without disparaging or being discriminatory, which I think-- and then maybe Senator Cavanaugh can answer this later-- if there are-- I'm understanding that there are already certain protections for an employee if there is fundamental discrimination being put upon that employee by the employer. There already is some legal means of repercussions or for, or for filing a suit. And so we think of the employees, but I also want to think of the employers. This is food that we could potentially be taking out of their, their--

LINDSTROM: One minute.

B. HANSEN: --children's mouths or their ability to feed their families by telling them-- again, as the government telling them what to do. So I think it's kind of walking that fine line again. How much do we tell them what to do and what they can't do? I'm a business owner myself. Personally, I don't care what hairstyle you have. This is the great thing about being a free market capitalist. I don't care who you are. I don't care what you look like. I don't care what you do. So long as it's a mutually beneficial relationship between the employee and the employer where they're both benefiting, they're both happy, things are working well, get the government out of the way. And so at least

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that's a personal opinion of mine, unless there is major concerns or we are seeing a preponderance of issues where the government might need to get involved. Right now, I just don't feel like and when-- during the hearing, I didn't see that. I heard testimony, I heard very compelling testimony, but I didn't see a trend of this happening throughout the state of Nebraska where the government might need to get involved. So I'm sure some of these questions will probably be answered by some other senator. So--

LINDSTROM: Time, Senator.

B. HANSEN: Thank you.

LINDSTROM: Thank you, Senator Hansen. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President. I rise today in about the same position that Senator Hansen rose and spoke to just now. And I was wondering if Senator Cavanaugh would yield to just a few questions about her bill and what it would mean for business people in Nebraska.

LINDSTROM: Senator Cavanaugh, would you yield please?

CAVANAUGH: Yes.

SLAMA: So Senator Cavanaugh, I'm looking through the text of the bill now and again, I voted this bill forward just to have this discussion on the floor and to flesh out the reasoning behind the bill. I see that in the first section, so line 14, on page 6, so that final page of the bill, you define race as including "race, ancestry, color, ethnic group identification, and ethnic background." What does ethnic group identification mean?

CAVANAUGH: I'll have to get you a more formal answer to that.

SLAMA: OK. I think it's important that we have these definitions tabbed down a little bit more tightly if we're going to be passing legislation that includes that. So we also have on line 16, page 6, "Race is inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles." So when we're talking about that "including, but not limited to" language, beyond hair texture and protective hairstyles, what other things could you see being included within that?

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CAVANAUGH: I don't have anything further that I would include in that or that I--

SLAMA: OK.

CAVANAUGH: --have heard to have include in it. But I did not want to be exclusionary in my language, saying that it only protected these things.

SLAMA: Sure. I take the opposite view in thinking that the language that we pass in this body needs to be as tight as possible to have the desired impact that we'd like for it to have. So beyond that example that you mentioned in your opening, were there any other examples of potential discrimination based on hairstyle happening in the state of Nebraska?

CAVANAUGH: Yes, there are, are numerous examples. I can read some of them to you if you'd like.

SLAMA: I, I think it would be worthwhile to hear a little bit more about those just because if we're going to create a new-- an expansion of a definition of a protected class, we need some solid evidence and some solid numbers as to why that protection is necessary. Also, you mentioned in the hearing that California is the only state that has passed this type of legislation; is that correct?

CAVANAUGH: I believe more states have passed it now, but California was the first state. That's where the 11th Circuit Court case happened. And as a result, other states have started looking into this.

SLAMA: So I'm under the impression that California is in the 9th Circuit, not the 11th Circuit.

CAVANAUGH: Oh, maybe I have the number wrong. I apologize if that's the case.

SLAMA: OK. Yeah, it's, it's important if we're citing these court cases that we get the circuit correct because Nebraska is actually in the 8th Circuit. So those rulings are nonbinding on the state of Nebraska. And I just have one last question here. Why isn't this already covered under current racial discrimination laws? Because it seems to me that it would be. So is there a legal argument or a legal

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reasoning as-- behind why we need to expand this definition to include hair styles?

CAVANAUGH: So I apologize, it is the 9th Circuit, not the 11th Circuit. And it is-- it's important that the court decision happened because it determined that race is not a part of-- or hair is not a part of race as it currently is written. And so it is necessary to expand--

LINDSTROM: One minute.

CAVANAUGH: --the definition to include hair if we want to be inclusive of women and men's hairstyles based on their race. So that is the necessity for expanding the language. It is-- it sets the precedent. And yes, we are in a different circuit than California is in, but we have not had it go to that level. So in order to preempt that sort of litigation happening, this bill will help do that. This is something that our workforce needs. And I'm happy to give you as many examples as you need to understand the impact and implication this has on women's lives, especially women of color, black women who already make significantly less than white women and all men. This is something that is going to really help them move forward in the workforce and feel--

LINDSTROM: Time, Senators.

SLAMA: OK.

LINDSTROM: Thank you, Senators Slama and Cavanaugh. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, whenever you talk about the law, it's good to have been trained in the law. Different circuits exist within this country when it comes to the federal courts. They do look at what other courts in other circuits have decided if they are looking at the issue for the first time. When Senator Slama goes further in law school, she will read cases where in the federal court system, there are many references to other federal district courts, other federal appellate courts in order to get an idea of what the trend is at the federal level on a certain issue, which they have not yet confronted. That happens at the state level. It happens at every level of the judiciary. So whether a decision came down in the 9th, 11th, 8th, 1st, 2nd, whatever, they will look at what each other has done. For example-- and then I'll get into the bill--

the Washington, D.C. Circuit is considered the next level from the U.S. Supreme Court and their rulings carry extra weight throughout the country and not because other circuits are bound by what they say, because they're a part of that circuit of which the D.C. court is, but because of the influence that they have, the caliber of the persons who are judges, the kind of cases that they handle, which would not ordinarily occur in many of the other circuits. So whether the 8th Circuit or any other one has made a ruling, they will look at each other. If no case has arisen in any of the states which comprise the 8th Circuit Court of Appeals, there will be no decisions. Now I'm going to get into this matter. White people make the determinations about everything. When I was wearing a beard, I was criticized and it was considered a sign of militancy and antiestablishmentarianism. Fine, it didn't matter to me. I wore it anyway. Then white men decided they would wear beards because white actors did it. And now I see somebody like Senator Halloran wearing a beard. You see beards everywhere as soon as white people say it's acceptable. Race is not even a scientific term. Race is a sociological, psychological, political construct. How are you going to define race? You look at how various states-- if they attempt to do it and those are not scientific definitions. There is no such thing as race as people want to make it firmed up. So when you're passing laws, you take into consideration what the understanding of words are in the society. Many issues are discussed in the law of Nebraska, laws throughout the country, and at the federal level. And the issue, the item is not based on a scientific definition. The law is not a science. The law is an art. I believe everybody knows what it is that we're talking about. Everybody knows what racial discrimination is. And I think every white person has felt it and experienced it.

LINDSTROM: One minute.

CHAMBERS: In these days when there are more not only interracial marriages, but interracial liaisons between young black and white people, there are old, crotchety white people who now have what they call a mixed-race grandchild. And all of a sudden, they see things differently. Former-Senator Dwite Pedersen had that happen to him. And when his daughter had a child naturally, since white is the standard of purity, any mixture would cause the one born of it not to be white. White cannot be contaminated in that way. So whatever race, using that term advisedly, the mixing parent was, that's what the child becomes. If the mother was black, the child is black. If the father was black,

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the child is black, but never white if one of the parents was white.
And all of that is--

LINDSTROM: Time, Senator.

CHAMBERS: --based on racism. Thank you, Mr. President.

LINDSTROM: Thank you, Senator Chambers. Senator Halloran, you're recognized.

HALLORAN: Thank you, Mr. President. I was hoping we'd go for a break for lunch before I came up. But thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. It's a-- this is one of those issues where I have no problem with coming to the floor for discussion, debate, conversation. It should be there, I think. And the conversation we had in the committee initially was that one of the committee members said, well, when it's, when it's discrimination, it's discrimination. And something clearly as blatant as recommending or telling someone that they have to cut their dreads or they can't have a job and the person's a black person, Afro-American then-- and a white person has dreads and they don't have to cut theirs, then it's clearly discrimination. But I'm not sure that you need to have a law to do that. Would Senator Cavanaugh yield to a question, please?

LINDSTROM: Senator Cavanaugh, would you yield please?

CAVANAUGH: Yes.

HALLORAN: Thank you, Senator Cavanaugh. Have there been some-- can you-- have there been some cases in Nebraska, some court cases where this was an issue dealing with this hair discrimination?

CAVANAUGH: So I can get you that information. I don't want to misspeak about the details of court cases. What we heard in the testimony was that women have been discriminated against for their hair. And when they've talked to lawyers, the lawyers told them that it wasn't protected under race.

HALLORAN: OK. Thank you, Senator. Again, I'm not sure how far we go with, with various characteristics for any, any of us or all of us. This may be a legitimate one, I'm not arguing it's not. I'm likely not to vote for it because I think we just never have-- we have a never-ending case of circumstances or characteristics or personal quirks that any one of us might have that might be discrimination.

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Maybe next year, I should sponsor a bill dealing with discrimination against short people. Maybe Senator Arch could do a bill discriminating against bald people, hairless people. I'm not sure where it starts and where it stops. But, but again, in the committee, when we "execed" on this committee, I was given assurance and so were all the other members of that committee that if we "exec" on this, it was not going to be prioritized by Senator Cavanaugh. And, and here we are. So that's more of, of a consternation for me than maybe the nature of the bill is. Thank you, Mr. President.

LINDSTROM: Thank you, Senator Halloran and Senator Cavanaugh. Mr. Clerk.

CLERK: Mr. President, some items. An amendment to-- from Senator Lathrop, LB1148, and Senator Hughes to LB803 to be printed. Name adds: Senator Blood would like to add her name to LB1060. Announcements: Business and Labor will have an Executive Session upon recess in Room 2022, Business and Labor upon recess, and then at 1:15, General Affairs will meet in Room 2022 at 1:15, General Affairs at 1:15. Mr. President, Senator Kolowski would move to recess the body until 1:30 p.m.

LINDSTROM: Thank you, Mr. Clerk. Before recess, Senator Vargas would like to welcome teachers from Lincoln and Omaha area seated in the north balcony. Please stand and be recognized by your Nebraska Legislature. The motion before us is to recess. All those in favor say aye. All those opposed say nay. We're in recess.

RECESS

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

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

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

CLERK: I have nothing at this time.

SCHEER: Mr. Clerk, we'll proceed to the first item on the afternoon's agenda.

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CLERK: Mr. President, when the Legislature recessed, pending was LB1060, offered by Senator Cavanaugh.

SCHEER: Thank you, Mr. Clerk. Senator Cavanaugh, would you like to refresh us on your bill, please?

CAVANAUGH: Thank you, Mr. Speaker. Good afternoon, everyone. I hope you had a wonderful lunch break. We are discussing my personal priority, LB1060. It is a bill that expands the definition of race under the Nebraska Fair Employment Practice Act to include hair textures and protected styles. This is a bill that costs nothing. It has no opposition.

SCHEER: Excuse me, Senator.

CAVANAUGH: Yes.

SCHEER: Please proceed.

CAVANAUGH: Thank you, Mr. Speaker. This bill costs nothing, has no opposition, is a, a, a bill to help improve the diversity of the workforce in Nebraska. We have a workforce shortage and the intention here is to seek ways to create a more inclusive and welcoming state for those that might be considering moving to Nebraska and to create a more inclusive and welcoming state for those that currently reside here and work here. Thank you.

SCHEER: Thank you, Senator Cavanaugh. Returning to the queue, Senator Clements, Slama, Blood, and others. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. Speaking of a welcoming state, I think we also need to be business friendly in Nebraska. And I did have a constituent comment about this, saying, as an employer, he'd like to retain the rights to restrict hairstyle and length. He also has a dress code for people that work in his business, wanting them to look professional, and would object to having-- not having any ability to have a code for hairstyle. Also, I received this communication. It's regarding professional baseball player contract for a certain professional baseball team. It says all players, coaches, and male executives are forbidden to display any facial hair, other than mustaches, except for religious reasons, and scalp hair may not be grown below the collar. Long sideburns and mutton chops are not specifically banned, but especially it said that for this baseball

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team, they may not have hair below the collar and they've signed a contract to that effect. And this is not a Nebraska team. But if there is an employer and employee contract that also restricts the length of hair, this bill might be in conflict with that contract and I'm not sure that we are able to do that. And so I am-- would rather let the business set its codes for dress and appearance and I do not support the bill. Thank you, Mr. President.

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

SLAMA: Thank you, Mr. President. I rise still with some real concerns about LB1060 and I was wondering if Senator Cavanaugh would yield to some questions.

SCHEER: Senator Cavanaugh, would you please yield?

CAVANAUGH: Yes.

SLAMA: Hi, Senator Cavanaugh. Thank you for agreeing to yield. So just to follow up on our conversation this morning, do we have a definition for what you consider to be ethnic group identification yet?

CAVANAUGH: I do not have a definition for that, but I can Google and get you one shortly.

SLAMA: OK, great. I'd appreciate it. Do we have any statistics at all that-- of this being a problem in the state of Nebraska, like hard data that we can look at and say, yes, this discrimination based on hairstyles with regards to race is occurring?

CAVANAUGH: It's difficult to have statistics on something that currently is legal.

SLAMA: OK, so we don't have any data to back this. Thank you, Senator Cavanaugh. At the root of my concern of LB1060 is we've heard a lot of anecdotal data-- well, one case in particular. I haven't heard of any other cases outside of that. And I have concerns, especially when the bill is based off of the 11th Circuit Court of Appeals decision. So just to clarify from this morning, the 11th Circuit Court of Appeals covers the Deep South, so Florida, Georgia, and Alabama, from what I can tell from this map. But it seems to me that decision, and I'll get into a little bit of this decision and actually read the summary on this decision aloud, the, the judgment in favor of the employer said that the dreadlock hairstyle was nondiscriminatory because they

equally apply this across all races, so any person of any race or gender who had dreadlocks would still fall under the requirements of this employer to keep their hair at a certain length. So I'll read the quick summary of this decision because if we're basing this legislation on this 11th Circuit Court of Appeals decision, I think it's important that we understand what the court decided here because I don't think this is covered by LB1060, because it was determined that this employer had a racially-neutral policy when it came to hairstyles that covered everyone across the board. So this is case number 14-13482 from the 11th Circuit Court of Appeals, the Equal Oppor-- Employment Opportunity Commission v. Catastrophe Management Solutions is the defendant and the appellee in this case. This was decided December 5, 2017. A petition for rehearing having been filed and a member of this court act-- in active service, having requested a poll on whether this case should be reheard by the court sitting en banc and a majority of the judges on active service of this court having voted against granting a rehearing en banc, it is ordered that this case will not be reheard en banc. Catastrophe Management Solutions does not hire anyone, black or white, who uses an-- "an excessive hairstyle," a category that includes dreadlocks. So when Chastity Jones, a black woman, refused to remove her dreadlocks, CMS rescinded her employment offer. The EEOC sued on her behalf, claiming that a prohibition of dreadlocks in the workplace constitutes race discrimination because dreadlocks are a matter of wearing the hair that is physiologically and culturally associated with people of African descent. That's from the EEOC's proposed amended complaint. The EEOC's lawsuit, in other words, sought to expand the definition of race, a term undefined under Title VII, to include anything purportedly associated with the culture of a protected group. Again, this is a massive concern I have with LB1060 is that it goes far beyond hair and is rather all encompassing.

SCHEER: One minute.

SLAMA: Thank you, Mr. President. The district court dismissed the case and a panel of this court con-- affirmed because the EEOC's complaint did not allege, as required by our Title VII disparate treatment precedent, that dreadlocks are an immutable characteristic of black individuals. They cite a number of cases. A majority of this court has declined to rehear the case en banc, prompting Judge Martin to dissent from the denial of rehearing with a thoughtful critique of the panel Opinion. I'll come back to this later, but in essence, it determined that these hairstyles must be-- policies regarding these hair styles

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must be equally employed. I think the current racial discrimination statutes cover what Senator Cavanaugh is trying to cover already. As such, LB1070-- LB1060, I'm sorry, is unnecessary. Thank you, Mr. President.

SCHEER: Thank you, Senator Slama and Senator Cavanaugh. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. Speaker. Fellow senators, friends all, I stand in enthusiastic support of Senator Cavanaugh's LB1060 and I want to explain why and hope people who claim to be on the fence are actually listening because I think I bring maybe a different perspective. So first of all, the most obvious is that this bill sets to end implicit and explicit biases. So as we all know, implicit bias is shaped by experience and based on learned associations that include race, some gender. Explicit bias is about attitude and beliefs we have on a more conscious level. So more importantly, though, this bill is about the personal rights of others. So I was really happy to hear that this is an important issue for Senator Ben Hansen. These legal rights over our own bodies, when put into practice, allows our workforce to feel valued, raises self-esteem, empowers individuals, and allows them to feel safe. So let me better explain and also address the concerns that, that bring-- that this might bring for businesses. So when a business has a policy on personal appearance, the question that I would ask of those businesses is if those rules or standards or codes affect women more than others; do they affect black employees more than others; do they affect people who may be nonbinary more than others? If those codes, policies, or rules affect a specific demographic more than others, then perhaps their personal rights are being violated and they should revisit these policies, especially if this results in your employees constantly having to self-edit-- edit because of their hairstyle. So I appreciate that Senator Slama contributed that in the case that pertained to the dreadlocks, that that rule was equally applied, but that's not what we're talking about. We're talking about things that are not equally applied. If there are rules that pertain to your dress code within your business, the question you must always ask yourself is, is that putting an undue burden on a certain demographic within your business? So Senator Halloran asked me, or asked everyone-- excuse me-- how far do we go? Well, I'd counter that with how much do we value and understand diversity and respect for our fellow human beings? To compare it with, with shortness or baldness is really very insulting and shows a clear misunderstanding of what this bill is truly about. I believe that we

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can do better in Nebraska and continue to support the personal rights of our citizens and I think this is another great step to do so. And with that, I would yield any of my time remaining to Senator Cavanaugh.

SCHEER: Senator Cavanaugh, 2:10.

CAVANAUGH: Thank you, Speaker Scheer, and thank you, Senator Blood, for your remarks of support of this bill. I, I want to take a moment to address Senator Slama's question about ethnic identity. I actually have-- it's in the amendment that I'm currently working on with Bill Drafters that would replace that section, line 14, page 6, and it would say race is inclusive of traits of-- historically associated with race, including, but not limited to, hair texture and protected hairstyles. This is something that was suggested by the NEOC and so when the final amendment is worked out, that will be added on here. So I'm happy that I was able to address that issue. I want to come back to the, the reason behind this, this bill, which is the people. And it's not just one person. It's, it's--

SCHEER: One minute.

CAVANAUGH: It's thousands of people. We heard testimony from several individuals. There was a woman from the Delta Sigma Theta sorority who came and spoke and I'm going to share some of her testimony: Sadly, throughout my professional career, I've been asked countless questions about the many diverse ways in which I have chosen to style my hair. I've been asked why I wear my hair the way that I do, told that I look better when it is straightened, asked if it was soft and clean, to which I replied, yes, and absolutely. I also asked if they could-- they also asked if they could touch it, which resulted in "no way," and that-- and that to do so anyway, unsolicited, would be exercising white privilege and assault. Most shockingly was when a colleague compared my natural hair to that of an animal, a dog, to be exact. At that point, I had enough and reported them. For someone to limit access to one's employment--

SCHEER: Time, Senator.

CAVANAUGH: Thank you.

SCHEER: Thank you, Senator Blood and Senator Cavanaugh. Senator Erdman, you're recognized.

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ERDMAN: Thank you, Mr. Speaker. Good afternoon, Nebraska. So I listen to the debate and I think Senator Halloran had a good idea. We need to protect short people. Maybe Senator Chambers would agree with that too. But as I listen to the debate and hear the discussion and we're talking about taking away the authority from a business to have a certain dress code or to have their employees look a certain way, I am not in favor of LB1060. But what I'd like to do now, I'd like to talk a bit about some of the developments that have been happening at Lake McConaughy. Some of you have been here when I've talked about the issue at Lake McConaughy and I thought things were improving there. I come to find out that is not the case. The Lake McConaughy advisory group, in partnership with Game and Parks, have been having some meetings and the committee has donated a lot of time over the past 90 days, about 300 hours in meetings alone, and this does not include the hours spent researching options, putting together information, or time spent on the phone preparing for the meetings. None of the group's ideas were really ever given consideration by Game and Parks, not at all-- they were patronized by Game and Parks-- except programs and projects that were somewhat already in place. Game and Parks is moving forward with those. One of them is a recycling trash program and the other one is the volunteer program. Those were already in place before the committee already started meeting. The alcohol ban regulation change requested by Game and Parks for Lake McConaughy and Lake Ogallala is something that the local advisory group was not involved in and helped make the discussion or decision. The group has been asked to support this regulation change and will do so. The group will do that if the ban and its effectiveness is reviewed annually by the partnership with the group. Game and Parks was not interested in doing that either. The proposed action was presented by Game and Parks at a meeting on February 27, the majority of which had actually already been completed along the north side of Lake McConaughy. Why are we spending time discussing proposed plans if they were already done and completed? That's a question one has to ask Game and Parks. The answer is they didn't intend in changing their procedures. They don't care about this group. What is the purpose of the advisory group? Absolutely none; to appease the, the community, to get them off their back. Why did the staff act, act on something not approved by the Game and Parks Commission? Well, Game and Parks leadership does whatever they want. They don't need approval from the board. They never have. It is not the intent of the group to micromanage Game and Parks-- well, I may say that that may be a good idea, looking at the way they manage it now-- but to be at the table for discussion about the plans

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and the actions that will be taken at Lake McConaughy and Lake Ogallala, as these two lakes are the greatest economic driver of the community. In the summertime, they are very well attended and it drives the economy in the summertime. The integrity of this group and the purpose of the partnership needs to be protected and move forward. So what I'm telling you here today is they're saying things in public that they want the community to hear to take the pressure off of them and they're going to continue to do what they've always done. Nothing has changed. Nothing has changed. It's a sleight-of-hand procedure by Game and Parks. We in western Nebraska, for-- according to Game and Parks and the way they act, is we are the redheaded stepchild.

SCHEER: One minute.

ERDMAN: Thank you. And they don't care what happens in McConaughy because if they did, they'd manage it differently. And so this, we're not done yet. We're not done with this. And if the Game and Parks commissioners are listening, get ready, because we have just begun. Until we get this under control and make the necessary changes and you start adhering to what the group and the people in the community want, we will continue to press this issue. Thank you.

SCHEER: Thank you, Senator Erdman. Those waiting in the queue: Senator Cavanaugh, Chambers, Senator Ben Hansen, Slama, and others. Senator Cavanaugh, you're recognized.

CAVANAUGH: Thank you, Speaker Scheer. I will just continue on sharing what we heard from the people of Nebraska. I would like to say that I, I didn't know that I was going to prioritize this bill. I didn't actually know what I was going to prioritize because I was waiting. As a member of the Health and Human Services Committee and somebody who is very committed to making sure that the children that are in the care of the state are, are actually well cared for, I was reserving my priority bill designation until the last day because I wanted to ensure that all of the YRTC bills had a path forward. And once I saw that that had happened, that opened up the opportunity for me to prioritize one of my own bills. And so I am so thrilled that I was able to do that and appreciative that the committee voted for this. I do wish that if there are concerns about the bill that's my priority, that I've always been willing to make changes and to address people's concerns, that they would have been brought to me more directly than this floor debate, but I understand that sometimes that's just how the cookie crumbles. So I, I want to make sure that if this does go three

hours, which it looks like it's going to be going three hours, that the people that, that, that have shared their stories have a voice. And the fact that this is going three hours most likely says to me even more how much this is needed for, for people of color in Nebraska, especially women of color. Women of color are, are so, so much more oppressed than everyone else and there aren't any women of color in this body and that is unfortunate. But as long as there aren't, I'm committed to be their sister here and do what I can to elevate their voices, so I will continue with reading from the testimony that we heard. For someone to limit access to one's employment, as well as exerting discrimination or harassment based on one's hair, is nonsensical. It's unfair and it's absurd. I offer that those who bring attention to those like myself, who choose to wear their hair in a natural state, braids, locks, or twists, cause more disruption and perpetuate intolerance and bigotry in the workplace. We must create a respectful and open workplace for natural hair. I know that hair discrimination is too often used as a substitution for racism in ways that directly impact the success of people of color in schools, courtrooms, and boardrooms. This state should honor the beautiful array of residents who have and continue to make contributions. Diverse people make Nebraska better. Again, this is about systemic racism and tearing apart the foundational blocks that we as a society have put into place to keep people in a sub--submissive position from the rest of us. Here is another person's testimony: Covering up something that's genetically inherited should be shameful. Requiring that from a company should be more shameful, sinful, despicable, and outright, outright outrageous. My braids protect my hair from environmental damage. As a young professional--

SCHEER: One minute.

CAVANAUGH: Sorry?

SCHEER: One minute.

CAVANAUGH: Thank you. As a young professional that is born and raised here in Omaha, that has worked a variety of different jobs in a variety of different industries in corporate America and also a bartender and also in food service, where I've had to do a variety of different job functions with a variety of different hairstyles, some of which I was asked to change my natural hair pattern and my natural hair texture in order to comply with the uniformity of my coworkers--like, for example, when I worked retail, I was told repeatedly that I

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needed to change my hair, either the length or the texture or the style, in order to comply with their expectations of not just the uniform but how I was to portray myself. I support this bill not just because it expands and specifically defines what natural hair discrimination can look like, but it also defines what race is according to the Fair Employment Practice Act.

SCHEER: Time, Senator.

CAVANAUGH: Thank you.

SCHEER: Thank you, Senator Cavanaugh. Those waiting to speak: Senator Chambers, Senator Ben Hansen, Slama, Groene and others. Senator Chambers, you're recognized.

CHAMBERS: Mr. President, members of the Legislature, I have never hidden the fact that I am black, that I'm proud of it. I'm not going to apologize for it. I'm not going to get on my hands and knees and beg some white people for anything. If you are so racist, and that's what you are, that you do not understand what is being said here, I'm not going to waste my time. I did discuss with Senator Clements what he read about this baseball team. If that rule applies to everybody on the team-- nobody can have sideburns below the lobe of the ear, nobody can have hair that goes below the collar, nobody has facial hair other than a mustache-- you know what the requirements of the job are before you go. You could not go, with those requirements having been posted and enforced, and say, I want something done differently for me. Now when you have white women with hair long like Senator Slama's, then a black woman comes with long black woman's hair and they want her to cut it, that's racism. But I'll tell you all what this afternoon. Listening to you white people, and I say that on purpose-- and I look around this Chamber at the absence of all those white people whose bills I have supported, I have fought hard for-- it wasn't a quid pro quo. It was because I believed in it. But now, today, I'm putting a different standard in place. I'm going to do you all like you've done us. Do what you will with this bill at your own peril. Let Senator Slama read what these racists are sending to her and pop up here like she always does to oppose these types of things. I'm not going to waste any energy trying to persuade you all, but I'll tell you this. Any rule that's in the workplace that applies to everybody will apply. If there is a rule referencing hair and it's applied to everybody, I have no quibble or quarrel with that. If I go for the job and I have all the qualifications and I know white people don't have it, as often

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happens and they get the job, that's racial discrimination. You all think I'm a fool or you all are fools to stand here and act like there's no racism in this society, that there is no discrimination, when you can look inside yourself and see what you think, how you feel, how you conduct yourself, what you have in your mind when you see a black person. I know what you are. I've been around you here for 46 years. And I knew what you were before I came here. You just demonstrate it here and you have the power to do it because you have the numbers and you feel that might makes right. Well, for the rest of this session, we're going to see what you can do with your numbers. And on some things, you ultimately will prevail because you'll get 33 votes and you'll get it all the way across the board. But I wonder how many bills we can consider, going 33 votes for all of them, in the days we have. And if you think that because of my advanced age, that I cannot do what I'm saying, try me. I have many books at home with information that you all need to hear. This will become my bully pulpit. I will become a professor. Nothing is off limits in legislative and political debate.

SCHEER: One minute.

CHAMBERS: Trump has shown that. He just called the governor of Washington State a snake. That's what your President did. He's a whoremonger. You know a whore is a woman who sells her sex for money. Trump paid off a woman from whom he bought sex. She was a whore. That makes him a whoremonger. And the Bible says whoremongers are going to Hell, but you all support him. That's the kind of session we're going to have the rest of the time. All the gloves come off. Say what you want to, Senator Slama and the rest of your ilk. Say what you want, Senator Ben Hansen. And I believe that you're trying to find your way, so I make distinctions. But when you all are in the same group and you're all going in the same direction and me and my people are the target, get ready, because here I come.

SCHEER: Time, Senator.

CHAMBERS: Thank you, Mr. President.

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

B. HANSEN: Thank you, Mr. Speaker. And as Senator Chambers knows, I usually do say how I feel and I do mean what I say and I say what I

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mean. And I'm doing the best to not touch my face during this whole speech, even though subconsciously it's in the back of my head now and so I feel like I have to touch my face all the time. But I do want to extrapolate a little bit on what Senator Chambers said earlier when it comes to the art form of legislation. He believed legislating was a science, it was an art and more art, and, and so I, I think we fundamentally agree on some of those bases and it's going to pertain to this bill here. But I believe there's three parts to good legislation. I believe there's a science, there's an art, and there's a philosophy. You know, when you think about the science part, we're talking about the facts and the figures. And I think that some of the things we've been trying to, to boil some of this down to, Senator Slama has been asking those questions, some other senators have asked that, like, are we seeing a-- are, are we seeing a-- you know, is this kind of discrimination happening more and more that we have-- that the government has to get involved, that we have to make a law about? The art form is crafting good legislation and I think something Senator Chambers would appreciate, the correct lingo, the correct verbiage in any kind of legislation to make sure that we're being specific. And the philosophy is, you know, obviously why we do what we do. What are the repercussions? What are the ramifications? What are the resolutions to any law that we make? Those are three bas-- I think those are three basic processes of good legislation, which is, I think, what the discussion I think a lot of us are having here now. I have no intention of filibustering a law. I think we're actually having a very good debate and we are on the battlefield of ideas and I appreciate all the conversations people are having. So when it comes down to the science specifically of this bill, I personally have not seen a lot of incidents of lawsuits, whether they can be or not, you know, filings of complaints. I heard very good, like I said, compelling testimony at the hearing. I appreciated those people for coming and telling their story. That's hard to do, especially an emotional subject like this. So I appreciate what they came and what they talked about. And I did hear them and I do listen and that does make a dist-- it does have an impact on my decision. The art form when it comes this is, which kind of artist do we want to be? Do we want to be a Jackson Pollock and just throw paint all over the canvas, throw law all over the place, try to cover as much as we can without being specific? Or do we want to be a, what, a Michelangelo, be very specific with the laws that we make, make sure we're making the right kind of laws? And when it comes to the philosophy, I think, in part, a law such as this can negatively impact the free market idea of the

relationship between the employer and the employee because now you're having the government step in. And most of us know whenever the government gets involved in anything, there's a lot of unintended consequences. It typically never turns out the way we thought. It gets interpreted differently. And so I think it's best left up, left up to the employer and the employee. If I was the employee and I felt that way, some of the stuff Senator Cavanaugh has been saying, I'd quit. I'd tell my friends. I'd put it on social media. That's sometimes the most impact you can have on a business; hit them in their pocketbook. As an employee-- as an employer, they should understand that every action they take has ramifications. They can get sued. You know, when I was in business, they say, you know, you're, you're talking about, you know, the opinions of your customers. If one person is satisfied, and this can be-- come with an employee too, if they're happy with their job, they're going to tell one other person.

SCHEER: One minute.

B. HANSEN: If they hate their job, if they hate what they bought, they're going to tell 20 people. And I think that is a free market idea on what we should stick with and not get the government involved in this. That disrupts the whole situation. I love the idea that we have social media for good and bad. I'm scared when my daughter gets on it. She's three years old. What the heck is going to happen in ten years? I don't know what kind of social media we're going to have. I learned about TikTok, though, thanks to these wonderful people sitting in front of me in the vests. I didn't know what it was. That was interesting. I got on there and checked it out. It was kind of weird. I'm still figuring it out. So anyway, I think-- I'd just like to say sometimes it's best to keep the government out of it when there's not a need. And in this instance, I don't see the greater need. Thank you.

SCHEER: Thank you, Senator Ben Hansen. Senator Slama, you're recognized and this is your third time at the mike.

SLAMA: Thank you, Mr. President. I think Senator Hansen raised some really good points there about the importance of having a need when we're passing laws, especially those that restrict our employers. And I think Senator Chambers and I aren't too far off when it comes to the take on hairstyles. If it's a policy that's enforced equally across people of all races, I don't think that's racial discrimination. And that's the same decision that they came to in the 11th Circuit decision that Senator Cavanaugh references the need behind her bill.

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And I referenced the summary of the case very briefly, but I didn't get to the paragraph that really summarized the essence of what the court found. So I'm going to read that quickly and then I'm going to be done speaking on this. I wasn't planning to filibuster it. If Senator Cavanaugh wants to take it three hours, she's more than free to. But here's that paragraph that's critical in that 11th Circuit case. Quote: But as insightful as Judge Martin's dissent is, and as difficult as the issues presented are, dismissing the complaint was the correct legal call. Under our precedent, banning dreadlocks in the workplace under a race-neutral grooming policy, without more, does not constitute intentional race-based discrimination. First, dreadlocks are not, according to the EEOC's proposed amended complaint, an immutable characteristic of black individuals. Second, the allegations in this complaint do not lend themselves to a reasonable inference that, in applying its grooming policy to dreadlocks, CMN-- CMS discriminated against Ms. Jones because of her race. We actually have a bit of a quandary here, I think, in the drafting of LB1060 and I'm actually interested to hear what this forthcoming amendment is going to hold. I always have questions when we're promised amendments and then not given a solid description of what they're going to contain or delete from the bill. But in-- under that subsection (b), race is inclusive of, of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles, and protective hairstyles includes, but is not limited to, hairstyles such as braids, locks, and twists. So we have a potential inequality in application here. A-- an employer could require that men keep their hair trimmed but-- to their shoulders, or even people of both gender keep their hair trimmed to their shoulders, but then we would have this exception here with the protective hairstyles, including braids, locks, and twists. Now these hairstyles are associated with African Americans, but they do not have a monopoly on these hairstyles. Those of all races can wear these hairstyles. So are those of all races who happen to wear these hairstyles included under this bill? Because then, in reality, we're just regulating what employers can and can't do with regards to all hairstyles. Next year, we could have a bill regarding should a person's hair be curled or flat ironed. I think this opens a door. And again, I do not see LB1060 as being necessary because I do believe it is covered under current racial discrimination laws. Thank you, Mr. President.

SCHNEER: Thank you, Senator Slama. Senator Groene, you're recognized.

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GROENE: Thank you, Mr. President. I originally wasn't going to say anything on this because I don't see any racial preference here. It just says race. I think the Wicca, the regions, they, they wear braids and locks and twists, so I don't see any preference to race here. But my real problem is the-- and maybe I can be corrected, but "the number of employees and shall include the state of Nebraska, governmental agencies, and political subdivisions." I'm not supposed to use props, but there's two young men standing in the back, professional State Patrolmen. Take a look at their hair. The reason we have that policy, the State Patrol does, is because long hair can be used to disable you, to grab you by that hair and disable you. But according to this bill, they could wear braids, locks, and twists. I'm not-- it says hair. Does this include beards? There's a reason you do not see police officers and firemen with beards because it-- it's an impediment to a gas mask and masks that they-- and smoke-inhalant mask. But now, according to this, they can if it's their historical-- associated with their race or, I'm assuming, religion. The Jewish race has a lot of facial hair. So does-- requires it, and so does some religions. The Mennonites, I do a lot of business with those folks. They're great farmers and they have facial hair. They couldn't be a police officer and they could not be a fireman because it endangers themselves because a gas mask wouldn't seal. We have some unintended consequences here when you pass legislation like this. It's not necessary. Free enterprise, what about a free enterprise, a security guard? Same situation: It can be used against them to disabled them. And the, and the company says, no, you cannot have long hair in any form because we want you to be able to protect our business or protect our employees and we don't want anything that might allow the perpetrator to disable you. What about machinery? Put myself through college around some complicated machinery. Farms, one of the loose-- worst things you can have is long hair and loose garments around a lot of farm equipment, especially PTOs, shafts, augers. But I will guarantee you, if somebody's long hair got caught in a piece of equipment, there would be a lawsuit. There would be a huge workmen's comp or-- comp claim. There is a reason every single occupation may have different policies on the length of hair. This takes that all away. This takes that all away. What about the National Guard? There's a reason the National Guard all have short hair. There's a reason the ladies in the National Guard and in the police department wear their hair in a bun or have their ears cropped-- or their hair crop-- cropped near the ears.

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There's a reason: because they can be disabled in a skirmish. It is something you can grab onto--

SCHEER: One minute.

GROENE: --and just think about it, folks. If you've ever-- long hair is the first thing a lot of people grab in a fight. But this bill could cause some real problems in our public safety, in our fire departments, in our National Guard. But I don't see racism in it because the way it's written, it's any race as long as you can claim in the history of your, of your ethnic that they wore long hair. I think we could all find that. And I would think the existence of all of us in our history, there's been more years where long hair was what we wore than what we wear today. So it's everybody. It's not just one race over another. This is bad policy. It's not good policy. I wouldn't even vote for it, I don't believe, if, if you took the--

SCHEER: Time, Senator.

GROENE: --the state agencies out of it.

SCHEER: Time, Senator. Thank you, Senator Groene. Those waiting in the queue: Senator Hughes, Hunt, Erdman, Cavanaugh, and others. Senator Hughes, you're recognized.

HUGHES: Thank you, Mr. President. Good afternoon, colleagues. I want to agree with what Senator Clements and what Senator Groene have brought up, that the business owner is the one who makes the rules. He's the one paying the bills and they should have the right to say what their employees look like. We have uniforms at a lot of places. But let's talk about what business is. Business is marketing, the same thing that we do when we're campaigning. We're marketing ourselves to our constituents. So do you show up in, you know, flip-flops and ratty jeans and a torn T-shirt when you're knocking doors? I don't think so. But for business, it's important that you have uniformity. And I don't, I don't think anybody should be discriminated against. I don't-- as far as I'm concerned, if you want to show up and you'll do the job, I don't care what color you are, I don't care what sex you are, I just want somebody that's going to work and do-- finish the tasks that I ask them. Being in agriculture, it is a dangerous job and having long hair is an impediment. And quite frankly, that's a risk that I am not willing to take with an employee because I'm not willing to risk someone getting their hair caught and being scalped. Or worse

yet, that's a liability that I'm not willing to accept in my operation. So I think this is a well-intentioned bill, but I don't think that it's needed. The challenges we have in government is one size has to fit all. I mean, we cannot pass legislation that discriminates or creates one group that's different than another. And that's a problem and that does not work in business. We need to have uniformity, I agree. But you have to have flexibility for the business community. But that's-- I wasn't going to mention anything until Senator Erdman brought up Lake McConaughy and Game and Parks. And as you may know, that is one of my hot buttons that I will stand up and talk about. I'm not surprised that the community group that was formed to advise Game and Parks with making changes out there this coming year has been ignored completely. I do want to point out that there is a lot of local volunteer effort put into that lake. They have volunteers that will go clean the toilets. They have volunteers that go pick up trash. So it's not just about making money in the community. There's a lot of pride in that community and they want to keep that resource looking good. And they like having visitors because it's an economic driver, but Game and Parks does not take local input. And that's what I've been talking about. The administration at Game and Parks is top down. I've been working very hard to get the commissioners more engaged with the running of Game and Parks. I think I've made some headway, but there's still a lot of work that needs to be done. The fact that they're talking about banning alcohol at Game-- at Lake McConaughy, and it's my understanding that it's not going to be banned at any other state recreational area--

SCHEER: One minute.

HUGHES: --I need to verify that, but the latest information I had was that and I don't think that's correct. As many of you know, Central Public Power and Irrigation District owns the lake. They own the water in McConaughy. They own the lake. They own the land to a certain elevation. And that depends on-- you know, how much water there is depends on how much land they have. I think Central would be better off to rent that to someone other than Game and Parks. I think they would probably do a lot better on the bottom line. I think they would have a lot less headaches and I think it would be managed much better. So I think the next time I talk to any of the Central Public Power and Irrigation District directors, we'll have that discussion that I'm sure there's a management company out there that would do a better job.

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SCHEER: Time, Senator.

HUGHES: Thank you, Mr. President.

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

HUNT: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. From what I hear, listening here, it seems like the opposition to this bill is kind of divided into three baskets. There's the first group that's sort of saying we should not restrict anything that private businesses are able to do. So these are the same types of folks who oppose minimum wages, who oppose overtime regulations or benefits legislation. Like, this is an ideological group that this is, like, a kind of consistent belief for. There's another group that's saying we don't want to expand the list of protected groups, like the kind of folks saying, well, next, we're going to be adding short people or we're going to be adding people with big ears or any other type of characteristic that we can't change about ourselves. One of you said on the floor-- I typed it out-- I don't know if we need to protect various characteristics for any of us or all of us because we'll have never-ending circumstances to claim that we're experiencing discrimination. Well, to you I would say, well, what about religion? I think all of you like having your religion protected so that you can choose to not make a cake for a gay person or something like that. And then there's the third basket of opposition, which is opposition that unfortunately comes from a place of racism, where folks are implying that natural hairstyles like twists or braids or dreadlocks are dangerous or unprofessional or unsafe, comparing the hairstyles of black Nebraskans to ratty jeans or flip-flops. I don't sit on the Business and Labor Committee where this bill was heard, but I was in the room listening, sitting with, with some folks from my district during the hearing. Eight individuals came to testify in support of the bill who shared personal stories of discrimination. There were, like, a dozen people who testified in favor altogether. There was no opposition, but the room was full. The room was full, not just of people testifying, but people who were there in support. So if there's anybody on the floor here saying on the record that they haven't heard a real story of discrimination or they haven't heard a real story of why this bill is necessary and they sit on that committee, they are not telling the truth. Because not only did they hear eight specific stories of discrimination in committee, they received many, many letters, as well, that unfortunately we don't have to refer to on the floor as a whole. But I

think it would be helpful if a few of those letters were distributed so that we can stop saying with a straight face that we don't know this is a real problem. I cannot speak for black women. There are no black women in this Chamber, in this body. But I can convey some of the conversations I have had with black women in Nebraska about this issue. Black women who work at natural hair salons can speak to why this is such a huge issue in Nebraska and because they know people who have been pressured to change their hairstyles to hold a job. I talked to one woman who said that some customers have been asked to cut their dreadlocks because their bosses said that they were unacceptable. She has customers who haven't worn their hair natural in so long that they don't remember what it looks like. And what this is about is white, Eurocentric beauty standards. It's-- many of us in this body are perpetuating this by saying, if you have straight-- you know, straight hair like mine, if you have hair like a white woman, like a white person, that that's normal, that that's professional, that that's acceptable for the workplace. But what we may not understand is that black women have to go through very expensive processing, some of which are cancerous. You know, there's chemicals in these processes that can cause cancer to, to people who get these things done. And for that reason, many women I spoke to said that there's a movement to have more natural hairstyles for their health, for their pocketbooks. You know, it costs a lot of money to maintain protective hairstyles like twists or braids. And this is something that I think a lot of white people don't know unless they talk to a black person and they understand--

SCHEER: One minute.

HUNT: --why their hairstyles are different and why their needs for different hairstyles are different. I also want to gently correct people who say that white people can also have braids and dreadlocks and twists, so it's the same thing. It's not the same thing because white hair does not need to be protected in the same way that black hair does. Five other states have passed this. Most re-- recently, Colorado passed this, our neighbors. And I would also ask us to consider, what is a situation where a business would want to restrict someone's hairstyle? In cases where safety is concerned, either due to long hair or hair that obstructs your vision, businesses can already require and provide hairnets to provide for the safety of employees and customers. They can ask that you wear a hat. This is a practice that already takes place in many industries, such as manufacturing, farming and agriculture, restaurants, healthcare, so these are things

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that are already done and people already comply with. Colleagues, how does this hurt anybody? Why are we wrapped around the axle about a bill that's going to help black women quite a bit, that's going to hurt--

SCHEER: Time, Senator.

HUNT: --nobody in this Chamber? Thank you.

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

ERDMAN: Thank you, Mr. Speaker. Good afternoon again. I was listening to the debate here. I thought Senator Groene's comments made sense. I understand why firefighters and police officers, those kind of people, have certain restrictions because of the gas masks and the things they have to do. So I'm not at this point in favor of LB1060, but I am going to make some comments, follow up on what Senator Hughes had commented. I, too, had thought we had made some progress. He's more optimistic than I am when he says we have made progress. I'm not sure that's the case. And I was hoping that when we had a meeting, Senator Hughes, with the board members in your office, that we had shared with them the frustration about the management of Game and Parks and what they do. And I thought maybe the board of directors, the commissioners, would step up and show some leadership there and start getting this thing under control. Obviously, we haven't made an impression on them significant enough yet for them to make that decision or try to get involved. And so I would assume that sometime in the future, there is an appointment-- reappointment to the Game and Parks Commission. I believe that to be the case. I was wondering if Senator Hughes would answer a question.

SCHEER: Senator Hughes, would you please yield?

HUGHES: Of course, of course.

ERDMAN: Senator Hughes, thank you for doing that. Would you, would you share with us, has there been a hearing on a person to be reappointed to Game and Parks?

HUGHES: Yes. Dan Kreitman is up for reappointment to the Game and Parks Commission.

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ERDMAN: And so he, he has served, what, three years, or what is their term? Do you know?

HUGHES: I believe they can serve two six-year terms.

ERDMAN: OK.

HUGHES: But I'm not absolutely certain about that.

ERDMAN: So then my assumption that he's going to come to the, to the full body for approval or approval in the near future or sometime in the future, would that be the case?

HUGHES: The Natural Resources Committee has several appointments to various boards and commissions and was hoping to get them all heard before I brought the package to the floor.

ERDMAN: OK. All right, so I was correct in that there's somebody coming. So here, here's where I'm at on that. Unless things begin to change here, unless we start seeing some leadership that would show me that they are listening, that we do have their attention. I will have a difficult time voting for a reappointment to a board that continues to let Game and Parks function like they've been functioning. And I think Senator Hughes rightfully stated maybe it's time for them to sublet this out to somebody else to manage that really has the concerns of the community and best interest at heart because what we have seen happen thus far is that is not the case. And so we'll see what happens, but it'd be hard for me to vote to reappoint someone who continues to do the same things they've been continuing to do all along. Thank you.

SCHEER: Thank you, Senator Erdman and Senator Hughes. Senator Chambers, you're recognized.

CHAMBERS: Mr. President, members of the Legislature, we have relatively few days left. I'm listening to all this claptrap that these white men are laying down and it's nonsense. Senator Groene, you know where he is. He is, by his words, a bigot. There's no doubt about it. He talks about the emails he gets. I could talk about the phone calls I get from white people also. So we now are drawing the line in the sand. You have the numbers. I'm going to see how you use your numbers. This is something which Senator Cavanaugh has brought in good faith. And as a member of the race-- I use that term advisedly-- affected by it, I appreciate the fact that she brought it. If more

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white people had the ability to empathize, then we wouldn't have the race problems that we have today. Not one of these white men would-- on this floor, with all their fat mouthing, would for 30 days agree to change and wear the skin of a black man. For 30 days, he couldn't stand it. Senator Groene would commit suicide or become a mass murderer. I know what you can't take. I know what you're too weak to stand. I'm wondering where the lawyers are who know what we're talking about and they sit quiet. Let me tell you all a little incident that happened. There was this girl and she was overweight and the kids would laugh at her, but there were some who were supposed to be her friend. So they were at the top of this hill and somebody tripped her and she rolled down the hill and everybody laughed. And when she got up, she was crying, not because of the pain, because it was a grassy hill. But later on, she said the thing that bothered her so much was not the ones who had tripped her, because they'd been doing that all the time, but the ones who were supposed to be her friends joined in the laughter. Well, I'm going to see how much laughing you all do when you put the shoe on your foot that you want to put on the foot of anybody black. Now I'm not saying that everybody is as bigoted as Senator Groene has shown himself to be. But when you join with him, I judge you that way. Not many things on this floor pertain directly to black people. I have told you that if there's a rule across the board, it would be complied with, then the first thing, you all pop up saying in your asininity, well, if the rule says this and then they don't want to do it. I already said that's not a part of it, so you have to depart from what the issue is to bring up some crap that white people bring up all the time. And if I talk much longer, I'm going to use the language that you all use and dare you to try to do anything about it. And those Troopers can't stop me, although they'll shoot a black man. You don't know what you're dealing with, but you'll find out. So the rest of the session, brothers and sisters, is mine. Why do I call you brothers and sisters? I've told you all. My view is that anything born of a man and a woman, if it's a female, is my sister; if it's a male, it's my brother. I didn't say white, black, or anything. I'm the one who told you all a verse from your "Bibble" where it says: Of one blood, God made all nations of the men to dwell upon the earth together. I quoted that, not any of you all. I gave the answer to the question that was asked but not answered. Am I my brother's keeper? I told you that I am, to the extent that I can be, my brother--

SCHEER: One minute.

CHAMBERS: --and my sister's keeper, no requirement that you be black, no requirement that you be a farmer or a businessman or any of these white racists that you all come in here and speak for and represent. I know what you are and now you're showing what you are, and I'm going to show you what an angry, black man educated in your grade school, high school, Catholic university, Catholic law school, can do with what I learned. And I don't wear weapons. These were used against black children. We didn't bring the weapons. White people do. But I'm going to use words and your rules. Do this bill like you do others. Let it go to Select File and let Senator Cavanaugh work out her amendments. But if you don't do that, then we'll just see what happens. Thank you, Mr. President.

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

PANSING BROOKS: Thank you, Mr. President. I just rise in support of LB1060. We have had other bills where we have made carve-outs. In 2017, we had a bill that Speaker Scheer brought to-- that ended the ban on religious garb in the public schools. Why did we do that? Because people felt it was necessary. It wasn't meaningless. We have heard from the second house and other testifiers that they are being discriminated against. To me, it's just confounding that that's happening. To say, oh, what about the State Patrol? And there's all sorts of ways that people require hair to be covered in a manner if, if that's necessary for protection. There could be scarving. There could be all sorts of things. When, when we all went to-- when, when many of us went to help serve food at the-- sorry, the food bank-- anyway, we had to wear hairnets. I don't, I don't really look great in a hairnet, I'm just telling you, and didn't really want to wear it. But guess what? No one looked great in it, so-- but there are requirements that are set forth pursuant to law and I could have decided I didn't want to wear the hairnet and not served anymore. So again, we're talking again about economic development. Do we want people to be in this state and come and stay here and be here and fill our jobs? I do. So really, we have to get off of all this stuff. Having every man stand up and say, I don't understand it, it's not necessary? Well, you're not a woman and you don't know what, what it's like to want to do beautiful things to your hair and use adornment and what's necessary. That is necessary in someone else's life and we are not to judge others. We have made carve-outs, colleagues. So again, I, I will give the rest of my time to Senator Cavanaugh if she'd like it. But again, these are people talking about their needs. Why not be

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forward and think, yeah, we're going to be in a state that embraces all people, all cultures, a state that wants to bring people in and thrive and not get caught up on, oh, my gosh, some business is going to have to worry about somebody's hair and whether they have it in braids? Come on. You know that this is pretty much you guys standing up against Senator Cavanaugh. So I thank Senator Cavanaugh for the, the thoughtfulness to bring this bill, to care about those around us that do have concerns about this issue and deal with it on a daily basis and deal with the toxic formulas that they have to use to become a part of our society. It's-- this is, this is just more mishmash in the world when we need to be looking at our state's growth and economic dev-- development and caring for our brothers and sisters. So with that, I give the rest of my time to Senator Cavanaugh. Thank you.

SCHEER: 1:25.

CAVANAUGH: Thank you, Senator Pansing Brooks. And, Speaker Scheer, am I-- is there anyone left in the queue?

SCHEER: No, there's not.

CAVANAUGH: I can just do my closing then?

SCHEER: If you want to yield-- are you done with the time?

CAVANAUGH: Yeah, I can do the closing.

SCHEER: OK. Senator Cavanaugh, there are no others in the queue. You're welcome to close if you'd like.

CAVANAUGH: Thank you very much. Thank you again, Senator Pansing Brooks. Thank you, colleagues. Again, LB1060 is my priority bill. I have absolutely every intention of bringing an amendment that takes care of the workplace safety concerns, that explicitly states that this does not preempt workplace safety guidelines, and also more narrowly defines race. I am working with the NEOC and the Bill Drafters to just make sure that the language is absolutely where it needs to be. And I will put that on, on between General and Select as soon as it is available, which I imagine would be within today or tomorrow, early tomorrow. There were some questions on this bill. Is it covered by existing racial antidiscrimination laws? You would think so, but the courts are conflicted on whether those laws protect what are considered to be mutable or changeable traits, even when-- whether the natural hair growing out of a person's head is considered to be

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immutable. This clarifies that discrimination against hairstyles historically associated with race are, in fact, racial discrimination. Another question we had was about businesses that have dress codes to ensure workplace safety and to follow health codes. Would this interfere with that, interfere with that? Marna Munn, the director of the NEOC, is working with us to make sure that we have that adequately addressed, but I will summarize what she has stated previously, that the health and safety concerns are usually raised by respondents as a defense against an allegation of failure to accommodate. Their investigators are experienced with investigating and dealing with this issue. If there is a legitimate concern, it can be a valid defense. However, the concern cannot be speculative or theoretical. It must be a real issue and there is an obligation on the part of the respondent to consider alternative means if accommodations cannot be made. In this context, that could be as simple as providing a hairnet, but this applies to any other antidiscrimination laws. Colleagues, you might not think that this is necessary, but I see some women here and it's necessary. I see you and I see you. It's necessary. It's necessary for the women that you work with every day that you don't even acknowledge. It's a necessary part of their lives. And why we wouldn't have a unanimous support for a bill that costs nothing, that makes women in this building feel like valued members of our staff and of our state, is beyond comprehension for me. I am here to speak truth to power and you are the power. And your lives have not been impacted by this. This is not about whether or not you think it is necessary. It is necessary because these women think it is necessary. That is why it is necessary. It's not necessary for me. I'm fine. Some people don't like redheads because we're fiery. Well, I think I've proven that time and time again on this floor, though, let me tell you, my sister is much more mild mannered than I am and she also has red hair, so it's not true of all redheads. But it's not necessary for me in my life. It's not necessary for Senator Erdman's life or Senator Arch or Senator Halloran or Senator Slama's life. But it is necessary. It is something free that we can do in the state of Nebraska--

SCHEER: One minute.

CAVANAUGH: --to say-- I'm sorry?

SCHEER: One minute.

CAVANAUGH: Thank you-- to say to our workforce, to our citizens, that we care about you. And it doesn't cost us a dime. So I really

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encourage you to vote for this, to send it through to Select. I will work on whatever amendments need to happen to make people feel more comfortable with this bill. But please, tell the women in this building, tell the women in your districts that you care about them, that you value them, and that you know that even though it isn't necessary for your life, it is necessary. Thank you.

SCHEER: Thank you, Senator Cavanaugh. Colleagues, the question before us--

HUNT: Call of the house.

SCHEER: There's been a request to call the house. All those in favor please vote aye; all those opposed vote nay. Please record.

CLERK: 28 ayes, 2 nays to place the house under call.

SCHEER: The house is under call. All unauthorized personnel, please leave the floor. The house is under call. Those unauth-- those absent senators from the floor, please return to the floor. The house is under call. Senator Bolz, Lindstrom, Geist, McCollister, Quick, please return to the floor. The house is under call. Senator Cavanaugh, we're still missing Senator McCollister. Would you like to wait or would you proceed with the vote?

CAVANAUGH: Wait.

SCHEER: OK. Senator McCollister, please return to the floor. Thank you very much. Colleagues, the question before us is advancement of LB1060 to E&R Initial. All those in favor please vote--

CHAMBERS: Roll-call vote.

SCHEER: There's been a request for a roll-call vote. Mr. Clerk

CLERK: Senator Albrecht.

ALBRECHT: No.

CLERK: Voting no. Senator Arch.

ARCH: Not voting.

CLERK: Not voting. Senator Blood.

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BLOOD: Yes.

CLERK: Voting yes. Senator Bolz.

BOLZ: Yes.

CLERK: Voting yes. Senator Bostelman.

BOSTELMAN: No.

CLERK: Voting no. Senator Brandt.

BRANDT: Yes.

CLERK: Voting yes. Senator Brewer. Senator Briese.

BRIESE: Not voting.

CLERK: Not voting. Senator Cavanaugh.

CAVANAUGH: Yes.

CLERK: Voting yes. Senator Chambers.

CHAMBERS: Yes.

CLERK: Voting yes. Senator Clements.

CLEMENTS: Not voting.

CLERK: Not voting. Senator Crawford.

CRAWFORD: Yes.

CLERK: Voting yes. Senator DeBoer.

DeBOER: Yes.

CLERK: Voting yes. Senator Dorn.

DORN: Yes.

CLERK: Voting yes. Senator Erdman.

ERDMAN: No.

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CLERK: Voting no. Senator Friesen.

FRIESEN: Not voting.

CLERK: Not voting. Senator Geist.

GEIST: Not voting.

CLERK: Not voting. Senator Gragert.

GRAGERT: Not voting.

CLERK: Not voting. Senator Groene. Senator Halloran.

HALLORAN: Not voting.

CLERK: Not voting. Senator Ben Hansen.

B. HANSEN: No.

CLERK: Voting no. Senator Matt Hansen.

M. HANSEN: Yes.

CLERK: Voting yes. Senator Hilgers.

HILGERS: No.

CLERK: Voting no. Senator Hilkemann.

HILKEMANN: Yes.

CLERK: Voting yes. Senator Howard.

HOWARD: Yes.

CLERK: Voting yes. Senator Hughes.

HUGHES: No.

CLERK: Voting no. Senator Hunt.

HUNT: Yes.

CLERK: Voting yes. Senator Kolowski.

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KOLOWSKI: Yes.

CLERK: Voting yes. Senator Kolterman.

KOLTERMAN: Yes.

CLERK: Voting yes. Senator La Grone.

La GRONE: No.

CLERK: Voting no. Senator Lathrop.

LATHROP: Yes.

CLERK: Voting yes. Senator Lindstrom.

LINDSTROM: Yes.

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

McCOLLISTER: Yes.

CLERK: Voting yes. Senator McDonnell.

McDONNELL: Yes.

CLERK: Voting yes. Senator Morfeld.

MORFELD: Yes.

CLERK: Voting yes. Senator Moser.

MOSER: No.

CLERK: Voting no. Senator Murman.

MURMAN: No.

CLERK: Voting no. Senator Pansing Brooks.

PANSING BROOKS: Yes.

CLERK: Voting yes. Senator Quick.

QUICK: Yes.

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CLERK: Voting yes. Senator Scheer.

SCHEER: Yes.

CLERK: Voting yes. Senator Slama.

SLAMA: Not voting.

CLERK: Not voting. Senator Stinner.

STINNER: Not voting.

CLERK: Not voting. Senator Vargas.

VARGAS: Yes.

CLERK: Voting yes. Senator Walz.

WALZ: Yes.

CLERK: Voting yes. Senator Wayne.

WAYNE: Yes.

CLERK: Voting yes. Senator Williams.

WILLIAMS: Not voting.

CLERK: Not voting. Senator Wishart.

WISHART: Yes.

CLERK: Voting yes. 26 ayes, 9 nays on the advancement of the bill.

SCHEER: Thank you, Mr. Clerk. LB1060 does advance to E&R. Moving back to the agenda, the next item is LB1183, Mr. Clerk.

ASSISTANT CLERK: Raise the call.

SCHEER: I raise the call.

CLERK: Thank you, Mr. President. And if, and if I might, just a couple of quick items. Executive Board reports LB1207, LB937, and LB1144 to General File.

SCHEER: Thank you, Mr. Clerk.

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CLERK: Mr. President, LB1183, a bill originally introduced by Senator Arch. It's a bill for an act relating to public health and welfare. It creates the Health Information Technology Board. It provides powers and duties and it changes provisions related to prescription drug monitoring system. Introduced on January 23 of this year, referred to the Health and Human Services Committee, advanced to General File. There are committee amendments, Mr. President.

SCHNEER: Thank you, Mr. Clerk. Senator Arch, you're welcome to open on LB1183.

ARCH: Thank you, Mr. Speaker. LB1183 would create the Health Information Technology Board. I first want to thank Senator Mike Hilgers for naming LB1183 as his personal priority bill for this session. This measure will provide very important and necessary oversight for healthcare data collection. I also want to recognize Senator Sara Howard for all of her work over the years in moving Nebraska's health systems forward, getting us to where we are today, and making this state a leader in health information technology, particularly with our PDMP, the Preferred [SIC] Drug Monitoring Program. LB1183 was heard on February 13 in front of the Health and Human Services Committee. It advanced unanimously with a committee amendment, AM2607, which incorporates Senator Howard's LB1058. Health information technology has become an integral part of our healthcare system. The secure exchange of health data gives providers the information needed to best serve their patients and provides researchers the information necessary to develop protocols to improve healthcare outcomes. Nebraska's health information exchange, the Nebraska Health Information Initiative, or NeHII, represents a public-private partnership that is the central point of data for participating providers and is the entity charged with running the state's PDMP. As the nation deals with the opioid crisis, the Prescription Drug Monitoring Program continues to evolve and we must be able to be flexible to change in order to remain the role model for PDMPs across the nation. The best way we can be equipped to stay on the forefront is by putting in place an oversight board that is able to respond quickly to national trends with respect to changes in PDMP protocols. Under LB1183, the Health Information Technology Board would have the authority to determine if additional data should be collected to assist in the fight against prescription drug abuse. As it stands now, NeHII and the Department of Health and Human Services must go through the entire legislative process each time a minor change to the PDMP is needed. NeHII and data collection will also be playing a

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significant role in case management for the upcoming Medicaid expansion. To date, NeHII has worked closely with the Department of Health and Human Services to ensure that correct data is collected, patient privacy is protected, and the information collected is secure. However, the electronic mobilization of health information becomes more prevalent. It would be in our best interest to provide formal oversight as we head into the future. In addition to recommending changes to the PDMP, the board created under LB1183 would be responsible for establishing criteria for data collection and disbursement. It would evaluate and ensure that the exchange is meeting technological standards and would provide the oversight necessary to ensure the information collected is only accessed, used, or disclosed in accordance with HIPAA and other privacy protection policies. This bill does not transfer ownership or responsibility of the data. It does not eliminate the duties of the department with respect to the PDMP. It does not create a new governing board for NeHII. It simply creates an oversight board for the collection and disbursement of health information. I might also mention it does not have a fiscal impact. Under LB1183, the contract for the health information exchange would include provisions assigning reimbursement for cost associated with the board to the exchange, or NeHII. This is possible through a consistent federal revenue stream. The board would consist of 17 members of varying professions and expertise to guarantee a broad representation. And I do, and I do want to point out that there is-- that there was a lot of background work done on this bill and I commend those who made sure there was input from all potential stakeholders. As I mentioned, the electronic mobilization of health information has evolved to become a regular part of our healthcare system and it is time we evolved with it. The time is now to provide structured oversight to ensure that data collection is regulated and protected, that our health systems run efficiently, and that there is transparency in our health information exchange. I strongly encourage you to support the upcoming committee amendment, the underlying bill, and to vote green on the advancement of LB1183. Thank you.

SCHEER: Thank you, Senator Arch. As the Clerk noted, there is a committee amendment from the Health and Human Services. Senator Howard, as Chair, you're welcome to open an AM2607.

HOWARD: Thank you, Mr. President. Good afternoon, colleagues. While this is the opening to AM2607, I'm going to talk primarily about LB1058, my bill, which was included in LB1183 by a unanimous vote from

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the committee, as Senator Arch explained. First, I'd like to thank Senator Arch for allowing my bill to be included and for Senator Hilgers for his priority designation of LB1183. This legislation creates the Population Health Information Act, which provides a statutory framework for operating a state health information exchange. As you can see on the committee statement, the vote to include LB1058 as amended to LB1183 was unanimous. The only opposition to the bill was the Department of Health and Human Services and they have informed us that they have no opposition to LB1058 as amended. In 2009, then-Governor Dave Heineman designated the Nebraska Health Information Initiative, or NeHII, as the state health information exchange. This designation was done by a letter or an-- in an executive order and currently, Nebraska has no framework for a state health information exchange other than in our prescription drug monitoring statutes. Founded in 2008, NeHII works by supporting the transfer of information through the healthcare environment by securely sharing health information amongst healthcare providers, pharmacists, emergency rooms, Urgent Cares, or where-- wherever a patient receives healthcare. This way, providers have comprehensive health history, med history, including possible drug interactions, lab tests, allergies, immunizations reports, and other elements of healthcare information that will enable a patient to receive comprehensive hair-- care. NeHII ensures that all data is securely managed and accessed through a number of policies and procedures governed by HIPAA and is also overseen by a data governance committee composed of experts in health information, privacy, and security. Additionally, encryption practices, auditing, and tracking of all access to health records is closely monitored. Not only does NeHII comply with all HIPAA reg-- regulations, it requires any participant of the program to comply with it also. Patient health information to participants is only available with a provider-patient relationship and each provider is trained in using the health information exchange. And I would note for the record that NeHII does not have mandatory participation in this state. A patient can opt out from having their health information shared in the NeHII system at any time. I first began working with NeHII in 2015 when I introduced LB471, a bill that closed several loopholes in our PDMP that enabled better reporting. When Nebraska adopted this bill in 2016, Nebraska became the first state in the nation to collect all dispensed prescriptions in our prescription drug monitoring program and is also one of the first-- was also one of the first states to operate a PDMP through their state health information exchange. Along with them being the main interstate for electronic health data, NeHII

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also collects data for immunization reporting, electronic lab reporting, and syndromic surveillance data. I'll just take a break for a minute from my, my remarks because NeHII is a little bit confusing sometimes. And I'll talk to the two people who are looking at me. NeHII is a highway for your health record, but it is not the home for your health record. So in essence, if my health records, my electronic health records are in Omaha but I get into a car accident in Kearney, the, the provider in Kearney can access my health record from Omaha, but that is not the home for them. NeHII is really the highway between the two entities that house the medical record. And NeHII has actually been shown, even in my life, to help us manage or provide better health services in this state. So last year, some of you might remember, my father-in-law actually passed away, but prior to that we had been-- he had Alzheimer's and dementia. We had been going to the emergency room quite a lot with him and he always only ever needed to go to the emergency room on Friday night, Saturday, or Sunday. And so what that meant was that we would be heading to the emergency room without his med list. We wouldn't know what his meds were. And so we would get there and they would say, well, what, what are his meds because we can't ask him. He doesn't remember. He had Alzheimer's and dementia. And so I would always say, would you mind terribly looking in NeHII and telling me what, what his meds are? You can look it up. And they could look it up and they could tell us exactly what he was taking. And so it just really ensured that he got better healthcare because they knew what kind of medications he was taking based on the Prescription Drug Monitoring Program and the Health Information Exchange. Through LB1058, we address two issues. First, we enable NeHII to continue doing what they're doing, reducing the administrative burden for hospitals and other healthcare providers through the reporting of public health data, such as immunizations, electronic lab data, and syndromic surveillance data that they're already doing. Their purpose is also more clearly defined in statute: that collecting and analyzing data is to help inform the Legislature, DHHS, providers, and healthcare entities to the cost of, access to, and quality of healthcare in Nebraska. Second, by designating a health information exchange, NeHII will be able to work more directly with the Center for Medicaid and Medicare Services, or CMS, to write and submit applications for federal dollars. An example of this, and the one that I used a lot in the hearing, is that really we are going to help the state of Nebraska apply for these HITECH 90/10 funds in partnership with DHHS. And that means that for every dime that we spend, we'll get 90 cents back in health IT. Eighteen states have

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already-- already have a state-designated health information exchange in statute, including some of our neighbors, like Iowa and Kansas. I very much appreciate your attention to this, to AM2607 and LB1183. I would urge your adoption of both. And I again want to thank Senator Arch for allowing me to add on LB1058 and Senator Hilgers for prioritizing LB1183. Thank you, Mr. President.

HUGHES: Thank you, Senator Howard. Senator Williams wishes to announce the following guests are visiting the Legislature: Kendal Wahlgren from Gothenburg, Nebraska. They are under the north balcony. If you would please rise to be welcomed by your Nebraska Legislature? Thank you for being here. Debate is now open on AM2607. Senator Chambers, you are recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm still smarting from what was said by some of my colleagues during the last debate and I said I have books that I can read. I think I shouldn't just read any book. I ought to read books that will advance our knowledge as members of the Legislature. And one of the books-- it's a booklet-- is right in my drawer. As the little kid said when Santa Claus came down the chimney: What to my wondering eyes should appear-- well, he's looking out the window-- but a sleigh full of toys and eight tiny reindeer, and a little old driver, so lively and quick, that I knew in a moment it must be St. Nick. Oh, there are so many things, brothers and sisters, I can deal with. And you did get on the wrong side of me today, so insensitive, so lacking in the ability to listen. I said repeatedly if there is a rule across the board that applies to everybody, the language of that bill would not obtain. No lawyer would take the case. How stupid are you? Not all of you, but I make hats. When your number comes up, you'll put it on. But I think I'll start with the Constitution of the State of Nebraska. It only comprises 83 pages of our little booklet here. And I think what I ought to do is to start with those auspicious-- I didn't say suspicious. And like Frank Sinatra said, I'll do it my way. And if you think you can stop me, come ahead. I would like to see it. And you will teach me something and you will improve my education. Now in the old days, way back in 1920 before even I was born, they had names which are unfamiliar to me, so I'm going to approximate the pronunciation and I will spell it for the sake of the transcribers. And even if it might seem that I will take three hours on this bill, I assure those who are in good faith bringing a good piece of legislation, I shall not do that. I shall not go beyond 4:30 and maybe I won't even go that far. You all think I don't sit down because of

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what I told you. Oh, it's so wonderful to be free to do what I want to do. What does that flag say? The land of the free. Do I live in this land? Yes. Am I free? Ordinarily, no. But was there a glitch? Was there a loophole that allowed me to get into this Legislature as a member? Yes. Am I free to act in accord with any rule in the rulebook? Yes. Does a right mean anything if a person is prohibited from exercising that right when that person deems it appropriate to do so?

HUGHES: One minute.

CHAMBERS: No. Is it my intent to operate under the rules during my lecturing my colleagues who need some lecturing? Yes. Shall I use material which is relevant to them improving their ability to function as legislators by increasing their knowledge of the constitution? Of course. Shall I speak rapidly? No. Shall I sing a bar or two of a song every now and then? Perhaps. Will my colleagues be angered? More than likely. Does it make me any difference? Yes.

HUGHES: Time, Senator.

CHAMBERS: Thank you, Mr. President.

HUGHES: You are next in the queue.

CHAMBERS: Thank you, Mr. President. One thing that I do appreciate in this place, when my turn comes to speak. I am recognized. And now that I'm aware of how many people watch this program, I'm going to call it, to watch me, they want to hear me. It is all about moi. That's spelled m-o-i. That's French, français, as they might say, as in, "Parlez-vous français?" Mais oui, if you also speak France. [SIC] But if you don't, you might read it and you pronounce it like American: Parlez-vous français? "May I owee." [PHONETICALLY] Well, maybe that's the English pronunciation. But if you're speaking French, the person who speaks French would say, well, typical American, doesn't have enough respect for my language to learn how to pronounce it, so I will take him, warts and all. And by the way, I'll get some votes, but I'm not going to ask for a call of the house. So if you all want to go on home now and estimate the time we'll come back with some business that must be transpired, that-- not must be transpired, that must transpire-- when you put "be" in front of it, that is not correct grammar. It does not be transpired, except in the parlance of my legislative colleagues who are not too sharp when it comes to grammar or syntax. What is the difference between grammar and syntax, if there is a difference? I

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used to watch a program on television called the Smothers Brothers and they'd always say look it up in your Funk and Wagnalls. There was a series of books called an encyclopedia, and Funk and Wagnalls was what it was called, and kids said it because they thought that first word was a cuss word. They also put out a dictionary, I think. Are we having fun yet? I'm having fun for the first time this afternoon. I was so put out. But now something, it must be-- I can feel it coming in the air today, oh, lord, oh, lord. Then when they sing along awhile on that, then they have to break it up, so he sings something, then they have a drum solo, only they use bass drums. Oh, you're going to learn a lot today and the rest of the season-- the session. But I'm not going to do everything I'm able to do because you did advance the bill. But some things were said which were very provocative and when I'm provoked, I will respond. I'm reading from page 84 of the little constitution booklet in your rulebook, which most of you will not open. And if you open it, you won't read it. Across the top, it says in all capital letters "Constitution of Nebraska," then this sentence: The Constitution of 1920 was authenticated and attested by the following members of that convention.

HUGHES: One minute.

CHAMBERS: If, if I read a name and to any person on this floor it sounds like the name of a female, just shout it out. Beginning: A. J. Weaver, President; Lysle-- it's spelled L-y-s-l-e. Now they didn't spell so well in those days, so I'm going to pronounce L-y-s-l-e as "Lyle" rather than "Lis-lee"-- Lysle I. Abbott, A-b-b-o-t-t; I. L. Albert, A-l-b-e-r-t-- you know, with Abbott way up here, maybe by the time I get farther down, we'll run across a Costello, we'll see about that-- Lewis K. Alder, L-e-w-i-s, last name--

HUGHES: Time, Senator.

CHAMBERS: --A-l-d-e-r. Thank you, Mr. President.

HUGHES: Senator Morfeld wishes to announce the following guests: Riek Bol and Azcia Fleming. They're both from Lincoln High School here in Lincoln, Nebraska. They are seated under the north balcony. If you would please rise to be recognized by your Nebraska Legislature? Seeing no one else in the queue, Senator Howard, you're recognized to close on the AM2607.

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HOWARD: Thank you. Thank you, Mr. President. I would just reiterate my gratitude to Senator Hilgers for prioritizing LB1183 and to Senator Arch for allowing me to attach on LB1058. I would urge the adoption of AM2607 on the floor today. Thank you.

HUGHES: Thank you, Senator Howard. The question is shall the amendment to LB11183 be adopted? All those in favor vote aye; all those opposed vote nay.

CHAMBERS: Roll-call vote.

HUGHES: There's been a re-- a request to place the house under call. All unexcused senators, please return to the body. All of the house-- everyone in favor of the house being placed under call, please vote aye. Record, Mr. Clerk.

CLERK: 27 ayes, 5 nays to place the house under call.

HUGHES: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators McCollister and Erdman, please return to the Chamber. The house is under call. A roll-call vote has been requested, Mr. Clerk.

CLERK: Senator Albrecht.

ALBRECHT: Yes.

CLERK: Voting yes. Senator Arch.

ARCH: Yes.

CLERK: Voting yes. Senator Blood.

BLOOD: Yes.

CLERK: Voting yes. Senator Bolz.

BOLZ: Yes.

CLERK: Voting yes. Senator Bostelman.

BOSTELMAN: Yes.

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CLERK: Voting yes. Senator Brandt.

BRANDT: Yes.

CLERK: Voting yes. Senator Brewer. Senator Briese.

BRIESE: Yes.

CLERK: Voting yes. Senator Cavanaugh.

CAVANAUGH: Yes.

CLERK: Voting yes. Senator Chambers.

CHAMBERS: Yes.

CLERK: Voting yes. Senator Clements.

CLEMENTS: Yes.

CLERK: Voting yes. Senator Crawford.

CRAWFORD: Yes.

CLERK: Voting yes. Senator DeBoer.

DeBOER: Yes.

CLERK: Voting yes. Senator Dorn.

DORN: Yes.

CLERK: Voting yes. Senator Erdman.

ERDMAN: Yes.

CLERK: Voting yes. Senator Friesen.

FRIESEN: Yes.

CLERK: Voting yes. Senator Geist.

GEIST: Yes.

CLERK: Voting yes. Senator Gragert.

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GRAGERT: Yes.

CLERK: Voting yes. Senator Groene. Senator Halloran.

HALLORAN: Yes.

CLERK: Voting yes. Senator Ben Hansen.

B. HANSEN: Yes.

CLERK: Voting yes. Senator Matt Hansen.

M. HANSEN: Yes.

CLERK: Voting yes. Senator Hilgers.

HILGERS: Yes.

CLERK: Voting yes. Senator Hilkemann.

HILKEMANN: Yes.

CLERK: Voting yes. Senator Howard.

HOWARD: Yes.

CLERK: Voting yes. Senator Hughes.

HUGHES: Yes.

CLERK: Voting yes. Senator Hunt.

HUNT: Yes.

CLERK: Voting yes. Senator Kolowski.

KOLOWSKI: Yes.

CLERK: Voting yes. Senator Kolterman.

KOLTERMAN: Yes.

CLERK: Voting yes. Senator La Grone.

La GRONE: Yes.

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CLERK: Voting yes. Senator Lathrop.

LATHROP: Yes.

CLERK: Voting yes. Senator Lindstrom.

LINDSTROM: Yes.

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

McCOLLISTER: Yes.

CLERK: Voting yes. Senator McDonnell.

McDONNELL: Yes.

CLERK: Voting yes. Senator Morfeld.

MORFELD: Yes.

CLERK: Voting yes. Senator Moser.

MOSER: Yes.

CLERK: Voting yes. Senator Murman.

MURMAN: Yes.

CLERK: Voting yes. Senator Pansing Brooks.

PANSING BROOKS: Yes.

CLERK: Voting yes. Senator Quick.

QUICK: Yes.

CLERK: Voting yes. Senator Scheer.

SCHEER: Yes.

CLERK: Voting yes. Senator Slama.

SLAMA: Yes.

CLERK: Voting yes. Senator Stinner.

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STINNER: Yes.

CLERK: Voting yes. Senator Vargas.

VARGAS: Yes.

CLERK: Voting yes. Senator Walz.

WALZ: Yes.

CLERK: Voting yes. Senator Wayne.

WAYNE: Yes.

CLERK: Voting yes. Senator Williams.

WILLIAMS: Yes.

CLERK: Voting yes. Senator Wishart.

WISHART: Yes.

CLERK: Voting yes. 45 ayes, 0 ayes on the adoption of committee amendments.

HUGHES: The amendment is adopted. I raise the call. Senator Chambers, you are recognized and this is your third opportunity.

CHAMBERS: Thank you, Mr. President. And it would be my last opportunity to speak on this bill unless I look in the rules and find a way to create additional opportunities, which is plural. If it were me, which it is not, and one of the senators would be doing this, I'd just go down to my office. That's a hint. But I might not. I might wait until I had an opportunity and I would be sitting there plotting and thinking of the perfect response, but I wouldn't give it because he might be too smart and have a comeback since he planned this and I didn't. And one who has planned something is usually able to turn aside those actions that are put forth in anger on the spur of the moment, especially when the one putting forth isn't too smart in the first place. I'm going to read those first three names again, in case you forgot: A.J. Weaver, President; Lyle I. Abbott; I. L. Albert; Lewis K. Alder; Walter L. Anderson, spelled s-o-n on the end; Geo.-- I suppose that's an abbreviation for Geofferey, as the English spelled it, or it could be for George since these are Americans-- Geo., as an abbreviation, S. Austin, as in Texas; Joseph G. Beeler, B-e-e-l-e-r;

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Anson H. Bigelow; A.T. Bratton, with two Ts; Wilbur F. Bryant; B.F. Butler; Albert H. Byrum; Henry R. Cleve-- now this is for Senator Hansen, B: If Cleve went out and started a city, they probably call it Cleveland. That's all I'll give him-- Charles H. Cornell; Festus, not the one who ran around with Matt Dillon because Gunsmoke hadn't been invented yet, but Festus Corrothers, C-o-r-r-o-t-h-e-r-s. And you notice the last few letters comprise the word "others" and that's what we were dealing with today; others, the others, the outsiders, the "unpeople," the nonpeople, or if they're considered people, the throwaway people. So a bunch of white men stood up and talked about how unnecessary the rights of black women are to those black women. Now if these white men on this floor love black women like I do, or like Thomas Jefferson, George Washington, and all the rest of them that I tell you about, Patrick Henry, then you all are probably trying to give yourself cover by showing you have contempt for them so nobody would suspect that you might go "tippin' and dippin'" when the sun goes down and everybody is the same color. And you'd be rolling like thunder under the covers. That was in a song called "Birth of the Blues"--

HUGHES: One minute.

CHAMBERS: --sung by a white fellow who has sung other songs that I like. Oh, we're going to have fun the rest of this session-- Edward A Coufal, C-o-u-f-a-l; E.S. Cowan-- and the reason I won't spell them, the transcribers can get this little booklet and find the names-- John A. Davies; A.J. Donohoe-- not Ivanhoe, Donahoe. That was A.J. Donahoe, then the next one is J.A. Donahoe. I guess they were brothers and the first one was named J.-- A.J. Donohoe, and the second was-- one was named J.A. Donohoe to say, and I meant it-- H.C. Elwood--

HUGHES: Time, Senator.

CHAMBERS: Thank you, Mr. President.

HUGHES: And my apologies, Senator. That was your first time on the bill, so you are next in the queue. You are recognized.

CHAMBERS: Thank you, Mr. President. And I have a motion or two which will allow this presentation to continue, and you'll see that I feel like Abraham Lincoln when he made a comment: The promise being made, must be kept. But because you did advance the bill. I'm not going to do as much as I said I would do. I probably won't even go until 4:30.

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But to digress, I was going to tell you about why I always stand up. And I said you might think, because I've said it's my reason, that I stand up to show you all that I've got more stamina than you have. But if I sat down, I wouldn't be able to stand up again, ever again. I sleep standing up. See, a curse was put on me a long time ago, so I find a corner and I position myself so that when I go to sleep standing up in that corner, I won't fall down because if I fell down, Senator B. Hansen, this is what I would say: Help! I've fallen down and I can't get up. But we don't want that going on, do we? Who ever saw a session like this in a Legislature? And you'll never see another one. But in the time that I've been in this Legislature, I did not hear what I heard this afternoon, the arrogance, the insensitivity, the white male sense of privilege. Saying something makes it so. You don't listen. You don't pay attention. Now is the time you ought not pay attention because all I'm doing is reading off the names of white men and you're paying more attention to that than when we were talking about something very serious that dealt with black women. But black women counted to you and your kind only when they came in your house and your wife wasn't satisfying you, so you went and had sex with these black women. How do you think Martha Washington felt when George came in, red as a beet, perspiring and smelling of sex, George Washington? And Martha knew he was coming from slave huts. And she said, is not my bed good enough for you, George? He said, yeah, Martha, but variety is the spice of life and I went and got some spice, now what you going to do about it? I own you in a different way and you better keep a smile on your face and keep your big mouth shut. I'll do what I want to do and I'll do it with whom I want to do it and I'll do it when I want to do it and I like to do it with black women more than you. And I wonder what those white women talked about when they got together and they discussed their sexual activities at home, if they had any. The anecdote is that Mrs. Thomas Jefferson said, Thomas, you leave those black women alone. And he said, according to the anecdote, Mrs. Jefferson, I'll leave you alone first. And his progeny are acknowledged today by people who knew about it, and there's a long line of people from the time that Thomas Jefferson was-- he served as Vice President, I believe, before he was President, but he was then the president of vice. And now these black women whom your forefathers loved so much, you want to say they have no rights whatsoever to dignity, to self-respect.

HUGHES: One minute.

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CHAMBERS: Well, my job is to be the Avenger. I said I was going to use your books that have your words in it. And if you think I will wilt, you got another thing coming. My name is not Wilt Chambers. You got me mixed up with Wilt Chamberlain. Continuing: J.-- did I give Charles E.-- Charles H. Epperson? It's abbreviated Chs.-- then I.D. Evans-- I bet Senator La Grone would like that because he wants to get voter ID for black people, so this might be where he got his inspiration. Oh, no, the Governor told him what to do, or the Secretary of State-- Emil, E-m-i-l, Fauquet, F-a-u-q-u-e-t.

HUGHES: Time, Senator.

CHAMBERS: Thank you, Mr. President.

HUGHES: You are next in the queue and this is your third time.

CHAMBERS: Thank you, Mr. President. And I do have a motion so that I can continue because we don't want to miss any of this. I saw an Edgar that I was coming to: Edgar Ferneau, F-e-r-n-e-a [SIC] You know, whenever I see "Edgar," I think of Edgar Allan Poe. And Allan was the last name of the family who adopted him. Edgar Allan Poe didn't live very long, but he cut quite a swath through literature. And one of his poems that I write, [SIC] it's my favorite, and you may have heard part of it or read part of it, called "The Raven": Once upon a midnight dreary, while I pondered, weak and weary, / over many quaint and curious volumes of forgotten lore-- / While I nodded, nearly napping, suddenly there came a tapping / As of someone gently rapping, rapping at my chamber door-- he forecast me, except that he didn't make the "chamber" plural-- "'Tis some visitor," I muttered, "tapping at my chamber door-- this it is, and nothing more." / And the silken, sad, uncertain rustling of each purple curtain / Thrilled me-- filled me with fantastic terrors never felt before; / So that now, to still the beating of my heart, I kept repeating / "'Tis some visitor entreating entry at my Chamber door-- / Some late visitor entreating chamber at my-- entry at my chamber door;-- / This it is, and nothing more." And as far as that poem, right this minute, you'll get nothing more. Continuing: C.C. Flansburg, and that makes me think of this song: see, oh, C.C. Rider-- "C.C. Rider" was a very famous song. But you old geezers wouldn't know it. The young people are too young. The only one who combines both of those traits, in me-- "geezerdom" and youth of spirit and heart-- would know that song. W., abbreviation for "William," Grueber, G-r-u-e-b-e-r; Jacob F. Halderman; Arthur M. Hare-- you think that John H. Tortoise is coming back, but you're

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mistaken-- John D. Haskell; George, again abbreviated, H. Hastings; John Heasty; James H.H. Hewett-- three Hs--; John [SIC] H.H. Hewett; M.J. Higgins-- there was a lady named-- her first name was Mary, last name Higgins, and she had a middle initial, and I think she wrote mystery books-- W.D. Holbrook; Jerry Howard; George Jackson; Harry Johnson; George, abbreviated, C. Junkin, J-u-k-i-n [SIC] Harry L. Keefe; H.G. Keeney; William J. Kieck; James G. Kunz; Thomas, abbreviated, Lahners; George Landgren; Harry Lehman; J.G.W. Lewis--

HUGHES: One minute.

CHAMBERS: --Lewis; H.D. Lute; George A. Magney; Frank Malicky; E.M. Marvin; R.A. Matteson-- that made me think of the Matterhorn-- W.A. Meserve-- never heard that name before-- N.P. McDonald; Charles F. McLaughlin; Charles McLeod; George, abbreviated, E. Norman; J.N. Norton; R.S. Norval; Fred A. Nye; A.R. Oleson; Thomas C. Osborne-- let's hear it for Tom Osborne-- oh, thank you.

HUGHES: Time, Senator.

CHAMBERS: Thank you, Mr. President.

HUGHES: Mr. Clerk for items.

CLERK: Mr. President, Senator Brandt to be printed to LB1188. Enrollment and Review reports LB1055, LB808, LB1186, LB881, LB850, and LB751 to Select File, some having Enrollment and Review amendments. Mr. President, Senator Chambers would move to indefinitely postpone LB1183.

HUGHES: Senator Chambers, you're welcome to open on your motion to indefinitely postpone.

CHAMBERS: I think this introdu-- I think something might come before I open.

HUGHES: Senator Arch, you have the option of laying the bill over or taking it up now, the amendment.

ARCH: I'll take it up.

HUGHES: He chooses to take it up. Senator Chambers, you're welcome to open on your amendment.

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CHAMBERS: Thank you. Mr. President, had he not or had he hesitated and not gotten assistance, I was going to mention that he should take it up because if he didn't, he may never see it again. And I'm not mad at Senator Arch, but imagine what I'd do if I were C. Petrus Peterson. That's a name you all should be familiar with. Somebody is trying to pronounce-- correct my pronunciation, Petrus, and it demonstrated what I have to do from time to time: find out if anybody's listening, anybody home. W H Pitzer; Ernest M. Pollard; H.V. Price.; C.W. Pugsley; F.C. Radke; J.C. [SIC] Rankin; J.D. Ream; Herbert Rhoades; James A. Rodman; Elmer E. Ross; Charles L. Saunders; P.W. Scott; C.W. Sears; William A. Selleck; Seymour S. Sidner; O.S. Spilman; E.J. Spirk; A.W. Sprick; W.M. Stebbins; John M. Stewart; Emil G. Stolley; David E. Strong; Edward S-u-g-h-r-o-u-e-- I won't try that one-- Murt M. Sullivan-- I know a Mort Sullivan-- C.V. Svoboda; W.J. Taylor; L.J. Te Poel-- I'll be corrected on this-- T-e P-o-e-l; Charles, abbreviated, J. Thielen; M.D. Tyler; A.L. Ufflestrom-- Ullstrom; L.A. Varner; Joseph T. Votava; Aaron Wall; R. Widely-- Widle-- Widle; Everett P. Wilson. R.A. Wilson; John Wiltse. Now you all put that in your memory bank because those are the gentlemen who authenticated and attested this constitution. Where were the women? I'll tell you one thing. They knew that while they're here attesting the constitution, at least they weren't somewhere having sex with a black woman or a black girl, which white men seem to always want and always did with impunity. And I'm not supposed to be upset what has happened to us in this country? Then I'm in an assembly like this and a simple thing, a very simple, reasonable thing was spoken against by people who are profoundly ignorant or extremely hateful or bigoted or a touch of all three, and a challenge invites a response. I am what I am. I am who I am. And I will never wilt. I will never shirk from what I deem to be my responsibility. And if I'm not going to speak up for the women, one of whom birthed me, for whom should I speak up? I've spoken up for white people who other white people hated. There was a white man who did something that perhaps I'm the only one who could understand and see that that man needed some help instead of being put in prison. He had a baby that he loved and that baby died and was buried and he could not accept those things as being realities. So he got himself a shovel and under cover of darkness he went to the graveyard, found the grave marked with the tombstone of his baby and he dug up that coffin. He removed the baby and he didn't mutilate the corpse. He took that baby to the hospital and told them that his baby was sick and needed them to help that baby. I'm a black man. Guess what the white prosecutor wanted to do and had done? File charges against him, file

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charges against this man who obviously needed help. Nobody in the Legislature said anything, no judge. I'm waiting for these superior white people. You all are the master race. I'm waiting for you all to step forward and say something. And I waited and I waited and I waited. I got Q-tips and cleaned my ears because maybe you were speaking and I was not hearing. And I listened and I listened and all I heard was the sound of silence. So, being inferior, I didn't have that supremacy of intellect that would allow me to be in the presence of somebody's profound sadness and misery and not try to do anything about it. Maybe if I was superior like the white people, I would have sat back and watched to see what the outcome was. But not being superior like white people, I made a public issue of it. And guess what happened? I had to argue that this man needs help, rather than being prosecuted and perhaps put in jail. He did not do anything that showed hatred for his child. He showed love for that child, even though the child was beyond being able to be aware of it. And they decided that they wouldn't prosecute him. And I can tell you about other things that this black man did that the white-- the supreme white people ought to have done, but they did not. Had I gotten into this Legislature and taken on the roles and the ways of white people, we wouldn't have a lot of the legislation we have on these books now that look after white people who can't help themselves, all people. But that's not what the white senators were doing. They wondered, what kind of freak is this that is among us now? And because I would speak for all of these poor people, these throwaway people, the vast majority of whom were white, they began to manipulate their rulebook to try to shut me up. But as superior as they were, were and as greatly as they outnumbered me, they couldn't fashion a rule to this day to shut me up. Why is that? When I was young, people called me a child of Satan. Well, it seems that Satan taught me more about what your Jesus said should be done than all the angels in heaven, God, Christ, and the Holy Ghost taught you all about what ought to be done in conformity with what you claim to believe. And I'd rather be me than all the white people who ever walked this earth. I don't care who they are. That includes some of them who are in my family. You all think that because you don't think, I don't think. God said the fathers have eaten sour grapes and the children's teeth are set on edge, that he would punish people down to the fifth generation. So maybe it's your time, being some generations removed from George Washington, Thomas Jefferson and all those sex traffickers--

HUGHES: One minute.

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CHAMBERS: --and the ones in between, just to remind you of some things. I wouldn't take these white girls out and rape them. I don't get out of line with any woman. Women have a right to be what they want to be and who they want to be. They don't have to let anybody put their hands on them. They shouldn't have to be expected to do that to hold a job. Or if that's what they're going to require, put that in the job description, since people like Senator Slama and Senator Halloran wonder where are we going to draw the line. Well, draw some lines on what can be done to these women who come to jobs and go to work. And some of them went ahead and listened to these pro-lifers and had the baby without the means to take care of that baby and these pro-lifers were not there to help, so she had to take a job with some racist, misogynistic, low-down, dirty, white man.

HUGHES: Time, Senator. Senator Kolterman, you're recognized.

KOLTERMAN: Thank you, Mr. President. I rise in support of LB1183. NeHII is a great organization. And I also support the last amendment. I think it's important that we pass this bill. But I was wondering if Senator Chambers would be open to a couple of questions.

HUGHES: Senator Chambers, will you yield?

CHAMBERS: Yes, but not to temptation.

KOLTERMAN: Thank-- thank you, Senator Chambers. I've-- I have a-- just a couple of questions. First of all, when you were reading the names, just for the record, you pronounced L.C. [SIC] Rankin and it's actually I.C. Rankin, so I just wanted to correct you on that. And then secondly, the first year I was here, alm-- that's almost six years ago-- I was sitting right in front of you, there where Senator Arch sits. And I remember you telling us one day that you were going to teach us some things about the rules of this body and you started talking about striking enacting clause. Now my question to you would be this. If you put a motion up to indefinitely postpone a bill that has precedent over striking the enacting clause, can you explain to this body what the difference is between those two rules?

CHAMBERS: Well, first of all, striking the enacting clause is a motion made during Final Reading.

KOLTERMAN: OK.

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CHAMBERS: So where do you see-- now ask the question again.

KOLTERMAN: Well, I just wondered the difference between indefinitely postponing and striking the enacting clause.

CHAMBERS: I don't see any difference. But there are only cer--

KOLTERMAN: But, but you're saying that striking-- and I'm serious-- striking the enacting clause can only be used on Final Reading?

CHAMBERS: Right, the-- you cannot put a motion to indefinite-- under the rules, there is no indefinite postponement of a bill on Final Reading. The way you kill it is to bring it back to Select File for that specific amendment, and only that amendment can be considered, and that amendment must be to strike the enacting clause. If the enacting clause is struck, then the bill is dead, just as it would be at one of the earlier stages if you made a motion to indefinitely postpone and that was adopted. The only motions that can be made are those that are specified in the rulebook. Since I wasn't here when some of those rules were put in place, I don't know what their rationale was, but my job is to just follow the rules as they're written when I come here.

KOLTERMAN: Have you had any opportunity to change the rules?

CHAMBERS: I have opportunities to attempt to change the rules.

KOLTERMAN: Have any rules been changed as a result of your attempts?

CHAMBERS: I'm not sure and I'm not even sure whether I made a serious attempt to change the rules. But I know there have been occasions when other people wanted to change rule and I would discuss with them a better way to do what they claimed they were trying to do than would happen if the words they used were selected. And sometimes what I offered was selected by the one introducing the rule change, sometimes not.

KOLTERMAN: Well, I, I want to thank you because many times we listen to you, sometimes we-- when we don't quite understand what rules you up, but I, I just thought this was an opportunity to talk about the enacting clause versus indefinitely postponing. And I appreciate the, the learning opportunity today.

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CHAMBERS: Thank you, "Sonny."

HUGHES: Thank you, Senators Kolterman and Chambers. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I also was following along. And I know-- but I found the same thing that Senator Kolterman said, that there was just an-- pronunciation of an "I" was called a "J" on Mr. Rankin. And so I won't belabor that anymore. I did enjoy hearing the poem about "The Raven." And so I'll say this and nothing more.

HUGHES: Thank you, Senator Clements. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President, members of the Legislature, there's a verse in the "Bibble." It says the workman is worthy of his hire. It says, muzzle not the ox that treadeth out the corn; those who put forth effort, honest effort, should be rewarded. Do you think that I thought nobody would follow what I was reading when I said I'm going to read a list of names? Now do you think, and I'm not going to call on anybody, that I do not recognize the difference between a capital "I" and a capital "L"? There were other capital "Is" and capital "Ls," and in reading through a list of names, as I was doing, I knew there would be some keen-eyed persons, or at least one, who would follow along. And the real reason I stopped spelling the names, I wanted somebody to tell me how to correctly pronounce the name. Then I was going to go into a discussion regarding how he or she knows that that person's given-- the pronunciation that person gave was one that was correct and that the one I gave was incorrect. And when it comes to the pronunciation of words, is correctness a matter of there being only one way to pronounce the word? And if so, from whence derives the authority for that pronunciation? There are many words that will have a combination of vowels and it depends on what precedes and follows as to how it's pronounced. Why in the world should b-e-a-u be pronounced "byu"? B-e-a-u-t-i-f-u-l is pronounced beautiful. Why not b-y-u-t-i-f-u-l? Because nobody who has any authority said it would be pronounced that way. What does the dictionary do? It gives definitions and along the way, it will give you an explanation of what is considered acceptable as a pronunciation. It doesn't try to authoritatively say this is the way it shall be pronounced or must be pronounced. If there are alternative ways of pronouncing it, the dictionary will give you those things. They use these little symbols to let you know what sound the vowel would have. If the letter "e" is

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in the word "the," "e" shouldn't sound like "the." It can be a long "e" where it's "ee" or a short "e," as in "bet," all kinds of ways. That's why English is the most difficult language to learn. Even the people who have spoken it all their life, or attempted to, don't get it correct, if there is such a thing as a correct way to pronounce English. And who even cares? That's why slang comes in. That's why made-up words come in. It's why young people sound like they're speaking gibberish to old people, unless old people pay attention and want to know how to communicate with them, not by trying to talk like they talk. Nothing is more ridiculous than an old person trying to be a young person.

HUGHES: One minute.

CHAMBERS: But sometimes they're surprised when one of these old geezers, momentarily even, departs from his or her "geezerdom" and can participate in what it is that means something to them. I think I'm going to hand out some articles that you all can throw away. At times, I went and talked to your young white people when the old white people were calling me radical, Black Power leader, all kind of things that I never call myself. I never call myself a leader. I said, don't call me a black leader, don't call Martin Luther King a black leader. You don't call the white President a white leader, do you? You don't call the Chief Justice a white leader, do you? You put that on us. The only way one black person knows to do something is if somebody tells him or her. You got to take him by the nose and lead them. And if it happens to be another white person who's been properly led by some white person, that black person as an intermediary can take that other black person and lead him.

HUGHES: Time, Senator.

CHAMBERS: Thank you. Was that my third time?

HUGHES: That was your second time. Senator Chambers, you're recognized.

CHAMBERS: Thank you. There are so many things that white people say and I think it's in ignorance. And the ignorance is, is culpable and it can be corrected. It is vincible ignorance. Vincible ignorance can be overcome through evidence, through teaching, through instruction. Invincible ignorance cannot be overcome, no matter what, and I deal on this floor many times with invincible ignorance. So why do I talk?

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Because you all aren't the only ones listening. There are others and they wonder about you all. They've got nicknames for you all that I would never use because I don't use the language white people use in anger or derision. Do you know that English is the only language in the world, on this earth, where languages exist and are known, with so many derogatory names, disparaging names, insulting names for every other group, and I'm not going to go through the list, but for the Japanese, the Chinese, the Koreans, Mexicans? And where do these people get the names from? Who dubbed me a Negro? I didn't. There are no Negros in Africa. Look at my color. That didn't come from Norway, unless one of those people like George Washington slipped down into Africa and impregnated a black woman, polluted her blood, and lightened up my color, like when you put cream in coffee. That's what we live with. We learned these things from reading your books. And you know it's true. That's why you don't want it talked about, why Senator Groene says, well, everybody been in slavery. That's a lie. All slavery is the same? That's stupidity. And he says you point the finger at some people. Well, if they did it, don't you point fingers at the one who did it? Isn't he the one who talked about these criminals pointing the finger at people who may not have even been convicted, but they were arrested so they must have done something? They were convicted, so they must have been guilty? I think I can probably find an article when I go home this evening of black men who were unjustly imprisoned and had to be released. That's the challenge I'm going to put on myself. Tomorrow, my "ERNIE-GRAM" is going to comprise the release of several black men from prison who were found not through what white people call a technicality, but to have been innocent and the white people's justice, as it's called, for all. But see, they don't put the whole thing. There's justice for all white people, justice in parentheses for all black people. All justice-- this is what white people say-- all justice for just us and something else for just them, and I'm among the "them." And I came among you all and followed your rules, read your books, went to your schools. Then a man like Senator Groene is offended--

HUGHES: One minute.

CHAMBERS: --because I tell the truth on this floor and he says don't do it. Would you want him teaching your children? Could he get a job in any school in this state? Will the teachers union, or any group of teachers, invite him to one of their conferences, since he is the Chairperson of the Education Committee, to explain the law? How many schools invite him to address the children so they can see from an

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example how English is to be spoken? I've had invitations like that. I've had children who would prevail on a teacher to invite me to address their class when the teacher didn't want to. And when I close, I'm going to tell you something that I did that astonished a teacher, but not my brother. Thank you, Mr. President.

HUGHES: Thank you, Senator Chambers. Seeing no one else in this queue, Senator Chambers, you're recognized to close on the motion to indefinitely postpone this bill.

CHAMBERS: Thank you, Mr. President. And when I finish this, I'm going to withdraw that motion, obviously. My brother was a counselor at Tech High, which was a black school. I graduated from Tech. He saw how these white people did black children. If they didn't like a child, they sent this child down to his office. And instead of heaping on punishment, he gave them lessons and he tutored them. And when they went back to class, they were better behaved than when they came to him. And do you know that because the people at Tech High said he was undermining their authority over these children by not carrying out the aspect of punishment that being sent out of the classroom was to teach them, my brother said, you can call whatever you want to whatever you want to, but I was trained to be a counselor and my job is to counsel and that's what I will do when any child is sent to me, so he was fired. The community tried everything we could do to get his job back. He couldn't get it. So guess what happened? Westside Community Schools snapped him up, just like that, to be a counselor and he taught. And I run across people in stores today who say that my brother taught them. But he invited me to read to his class and he had a lot of little-bitty children. And I had a rocking chair to give the image of the wise, old gentleman reading. And I would hold the book up and let the little children see the picture. And I would assume voices and I would change the narration so that it was suitable to these little children and they would see that as something that pertained to them. And there was this one little boy, and he was what you all who are educated would call hyperactive; ADHD, they call it now. It was hyperactive then. And he was just everywhere. And so he came up and stood by me. And the teacher, because Eddie, he wasn't the teacher of the class, she wanted to come and get the little boy and make him do what he's supposed to do. I said, no, no, when you invite me to the class, it's my class. This little boy is my student. So I picked him up and I set him on my leg and I rocked the chair as I read the book. And you know what that little boy did? He didn't fight against me. He laid his head on my chest and he was quiet the whole time that I read

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the book. And the teacher said she had never seen anything like that before. And I said probably because you all don't do anything like this. These are not children that you see, you don't even want to be here. And while you're here, you're going to do as little as you can. And it didn't occur to you to wonder what that little boy was so agitated about, if you thought of it as agitation. And I know how grown people mistreat children. And there are children that I've never seen in my life before and they will come to me as though they know me and I don't know why. And I've told people that's because the little children don't understand. And some form of this answer always came: Oh, but they do understand. So old people, animals, and little children are the most helpless beings in this society and the most abused. And I identify with them in real life like I identify with the monsters in a make-believe world because the monsters were created by people who have problems and they create a being and cast all of their failings on that being and let it carry out the evil that's in them. But when that creature is what they call evil, it's only acting--

HUGHES: One minute.

CHAMBERS: --in accord with the nature that it was given, not a nature that was chosen. Since the book Frankenstein was written by Mary Shelley when she was a teenager, she didn't start out with a being brought back to life as a monster. He thought, he had feelings, and he was falsely blamed for something and people were going to do bad things to him. And he said, beware, lest you make me the monster that you say that I am. They would not beware and his prediction came true. Mr. President, I withdraw that motion.

HUGHES: So ordered. Seeing no one else in the queue, Senator Arch, you're recognized to close on the advancement of LB1183.

ARCH: Thank you, Mr. President. Appreciate the positive vote on AM2607 and encourage green light on LB1183. This will get us ready, prepare us for the future as it relates to healthcare data within our state. Thank you.

HUGHES: Thank you, Senator Arch. The question is the advancement of LB1183 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 37 ayes, 0 nays on the advancement of LB1083-- or LB1183.

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HUGHES: The bill advances. Next item, Mr. Clerk.

CLERK: Mr. President, next bill, LB912, introduced by Senator Brandt, it's a bill for an act relating to courts. It changes provisions relating to examination of witnesses by telephonic, video conferencing, and similar methods. It harmonizes provisions. Introduced on January 10, referred to Judiciary grants to General. There are Judiciary Committee amendments pending.

HUGHES: Thank you, Mr. Clerk. Senator Brandt, you're recognized to open on LB912.

BRANDT: Thank you, Mr. President. I would like to thank Senator Lathrop for his priority designation and the Judiciary Committee staff for their work on this bill and the committee amendment. I would also like to thank the Nebraska State Bar Association for their willingness to work with us on addressing their concerns. LB912 is a bill to allow remote testifying relating to the examination of witnesses by telephonic, videoconferencing, and similar methods in any civil case. There is a committee amendment to this bill clarifying some of the language and I believe Senator Lathrop will update us on this shortly. The issue this bill addresses is if you want to bring in an expert witness from somewhere like New York, you would have to pay for airfare, lodging, and any other cost associated with bringing that person to Nebraska. This issue is compounded in our rural communities due to the cost of transportation to and from whichever airport they flew in from. If the hearing is scheduled anytime between October and April, we have weather-related issues to deal with. I am sure we have a lawyer or two in here who can speak to the cost associated with flying in expert testimony, but I have heard of instances of this all costing well over \$10,000. LB912 allows that expert to provide their testimony from wherever they live and negates the cost of physically bringing somebody in and the logistical cost entailed. This bill states any cost incurred will be paid by the requesting party and not the court. Both parties must consent to allowing remote testimony. This is a cost-saving legislation that helps all of our communities. Many counties will see a cost saving as they will no longer have to pay for the transportation of inmates who are testifying in civil cases. No counties will see a cost increase because of LB912. It is my understanding that remote testifying is already allowed for criminal cases, so the facilities already exist within our Department of Corrections to handle the occasional civil case. This bill was moved out of committee on a 7-0 vote, the Nebraska State Bar Association

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were the only ones to testify in opposition, and we have addressed their concerns with the committee amendment. I look forward to the discussion on this bill and Senator Lathrop's explanation of the committee amendment and what that entails. I encourage you to vote green on LB912 and the committee amendment. Thank you for your consideration.

HUGHES: Thank you, Senator Brandt. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Lathrop, as Chair of that committee, you are recognized to open on the amendments.

LATHROP: Thank you, Mr. President. Colleagues, good afternoon. LB912 was heard by the Judiciary Committee on January 23 of this year and was advanced to General File with AM2620. Both the bill and the committee amendments were adopted on 7-0 votes, with one member absent. AM2620 contains five bills heard by the Judiciary Committee. The bills are LB912, LB271, LB868, LB869, and LB1027. LB912 would allow judges in civil cases to allow a witness to appear by telephonic-- pardon me-- telephone or video conference over the objection of a party, unless the objective-- objecting party proves by a preponderance of evidence that the testimony would be unreliable or unfair. AM2620 makes a change to the original bill by adding a standard of "for good cause shown" when a judge may permit telephonic or video conferencing testimony and provides the condition of good cause that the court may consider. The amendment also adds language to provide that the party requesting the telephonic or video conferencing testimony shall provide for and pay for the accommodations required. LB271 would provide that joint and several liability remains to a liable party, even if one of two defendants settle with or are released by the claimant. LB868 harmonizes a current Parenting Act provision with changes made in 2019 by LB9-- pardon me-- LB595 to require a licensed attorney serving as a parent-- parenting plan mediator to provide an initial screening session to assess the child abuse and neglect, parental conflict, and domestic abuse as required from other mediators. LB869 proposes adopting a uniform method for addressing depositions and discovery subpoenas for out-of-state civil lawsuits. Currently, clerks of the district courts address the subpoena requests in different methods. LB869 allows the Supreme Court to adopt rules that would allow the district court clerk to issue the subpoenas in a uniform method across the state. The bill also corrects some oversights in a 2017 amendment addressing witness fees to state employees and security guards and in various places replaces "individual" with "person" to recognize that deposition in discovery

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subpoenas may involve organizations in addition to individuals. LB1027 creates a new judicial prospect-- process to expedite certain civil actions in county court. In order to qualify for this process, the action must be for monetary damages only and with damages, costs, and attorney fees totaling less than \$53,000, which is the current jurisdictional limit for county court actions. The act provides for limitations on interrogatories, requests for production of documents, requests-- and requests for admissions. Depositions are also limited to one per party, two depositions of nonparties, and each side is limited to one expert. Time frames are also reduced, as discovery must be completed 60 days prior to trial. Summary judgments must be filed 90 days before trial and each side is limited to six hours for jury selection, opening statements and evidence submission, witness and cross-examination, and closing arguments. I appreciate your attention to the description of these five bills, some of which are merely cleanup bills. Two of them are substantive. And I think you will find that, to the extent there is a controversy today on this bill, it is found in a section that includes what was LB271, \ and I think Senator La Grone and I have a way to isolate that provision so that we can move the entire bill and focus on the one, what I would call, controverted section. And with that, I would appreciate your support of AM2620 as well as LB912. Thank you, Mr. President.

HUGHES: Thank you, Senator Lathrop. Senator La Grone, you're recognized.

La GRONE: Thank you, Mr. President. Pursuant to Rule 7, Section 3(e), I would request a division of Section 14.

HUGHES: Senator La Grone, please describe how you would like to divide the amendment.

La GRONE: Can you repeat that? Sorry.

HUGHES: Would you like to describe how you would like to divide the amendment?

La GRONE: Yes, I would like to take Section 14 and divide that out and consider the rest of the bill, rest of the committee amendment first.

HUGHES: Senator La Grone and Senator Lathrop, would you approach, please? Mr. Clerk, will you please explain the division to the members of the body?

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CLERK: Yes, Mr. President, I will. Senator La Grone has requested two divisions. The Chair has ordered that division. Consequently, the first component will be known as AM2832. AM2832, Senator Lathrop, as Chair of the committee, I'll let you explain that to the body, as opposed to my trying to do that. OK? This is, this is the bill minus that one section.

HUGHES: Senator Lathrop, you're auth-- you're recognized open on the first division.

LATHROP: OK. Thank you, Mr. President. Colleagues, just to sort of give you the lay of the land or where we're at, I gave you the entire amendment when I opened. The motion to divide the question leaves for our later consideration Section 14, which deals with LB271. And we'll call that the Tadros issue. That, Tadros, is a case that was decided by the Nebraska Supreme Court. This amendment proposes to reverse that finding or holding of the Nebraska Supreme Court in Tadros v. the City of Omaha. The rest of the bill deals with video conferencing, Senator Brandt's LB912. There are a couple of cleanup bills in there and then the county court special proceedings. I'm happy to answer any questions. I don't think any of those aspects of LB912 are controversial, but I'm happy to answer any questions that may come up with respect to those. Once we resolve that issue, we will vote on this amendment and then take up the second piece, which is the LB217 piece or the Tadros v. the City of Omaha decision. Yield the balance of my time.

HUGHES: Thank you, Senator Lathrop. Senator La Grone, you're recognized.

La GRONE: Thank you, Mr. President. I agree with what Senator Lathrop said. I do not have an issue with this portion of the amendment and I would encourage your green vote on this portion. Thank you.

HUGHES: Thank you, Senator La Grone. Seeing no one else in the queue, Senator Lathrop, you're welcome to close on AM2832. Senator Lathrop waives closing. The question before the body is shall the amendment to LB912 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 36 ayes, 0 nays on the first component of the committee amendments.

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HUGHES: The amendment is adopted. Mr. Clerk.

CLERK: Mr. President, the Judiciary Committee would offer AM2--
AM2831, AM2831.

HUGHES: Thank you, Mr. Clerk. Senator Lathrop, you're recognized open
on AM2831.

LATHROP: Thank you, Mr. President. Colleagues, I'm about to take you
into the weeds. And I want to, I want to give you and begin with some
historical perspective. So joint and several liability means that if
you have two people who have acted to bring about an injury, both of
those individuals are 100 percent responsible, regardless of their
percentage of fault. And that was the prevailing law in Nebraska for
generations. In fact, joint and several liability has been part of
common law for hundreds of years. But in the early '80s, tort reform
moved across the country and it landed here in the Unicameral, and I'm
going to say it was probably '83 or '84. Senator Chambers was
certainly here for that. There was a great deal of negotiation that
took place and as a consequence, Nebraska developed or enacted
comparative fault. And I want to tell you about what, what our statute
says and then we'll get to this case that, that is causing the
necessity of this particular amendment. When we adopted comparative
fault-- so imagine that there is a-- someone is injured and there are
two or three people that are responsible for that. Could be a car
accident where, where two or three people did something, any one of
which would brought about the accident, and two or three people are
responsible for the accident. Plaintiff gets hurt, brings a cause of
action. What happens at trial is a jury determines a percentage of
everybody's fault, including the plaintiff if they're comparatively at
fault. If a plaintiff is 50 percent at fault or more, they make no
recovery. They go and, and they lose if they're 50 percent at fault.
If they're not 50 percent at fault but they're 20 percent at fault,
then the court will determine or a jury will determine what their
damages are and they will, they-- their-- the amount of their recovery
will be diminished by their percentage of fault. So if their damages
are \$100,000 and they're 20 percent at fault, 20 percent of that
\$100,000 will be deducted from the verdict and a judgment entered.
When you have more than one defendant, you determine at trial the
percentage of everyone's fault: plaintiffs, defendant one, defendant
two. That comes-- the total of fault lands at 100 percent. And the
rule under our comparative fault statute is that two defendants,
regardless of their percentage of fault, are jointly and severally

liable for economic damages and liable for noneconomic damages on a pro rata basis. So let me tell you what those things are. Economic damages are things like medical expenses and lost wages, the things that are more easily calculated. Noneconomic damages are the things that we think of as generally pain and suffering. So the pain and suffering damages under our, under our scheme and even under this bill, are always going to be pro rata; depends on what the jury finds your percentage of fault to be. This bill doesn't change that. Your damages for economic-- that is, the medical expenses, lost wages, future lost wages, future medical expenses-- those things are what we describe in our comparative fault statute as economic damages. Those economic damages are joint and several if both defendants go to trial. So if one defendant is 10 percent responsible and the other is 90 percent responsible, they're both 100 percent responsible. I could go collect from either one of them for 100 percent of the damages. That's the concept of joint and several liability and that is the law and this won't change that. Here's where the hitch is. The-- in the Tadros decision, which is really the subject of this amendment, one of the defendants settled before they went to court and the question after a judgement was entered against this nonsettling defendant that happened to be the city of Omaha is, do we credit the city of Omaha or how much does the second nonsettling defendant that goes to trial have to pay? Are they still jointly and severally liable for those economic damages or is there going to be another way to calculate their liability if one defendant settles? And the answer from the court was the nonsettling defendant will only have to pay their percentage of fault as determined by the trier of fact. Now understand, even though that one person settled and got out of the lawsuit, their percentage of fault is still determined. So a verdict comes back and it says plaintiff is this much at fault, defendant one, who settled, is this much at fault, and the defendant two, who's still in the case-- is this a different percentage of fault? Judge McCormack, Justice McCormack, wrote the Opinion in Tadros and he, and he concluded by saying we had to interpret what it means when one person settles and the other nonsettling party is entitled to some credit. Justice McCormack and the Supreme Court came down on the side of using the percentage of fault determined by the jury to decide how much the nonsettling party had to pay for economic damages. OK, so we, we took away the joint and several liability for economic damages in the event one of the parties settled. And Justice McCormack, in his Opinion, said we think this will promote settlement; we think, by having this process, it will promote settlement. Let me tell you why Justice

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McCormack, who was a good jurist and a friend of mine, was wrong. Because now nobody will settle with either defendant because you lose joint and several liability. So you drag both of these people to the courthouse, even though one of them may have been prepared to pay, for example, their insurance policy limits, and you make the person who wants to settle go to trial, even though they were ready to pay a long time ago. And they have to pay a lawyer and they have to go to trial, all because the plaintiff doesn't want to lose that joint and several liability for economic damages. OK? All this amendment says-- it's very simple and it will promote settlements, not discourage them-- is that if the first defendant settles, the second defendant remains jointly and severally liable for the economic damages. All right? It's that simple. Now those people who tell you that we're creating an unfair process by this amendment don't get it. They're missing the reality. The reality is you don't pass this amendment and here's what, here's what continues to happen in courthouses around the state. Every person that has a claim against two or more defendants will make all of them stay in the case until a verdict, then they can preserve joint and several liability. But there are defendants who are prepared, for example, to pay the policy limits on an auto insurance policy that say the most you're ever going to get out of me is \$25,000, let me out of this, I'll give you the money today and my answer now is I'm not going to take it because I will lose joint and several liability. That make sense? It looks like it's registering for some and not exactly everybody, and I get it because not every lawyer-- I've been to seminars on this and not every lawyer understands exactly this premise. What this does is it allows some people to get out of the case and not have to go all the way through a trial and pay defense lawyers to continue to defend them until we get to a verdict just so we can maintain joint and several liability. It's that simple.

HUGHES: One minute.

LATHROP: Now why would a plaintiffs lawyer bring this? Right? You all know what I do. I represent people that, that do this work and represent the injured. And I'm not representing the insurance companies who, by the way, are neutral on this bill. They see this. Sometimes they're the guy that wants out. Sometimes they're the guy that would rather have somebody else stay in the, stay in the litigation. But at the end of the day, this is a fairness issue. And it also promotes settlement. Instead of both sides saying, I'm not going to settle, let's wait and see what happens at the courthouse, and another party being drug along, paying attorney fees the whole

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time but perfectly willing to settle early, that's what this, that's what this amendment is about. It brings us back to where we were when we struck the deal in the mid-'80s during tort reform, where we were going to preserve joint and several liability for economic damages and a pro rata distribution or a pro rata--

HUGHES: Time, Senator.

LATHROP: --liability for noneconomic damages. Thank you.

HUGHES: Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good afternoon, colleagues. Appreciate Senator Lathrop's opening. Maybe there are a few people who are excited to talk joint and several liability and go into the weeds of this. I might be one. I rise in opposition to this amendment. I, I do think it's worthwhile to have a good discussion on the floor today or tomorrow, as, as far as we go on this. I think Senator Lathrop's opening and his history was helpful, but I also think it allotted a couple different issues. And I want to sort of maybe clear the smoke a little bit and make sure that we're all on the same page as what happened during the grand compromise, what happened in the-- the decision that came out in 2000-- 2007 and sort of what is fair and what is not fair. So I would certainly defer to much of Senator Lathrop's discussion. I've nothing to, to object to in regard to the compromise and the work that was done to change our scheme back in the early '80s. And I-- so as far as that goes, I have nothing really to add. I do want to talk, though, about the 2007 decision. Is it Tadros? How do you pronounce it, Senator Lathrop? Tadros? The Tadros decision in 2007. The first thing I'd point out is that the analysis from Justice McCormack was not-- there was a discussion of fairness, but it wasn't statutory analysis. In other words, what the justice was doing is, the way I read the decision, is this justice was saying, hey, look, the Legislature went through this in 19-- in the mid-'80s, balanced all of this as part of a bargain, and determined by the plain language of the statute that this is the scheme that we should have. Right? So this wasn't necessarily-- sometimes you see-- read decisions and judges go through things and they're sort of making common law and they're kind of making their own policy analysis. They're, they're saying maybe this will happen or maybe that will happen and I'm just going to-- I'm going to sort of-- I'm going to go this way because I think on balance, this is the right way to go. This wasn't that kind of a decision, to my eye. This decision was a read of the statute and

the statute was very clear. Right? If you settle-- Senator Lathrop is exactly right-- if you settle, you don't have the same joint and several liability. So it is true that, that McCormack did talk about fairness. We'll talk about that here in a second. But I want to start with first principles here. This isn't a matter of us discussing whether or not some justice got it wrong in the policy balance. What we're really doing is not reconsidering that. What we're really doing is reconsidering the balance that was made in the mid-'9-- '80s regarding the whole comparative negligence liability scheme. So I think that's really important in the first place, so I think that should weigh into our minds. But what is the fairness? I was listening very carefully to Senator Lathrop's remarks because I think when we, when we want to change this scheme, we ought to be thinking very carefully why. And I heard Senator Lathrop say, well, you know, this is going to-- you're going to hear opponents say this is unfair. And then what he said was, well, it is-- the current system is unfair. And what I took from that, and Senator Lathrop can disagree or, or clarify, was that what's unfair is that someone who might be at fault couldn't settle out early. In other words, the current scheme might actually incentivize those with-- for not settling with those-- with defendants who want to get out in the case. And whether or not settlements have, you know, have been depressed since this statute came out and the Tadros decision, I can't necessarily say. But what I think this avoids is the real unfairness problem to, to those who would be impacted by this particular amendment. So let me explain what I'm talking about. So currently, if you were to settle, and let's say someone was-- let's say you're the sole defendant and you-- let's say someone else settled and they-- let's say it was \$100,000, per Senator Lathrop's example. So you have \$100,000. Someone's-- maybe someone's 20 percent at fault and the other person's 80 percent at fault and that person settles for \$10,000 or whatever it might be. If you are under a-- right-- the current-- under the current scheme, you wouldn't actually reduce the, the amount by the dollar amount. You'd reduce it by the percentage of fault. It's called pro rata.

HUGHES: One minute.

HILGERS: Thank you, Mr. President. And I think that's important because if you were to switch it, what would happen is-- let's say someone is 90 percent at fault. You have two, you have two entities. One is a big, deep-pocket entity that's 5 percent at fault and the other one's 95 percent at fault. Well, you-- if you-- and under this, under this amendment, as I understand it, if you are to settle with

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the 95 percent person at fault and you were-- just were to settle for a dollar, all the, all the 5 percent person would get is the credit for the dollar, the dollar that they would-- that would get reduced off the amount that they would owe. So now if someone who's 5 percent at fault under the current scheme can go to trial, the court, the trial court, the jury says, you know what, you're only 5 percent at fault so you only have to pay 5 percent of the economic damages. That seems fair to me. That seems fair. But under this amendment, if you go to court and they are 5 percent at fault, they might be liable for a whole lot more than just the 5 percent because what's reduced is not the percentage but the dollar amount.

HUGHES: Time, Senator.

HILGERS: Thank you, Mr. President.

HUGHES: Senator La Grone, you're recognized.

La GRONE: Thank you, Mr. President. Senator Hilgers made a lot of the points I wanted to make, so there's, there's really two more that I want to make and then I'll leave it at that so I don't continue making arguments that have already been stated. But I agree. I think Senator Lathrop did a good job of laying out the, the different-- how the system works. There was one point that I only partially agree with, though, that he made, and he said that this would encourage settlements. I agree that it would encourage certain types of settlements. But I think, think it would greatly discourage other types of settlements. I think it would-- the type of settlements it would encourage are settlements with those defendants that have low policy limits and it would greatly discourage settlements with entities that the plaintiff may view as having deeper pockets. Now I'll give you an example, and this is-- I'll give you an illustration of how this would work. Hypothetically, let's say there was an accident at a railroad crossing and there was a driver and a passenger and the-- both were killed and the passenger's estate then sued the driver. And let's say the court determined that there was \$4 million in damages and that the driver was 95 percent liable and the railroad was 5 percent liable. In that hypothetical with the \$4 million in damages, if they settled with the driver's estate and just took the railroad to trial, under the current system, the railroad would be liable for \$200,000. Now under this amendment, that same liability set-up, the railroad would be liable for \$3.8 million. I think that gets to the fairness issue of what Senator Hilgers was talking about.

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I don't think that just because a defendant has deeper pockets, they should be held more liable. I think this should be-- I really think what we should do is encourage settlements across the board, not just with defendants who have lower policy limits so you can go direct it at a defendant who has deeper pockets. That's why I would encourage your red vote on AM2831. Thank you, Mr. President.

SCHEER: Thank you, Senator La Grone. Turning to the queue, Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. Colleagues, I'm glad I'm following Senator La Grone and the example he gave. But, but first, I want to respond to Senator Hilgers. This isn't smoke, like I'm not making something up. As the Supreme Court, when they decided this case, said, the claim of the claimant against the other person shall be reduced by the amount of the released person's share of the obligation as determined by the trier of fact. This isn't black and white. This wasn't an easy-- this thing makes perfect sense and it's obvious what the answer is. The court struggled with what's it mean to say it shall be reduced by the released person's share. OK? So this was a, a jump ball and the court eventually relied upon the statute and made an interpretation and then said, we think this is good policy. But let's go to Senator, Senator La Grone's example of a, of a person who's a passenger in a, in a-- an automobile. The automobile goes across railroad tracks that aren't guarded. There's weeds growing up. The train hits them. No one could see the train. Maybe the guy driving was DWI or something. So now we got a driver. I'm a passenger, not at fault. The driver, the driver was at fault and so is the railroad company for not having a clear-view vantage point. That's a, that's a classic example. OK? Here's the answer. You don't change this, both of them are going to trial and there's joint and several liability. The example given by Senator La Grone misses a distinction. One-- the first distinction is there's a difference between economic damages and noneconomic damages, so all the pain and suffering damages are going to be apportioned according to percentage of fault. That gets figured out at trial, whether you've been dismissed because you settled or not. It's the economic damages. So if I am going to lose wages, if I'm going to incur medical expenses, those are economic damages, the things you can calculate, as opposed to the often more difficult calculation of what's somebody's pain worth or what's a widow's loss of society, comfort, and companionship worth? Those are noneconomic. OK? Secondly, joint and several liability was the common law from the time we started this country. All right? Joint and several liability

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is not a new concept. And when we had tort reform and we, we went through the process of developing our comparative fault statute, there was a compromise. We're going to have just joint and several liability for economic damages. Again, those things you can calculate. This doesn't change any of that. It doesn't change any of it. Here's the, here's the difficulty. Let's say that guy driving the car, the only thing he has is his vehicle and a policy worth \$25,000. And I'll make up a, I'll make up a name because this is a classic. Progressive insurance company insures the driver of the car Senator La Grone is talking about for \$25,000. Currently, both those people have to go to trial, even though Progressive may say, we want out of this thing, here's our \$25,000, let us out, we don't want to pay our lawyers anymore. This is about whether you have to keep paying lawyers to go to trial in a case you'd like to get out of. But under the current system, the injured person, the estate requires that everybody go to trial in order to maintain that joint and several liability and it doesn't make sense. We're not creating joint and several liability. We're simply preserving it with this amendment. I hope that, I hope that clarifies a little bit what we're talking about today. And again--

SCHEER: One minute.

LATHROP: --I'm happy to answer questions. Thank you, Mr. President.

SCHEER: Thank you, Senator Lathrop. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. Will Senator Morfeld-- I believe this is your bill, correct? Would Senator Morfeld yield to a question?

SCHEER: Senator Morfeld, would you please yield?

MORFELD: Yes.

FRIESEN: Is this your bill?

MORFELD: Yes, it is my bill. It's not a secret.

FRIESEN: So is this a, a, a lawyer bill where the lawyer wins?

MORFELD: This is a great bill. I fully support this bill. I'm glad you asked.

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FRIESEN: I agree. So when I listen to the different arguments amongst the lawyers in the room, it seems to me that the lawyers win. If you keep more people in the case, more lawyers are engaged and you keep the process going so the lawyers win. What--

MORFELD: Well, I mean, I, I think it depends on your definition of that. I also think that it's important to, to note that there's a person with real damages and real losses. So you can say that the lawyers are going to win, but in the end, these are real people; their lives, their economic damages, their emotional damages as well.

FRIESEN: It's a lawyer employment bill, I would say, but OK. So if-- when you're, when you're involved in things like this-- and so I-- it always seems like the deepest pockets are the ones everybody goes after because that's where the money is at. So a person that's involved, if there's multiple cars involved in an accident, those with minimum coverage and, and no other assets, obviously they're going to settle with those and get them out of the way because they have nothing else. There's nothing there for them to come and get and so you leave the party with the deepest pockets. Is that, is that what you'd say happens under current law or under what you want to change?

MORFELD: That would be a good question for Senator Lathrop. He practices in this area of law more than I do.

FRIESEN: OK, thank you. Thank you, Senator Morfeld. Senator Lathrop, would you yield to a question?

SCHEER: Senator Lathrop, would you please yield?

LATHROP: Happy to.

FRIESEN: So is, is that-- under current law or under what's proposed, are you leaving the ones with the deepest pockets holding the bag, so to speak? Is that, is that kind of what--

LATHROP: Not necessarily. The person with the deepest pocket could be the first guy out. He could be the one that steps up and says, I have a big liability here, I want out, and write ,- write a check to avoid the uncertainties of trial.

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FRIESEN: And so at that point, the others who continue to fight would stay in the battle, and-- but they would still only be liable for the percentage of what they were deemed responsible?

LATHROP: Under current law--

FRIESEN: Under current law.

LATHROP: --but not if all of them went to trial; then they would all be jointly and severally liable for the economic damages.

FRIESEN: OK. Thank you, Senator Lathrop. With that, I'll yield the rest of my time to Senator Hilgers.

SCHEER: Senator Hilgers, 2:00.

HILGERS: Thank you, Mr. President. Thank you, Senator Friesen. I appreciate the time. So just, just to recap a little bit what I said and, and to make a-- and to sort of bring this home, the point I was making about the case is not whether it was a jump ball or not. The point my-- that I was making is that what the court was doing was interpreting a statute and that statute was, was put into law as part of a compromise among a number of different stakeholders. This wasn't a one-off judge deciding, sort of weighing a policy-- two different policy goals and then deciding I'm going to go this way and we disagree with that decision and sort of overruling the judge. This is-- what we're really doing is less overruling the judge and more, I think, overturning a carefully crafted, and I think important, compromise that was done back in the '80s. And I think we should, we should have that in the forefront of our minds as we look towards the policy justification for changing this. Now let's take the arguments in favor of this at face value and say that one of the values of this would be to increase settlements.

SCHEER: One minute.

HILGERS: Thank you, Mr. President. I-- I'm not disagreeing that that's not a good idea. I think if we can have settlements, more settlements, more cases not go to trial, that's a good thing. But I'll tell you, there is no right to be able to settle. A settlement is a contract. You don't have-- Senator La Grone has no right to enter into a contract with me. If I don't want to enter into a contract or a settlement with Senator La Grone, he has no right to that. But I would tell you, on the other side of the coin, one thing that we ought to

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think carefully about is having parties be potentially liable for things they didn't commit. Now at least in a joint and several context, if there's someone else who's-- the chair is full and you can point to the other person and say, it wasn't my fault, it was Senator Bostelman's, that's one thing. But if you settle someone out under this amendment, they're not there and you could be liable for more than what you actually did. So I think when you weigh those two policy justifications, the right to a settlement, which I would submit no one has-- no one has a right to a settlement-- versus the concern of having someone be liable for more than they otherwise should be entitled to have.

SCHEER: Time, Senator.

HILGERS: Thank you, Mr. President.

SCHEER: Thank you, Senator Friesen, Morfeld, and Hilgers. Senator DeBoer, you're recognized.

DeBOER: Thank you, Mr. President. Folks, I'll try and be a little less in the weeds as-- on this one issue, I'm a little less in the weeds, and that is when we're talking about the issue of fairness, I think we need to divide the question, like we did before, about what's fair or not fair in the joint and several liability as it exists in our law and won't be changed and in this narrow circumstance in which we have one person who has settled. So if you're talking about who's left holding the bag and whether the deep pockets might be left holding the bag, that's true whether we pass this bill or not because all you have to do if you're a plaintiff is just keep both defendants in the case, then the person with the deep pockets is left holding the bag. That's joint and several liability and that isn't changed. So all you have to do is you, you go to trial and once you're at trial, you have joint and several liability. The one person is responsible for whatever percentage, the other person is responsible for the other percentage, but you can get the entire recovery against the joint and several defendants. So the fairness issue, that's in one case; in the other situation, you have somebody settle. Why would you do that? There's no situation in which it makes sense if you're going to potentially risk getting your entirety of your settlement or your entirety of your damages to go ahead and settle. It doesn't make sense to do that. And as far as someone not being there in the chair, you're actually at an advantage, right? So if you're trying to figure out what percentage of responsibility you have, right-- and this would go to your noneconomic

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damages-- it's a lot easier for the jury to say, oh, the person who's not there was mostly responsible and the person who is there, oh, look at them, they've told me all these reasons why they're not. It's a lot easier to accuse the person who's not in the room, so maybe there's a question there whether or not-- I mean, that could go either way, but I could make a reasonable argument saying that not being in the chair next to you is an advantage for you. Maybe it's an advantage for the other person. It could go either way. I will yield the rest of my time to Senator Lathrop.

SCHEER: 2:40, Senator.

LATHROP: Thank you, Senator DeBoer. Colleagues, if we don't pass this, what will happen is what continues to happen every day. And by the way, there's nothing unfair about joint and several liability. These people are at fault. They hurt somebody. OK? They hurt somebody. That's why we have joint and several liability. Everybody who is responsible, whose conduct causally related to-- was negligent and causally related to the injury, is jointly and severally liable for economic damages. If we don't pass this, I'll tell you what will happen. We'll just keep suing everybody who has some hand in the injury and let nobody out and we'll, we'll go to the courthouse and have joint and several liability. It'll, it'll just keep happening. The question is whether or not we allow someone to get out who doesn't want to be there and most often, that's an insurance company who's prepared to pay their policy limits just to get rid of the liability. But this rule, which was a jump ball in its statutory interpretation, this rule that Judge McCormack thought would promote settlements, isn't. It isn't; I can tell you it's not. I've lived this, this world-- I've lived in this world for 40 years since this thing passed. I've been trying these cases and handling these types of cases and it is malpractice to let somebody out beforehand, except in the most unusual circumstance. So now we have a defendant, typically an insurance company--

SCHEER: One minute.

LATHROP: --who's been prepared to pay its limits and they're being forced to continue to litigate a case. And Senator DeBoer made a good point. The idea that somehow the guy who is settled and needs now what we refer to as an empty chair in the courtroom, guess who's pointing to that empty chair? The guy who's still there. He's like, you know what, we're here today to look and determine everybody's negligence,

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but you know what? The guy who really did it, that's his empty chair there and you ought to put more of the responsibility on him. So I don't know that this will get every case settled. I don't know if it will encourage more settlements in every circumstance, but it will encourage more people to resolve cases. And we're not-- this isn't about whether you think joint and several liability is a good idea or not.

SCHEER: Time, Senator.

LATHROP: It's the law. Thank you.

SCHEER: Thank you, Senator DeBoer and Senator Lathrop. Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. I want to follow up on Senator DeBoer's comments. There, there is absolutely a prejudice here and let's just look at the decision itself. So the McCormack decis-- the decision from Justice McCormack under-- overturned a trial court decision that used the rule that would be the case if this amendment passed. And so the question is whether or not it's-- you know, what would be the impact, whether it's fair or not, whether I could point to an empty chair or not. But here's why it matters, because what matters is what gets reduced, right? What gets reduced; if it's the percentage of fault, that's one number, but if it's a percentage of what they settle for, it's another. Now if you look at the math and the decision itself, look at the underlying math of the decision, there was about \$1 million in economic damages in that case. And the non-- the settling defendant, the one with not as deep of pockets, settled for \$35,000, \$35,000. So the court said, OK, \$1 million, city of Omaha, you're 50 percent liable but we're-- but you're the only one left so we're going to reduce it by \$35,000. It was \$1 million minus \$35,000, so, city of Omaha, you are stuck with the rest of the bill. The court overturned that and said, wait a second, wait a second, the statute doesn't say that. The statute says it's proportion of share so you're only liable for the percentage that, that you actually caused, the amount of harm you caused. So what the court decided, using a percentage, was not that it should be reduced by \$35,000 because what had happened, the court had determined that, that not-- that settling defendant I referenced, the one who paid thirty \$35,000, was actually 30 percent at fault. So the court said, look, if this person is 30 percent at fault and-- and the plaintiff was 20 percent at fault so the city of Omaha was 50. If this person is 30 percent at fault, it's

not fair for the city of Omaha to have to pay their percentage of fault. So the court, when they did the math, they reduced it by \$377,000. That's the percentage of the non-- of the settling defendant. That's what was reduced. So those are the-- that, that math, I think, is pretty stark. Under the, the rule, under this amendment, you could settle for whatever you want to settle for. You find someone. They could be 90 percent at fault. I'll settle for \$1,000; I'll settle for \$10,000; I'll settle for \$1 and I get to go against. But I don't need to settle because no one forces me. It's a contract. No one can force me to settle with anybody. But this company over here or this defendant over here, I don't want to settle with you. You might be 5 percent at fault, but it don't matter-- doesn't matter because all I need to reduce off the total amount is the dollar, whatever I settled with. Under the current rule, you'd actually have to say, wait a second, you're 5 percent at fault, \$ million in damages, you should only have to pay \$50,000. So that's the math. Now if you think that that math and the gamesmanship that could occur is worth encouraging settlements, then vote for the amendment and vote for the bill. I'm going to vote red because I don't think that's the right tradeoff. I don't think we ought to encourage people to have-- certain people to have more settlements and to leave other people in the case. This isn't going to settle-- this will not resolve the whole case in many cases. It will increase more settlements and maybe eventually some de-- some big-pocket defendants will say, hey, it's not worth it, I'm 5 percent liable so I will-- I'll just-- I don't want to go to trial, have an empty chair and I'll get popped with the bill. So maybe, but is that the right kind of-- is that-- those the right kind of settlements we want to have, these sort of courthouse settlements where the leverage is off of the plaintiffs? The current rule works well. It was part of a compromise in the '80s and I think it's appropriate to say that a defendant ought to pay for what they cost and you can't settle out for \$1 or \$10,000 or whatever you want to do in order to target your one last defendant and not at least have some tradeoff. You could do that if you want. But at least under this system, the current system that we have--

SCHEER: One minute.

HILGERS: Thank you, Mr. President. At least this current system takes that into account. It says if you want to settle for \$10 for that person and they're 50 percent at fault, then you can't recover that. That strikes me as a very fair balance. Thank you, Mr. President.

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

La GRONE: Thank you, Mr. President. I think it's two points I want to make. First, I think Senator Lathrop and I were talking across each other on the hypothetical. So just to drill that down a little, would Senator Lathrop yield to a question?

SCHEER: Senator Lathrop, would you please yield?

LATHROP: Yes.

La GRONE: So, Senator Lathrop, we'll use your version of the hypothetical so that's fine. I think the max-- math is actually simpler. So you said \$4 million economic damages, \$25,000-- the insured party with the \$25,000 limit settles for their \$25,000 limit. And then under current law, would you agree that that other defendant who was-- the court found in this hypothetical 5 percent liable, would be liable for \$200,000 in economic damages after that first defendant has settled out for \$25,000?

LATHROP: Well, under current law, nobody settles. OK? So no one would settle that case anymore. But if--

La GRONE: So that--

LATHROP: --someone committed malpractice and did that--

La GRONE: Senator, Senator Lathrop, we--

LATHROP: --that would be the math.

La GRONE: Oh, OK. Thank you. So that-- yes. Then-- so then under this bill, under this bill, if that passed, in that same hypothetical, that defendant that's still in the case, instead of being liable for \$200,000, they would be liable for \$3,975,000; is that correct?

LATHROP: Just as if no one had settled.

La GRONE: So, yes, that-- so that difference in liability is what I was pointing out and I think that is my issue. And I want to get now to the point that the notion that the court-- that this was a jump ball case. It wasn't a jump ball case and we can just look at the language of the statute. Nebraska relies strongly on the plain language of the statutes and I'll just quote from the court case: the

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court held that 25-21,185.11 "plainly states that after the claimant settles with the joint tort feasor," which is a defendant, the claimant's claim against the other defendants and now the court is quoting from the statute, "shall be reduced by the amount of the released person's share of the obligation as determined by the trier of fact." I don't think that can get any more clear. I don't think this was a difficult case for the court. I think this current system is pretty clear. As Senator Hilgers has been saying, this is the compromise that was struck in the '80s. This is what the statute says and I support the current system that we have, which is why I'll be voting red on AM2831. Thank you, Mr. President.

SCHEER: Thank you, Senator La Grone, Senator Lathrop. Mr. Clerk.

CLERK: Mr. President, some items. LR337, new resolution by Senator Brandt, that will be laid over. Amendments to be printed: Senator Wayne, LB918; Slama, LB1198; Hunt, LB780. New A bills: Senator McCollister, LB255A. It appropriates funds to implement LB255. Name adds: Senator Brewer, LB931; Hunt, LB1060; Blood, LB1183. Mr. President, Senator Williams would move to adjourn the body until Tuesday, March 10, at 9:00 a.m.

SCHEER: Thank you, Mr. Clerk. Colleagues, you've heard the motion. All those in favor say aye. All those opposed say nay. We are adjourned.