

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate January 14, 2020

FOLEY: I call to order the sixth, excuse me, the fifth 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.

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

CLERK: I have no corrections.

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

CLERK: Just one item, Mr. President, I have a Conflict of Interest Statement offered by Senator Slama that will be made part of the public record. That's all that I have.

FOLEY: Thank you, Mr. Clerk. Members, Senator Cavanaugh would like to recognize two doctors of the day today. We have Dr. John Hallgren and Dr. Luke Lisherness, both of Omaha, Nebraska. The doctors are with us under the north balcony. Doctors, please rise so we can welcome you to the Nebraska Legislature. Members, we have a very special guest with us this morning. Senator Albrecht has asked for a point of personal privilege to recognize this guest and to speak of him. Senator Albrecht.

ALBRECHT: Thank you, President Foley, and good morning, colleagues. I rise for a personal point of privilege today. As I stand here today, I get to acknowledge that the One Hundred and Sixth Legislature, Second Session, is, has all signed on and recognized Allen Beermann. We're here today to honor him for the, for the many, many years of personal and service to our great state. Allen Beermann is of Lincoln, Nebraska. He's displayed outstanding public service and leadership during his life. And Allen was born and raised on a farm in Dakota County. Allen earned his juris doctorate degree from the Creighton University School of Law in 1965. Allen was sworn into office as Secretary of State for his first four-year term in 1971 and was sworn into office for the sixth four-year term on January 9, 1991, making him Nebraska's longest-serving Secretary of State. Allen served at the, with the Nebraska Army National Guard and the United States Army Reserve from 1967 to 1993 and retired as a lieutenant colonel in the Judge Advocate General Corps. Allen became the executive director of

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the Nebraska Press Association on January 6, 1995. Allen was honored by his peers by being inducted into the Nebraska Journalism Hall of Fame in 2018. Allen has been coordinating and hosting tours of the USS Nebraska for 25 years. Allen fulfilled his endeavor to always be an ambassador of goodwill on behalf of Nebraska and Nebraskans as a very kind, thoughtful, caring, generous, respected, and ethical leader. Allen and his wife Linda were married on May 23, 1971. They have two children, Matthew Allen and John William as one grandson, Isaac Allen. The Nebraska State Legislature congratulates Allen on his many accomplishments over his outstanding career. The Legislature recognizes Allen J. Beermann for his many years of public service and thanks Allen for a lifetime of contributions to the state of Nebraska. It is his 80th birthday today. So I'd like you to join me in congratulating him on a job well done. Thank you.

FOLEY: Members, Mr. Beermann is accompanied today by Jim Timm, Dennis DeRossett, Steve Jordon, Mike Holmes, Bridget Weide-Brooks and Roger Humphries. If those guests could please rise, we can welcome all of you to the Nebraska Legislature. Senator Chambers, you're recognized.

CHAMBERS: Point of personal privilege, Mr. President.

FOLEY: Please proceed.

CHAMBERS: Mr. President, members of the Legislature, I've known Allen Beermann a lot of years. He is a person who did everything with style and grace. You all know that I'm not lavish with praise or compliment just to give a compliment. But I have a bone to pick with him. I'd like to ask Senator Albrecht a question to be sure that my facts are, are correct.

FOLEY: Senator Albrecht, would you yield, please?

ALBRECHT: Yes, sir.

CHAMBERS: Senator, how old did you say Mr. Beermann is?

ALBRECHT: I understand it to be 80 years old.

CHAMBERS: 80 years old. Let me ask you a question, if you don't mind. How well did you do in math when you were in school?

ALBRECHT: I might, well, pretty, well. There-- it's, it's--

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CHAMBERS: But you can add.

ALBRECHT: I can, I can.

CHAMBERS: If you added 3 to 80, what number would you get?

ALBRECHT: I'd say 83.

CHAMBERS: Which is larger, 83 or 80?

ALBRECHT: 83.

CHAMBERS: Thank you. Members of the Legislature, Mr. Beermann described himself as the oldest living relic of this state. I not only am older, I am continuing my reliquary. I'm still here. Here's what Mr. Beermann did. When he was younger, he did, like a lot of us, read about The Last of the Mohicans. Nobody was interested in the next to the Last of the Mohicans. Well, what he is doing is being next to the oldest living relic. So I don't want to take everything from him, but I am not so modest that I will be deprived of that which I have come by honestly. And my 83 years have taken a much greater toll on me than his pilfering 80 have taken on him. Look at, look at these wrinkles in my face. It looks like somebody took a strip of bacon and plastered it to my forehead. They took gouges and made these lines run from the sides of my nostrils down around the corners of my mouth. If I stood still long enough in a museum, they would think that somebody had removed one of the Egyptian mummies from a sarcophagus and would begin to try to replace me. I'm not saying these things out of vanity. I just believe that the workman is worthy of his hire, which is a way of saying that you're entitled to that which you have earned. So despite the fact that I have said these things, my direct comment to Mr. Beermann would be, you've done a good job, Sonny, I'm proud of you. Thank you, members.

FOLEY: Thank you, Senator Chambers. We'll now proceed to the agenda. First item is a report from the Executive Board. Mr. Clerk.

CLERK: Mr. President, Senator Hilgers, as Chair of the Executive Board, would move pursuant to rule Section 81-8,241, the appointment of Julie Rogers as the Public Counsel Ombudsman.

FOLEY: Senator Hilgers, you are recognized.

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HILGERS: Thank you, Mr. President. Good morning, colleagues. As the Clerk stated, the motion on the, on the desk this morning is the appointment of the Public Counsel. The Executive Board has make, made a recommendation that the next Public Counsel be the current Inspector General of Child Welfare, Julie Rogers. I'm going to talk about Ms. Rogers, Inspector General Rogers and her background in a minute, but I would like to inform and give the body some background as to the process the Executive Board undertook in order to make this recommendation. So we started this process, you may recall, last session when the current, I'm sorry, the then-Ombudsman, Marshall Lux, who many of you know, resigned or retired. At that point, his deputy became the acting Ombudsman, Carl Eskridge. We opened up-- it is the Executive Board's responsibility to start the process of identifying candidates and that's exactly what we did. We started, we created-- the Executive Board created a hiring committee, a subcommittee of the Executive Board. That hiring committee was representative across, a number of communities across Nebraska. It included the Speaker. It included Senator Chambers. It included Senator Bolz. It included Senator Lowe and it included myself. We started that process by creating a job description. That job description was informed by a number of different sources. One was the statutes underlying the Public Counsel office. Another one was-- some of the input that we had or the descriptions and items we had that was left-- that were left behind from the then-Ombudsman, Marshall Lux. We also had input from the Executive Board to create that job description. We then opened up that job. We, we posted on the Nebraska state job website. We posted on the Creighton Law School website, the Nebraska Law School website. We also solicited applicants, recommendations, ideas from the larger body. You may recall that we did this last session. As we entered into the interim, it was, it's important to note that this is an area where the Exec Board actually does not have authority to make an interim hire. So the Executive Board, in many instances, actually does have the authority, over the interim, to make certain hiring, hiring decisions, subject to the full approval of the Legislature, for certain positions within the Legislative Council. For instance, if we had an opening this interim for Legislative Research, just as an example, the Executive Board could make that hiring decision. One exception to that, actually, is the Office of Public Counsel. So during the interim, from June until just last Tuesday, the Executive Board had no authority to do anything else other than make a recommendation. That recommendation cannot be acted on, upon in any formal way. Nevertheless, during the interim, the hiring committee

went to work and had a pretty significant comprehend, in my view, comprehensive process to come to this point. We had ten applicants. They were very high-quality applicants that the hiring committee reviewed. Our first step in the process was we had, we came up with an objective set of criteria, it was about 12, I believe, against which we ranked the resumes and application materials of the various applicants. They provided their own resumes, writing materials, references, etcetera. Based on that objective ranking, we took the top five, by ranking, and had an interview process of those five. So we met in person, had an interview process with those five individuals. Subsequent to that, the hiring committee had another round of interviews with two finalists, as it were, two individuals who we thought were very high quality, who would do an excellent job in this particular position. We met with those individuals. We called their references. We solicited feedback from their references. We then met subsequently two different times to talk through what might be the recommendation to the Executive Board. The hiring committee met, had a vote, was not unanimous, but we voted to recommend Inspector General Rogers to the full board. The full board then met over the interim to discuss the recommendation. As I mentioned, we couldn't make a decision that could be acted upon by the full body at the time, so we met again last Friday, the Executive Board did once the Legislature had reconvened for this session, and made a recommendation to recommend Inspector General Rogers to the full body. That vote was 6-1 with 2 abstentions. So that was the process. It was very comprehensive. We had a lot of input from a number of individuals on the board. We had a lot of really good conversations. And I, I want to, in particular, thank the hiring committee for their work over the interim, going through this particular process. Now, I want to talk a little bit about Inspector General Rogers. Many of you, if not most, if not all, have worked with Inspector General Rogers. Some of this may be redundant to you or, but I wanted to inform the body for the record and for those watching at home about her and her background and why we, I think that she would be an outstanding candidate and an outstanding leader for that particular office. Inspector General Rogers is a native Nebraskan. She went to the College of Saint Mary for undergrad. She is a graduate from the University of Nebraska Law School. She's held a number of positions. I will just highlight two. One, she was a public defender in the Madison County Public Defender's Office. She also was a legal counsel for the Judiciary Committee here in the Legislature, I believe under then-Chair Kermit Brashear. Those, both of those positions, as well as her, her other professional

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capacities, I think form an excellent foundation for the work that she has done in what has been, I think, her most prominent role and that is being in the Inspector General's office. If you will recall, in 2012 the Legislature created the Office of Inspector General for Child Welfare. The inaugural first and until today, only Inspector General of Child Welfare has been Ms. Rogers. She's been there-- this will be, I believe, her eighth year in that particular role. I would, since many of you, especially on HHS and other senators, stakeholders under the jurisdiction under which she works, have had extensive interactions with her, I would largely refer you to those interactions as you think about your vote today. I would wager, I would guess that those interactions have been high-quality, excellent interactions. And you, you like I, have been impressed with the work that she has done in that particular role. If you haven't had a chance to interact with Inspector General Rogers, I would refer you to some of the written materials that she has produced. And I'll, I'll just flag one. She had a report in September of 2018-- 2019, the '18-19 year, that was it, that is incredibly well written, incredibly well done. But what-- the thing that I want to flag in that particular report is that she had a number of recommendations that she made, many of which, if not most, were adopted ultimately by the agency. In other words, through her work as Inspector General, the system has improved. And I think that is one primary theme of the work that she has had as Inspector-- at being an Inspector General. I wanted-- the other data point that I want to give you, because she has worked with the Legislature for the last eight years, I think we know her. But the other data point I want to give you I think is a really important one. And that is a series of recommendations that I had the pleasure of, of recommenders that I had the pleasure of speaking with about Inspector General Rogers. She had a number that I think are really important stakeholders for this particular position. One was a former employee of hers in the Inspector General's office. She had left. She had no, she had no dog in the hunt. She wasn't a current employee. There was no-- she had, she had nothing to gain by talking to us except she wanted to make crystal clear that she thought Inspector General Rogers was an outstanding leader. She had all the qualities of excellent leadership. She listened well. She took into account competing views. She was able to approach problems with humility and modesty, but combined differing views and forged a common vision to be able to-- and, and through that process, was able to have a, a really excellent morale in her office, people who believed in her leadership. I thought that's a very important data point. She also had two senators recommend her; one

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current, one former, from both political parties, both of whom had glowing recommendations for her, that she approached her work in a nonpartisan fashion.

FOLEY: One minute.

HILGERS: Thank you, Mr. President. And the last recommendation that she had was from a former director, I'm sorry, director over whom she had oversight who said she's tough, but she's fair. All of those, colleagues, are the key stakeholders in what the Public Counsel-- Inspector General will-- those are the key stakeholders of that office and I think those are the qualities that Ms. Rogers brings. I only have a minute left. I will say very briefly, a few thank-yous. First, to the hiring committee, I, I thank them for the work that they have done. Secondly, I thank former-Ombudsman Marshall Lux. He is, he served with distinction for this Legislature for decades. He has laid an excellent foundation for the future of that office. I thank him. I thank current or Deputy Inspector I'm sorry, Public Counsel Carl Eskridge. He has done incredible work in that office, has one of the biggest hearts there is in this, in this business and I thank him for his work. And last, I think, most importantly, I want to thank the members of that office for the work that they have done, especially over the last year as this process has played out. I want you to know the Legislature supports you. We support your work. We are proud of you and we look forward to working with you in your important mission over the coming years. With that, I'm happy to take any questions, but I urge you to vote green on the recommendation for Inspector General Rogers. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Discussion is now open on the recommendation. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. President. Good morning, Nebraskans. Our state's unique motto is equality before the law. So know that whoever you are, wherever you are on life's journey and whomever you love, we want you here, you are loved. And now to the issue at hand. I am compelled to stand today to correct the record. It would not be necessary to correct errors of omission and misrepresentation of the facts had the jumble of information not been in the paper about my friend and professional colleague, Carl Eskridge, on Sunday. I would have remained silent. To preface my remarks, I admire and adore Julie Rogers. I will continue to enjoy working with her, especially in the areas of juvenile justice. I wish her the best, always, in what will

be her new position. I know she will be a strong and vibrant leader and, and determined to help this body efficiently, compassionately, and professionally. My consternation rose about two days ago when I read the Lincoln Journal Star article by JoAnne Young about the Executive Board choosing a new Ombudsman. As I read the article, I actually did a double take and reread the article because I thought they'd made a mistake. Joanne of the Lincoln Journal Star reported that, "Rogers scored highest on an objective ranking based on experience and abilities in complex dispute resolution; knowledge of state government and its operations, administrative, statutory and constitutional law; analyzing complex administrative and grievance issues; writing and communication skills." Upon rereading, I saw the article was not describing Carl, even though this quote describes Carl Eskridge perfectly. The omission of acknowledging Carl's stellar and outstanding qualities and professional excellence is why I'm standing to correct the record today. I will not sit idly by while longstanding and, and the outstanding reputation of a noble, kind, brilliant, hardworking, and gentle man of God is sullied by describing him perfectly and then ascribing his description to another without even a nod of acknowledgement or gratitude to Carl. Carl Eskridge resigned from the City Council when Marshall Lux resigned so that he could do his job as acting, not assistant, acting Ombudsman without interruption by political battles. When I questioned him about the decision, he basically said no matter the outcome, he wanted to serve Nebraska without the mantle of politics obscuring his good work. I have thought over and over why this decision was made. It was, it certainly wasn't due to Carl Eskridge's suitability for the job. Carl's traits: He was ordained as a minister in 1979 by the Presbyterian Church, trained as a mediator in 1992. He was the second class of the state's mediation program. He graduated from law school in 1996. He spent 25 years in the Ombudsman's office, one half the life of the office, which is 50 years. Six years he was on the Supreme Court Dispute Resolution Board and chaired it. He was also active on alternative dispute resolution section and government practice sections of the Bar Association and was active in both the Lincoln and Nebraska Bar Associations. If this decision was made to get fresh, younger energy, then that should have been said. If this decision was political due to his admirable and beyond reproach stint on the City Council of Lincoln, then that should have been said. If there were any other legitimate concerns about Carl, then that should have been said. But to describe him perfectly and then omit saying how excellent Carl Eskridge has been and that these qualities, too, apply to him, or omit

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saying that it was a tough decision, or for goodness sakes, omit giving Carl immense thanks for his decades of service to the state, that is protocol 101. Protocol would also suggest that the acting Ombudsman be given his due, absent some significant malfeasance and allow the process to go forward. The senior employee--

FOLEY: One minute.

PANSING BROOKS: --is usually honored for his amazing, dedicated work knowledge and finishes as the leader for a few years. This protocol allows a mentorship and training of the younger employee in the handling of the thousands of cases that they handle each year in that office. I've struggled for the past 48 hours about how to vote. I certainly can't vote against a fabulous, young woman with a shimmering future. Julie Rogers embodies a great deal of what I am fighting for in this body: opportunities and progress for women and especially as in this case, competent, amazing women. But what about the position of present not voting? Again, my aggravation with the majority on Exec and their thoughtless, their seemingly thoughtless handling of one person should not lead us to the mishandling of another person. A present not voting would cast aspersions on Julie Rogers when it is really those who violated protocol upon whom I, any aspersions might be cast. I will vote for Julie Rogers. We all wish her the very best. And meanwhile, since we know this story has been written for us, I hope you will join me in thanking Carl Eskridge for his decades of service to this body and to our state. Carl, thank you for your leadership and compassion for those around you. Thank you for your determination to set politics aside in order to follow your heart and strong mind to do what is right. Thank you for your years of mediation and quiet, determined efforts to lead us all down the paths of righteousness and love. Thank you, Carl Eskridge, on behalf of a grateful state.

FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers.

CHAMBERS: Thank you, Mr. President. Members of the Legislature, I am going to turn on my light because I may not be able to complete what I have to read and say one time around. I'll begin by saying, unlike my colleague Senator Pansing Brooks, I'm not bound to vote for somebody just because the Exec Board recommended that person. If we were to be a rubber stamp, the Exec Board would have been allowed to make the permanent appointment. That matter is to come before us and we are to debate it. I'm going to read something that relates to my support for

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Carl. And ordinarily, I don't read on the floor the things that I deeply believe. But today is a different set of circumstances and I want to be sure that what I want into the record is there. I'm beginning that statement: Having been a driving force behind creation of the Ombudsman's office, I have a deep concern about who shall head that office. I have nothing personal against Julie Rogers. I would take the stance I am adopting here regardless of who, other than Carl Eskridge, might be considered for the position. Given my decades of observation and awareness of the role and actual functioning of the office, I shall not bite my tongue nor mince words in setting forth my views. The stakes are too high and the consequences too serious. Departing from the statement, I don't have to take anything away from Julie Rogers to support Carl Eskridge. So that is not what I intend to do here. But for those of you who watch movies about court proceedings or have seen clips of court proceedings, when the prosecutor presents the case, it seems impregnable. There is no way out. Then the other side speaks and you begin to see that there were cracks in that presentation and there indeed is another side to the story. And I want to give that other side. Going back to this statement: This comment is not designed to denigrate Ms. Rogers, but to draw a comparison between what is done in one office and the other. As Inspector General for Child Welfare, Ms. Rogers' office performs a very specialized, limited function that is substantially and operationally different from the Ombudsman. When it comes to investigations, the IG's investigations involve a very narrow area of state government responsibilities, whereas the Ombudsman's office covers the waterfront, having jurisdiction over all agencies of state government, local and county jails, and providers under contract with the state. The Ombudsman's office also provides a direct service to the public in the field in the form of responding to complaints, something the IG does not do. Mr. Eskridge, as the general nonspecialized deputy in the Ombudsman's office--

FOLEY: One minute.

CHAMBERS: --has a broad range of experience in dealing with the many aspects of the Ombudsman's office and that is a very important qualification. Obviously and, inarguably, experience counts for something as demonstrated by the manner in which the Legislature handled the replacement of head of the Fiscal Analyst's Office and what is likely to be the course pursued when the Clerk of the Legislature approaches retirement. Mr. Eskridge, due to his years of experience in the office and his understanding of its operation and

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mission, would be the perfect and logical person to groom a successor when he retires. I will stop and continue when I'm recognized. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Howard.

HOWARD: Thank you, Mr. President. I rise in the strongest of support for Julie Rogers for the position of Nebraska Ombudsman. Senator Hilgers didn't mention it, but I was one of her references this year and I've worked with her my entire eight years in the Legislature. I won't speak to Mr. Eskridge because I, I don't know if I have ever actually met him. And so I can really only speak to Julie, Ms. Rogers, and her, and her incredible work. She has been transparent. She's been a great communicator. She works well with senators. And this is especially important because the subject matter she oversees is really sensitive. Every year, the Inspector, she was our first Inspector General. She was brought there in 2012. We had never had an Inspector General before and so essentially, she had to create the position as she was, while she was in it. So she had to create, sort of, the culture and the protocols of what an Inspector General looks like in the state of Nebraska and sort of that fair-mindedness that she already has. And then when she was named Inspector General, because she did such a good job, I really feel as though that gave the Legislature some confidence when they decided to create the Inspector General of Corrections because we had seen it in Child Welfare. It had worked well and we had brought in somebody who was starting to give us data that we honestly couldn't get. We have her annual reports. She can reach into child welfare data and juvenile justice data that we cannot see. In addition to that, though, she can see trends. So she's issued three special reports; one was about death and serious injuries following child abuse investigations. That was when there was an investigation and the department decided, oh, we're not going to look at this further. It doesn't need a removal. And then there was harm to a child. We cannot see those trends. She needed to see them for us. She had a, a special report on sudden, unexpected infant deaths, which led to the legislation in our state around safe sleep for babies, which has changed a lot of lives. And then finally, her most recent one was the sexual abuse of state wards or youth in adoptive and guardian homes or youth in residential treatments, because we cannot see, as a Legislature, when children are being sexually abused in our foster homes. But she could see these trends and share them with us. I haven't seen any reports from the Ombudsman, so I don't know if they are monitoring trends and telling us what they are. It's hard for us

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to make change as a Legislature when we don't know what change we need to make. But for Julie, she's made 81 separate recommendations to the Legislature and to the department and 51 of them have been formally implemented, improving our child welfare system. I will also say, just personally, and you will hear about this more, you know that the Health and Human Services Committee has been very focused on the youth rehabilitation and treatment centers since August. On August 19, the girls were moved out of Geneva and taken to Kearney. And since that time, myself and Ms. Rogers and the committee and the department have been really closely looking at the YRTC's. I've gone out with Julie. She can look at records that we can't see and she's putting them together in an investigation for us. But the most important thing I want you to remember is that we didn't know how bad it was in Geneva until Julie Rogers went on the Wednesday and sent us a letter on that Friday to tell us. She is our eyes and ears on the ground and so I have more confidence in her being Ombudsman because I've spoken with her. She's talked to us. I have never gotten a letter of any effect from the Ombudsman telling me that there's something that I need to look at as a legislator. And I agree with Senator Chambers that her work area is very limited. But I can only compare--

FOLEY: One minute.

HOWARD: --her experience to mine, where when I started as a freshman senator, my work experience was very limited. And now, in my work as Chair and my service as Chair, I cover the waterfront of Health and Human Services issues. I never could have done that my first year. But I could certainly do it in my eighth. And so I do believe that Ms. Rogers has really shown us that she can cover the breadth of the Ombudsman's office. She's already housed in it and I have every confidence that she will make an incredible Ombudsman for this state. And I, and I would urge the body, as strongly as I possibly can, to vote green on her appointment. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Bolz.

BOLZ: Thank you, Mr. President. I served on the hiring committee and was a part of the discussions in the Executive Board and I just want to share a few thoughts and ideas with the body. First, I want to thank the full Ombudsman's office for the work that they do, serving our constituents and partnering with the Legislature. Whether it's employee issues or health and human services issues, corrections issues, even issues within the Department of Labor, they have always

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been a good partner to me. And one thing I would share, maybe specifically to Senator Howard, is that the Ombudsman's office provided multiple reports, memos, and research statements to me as a member of the Corrections Special Oversight Committee; and I think they did incredible work working with us on some of those very challenging issues. So the first thing I want to say is that the Ombudsman's office is a valuable, important resource that must be protected and deserves our respect and support and I thank everybody in that office for the hard work that they do. I want to reflect that as a member of the hiring committee, I found Mr. Eskridge's depth and breadth of experience to be very impressive. He had experience both in corrections and juvenile justice and health and human services, but also in areas with which I am less familiar, such as the state's whistleblower laws. He was the candidate I found strongest and he deserves our thanks and our respect. But at the end of the day, the priority for me, as a senator and as an Executive Board member, is to protect and to promote the institution of the Ombudsman's office, that that office must continue to do their important work for our constituents and help be that mirror to the Legislature, as Senator Howard said, about trends, ideas and data and information that we can't always see. And so I say this morning that I can support Ms. Rogers to do that work because she has both the skill set and the strong moral compass necessary to move the office forward. And I will vote for her confirmation this morning with pleasure. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. Senator Chambers.

CHAMBERS: Thank you. Mr. President, I'm reading because I want to get some things into the record, but then I vote my conviction. The Ombudsman's office has dealt with Human, HHS matters before anybody, other than myself, was a member of this Legislature, has dealt with all of them. They have been instrumental in investigative studies and outright investigations by the Judiciary Committee and special committees where Corrections are concerned and that area of the state is a veritable shambles. But all this goes to show what we're doing today is how your work counts for nothing. When you senators run for reelection, the first thing you want to talk about is that you've been one before and you have experience. I'm going to continue reading. Mr. Eskridge has a verifiable record of meaningful achievement compiled by his having worked in the Ombudsman's office for more than two decades. Those years of working in the office not only account for a vast reservoir of valuable experience in the operation of the office, but

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demonstrate a serious personal commitment to the office and its mission, as well as to the Legislature itself as an institution. I repeat, such experience and commitment should not be breezily set at naught by the Legislature. Some said that Mr. Eskridge said he would only serve one term. Well, the person who's being considered for his office did not fill out her first term, did not fill out the first term. I don't know what you all have against the Ombudsman's office. I look at this as a political activity. And there is no agency of government that has been as effective as the Ombudsman's office, which would have those who did the work just cast aside, unless the Governor has a lot to do and say about it. It's clear that the Governor's office does not like what the Ombudsman's office is doing with reference to Corrections: the health problems, overuse of solitary confinement, the kinds of issues that nobody else will touch. The Ombudsman's, Ombudsman's office is itself an institution, not simply an idea or concept. It is a multifaceted operation that requires in a leader, years of exposure to and active participation in its actual functioning in order to fully grasp its mission and its significance as an institutional and integral appendage of the Legislature, which is what the Ombudsman's office has been. No other entity, not the IG or anybody else, can make that claim. And have, they have not been in existence long enough to really establish a verifiable record. In addition to having worked in the office for decades, Mr. Eskridge has received relevant training in the critical area of mediation through the United States Ombudsman Association. I repeat, it is of great importance that due to his knowledge and experience, he will be able to groom a successor in a manner comparable to that which obtained in connection with the Fiscal Analyst's office. You all didn't hesitate to take the next person in line in the Fiscal Analyst's office because of the work there and the experience. And for the people who know what the Ombudsman's office has done, the ones who have gone to the Ombudsman for help when families have written about--

FOLEY: One minute.

CHAMBERS: --what is happening to their relatives, will sit here silently, says more about us than it does about any qualification for Julie Rogers or anything negative in the qualification of Mr. Eskridge. As Tom Paine wrote at one point, these are the times that try men's souls. I will have one more opportunity to speak and I will depart from my written remarks. They are too confining, too constraining and people are breezily going along here and don't know anything about the IG's actual office and functioning and know even

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less about the Ombudsman's office. I have had to fight to keep that office alive against Governors' attempts to destroy it down through the years, you all don't do that.

FOLEY: Time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Crawford.

CRAWFORD: Thank you, Mr. President. Good morning, colleagues. I just rise as a longtime member of the Health and Human Services Committee just to express my gratitude both to the Ombudsman's office for their work on issues, but also to express my support for, for Julie Rogers for the position of Ombudsman. I have been very impressed with her work with us on the Health and Human Services Committee. Her reports are thorough and, and as has been alluded to, her research is, is thorough and also she comes up with recommendations that are able to make a difference in the work of the agency. And also, I've been very impressed with her ability to work with us and be proactive in terms of legislation. And so I was able to work with her on legislation dealing with reporting of sexual abuse. And so she was able to convert her heavy research in, in noticing of trends that Senator Howard noted and turn that into also wisdom in terms of legislation and how to make sure that we are passing good legislation that continues that work and makes improvements in the functioning of the department, makes improvements in our ability to track what the department does, and makes improvements, most importantly, in the safety of our children. And so I appreciate the hard work that she has done in her-- this is in her second term in that position. So she did complete her first term of five years and is now in her second term of service. And I appreciate the hard work that she has done. And I really ask for your enthusiastic support for her as a, as somebody who is going to be able to help this Legislature hold the administration accountable and serve our citizens of Nebraska. Thank you, Mr. President.

FOLEY: Thank you, Senator Crawford. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I rise today just because I, I do want to say a few things about Mr. Eskridge for a few different reasons. One in particular, I think he's done a great service to this state. Two, he has been an individual who in my community, our community here in Lincoln, and as a constituent of

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mine, who's been a real leader, not only in the Ombudsman's office, but also throughout the city of Lincoln in providing service as a public official, but also as an individual who is very active and volunteer [SIC] in civic affairs. That being said, I'm not going to vote against Julie Rogers, either. I think Ms. Rogers is also an outstanding candidate. I may have gone a different direction had I been on the Exec Board, but I also don't think that Ms. Rogers is going to do any disservice to the office; and I think that she has, so far as I've seen, worked very diligently in the interests of Nebraskans in the Legislature. So I, I'm a bit torn on this. But I did want to get up and just say a few things about a person who I consider a good friend, a person that I consider a leader in the Lincoln community, and someone who has served this body well, Mr. Eskridge. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Senator Chambers.

CHAMBERS: Thank you. Mr. President, are we limited to three times to speak on this as on other subjects?

FOLEY: Yes, sir.

CHAMBERS: Thank you. I might have to use other issues during the session and certainly today to say what I've got to say. You all ought to go see, if you can, a movie called A Man for All Seasons about Sir Thomas More. All that the king and his flunkies wanted was to get Sir Thomas More to make a statement. Just make a statement. And Thomas More said he couldn't do it. And he said, why would it be necessary me-- for me to make this statement when everybody else is making it, as you say. He-- the duke said but, Tom, everybody not only sees you as a man who is right, but a man who is perceived to be right. Come on and let's do this for the sake of fellowship. Thomas More said, well, when we stand before judgment and they let you go to heaven because you followed your conscience and I go to hell because I violated mine, will you then accompany to me, accompany me to hell for fellowship's sake? I'm going to vote no because I cannot vote in a way that says I'm voting against Carl Eskridge. A yes vote here is a no vote also. The issue is too gray. You are going to watch the dismantling and the dismemberment of the Ombudsman's office. There are some employees there right now that the Governor and the Director of Corrections don't want. They've managed to prevent them from bringing their telephones into the institution. They want to dictate what that office, which is a part of the Legislature, will do. And we've got

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milquetoast people going along with it. I had respect for some of you. I'm not going to look at you all now because you think I'm talking directly to you. I'm not talking to you. I'm talking about you. You all know what that Ombudsman's office did. And again, it's personal with me because I had to work so hard individually to protect it when the rest of the Legislature didn't. The only time they came was when they needed something, something to help a family member or friend who's locked up and being mistreated. They deal with city jails, county jails, the state pens, and the various state correctional facilities. It's one thing to say that there are ten items that need to be dealt with in a given area and I know one of them very well. Therefore, you're going to extrapolate from that one and say, I'm going to be credit, given credit for all of the other nine, whereas you've got somebody over there who has done all of them and demonstrated it. I only have one session and you all know it. The Governor knows it, and he and others are aware of the role that I played in keeping certain things from happening. Well, they're just going to wait me out now and they can see they've got the rest of you already. They don't have to worry about you and you won't be criticized because there's nobody here on the floor who will do it. I'm not here to be a rubber stamp. I'm not here to be an echo. I'm not here to go along to get along. So I'm going to use this session in the way that I want to, to get things into the record. And I don't care what the issue is or whose bill it is. What you do is not as important to me as what I am.

FOLEY: One--

CHAMBERS: How much time do I have, Mr. President?

FOLEY: One minute.

CHAMBERS: Thank you and I'm not going to go over my time. I combine the statement of a well-known philosopher with a mantra of Popeye to give you an idea of what I'm about. I think, therefore, I am what I am and that's all that I am. And I am what I am, always and everywhere. And you are going to see some of it this session. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Hilgers, you are recognized to close.

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HILGERS: Thank you, Mr. President. Good morning again, colleagues. I'll be, I'll be brief. I want to thank everyone for their comments this morning. I appreciate Senator Crawford, Senator Morfeld, Senator Howard, in particular, sharing their personal observations, Senator Bolz, as well. I want to thank the members of the hiring committee: Senator Chambers, Senator Bolz, the Speaker, Senator Lowe. We had a number of really hard conversations through this process. I appreciate their dedication to this process. And let me say, let me say two last things, the first is about process. There was some suggestion on the floor this morning and I feel very, I feel compelled to correct the record. There was some suggestion, I guess, that maybe, there was maybe members of the committee did not think well of Mr. Eskridge. Nothing could be further of [SIC] the truth. I want to be very clear. When this-- I take this process very seriously and the integrity of this process very seriously. It was not my place. It has not been my place, to make public, anyone who applied for this position who did not get it. That is not my place. And I did not disclose that, I would not have disclosed that. It has become public that Mr. Eskridge applied for the job. It is now known. And so let me be very clear: The recommendation last week was about Ms. Rogers. What I'm about to say is about Mr. Eskridge. Mr. Eskridge has been an outstanding public service-- servant during his over, I believe, two decades in service to the state and the Legislature. It has been a great pleasure of mine, over the last year, to work with Mr. Eskridge. He has one of the biggest hearts that there is in this state. He is an outstanding man. The reality, unfortunately, it's good and bad, when you have excellent candidates, that's a great thing. We should all want and hope to have excellent candidates applying for positions like these when they become open. And the good news is, is we had a number of them and we had two, in particular, who were outstanding. The bad news is, you can only choose one. That was an incredibly hard decision. We had hard conversations, but every member of that hiring committee and every member on the board will tell you that we were very clear. I, specifically, was very clear in the regard in which I hold Mr. Eskridge. So the idea that this is any sort of negative mark on that man is wrong. He has had an exemplary period of public service to this state. I commend him. I thank him for the work that he's done. Ms. Rogers is an outstanding person. She has been an outstanding public servant. She will be an outstanding Public Counsel. I hope you join me in voting green on this recommendation and supporting that office as

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it moves forward with the very critical work that it does for the Legislature and the state of Nebraska. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. The question before the body is the acceptance of the recommendation of the Executive Board regarding the appointment of Public Counsel. Those in-- there's been a request to place the house under call. The question is shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: 26 ayes, 3 nays, Mr. President, to place the house under call.

FOLEY: The house is under call. All unexcused members please return to the Chamber and check in. The house is under call. Senator Groene, if you could check in. All unexcused members are now present. The question before the body is the acceptance of the recommendation of the Executive Board regarding the appointment of Public Counsel. 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.

CLERK: Voting yes, Senator Brandt.

BRANDT: Yes.

CLERK: Voting yes, Senator Brewer.

BREWER: Yes.

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CLERK: Voting yes, Senator Briese.

BRIESE: Yes.

CLERK: Voting yes, Senator Cavanaugh.

CAVANAUGH: Yes.

CLERK: Voting yes, Senator Chambers.

CHAMBERS: No.

CLERK: Voting no, 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.

GIEST: Yes.

CLERK: Voting yes, Senator Gragert.

GRAGERT: Yes.

CLERK: Voting yes, Senator Groene.

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GROENE: Yes.

CLERK: Voting yes, 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.

LINEHAN: Yes.

CLERK: Voting yes, Senator Lowe.

LOWE: Yes.

CLERK: Voting yes, 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.

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SCHEER: Yes.

CLERK: Voting yes, Senator Slama. Senator Stinner.

STINNER: Yes.

CLERK: Voting yes, Senator Vargas.

VARGAS: Yes.

CLERK: Voting yes, Senator Walz.

WALZ: Yes.

CLERK: Voting yes, Senator Wayne.

WAYNE: No.

CLERK: Voting no, Senator Williams.

WILLIAMS: Yes.

CLERK: Voting yes, Senator Wishart.

WISHART: Yes.

CLERK: Voting yes. 46 ayes, 2 nays, Mr. President, on the approval of the appointment.

FOLEY: The approval has been confirmed. I raise the call. Items for the record.

CLERK: Mr. President, new bills. LB975 is by Senator Geist. It's a bill for an act relating to the Department of Health and Human Services; provides immunity for providing information or assistance in connection with an investigation, a report, or a judicial proceeding resulting from child abuse or neglect. LB976 is Senator Bolz, relating to motor vehicle registration, redefines a term. LB977 is Senator Bolz, relating to child welfare, changes provisions relating in the care [SIC] management lead agency model pilot project. LB978 is Senator Murman, relating to incarceration, provides for reimbursement of county, city and village jail expenses. LB979 is Senator Morfeld, a bill for an act relating to appropriations. It appropriates funds to the Department of Transportation. And LB980 is a bill by Senator Brandt. It's a bill for an act relating to the Nebraska Lottery and

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Raffle Act. It changes the duration of validity of special permit, changes when the tax on gross, gross proceeds is paid. Mr. President, I also have a hearing notice from the Government Committee. That's all that I have, Mr. President.

FOLEY: Thank you, Mr. Clerk. Pursuant to the agenda, we'll move to General File. LB287, Mr. Clerk.

CLERK: Mr. President, LB287 was a bill introduced originally by Senator Quick last year. It's a bill for an act relating to Games and Parks. The Legislature discussed the legislation yesterday. At that time, amendments and committee amendments were adopted. I do have a priority motion at this time. Mr. President, Senator Hughes would move to recommit the bill to committee.

FOLEY: Senator Hughes, you're recognized to open on your motion.

HUGHES: Thank you, Mr. President. Good morning, colleagues. "Deerja" vu all over again. That is a, a reference that was given to me by a former senator who worked in this body and had a similar challenge with the Game and Parks Commission of how they managed wildlife. So my amendment, yes, my motion is to recommit to committee. As I stated yesterday, I did not vote LB287 out of committee. And we've had a couple of interim hearings this last summer; one in Scottsbluff and one in McCook. And there was extremely good testimony given both in support of Game and Parks and in opposition to the way they manage big game, specifically, and some of their properties as well. This is an opportunity that I've chosen to take. You know, Senator Quick is a good friend of mine. I am certainly not coming after him at all. But this is an opportunity that I can take as an individual senator to bring to your attention the constituents of mine who have been unhappy with the way Game and Parks has been managing their properties. And I have received quite a few emails overnight on our discussion yesterday and all but one have been positive, have been very supportive of my position. There are several individuals who are happy that we're trying to shine a light on Game and Parks and how they manage their property and the animals of the state of Nebraska. So I think we've got an hour, hour and 20 minutes left on this bill before we get our three hours in. And I'm going to spend that time discussing with you, reiterating you, with you about the challenges that have been expressed to me by my constituents and your constituents, as well, from across the state. I'm hearing from individuals clear from southeast Nebraska to northwest Nebraska of the challenges that

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they've had trying to work with Game and Parks. Most of the personnel that I have ran into at Game and Parks are doing an excellent job. The people who are out in the state manning the parks, you know, working the-- selling you hunting and fishing licenses are extremely good individuals. I'm certainly not having a, a question of the integrity of the employees of Game and Parks. It's the administration and the management of Game and Parks that we're going to discuss. There are several challenges that I highlighted yesterday and we're probably going to talk about them again today. And, you know, we will continue on. If this comes to a vote, I've got several other amendments on my desk. So we will, we will be here for some time. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes. Senator Quick.

QUICK: Yeah. Thank you, Mr. President. Yeah, I know there was, it seemed like a lot of confusion yesterday at the-- when we had the vote on the amendment, technical amendment and then also the committee amendment. And I just wanted to clear some of that up. So the thing with the technical amendment was that we had to bring that in order to update the, the bill itself and update some of the changes that were made from Senator Friesen's bill last year on boat registration and boat licensing. So it was important to, to have that passed and, and thank you for all that voted for that and we were able to get that passed. And that actually amended the committee amendment and the committee amendment, really all it did was take resident fees and hold them so that they weren't raised on the, for the caps. So currently in the bill, what we're doing with the fees for park fees is we're only going to raise the caps for nonresident fees. And so I thought I would just go ahead and go through some of the things that, that the bill does again, to remind everybody that what, what the bill actually does. And it really doesn't relate, except for the name Game and Parks, it doesn't relate to much of anything that we talked about yesterday on the floor. So I understand the, Senator Hughes and what, what, what he's doing and the displeasure with, with some of the things that are happening in his area and so I get that. So one of the, one of the things it does for the aquatic invasive species, for the boat fee is it combines the registration fee with that AIS fee so that they can, so they can continue to receive Coast Guard grant funds for boating enforcement and boater education. Without combining those two, there's a danger that they wouldn't receive those funds. So it's really important that we pass that part of the bill or pass this bill for that reason, too. Also, I talked about, already talked about the

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park permits and we're raising the cap from \$45 to \$55 in LB287. And then we also have flexibility for Game and Parks to offer permits or combinations of permits at-- at temporarily, temporarily reduced rate for specific timeframes for events in conjunction with other permit sales. And that's left up to the discretion of the, of the Game and Parks to do that. And that's what this, what that part would do. This bill also makes changes to allow options, an option for hunters or fishers to set out a draw for a permit, but still allow them to purchase a preference point. Now that doesn't mean that someone can go and buy more, and just keep buying points and, and doing that. It's once you've drawn your permit, I think you go to the back of the line. So that preference point is just for someone who is-- let's just say that year you've, you've got your preference points from the previous year. You weren't, you didn't get a draw. This year, maybe you are going to have a surgery or you are going to be gone on vacation and weren't gonna be able to hunt. So this allows you to buy that preference point so that the next year you would still maybe move up to, move up to the head of the line or move up the line to be able to be eligible for a draw and for a permit for hunting or fishing. And those are for only certain, certain fishing activities, from what I understand. The bill would also give the Game and Parks Commission the authority to determine by regulations the application of hunter orange requirements for other hunting seasons. So right now, there are certain seasons that are designated and that's all that they can require hunter orange for. This would allow them, if there was a safety issue for another hunting season, to add that hunter orange to that, to that season. LB287 also broadens--

FOLEY: One minute.

QUICK: --the Game and Parks options to include promotional materials or items in addition to information to inform the public of outdoor recreational opportunities in Nebraska. And lastly, the bill would allow for the elimination of several fees charged for replacing lost or damaged permits. With the development and implementation of electronic and mobile devices, delivery systems of permits are not-- it's not necessary because of that. And so I just want to make clear that this bill is just, more or less, upgrading some of those things. It's, it's raising a cap on nonresident fees. And it's really, it's something that's going to help some of the users of our Game and Park system to better utilize that. So with that, thank you, Mr. President.

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FOLEY: Thank you, Senator Quick. Senator La Grone.

La GRONE: Thank you, Mr. President. I yield my time to Senator Erdman.

FOLEY: Senator Erdman, five minutes.

ERDMAN: Thank you, Lieutenant Governor. Thank you, Senator La Grone, I appreciate that. So let me reiterate what Senator Hughes had made a comment about, the Game and Parks people that are in the field. I have found most people to be very conscientious and very concerned about the well-being of the animals, as well as taking care of the ranchers and farmers. So when we're talking about the function of Game and Parks and what they do, that is not intended for those people out there doing the work. And let me reiterate what I said yesterday about the directors, the board members. They are only getting information from management that management wants them to have, so they come to the same conclusion that management has already come to. I speak from experience. Every board I sit on, that's exactly what happens. So those board members aren't aware of all the things that are happening because they don't know what questions to ask. So I'm not blaming those people for what is happening now. So management understands that if they would do the things they need to do, it's a whole change in philosophy. And so, as I said yesterday when I talked about what the solution was, or what it is and it is this: that the hunters have to be part of the equation. We need those people to help us to get to the number of wildlife that is sustainable. And so in the explanation that I gave yesterday on the 50 depredation permits that Game and Parks claimed that I forced them to do, I can tell you right now that if I had that authority to issue depredation permits, I would have fixed the property tax issue a long time ago. No one senator has that kind of authority over a state agency. Think about that for a minute, how ludicrous that is. So the hunters are going to be part of the solution. First, we got to determine how many animals we have. And then we have to make a decision; how we get from the number we currently have to what is sustainable and how do we stay there. I believe what Senator Hughes is after in his discussion about Game and Parks today is having a discussion with Game and Parks on how do we do things differently and how do we make commonsense decisions because just talking about Game and Parks and mentioning the things that we've mentioned doesn't solve the problem. And that's not my intention and I'm sure Senator Hughes is in the same boat. I don't believe that his intention is to talk about the problem. He wants to be part of the solution. So until we sit down and figure out how to solve this issue,

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we will continue to talk about what's happening. So that's how we do it. I think it's a straightforward conversation we have. And there is a solution if they're willing to talk about it. So it's a negotiation that needs to happen and it needs to happen soon because Senator Hughes has several bills that he's introduced about Game and Parks and I do, as well. We are going to get these animals under control and we are going to fix it one way or the other. And I'd rather do it the easy way. But if it takes something other than that, I'm willing to do that as well. So thank you for your time.

FOLEY: Thank you, Senator Erdman. Actually, you're next in the queue, Senator. He waives that opportunity. Senator Chambers.

CHAMBERS: Thank you, Mr. President. Members of the Legislature, I would like to ask Senator Quick a question or two.

FOLEY: Senator Quick, would you yield, please?

QUICK: Yes.

CHAMBERS: Senator Quick, I wasn't here when the discussion was taking place yesterday, but I want you to answer something for me. The amendment that was adopt-- was an amendment adopted, adopted yesterday?

QUICK: Yes. There were actually two amendments adopted yesterday.

CHAMBERS: OK. Well, if you-- oh, you don't have the book like I have it. But let me give an example and get a response from you. I'm looking at page 1 of Senator Hughes's amendment that was adopted and the language says, "the application shall be signed by the owner of the vessel, shall contain the year manufactured, and shall be accompanied by a registration fee for the three-year period of twenty-eight dollars." That 28 is underlined and here's the language that it replaced, "not less than twenty dollars and not more than twenty-three dollars." Was that amount before this amendment was adopted \$20 or \$23?

QUICK: Hm, without looking at it, I'm going to say it would have been \$23 before the amendment.

CHAMBERS: OK. So if it went from 23 to 28, that's an increase of \$5, correct?

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QUICK: Um-hum. Yes.

CHAMBERS: If we were talking about taxes and you had that large of jump, how many people would support it, from \$23 to \$28, a \$5 increase in that tax? The tax was \$23 and you're going to add \$5 to that. And how many would, would agree with that, do you think?

QUICK: I'm going to say probably not many.

CHAMBERS: So we can tax people in a different way by calling it something different and increase the tax considerably. And all these tax people who claim to be interested in protecting the public from high taxation don't even turn a hair. Isn't that what is happening here because it's not called a tax, it's called a fee?

QUICK: Yeah and I'd like to find out if I could-- I'll, I'll try to find that answer, but we had to include the invasive, or do away with the invasive species part. So I don't know if that's the five dollar increase or not, but I can find that out for you.

CHAMBERS: Do you see a fee as being a tax? By a different name? What do you get for the fee?

QUICK: You would get to, to be able to use your boat on the, on a lake. So, yes, I guess it would.

CHAMBERS: But you don't get anything tangible or concrete for it. And it doesn't cost whoever is operating this any more for your boat now than it did yesterday. So there is no reason to jump that fee. Let me now ask a question based on what I said. Is that fee being increased by \$5 from \$23? Make it easy for me. I'm like Senator-- I won't give a name. I'm fair on math if it's not too complicated. So let's say the amount was \$25 and then you're going to increase that by \$5. Five is what percentage of 25? Somebody helped me and said it's 20 percent. Do you tell me today, while we're discussing--

SCHEER: One minute.

CHAMBERS: --this, that it costs 20 percent more for people to put their boat on that water, it costs Game and Parks 20 percent more to let that boat be put on the water than it was before they increased that tax by 20 percent? Or are they just going through increasing what they call fees by whatever they think they can get away with?

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QUICK: Well, just for clarification, this was an, an, a bill that was passed last year in Transportation. So this is just being moved over into our bill to make, make it be the same so--

CHAMBERS: Yeah, but this is an increase and in the amendment that you adopted yesterday. From \$23, it is now going to be \$28 for a three-year period. The fee--

SCHEER: Time, Senators.

CHAMBERS: --was \$23.

SCHEER: Senator, time.

CHAMBERS: Oh, I'm sorry.

SCHEER: Thank you, Senator Chambers and Senator Quick. Those waiting in the queue: Senator Hughes, La Grone, Groene and others. Senator Hughes, you are recognized.

HUGHES: Thank you, Mr. President. I did want to talk a little about one of the-- the one negative email that I got overnight dealt with the 50 elk depredation permits. So I wonder, I would like to delve a little deeper into that. From my conversations with Game and Parks, I'd like to discuss a little bit more of what actually went on there. I think Senator Erdman covered it yesterday, but apparently the gentleman who emailed me did not hear that conversation that Senator Erdman had on the mike. So I want to address that again. Senator Erdman contacted Game and Parks. The gentleman up in his district was having a sizable herd of elk in his cornfield. He, the, the farmer did provide drone footage proving that there was a sizable herd in his field and forwarded that to Game and Parks and ask [SIC] Game and Parks if there was something that they could do to help this, this gentleman out. Subsequently, Game and Parks issued 50, 50 with a 5-0, depredation permits for elk. And you can imagine the firestorm that that created within the hunting community. Because to get an elk permit in the state of Nebraska, you have to enter a lottery. And I don't, I don't recall how many permits there are, but there are not-- there are less than 50 issued in the state of Nebraska, I believe. So when the hunting community heard that a farmer in the Panhandle got 50 permits to kill elk, they went ballistic and rightly so. I mean, that was way over the top. What actually happened, my understanding in visiting with Game and Parks, was they sent three shooters, Game and Parks personnel, to this farmer's land and they killed-- the last I

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knew, they had killed 8 elk and the herd dispersed. Now I've also heard 11. I'm not sure which is the correct number, but it was not 50. In Game and Parks's mind, that solved the problem; that they took out 8 or 11 elk and the herd dispersed. In my mind, the other 92 elk are still eating somewhere. They're not concentrated in that particular's farmer field, farmer's field, but they are still eating somewhere. They are still eating another farmer's crop. That's the problem that I have. The state of Nebraska's wildlife or livestock, if you will, is eating someone else's property. That's where I'm coming from. What a lot of people don't know is there was a second elk depredation permit issued to another landowner that had a problem. Game and Parks did not make that public, that I'm aware of. It did not make quite as big a splash in the hunting community; I don't know if they even knew about it. And I don't know if any elk were, were killed under that permit as well. The issue we have is the state's livestock, wildlife, is eating someone else's food. And it's coming out of the landowner's pocket and Game and Parks, the state agency that is benefiting from the wildlife, is not willing to pay the feed bill. We've got, I don't know, maybe an hour left on this. If Game and Parks wants to come, is willing to call me--

SCHEER: One minute.

HUGHES: --and have a sit down with me, one of the, one of the director or assistant director, I don't care. And a, some of the commissioners, you know, they probably can't have three, maybe four in the room at the same time without being a public meeting, and sit down and talk about these issues and work toward some solutions, this will all go away. I'll pull my amendment, we'll vote on the bill, and we'll go on. If not, we'll take it another hour. You know, we'll do a vote card and see how it comes out. But we need to sit down and talk about this with Game and Parks Commission because this is an issue that has been festering for 40 years. I've had people in my district say they have been trying to get Game and Parks to do something about the deer population for 40 years.

SCHEER: Time, Senator.

HUGHES: Thank you, Mr. President.

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

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La GRONE: Thank you, Mr. President, and I would just say that I completely agree with Senator Chambers' comment that fees are just taxes by another name and with that, I would yield my time to Senator Hughes.

SCHEER: Senator Hughes, 4:45.

HUGHES: Thank you, Mr. President. Thank you, Senator La Grone. There's a lot of area that Game and Parks has jurisdiction over and most of it they do a really, really good job. But there are certain areas, for whatever reason, I'm not sure; they are lacking or falling down on their responsibility of maintaining the property. As I mentioned yesterday, I've got a bill that's introduced to limit the number, to cap the number of acres of property that Game and Parks can own. You know, I've had some feedback, both positive and negative on that issue, more positive than negative. There's property that has been well taken care of as public camping and recreation areas that's no longer being maintained. It's overgrown with weeds. The, the facilities at those locations are not being maintained. And why is that? Game and Parks has more land than they did before? Is that the problem? Their budget keeps growing. It does cost more to do things, but why are we allowing them to accumulate more property when they are not managing what they have now? That was part of the issue that I had with giving them the large chunk of land south of Fort Robinson. There, there's land in my district in Red Willow County at the west end of Red Willow Lake that abuts a constituent of mine. Now I can give you specifics of where they are not maintaining the property. We talked a little bit about Lake McConaughy yesterday and the challenges we have there. There's lack of management and when it reaches a boiling point and boils over, then they come in with a heavy hand and say, this is the way it is, take it. You know, we're in charge. You've got no input. If they would have a citizens advisory committee that met regularly to talk about the issues at all of our reservoirs, that would be great. Lake McConaughy is the second largest tourist attraction in the state of Nebraska. That's the one that gets the most headlines. But there are lots of other lakes. We all have recreation areas within our districts or close to our districts where people love to go and, and in the summertime and be on the water and have a nice sand beach or even go ice fishing this time of the year. Those things need to be regulated, but they need to be done in a responsible manner. And that's the challenge that-- the feedback that I'm getting from my constituents and now from constituents, all of our constituents across the state. There's a lot of unhappiness with the

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way Game and Parks is managing. They've, when they've come to the hearings that we had this summer, they provided information on surveys that they've done. I don't know who their sample base was, you know, probably people who have bought park permits, and, you know, the report was glowing. Everybody had good things to say about Game and Parks. But the people who are feeding--

SCHEER: One minute.

HUGHES: --the state's wildlife and the people who live around the lakes and the campsites, I don't think were ever questioned. I don't think they got the survey or if they did, they didn't fill it out. But I'll pretty much guarantee you that if those individuals were surveyed, the people who are feeding the state's wildlife and the people who live around the recreation areas ask [SIC] the question about how Game and Parks is managing their property, it would not come back in a positive manner. These are the people that I'm hearing from. These are the people that the commissioners of the Game and Parks need to hear from because the management that has been going on for the last 40 years at Game and Parks, especially in wildlife management, has not been working. We need to do something different. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes. Senator Groene.

GROENE: Thank you, Mr. President. I understand where Senator Hughes and Senator Erdman are coming from. One of my good friends up in the Panhandle has a, had a very bad problem with "predadation" with antelope on his wheat for years. And his hired hand, a young man, went out one night with a buddy and shot 60 of them. And the young man ended up in prison. And, and Senator Erdman told me a story about the county attorney when them young men did that and they thought they were helping their boss; not approved by the boss. The county attorney got 30 or 40 phone calls. What are you going to do with them kids killing those antelope? About a month later, an individual killed somebody, stuck him in a barrel, and threw him in the Platte River and he got 3 calls. We got a problem in this country, folks. But I want to do some defense of the, for the Game and Parks. When this first started back, oh in the summer and fall into last season, I can't remember, I talked to Game and Parks about why don't you have a website? Why don't you have a deal where you match hunters to these individuals who have this overabundance of, of deer or, or antelope, or whatever? They said, well, we have one, but it hadn't worked very

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well. Well, then I got an email back December 3 from Tim, the assistant director, McCoy and he said: Senator Groene, Director Douglas wanted me to provide you a quick follow up on the success of our new antlerless deer hunter, antlerless Hunter Database that we talked with you about several months ago, outdoornebraska.gov antlerless Hunter Database. We have 1,742 individuals that have registered who are willing to harvest antlerless deer, antlerless. Most people want the big, big buck deer. These people are willing to hunt for food, the does, and, and assist landowners who are experiencing damage issues from deer on their property. All 93 counties have registered hunters. The average is 181 hunters per county, the lowest being 69 in Blaine County. Blaine County probably has 300 people in it, but a lot of deer, and highest number is 582 in Lancaster County. Our staff have handed out lists for this database to landowners looking for more antlerless deer hunters and we have directed numerous more to where they can find the list online. There's two sides of this party. The farmer has to let the hunter on his land. He cannot complain about the bad hunter 30 years ago that shot his weather vane. He has to work with these people and they will come on his land-- the landowner gets to vet these hunters and they will come and help address the problem, 782-- 742 [SIC] individuals. Did you know about this website? People want to hunt so bad that they found this website and registered. The other thing that the Game and Parks has done, they don't toot their horn enough, is that there, they've looked at the regions. The regions are too big. Up there in the Panhandle, they're going to make smaller regions of hunting areas for permits. That addresses the problem that you have 200 elk in one spot, in 10,000 square miles, or a couple, 3,000 square miles. So you only have 5 permits and they go out and shot, shoot the 5 elk close to the Wildcat Hills and there's 200 in one guy's field; smaller regions, where they will be able to address the hunting permits to address the smaller area where the deer, deer and elk are, are overpopulated. I just wanted to do a little defense of the-- a little bit of defense for the Game and Parks. They are working on this issue, they just haven't advertised it enough. They've heard Senator Erdman. They've heard from me. I've got the same problem in my area; concentration of, of wild animals. They are doing a pretty good job of trying to address it through regulation. It goes two ways.

FOLEY: One minute.

GROENE: Two ways. All you-- if some landowner out there wants to kill the, the deer but, and doesn't want the hunters to come on to do it,

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they've got a problem. I'm not saying-- there's very few like that, but you need to work with Game and Parks. They have 1,742 people looking for a deer to put in their freezer for food. Anyway, I wanted to make that point. I agree 100 percent with Senator Hughes and Senator Erdman. We have a problem. People's livelihoods are being affected by this, but it's management and management can't be put in legislation. It has to be free flowing, as wild animals, you can't fence them in or fence them out. Game and Parks need to address it through regulation and I've, I've got a lot of faith that they're going, they're addressing it and will continue to address it. Thank you.

FOLEY: Thank you, Senator Groene. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. I listened to Senator Chambers' conversation with Senator Quick on the fee increase and so I visited with Senator Quick off the mike to see if I could understand what that was. And I was wondering if Senator Quick would yield to a question or two?

FOLEY: Senator Quick, would you yield, please?

QUICK: Yes, I will.

ERDMAN: Senator Quick, in the conversation we had off the mike, you had explained that there was a \$5 aquatic inspection fee that was transferred over to the registration fee, which increased up from 23 to 28. Did I sum that up pretty closely?

QUICK: Yeah. And it really wouldn't have been an increase. I mean, because the, the fee was already being paid as part of the registration.

ERDMAN: So, so in other words, there was a \$23 registration fee for the boat and a \$5 aquatic fee, so the total was 28. Now you're making it all one fee. Is that right?

QUICK: That's correct. Yes.

ERDMAN: OK. So they collect \$5 for aquatic inspection. Is that what it is?

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QUICK: Yes. And then they also do some decont-- decant-- sorry, I cannot say it, but if there is, if there's zebra mussels on a boat, then they'll remove the--

ERDMAN: OK, so then one would assume that if you're paying a fee to have your boat inspected, that your boat would actually be inspected. Would you not?

QUICK: And yes. And I can explain it if you would, if you want me to.

ERDMAN: OK. Go ahead.

QUICK: OK. So from what I understand, so they, they do, they do collect that, that, that fee at one time to do that. They do have inspectors, but they don't have enough and they can't-- from that fee, it is not enough to be able to have someone at every, every reservoir or every lake. So they move them around and maybe go to like a big boat in like a fishing event, or something like that. And that, that's, that's why you may, you may not be inspected every time you go to a certain lake.

ERDMAN: OK. All right, so I have had a boat for probably eight, nine years, used it whenever I can, not as much as Senator Gragert, but I use it whenever I can. And all the times that I've been to a lake, I've been inspected once, once. So if, if I paid a fee to have my boat inspected by Game and Parks, then I would expect that boat to be inspected. And they're not doing that. So are they short of staff because they don't have the funding or what is the reason they don't have enough inspectors?

QUICK: That's what, that's my take that, that that, if that \$5 fee is for that, they just don't have enough inspectors to be at every reservoir across the state. And so I'm gonna guess that's because of funding.

ERDMAN: OK. Well, well I, I might make this suggestion to Game and Parks. The \$800,000 that they used to buy some more land in Sioux County this year could be used in a better way; to pay inspectors to inspect my boat. And then they could also use that to better manage the recreational sites that they have. And so we had a hearing in front of the Executive Committee and as a discussion went on, one of the senators there, and I won't mention his name, asked a question. Why should we allow you to buy more land when you can't manage the land you currently have? And so, therein, is my comment. The \$800,000

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or whatever it was they spent on that 1,520 acres, besides the donation they got, should be used in another way rather than buying land. And one time--

FOLEY: One minute.

ERDMAN: --the director told me, he said, we need to lower our property tax because the Game and Parks pays about \$1 million in property tax. My comment to him was you have too much land. And so what I'm trying to say, Senator Quick, is if I'm paying an aquatic inspection fee, then I expect my boat to be inspected. When I go to Colorado, no boat, no boat goes in any lake, any water in Colorado that hasn't been inspected. They inspect every boat. So being there once in a lifetime is very similar to hunting elk; you get to shoot one elk per lifetime. That's not going to work. So if you're going to charge me \$5, inspect my boat. If you're not going to charge me \$5, then take away the fee. Thank you for answering the questions. Thank you.

FOLEY: Thank you, Senators Erdman and Quick. Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, the exchange between Senator Erdman and Senator Quick just underscores what I'm talking about. These fees are taxes. You're not getting anything in exchange or return. It's a boat inspection fee and the boat is not inspected. So a hustle, a fast shuffle, is being implicated here. They know the legislators are not going to pay attention. They know the legislators are not going to listen to me. So they laugh at you. And I'm sure they have an extra big laugh when you start talking about cutting property taxes and income tax and sales tax or any other kind of tax because you let Game and Parks do it on whim. And they get away with it. On this bill, there are fee amounts and I'm going to start with this one because the others probably are not specified and reduce it. I'd like to ask Senator Quick a question, if he will respond.

FOLEY: Senator Quick would you yield, please?

QUICK: Yes.

CHAMBERS: Senator Quick, this amendment that Senator Hughes had adopted says to strike Sections 1 and 2 and 16. It strikes three sections from the green copy, but it doesn't replace everything in the green copy, correct? It just strikes those three sections--

QUICK: Yes.

CHAMBERS: --that are listed. Do you know, from looking at the bill, that there are other fee increases in the green copy of the bill?

QUICK: Yeah, you're talking about the boating fees?

CHAMBERS: Yes.

QUICK: Yes.

CHAMBERS: So there is a wealth, if I want to use that term, of opportunities for me to offer amendments to this bill in terms of reducing some of these fees incrementally, isn't that true?

QUICK: Yes, I would probably say that's true. Yes.

CHAMBERS: So however many hours we're going to spend on the bill, I could spend that many by myself just trying to get some tax relief for the people who deal with Game and Parks. Isn't that correct?

QUICK: Yes. That would be correct.

CHAMBERS: Thank you. That's all I'll ask him. I'm the greatest tax slasher on this floor and you don't give me credit for it. I go where it makes a difference. Now other taxes, perhaps a correlation can be shown between the tax imposed and what the tax is for. Here, there is no correlation. It's a tax that you pay because you allow Game and Parks to increase the tax. I sure wish Senator McCollister was here in the Chamber so I could ask him-- when what to my wondering eyes should appear, in the part of the Chamber near the rear, but Senator McCollister on his feet. I think since he has left his seat, I may ask him a question, which I won't have to repeat. Senator McCollister, do you believe in cutting taxes where you can cut them without hurting--

FOLEY: Senator McCollister, would you yield, please?

CHAMBERS: Oh.

McCOLLISTER: Yes. I'll answer your questions. And I do believe cutting taxes whenever possible.

CHAMBERS: Now this we may disagree on. Do you visualize any of these fee increases by Game and Parks as being taxes by a different name?

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McCOLLISTER: I don't believe the increase envisioned here are--

FOLEY: One minute.

McCOLLISTER: --confiscatory taxes, Senator.

CHAMBERS: You don't envision them as what?

McCOLLISTER: I don't think these taxes or fees, however you call them, are confiscatory or overburdensome.

CHAMBERS: No, you, you introduced two words that I didn't; confiscatory and overburdening. I didn't say that, I said they're taxes. And you agree that they're taxes?

McCOLLISTER: No, I don't. I think in this case, they're more properly called fees.

CHAMBERS: And what's the difference between a fee and a tax?

McCOLLISTER: How, how it is levied. A tax is levied on, on people based on some, some measure, whereas these are fees that people can either choose to-- a service they can use or, or they cannot use, however it goes.

CHAMBERS: And to introduce a term--

FOLEY: That's time.

CHAMBERS: --and then, time?

FOLEY: Thank you, Senator Chambers and Senator McCollister. Senator Moser.

MOSER: Good morning, colleagues. I'd like to have a little discussion, if I could, with Senator Hughes. Would he answer a few questions, please?

FOLEY: Senator Hughes, would you yield, please?

HUGHES: Of course.

MOSER: OK. I've kind of been following this over the last few hours and I'm beginning to get a, an opinion on what's going on here. You're mad?

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HUGHES: I, I'm having a discussion--

MOSER: Yeah.

HUGHES: --about the challenges of managing the state's wildlife.

MOSER: OK. It's kind of hard to tell sometimes. You need to throw stuff or something so we get--

HUGHES: [LAUGHTER] I, hopefully haven't been using my dad voice.

MOSER: Yeah. OK. That was supposed to be funny, I don't know. But anyway, some of the discussion we were having while some of us were talking; the, the makeup of the commissioners on the Game and Parks, those folks are nominated by the Governor?

HUGHES: Yes, they are, they are appointed by the Governor. And they do come before the Natural Resource Committee for confirmation by the Legislature.

MOSER: And are there supposed to be certain seats that are designated for farmers or producers as opposed to sportsmen?

HUGHES: I believe, according to the law, the statutes set up by the Legislature, that three of the commissioners must have agricultural interests.

MOSER: Interests, you mean they must own farm ground or be in--

HUGHES: I--

MOSER: --the farming business?

HUGHES: I think that's a pretty loose definition. You know, the commissioner that represents where I live is, works at a-- he was a John Deere equipment salesman. I think he probably owns some land, but I do not believe he was actively engaged in farming or ranching.

MOSER: How many of the commissioners does three represent, about?

HUGHES: There are nine total, so a third.

MOSER: So a third of them?

HUGHES: Yes.

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MOSER: OK. Do they operate at the pleasure of the Governor?

HUGHES: Yes. I, the Governor does appoint them so I would assume that he would have the ability to remove them, with cause.

MOSER: Do you feel like, that they pay attention to the business of Game and Parks or are they more interested in the sportsman aspects of, of their jobs?

HUGHES: In, in, I've had a sit down with a couple of the, and phone calls, with a couple of the commissioners of late. And they have been very engaged with the issues that I've been bringing before the, the body. Previous to this last year, when I began introducing legislation dealing with Game and Parks, when I was invited to a reception with the commissioners; most of the discussion evolved [SIC] around where they had been hunting and where they were going next to go fishing or hunting, whether it would be to Canada to go duck hunting or goose hunting or taking their, their grandson to Alaska to go Dall sheep hunting. Or one of them was very proud of the fact that he had recently come back from Tibet, going on some sort of wild game hunting there. So the discussions that we've had during the receptions and the meals have certainly not been about the day-to-day management of Game and Parks. It has been more about the hunting and fishing trips that they've had the opportunity to go on.

MOSER: We really wouldn't have any opinion on the-- their trips out of the country or anywhere to go hunting; that wouldn't necessarily be germane to what we're talking about here. You're just saying that the, that's what drives them more--

FOLEY: One minute.

MOSER: --so, than the business of--

HUGHES: I, I--

MOSER: --managing of Game and Parks.

HUGHES: I don't know what drives those individuals. That was part of why I held the interim hearings in Scottsbluff and McCook and very fortunate-- I was very pleased to see that several of the commissioners did attend those hearings. I got--

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MOSER: Let me, let me interrupt you there, because we're just about out of time.

HUGHES: Sure, sure.

MOSER: These fees that are paid or taxes, if we accept Senator Chambers' suggestion, where do those monies go?

HUGHES: Game and Parks is a cash-funded agency, or what we call a cash-funded agency. They do take some state, some General Fund dollars, but it's minimal. Most of their operating revenue is generated from the sale of licenses, park permits, and camping fees and those type of things. So they are, in essence, mostly a cash-funded agency, they--

MOSER: So, so--

HUGHES: --they generate their own income.

MOSER: --user fees?

HUGHES: Yes.

MOSER: OK. Thank you very much, Senator.

FOLEY: Thank you, Senators. Senator Hughes, you are recognized.

HUGHES: Thank you, Mr. President. I think we've got about a half an hour left on this, so bear with me, if you will. I was wondering if Senator Chambers would yield to some questions?

FOLEY: Senator Chambers, would you yield, please?

CHAMBERS: Yes, I will.

HUGHES: Senator Chambers, you have a bill before the Natural Resources Committee, don't you, dealing with a hunting of mountain lions?

CHAMBERS: Yes, I do.

HUGHES: Would you, would you like to expand a little bit on why you brought that bill before the Natural Resource Committee?

CHAMBERS: Yes, I will and first of all, in Nebraska, there are not enough mountain lions to warrant a hunting season. Mountain lions are

the alpha predator in this state. Were there not a diminishment of mountain lions to the extent that it took place, you wouldn't have an overabundance of deer, elk and related animals, which are the natural prey of the mountain lion. A mountain lion is an extremely powerful animal. It can bring down animals much larger than itself. Mountain lions are solitary individuals when they are adults. Mountain lions don't hang out in prides like other lions. They are the third largest cat in the world. Now, in Nebraska, there has been never, never a documented case of a mountain lion attacking a human being. Never. If people say that they see more than one mountain lion in the same place, it might be a mother with her kittens or juveniles, but adult males do not hang out together. The alpha male is going to take charge of the land. So when you have such a small population of this animal, there is no justification for a hunting season. Mr. McCoy and others, when they were fighting against the first time I brought this bill, had said they want to give big game hunters an opportunity. In other words, creating hunting for trophies only, not for the proper management of wildlife. They don't need to. Mr. McCoy and Douglas, neither one of them can tell you how many resident mountain lions there are in this state, because it's what's called a pass-through state. Mountain lions going other places will pass through Nebraska, but they don't take up residency here. If you'd make the mistake of killing an alpha male, then the young lions haven't been taught what they need to know and they do like juvenile males of any kind; they go here, go there, do things that ought not to be done. The mother will teach them what their prey is. But after a certain amount of growth, she runs them off. They don't hang together as a family. Then the alpha male makes sure that these young males don't stay where he is. So there is never going to be a large accumulation of male mountain lion adults anywhere. And the reason Mr. McCoy and these others cannot tell you with certainty, or even a relative amount of certainty, how many mountain lions are in this state is because of the way these animals move around. They may have a range of 50 square miles. Somebody sees a mountain lion on that side of its range. Somebody else sees the same mountain lion on this side of the range. And they think there have been two mountain lions when there have not been. They are known as the ghosts of the prairie because they are not seen. They don't want to be seen. And that's why Game and Parks, in certain instances, will allow hunters--

FOLEY: One minute.

CHAMBERS: --if the money is right, to use dogs. Only with the assistance of dogs can they even spot these animals. So there not being a need to have hunting to manage these mountain lions, there should be no hunting seasons. And I do have a bill like that before the committee. I wish, because this is my last rodeo, if I may borrow an expression of outstate Nebraskans, my last rodeo, let me see what I can do with this bill by its being advanced to the floor. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. You are actually next in the queue for your third opportunity. Senator Chambers, you are recognized.

CHAMBERS: If I had a chance and I would give the explanation on the bill itself, I would tell you how high into the air one of these animals could leap; how far a distance or greater distance it could spring if it chose to. What people don't realize about a lot of animals is that they are equipped with appendages that are not for decoration. If it's a bird, maybe it has a crest that it springs up to draw a female, but that is not a practical survival device. A mountain lion's tail may take up or be as long as a third of its body, and it's not a little something that it swishes back and forth for decoration or to draw attention. It's like another appendage. It is so muscular, has so much comparative weight that a mountain lion can spring and change direction in midair by virtue of the way it manipulates its tail. It's like a rudder. They cannot, and when I say they, I mean Game and Parks, even document an attack on wildlife by mountain lions for several years. You know the animal that takes more wildlife than mountain lions? And you cannot kill it because the federal government will not allow you to kill it? The bald eagle. The bald eagle in Nebraska takes more wildlife than all of the mountain lions put together. If an eagle wants a lamb, the eagle will take the lamb. If it wants a small goat, it will take the goat and nothing can be done about it. Mountain lions don't go where human beings are going to see them. They don't want to be around human beings. There are people who have owned land for over 20 years and they have seen, in all of that time, evidences of mountain lions. They call their excrement scat. They see the scat. They see the footprints. But they never have seen a mountain lion. They know that the mountain lion is there. If these animals are not seen, if they don't want to be seen, why might they wind up being seen at a city? Some of these experts say maybe they were pursuing prey. Maybe they were on the way somewhere else. Maybe they didn't realize where they were. But they certainly don't take up residence in cities and they don't hunt human beings. When a former

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senator who managed to get this nonsense into the law while I wasn't here, to allow the hunting the mountain lions, he said, OK, well, when one of them eats your grandchild, then you'll see the need for it. And when I heard that, I said, man, mountain lions have better taste than that. Mountain lions don't eat people. But unknown to a lot of people, people eat mountain lions. Some of them take mountain lions for the purpose of eating their flesh. When this first law got in place to allow the hunting, almost no time was spent discussing that feature. The bill was one that would allow hunters to donate excess venison that they got to these food pantries and lockers for feeding people who were hungry. And naturally, there were rules and regulations--

FOLEY: One minute.

CHAMBERS: --sanitation types. But that's what the bill was about. That's what the bill was discussed, that's what part of the bill was discussed. The mountain lion hunting part just slipped through and it was to provide a source of revenue for the Game and Parks Commission. And to me, that is highly unethical. When you are going to all but decimate a species in your state, just to get some money and give big game hunters a chance to have a trophy, it shows you the lack of integrity of Game and Parks. And I remember how Mr. McCoy had said, if he could see that a majority of the senators didn't want mountain lion hunting, they wouldn't have it. We had more than a majority; we had 28. The Governor vetoed my bill. I could get 28; 2 senators did not do what they promised to do or we would have had the 30 and I wouldn't be bringing it every year. There was no need--

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Hughes, your speaking light is on, but I need to pass over you until it's time for your close, which is all that's remaining for you. Senator Wayne, you are recognized.

WAYNE: Thank you, Mr. President. I actually was not here during the mountain lion debate, so I'm learning a lot about mountain lions. So I yield the rest of my time to Senator Chambers.

FOLEY: Thank you, Senator Wayne. Senator Chambers, 4:45.

CHAMBERS: Thank you, Mr. President. Thank you, Senator Wayne. Mountain lions were indigenous, an indigenous species. They were all but eliminated. Around the turn of the century, they didn't have very many at all. And you will hear people say these animals pose a danger to people. They pose a danger to you if you go where they are. In California, people are a lot more intelligent and civilized than they are in Nebraska. They want to preserve their mountain lions. They're aware of the role that these mountain lions have in the overall ecology. There was about a six-lane superhighway and some mountain lions would navigate that highway and survive, others didn't. So these wildlife experts, who know more than those in Nebraska obviously, studied the situation and found out that where these lions were going across the highway was a natural passage that they had before the highway was built. So maybe that knowledge was a part of the lion's DNA, but that's where they would cross and although some could make it, others couldn't. California's built a multimillion-dollar overpass, a multimillion-dollar overpass, so these animals could cross that highway without being killed. And then you got some numbskulls in this state trying to kill the few that they've got. And because the hunters cannot kill the amount allotted in a certain period of time, they have an additional supplemental, supplementary hunting season and will allow the use of dogs. I had Mr. Douglas sweating. He's the director of Game and Parks. I'm going to bring the transcript and read it, where I was asking him questions about the mountain lion to see how much he knew. I got a mountain lion license plate adopted by the Legislature; and when we had it before the committee, the Game and Parks Commission opposed it. They opposed it. And it has brought them more than \$100,000 in revenue; something that has never happened. And the words on the plate say mountain lion conservation. You know what those dumbbells, and I, I, I'm not using the kind of language of your President or I'd call him something else; do you know what they were doing with that money, Senator Kolterman? And you support him, you would, so would Senator McCollister. Instead of using that money to conserve mountain lions, you know what they took some of the money for? To hire a person from Colorado to come give a bird convention, to come here and talk about birds; took this money generated by the mountain lion license plate to hire somebody from Colorado to come here and give seminars on birds. The University of Nebraska at Omaha has an aviary ecology program or department. It's a part of their system. Why didn't Game and Parks just have somebody come from UNO to

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do this? Maybe they know the guy from Colorado. Is that wise expenditure of the money? But you all don't care about these things--

FOLEY: One minute.

CHAMBERS: --and I do. Did you say time?

FOLEY: One minute, Senator.

CHAMBERS: Oh, thank you. Why would that kind of expenditure be made? Then when Game and Parks comes here with a bill like this and want to raise fees, you all let them raise the fees. I'm going to oppose every Game and Parks bill that comes and I'm not going to be able to get any help from you all, because you don't care. And you certainly don't pay any attention to anything that I say. So when you bring your bill to give money to these big companies, look out. I am going to take revenge on you to avenge the mountain lions. You better learn how to take interest in those matters that other senators are interested in if you don't want some of those senators to come full bore against what you're doing. And let the Governor bring his bills. We're going to see what happens this session. Yeah, it's my last rodeo--

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Hughes. Excuse me, no, not Senator Hughes. Senator Groene.

GROENE: Thank you, Mr. President. Senator Hughes came over to me and he had no idea about this program. Game and Parks should be talking to the Natural Resource Committee that I mentioned earlier. But he had some questions about it that he was going to ask me. So I'm going to ask Senator Hughes if he'll take a question. And that question is, give me the question you had for me.

FOLEY: Senator Hughes, will you yield, please?

HUGHES: Of course. Thank you, Senator Groene, I appreciate it. I was very interested in the information that you presented earlier. I had no idea of these online tools to aid hunters and landowners that were out there. So I'd like you to cover that material again, if you would, please, to make sure that the people who are watching understand that

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this is available to them, because I had no idea. So if you would, please. Thank you.

GROENE: I went online and got, as I said, I didn't know the exact timeline. I talked to him in the hallway, actually, like things happen here, Mr. Douglas and his aide, and I said, why don't you get hunters and these landowners together? He said they had a program, but it didn't work. The problem was they let landowners put their name on a list and their contact information. Well, guess what happened? They got, they had wanted 3 hunters and they ended up with 100 people calling them. And then that individual, those 100 people had their cell number and was calling them over and over again because people want to hunt. So what they did, I'll just read the press release on September 27. "Landowners have a new online tool available to them to address deer populations on their property. Nebraska Game and Parks Commission's Antlerless Hunter Database connects hunters who wish to harvest antlerless deer with landowners who are experiencing damage from deer on their property. Landowners and hunters are important to managing wildlife; together with Game and Parks, they are the driving force for wildlife conservation in Nebraska. Landowners provide habitat and access for hunting game species. Readily available permits and long seasons provide tremendous opportunities to harvest deer in Nebraska, especially antlerless deer." What's so important about this is the antlerless part. A lot of hunters are trophy hunters. They'll go on Senator Hughes's land or a farmer's hand [SIC] and they won't shoot. There will be 20 does there or young bucks and they won't shoot them. They'll keep looking around until they get that big rack on a deer. What's unique about this is 1,742 individuals in Nebraska said, no, we just want to hunt. We just want to get a deer because we want the food; 1,742 since September 27 or between September 27 and December 3, when I received the email, had registered. And I think it's unique that it wasn't broadcast widely and they had that many applicants already and that, you know, I'm not going to give an excuse to Game and Parks as they're not keeping-- they might have a conflict with Senator Hughes, but Senator Hughes is like me and never burned a bridge; I got the teachers union working with me now. If Game and Parks would come in and talk to him, he might be able to work with them on legislation to match what they're already doing. So it's both sides of this thing. But if you're a landowner out there, and I think the season might, don't quote me, might be going on with musket yet, it's outdoornebraska.gov/antlerlesshunterdatabase. Now I haven't had

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enough time to look at if that's also antelope, but I'm maybe assuming it is.

FOLEY: One minute.

GROENE: And it makes sense. It really makes sense. It needs to be pushed because I know these farmers that would know this. They would be looking at that database and calling people and contacting them and lining up. It's really a unique process, folks, because I'll tell you what; when I was a boy and went out hunting, I knew who everybody lived there. I knew where the farm place across the-- I'd go ask hunting, hunt-- I grew up with the people. I lived on a farm, too. But today is, the farmland owned is so large. A hunter who wants to hunt has no idea who owns the land, has no idea who to ask permission for when they see deer out there. They can't drive over the hill to the farm place. It doesn't exist. So this is a unique tool to bridge that gap between hunter and landowner. And I'm glad Senator Hughes came over to me and clarified that he didn't know anything about it, which really surprises me. Thank you, Mr. President.

FOLEY: Thank you, Senator Groene. Senator Friesen.

FRIESEN: President, so going back to the Game and Parks and, and some of the problems out in the rural areas, I'll just address a couple of them and then I'll give the rest of my time to Senator Chambers if he wants it. But again, when it comes to some of the issues they had out there with campgrounds and around the Grand Island area, I mean, they they put in cement pads and then they didn't put the hookups in. They just left the pads sitting there and over a period of three or four years, they finally got around to finishing the hookups so that people could actually use them. And, and yet they keep trying to acquire more property and when they can't seem to manage their own property. As far as hunting in my area, I mean, between Game and Parks and Fish and Wildlife, they own numerous properties around us and their maintenance there is, let's just say, totally lacking. They have not been able to manage what they have. And when it comes to adding more resources there, when you take this land and put it in there, the property taxes that they take away from the local area have an impact. They pay an in lieu of tax. So in the end, I don't think what they're doing, at least to manage this, is bringing any economic development whatsoever. There's still no more hunting. There's no more animals out there. They need to do a better job of managing the resources they have and until

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they are willing to do that, I just don't know if I want to support them. With that, I'll yield the rest of my time to Senator Chambers.

FOLEY: Thank you, Senator Friesen. Senator Chambers, 3:20.

CHAMBERS: Thank you, Mr. President, and thank you, Senator Friesen. And instead of going on with the mountain lions, I want to tailgate on what Senator Friesen said. I'm on one of the most recalcitrant committees in this Legislature and it's known as the Executive Board. I have spent time trying to explain to that Board why we should not allow Game and Parks to accumulate more property. There have been members on the Board during hearings and could observe what was being said on this issue. A big chunk of land was going to come to Game and Parks, if they would have been allowed to get it. And Senator Erdman's committee had voted unanimously about going for it and Senator Erdman came to the committee. And I tried to persuade my colleagues, which went nowhere, but I tried anyway. And you know what their response is? Don't look a gift horse in the mouth. Well, if the gift horse is going to consume more than what it's worth, then not only should you look it in the mouth, you should turn it away. Game and Parks knows that they've got a hex on this body or something and they will be allowed to continue accumulating land. It's something like what is said about rich people; it's possible for them to have too much money, but they can never get enough. Game and Parks will continue to acquire more and more land, which means less and less land in private hands and more and more in government hands. And like so many things that the government does, there is incompetency. There is waste. I believe there is even fraud. And when I see Game and Parks spending money to bring a person from Colorado to give lectures about Nebraska birds, something is wrong. I think Game and Parks is corrupt. But who's going to do anything about it? They're not going to be audited in a way that's valid.

FOLEY: One minute.

CHAMBERS: It's the Governor's plaything. So if the Legislature chooses to continue allowing Game and Parks to function as they are, I would invoke that expression that people have. If you find a fool, bump his head. This Legislature behaves like a fool when it comes to Game and Parks. Something has to be done to bring it to an end. Game and Parks knows, as I've mentioned several times today, not just Game and Parks, I'm not going to be here. So they're going to have smooth sledding. They get just about everything they want even when I am here. They

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won't even have to listen to the kind of things that I will say when I'm not here. You go along to get along. I wish I could persuade Senator Hughes--

FOLEY: That's time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Brewer.

BREWER: Thank you, Mr. President. Well, I have, I have avoided the mountain lion discussion, mostly because most of it is in my district. But I did want to at least share a little. On May 4, 2013, I was giving a tour of Fort Robinson to a group of German military officers who had come over to see the Wild, Wild West. And while I was giving them a tour, we stopped and they were taking some pictures, I was standing next to the white wooden fence that runs on the north side. And unbeknownst to me, while I was drinking coffee and not paying attention, a mountain lion ran behind me. My sense of awareness wasn't great. The, the lion was fairly close and of course, the Germans were really impressed that I had such great courage, not knowing that I was not paying attention. And the mountain lion ran by and went up a tree next to me. The sighting of a mountain lion on Fort Robinson was pretty rare. Most of the folks that had lived there for a number of years had never seen one before. The interesting part though is, is if you haven't seen one there in a long time, it caused a bit of a disruption on the camp or the facility there when, when they discovered there really was one in the tree, because I went to let them know that he was there, just as a courtesy, and they didn't believe me. So I made them come with me to see the mountain lion. We came out and the mountain lion was just simply up in the tree, pretty much just watching the day go by and behaving himself. But it resulted in him having to go through a series of I guess, I guess a way to describe it is taserings. And the, the result was that after about seven "taserings," they figured out that a taser doesn't work well on the thick hair of a mountain lion. So it looked a little bit like a "spider rub" through the tree where the tasers were hanging out and they went to plan B. At a point, the mountain lion just simply got bored of their misbehaving and, and went on about his business. We, we don't get a chance to see them in the wild very often. And I have folks that I know that have got hunting permits. I don't know of anyone who's ever got a lion. For the very reason that Senator Chambers indicated, they, they are the ghosts that are hard to see.

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They are rarely seen in daylight. They move mostly at night, as much as they can. The exception may be the younger ones, which, that's what this one was, was, was a younger lion. So with that said, we do have them. They are out there. I don't know of any reports in my district of them eating livestock, although I think they probably, as nature would have them, are probably a little hard on the, on the deer and antelope population. But that is part of how Mother Nature works. So when we talk about the mountain lion, I don't have visibility on how they manage the numbers. But I think that we need to understand that, that a threat of a lion probably isn't as great as some would have it. And with that said, any remaining time I have I'll yield to Senator Chambers.

FOLEY: Thank you, Senator Brewer. Senator Chambers, 1:10.

CHAMBERS: Thank you, Mr. President. Thank you, Senator Brewer. Members of the Legislature, all I've been asking for is that these majestic, regal, solitary, all but invisible animals be allowed to live. They live and let live. People ought to leave them alone. Game and Parks would do anything to get money. If you had the word get out that you might see a mountain lion in a certain area of Nebraska, it might become a tourist attraction; not people with guns trying to shoot them, because if they're hunters, they know they're not going to see it in a situation where they can shoot it. So I hope, as I was going to say, I can persuade Senator Hughes to give me a chance with that bill by advancing it to the floor. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator McCollister.

McCOLLISTER: Thank you, Mr. President. Again, good morning, colleagues. Following Senator Groene's example of using our time together here for a productive purpose, I wonder if Senator Hughes would stand for a few questions.

FOLEY: Senator Hughes, would you yield, please?

HUGHES: Of course.

McCOLLISTER: Senator Hughes, there's a program, an innovative program that the Game and Parks has instituted called Hunters Feeding the Hungry. Can you describe that program for us, if you would?

HUGHES: Yeah, I don't know that Game and Parks has done that. I'm not sure who the originator was, but it, there is a program called Hunters

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for the Hungry, where if you go shoot a deer and do not wish to utilize the meat yourself, you can donate that deer to Hunters for the Hungry. There are funds that have been donated that will pay for the processing of that deer and that meat will be donated to food banks or, or shelters or things of that where we're feeding those less fortunate than ourselves.

McCOLLISTER: Just to repeat, there is not a fee associated with this. It's a voluntary donation. Is that correct?

HUGHES: Yes. I think the, the money that is used for it to pay for the processing comes from donations.

McCOLLISTER: That's great. Well, it's another example of a, of a program instituted by Game and Parks that I think is for the public good. And for that, I'm, I'm grateful. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Hughes, you are recognized to close on your motion.

HUGHES: Thank you, Mr. President. I, have we hit our three-hour limit?

FOLEY: Let me recognize the Speaker, please, Senator Hughes.

SCHEER: My apologies, colleagues. We have met the time threshold for the three-hour debate, so we will move forward to the next item. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. We'll move to the next bill, Mr. Clerk.

CLERK: Mr. President, if I might, some new bills before--

FOLEY: Yes, please.

CLERK: Thank you. LB981 is by Senator Hunt. It's a bill for an act relating to state contracts for services, defines and redefines terms, provides for applicability of provisions to certain state constitutional officers. LB982 is by Senator Matt Hansen, a bill for an act relating to state officers. It changes the prohibition on use of funds for advertising or promotional materials. LB983 is Senator Crawford, relating to motor vehicle carrier operators' licenses. It changes provisions relating to the point system. LB984, Senator Hunt, relates to cities and villages, provides deadlines for filling vacancies on certain boards, authorities, and agencies. LB985 is

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Senator Pansing Brooks, relating to crimes and offenses. It provides for new felony classifications and it changes penalties. LB986 by Senator Pansing Brooks, relating to postsecondary education; prescribes requirements for publicly funded colleges and universities regarding the criminal history and juvenile court record information of applicants for admission and students. LB987 is Senator Pansing Brooks, relating to revenue and taxation; imposes sales and use taxes on dating and escort services; provides for the use of the sales and use tax proceeds and dating-- from dating and escort services. LB988, Senator Hilgers, a bill for an act relating to professional services; provides restrictions on business entity ownership with respect to certain professional services regulated under the Uniform Credentialing Act. LB989 is Senator Wayne. It's a bill for an act relating to revenue and taxation; imposes sales and use taxes on digital advertisements as prescribed. LB990 is Senator Wayne. It's a bill for an act relating to gambling. It redefines duties for the Department of Revenue; provides a gambling exception for operating or participating in games of skill; changes provisions relating to possession of gambling records. That's all that I have, Mr. President.

FOLEY: We'll proceed to the next bill, Mr. Clerk.

CLERK: Mr. President, LB30. It was a bill originally introduced by Senator Kolterman. It's a bill for an act relating to-- relates to the Professional Landscape Architects Act. It changes and eliminates provisions relating to licensure and regulation of landscape architects; provides and changes penalties and it harmonizes provisions. Introduced on January 10 of last year; at that time, referred to the Government, Military and Veterans Affairs Committee. I have committee amendments pending, as well as an amendment to those committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you are recognized to open on LB30.

KOLTERMAN: Thank you, Mr. President. Good morning, fellow colleagues. I'm here to ask for your support of LB30. LB30 updates the Professional Landscape Architects Act, which hasn't been significantly updated since 1971, 49 years ago. Landscape architects are licensed professionals who analyze, plan, manage, and design projects; involve the functional aesthetic use of land and the natural environment. Licensed in all 50 states and the District of Columbia, they prepare land use plans, plan and design neighborhoods, pedestrian pathways,

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plazas, development sites, parks, trail systems, as well as perform site design, including site layout, grading, drainage and erosion control, and construction detailing. They generally hold a professional degree from a university with an accelerated landscape architecture program-- with an accredited landscape architecture program. They've worked three to four years under a licensed landscape architect and passed the national licensing exam. While some services provided by landscape architects may overlap with other professionals, LB30 carves out these types of services from licensure and regulation under the Professional Landscape Architects Act. Examples of the projects designed by a landscape architect include: the recent redesign of Centennial Mall in Lincoln; the Pioneer Park, here in Lincoln; the Gene Leahy Mall in Omaha; Harry and Gail Koch Tennis Center in Omaha; and the Central Nebraska Veterans' Home in Kearney, just to name a few. LB30 does not create a new professional license. LB30 simply updates status to better defining what's required to become a professional landscape architect, to explain who can practice landscape architecture in Nebraska, and it removes language that unnecessarily restricts the trade by associated occupations such as engineers, architects, landscape designers, realtors. And it clarifies when a professional landscape architect license is not required. It streamlines the Nebraska licensure process by landscape architecture [SIC] that have already been licensed in another state. And it clarifies the state's board authority to impose penalties for violations of the act and allows for an online application for licensure and renewal, which is not allowed today. LB30, as amended by AM380 [SIC], advanced from committee unanimously with one member absent. We believe that the committee amendment, AM380 [SIC], addresses concerns that we received during the hearing and I will let Chairman Brewer explain that further. With that, I'm happy to answer any questions you might have and ask that you vote green on AM380 [SIC] and LB30. Thank you very much.

FOLEY: Thank you, Senator Kolterman. As the Clerk indicated, there are amendments from the Government Committee. Senator Brewer, you are recognized.

BREWER: Thank you, Mr. President. Again, the amendment to LB30 is AM302. It was heard in committee on January 25, 2019. We received no opposition. Laura Ebke from the Platte Institute testified in a neutral capacity and we voted it out 7-1, with a committee amendment. The committee amendment addressed concerns raised by the Platte Institute, reducing the criminal penalties in the bill for licensing

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violators from a felony to a misdemeanor. It better explains the evidence that is required with a license application; removes language about an expanded internship requirement. I think the committee amendment makes the bill better; protects the freedom to work in your chosen field, but still provides protections to the public. I understand that the Governor's office may have some concerns. I would just ask that we look at that between General and Select. And with that said, I would ask for your green vote on AM302 and LB30. Thank you, Mr. President.

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

CLERK: Senator Kolterman would move to amend committee amendments with AM2050.

FOLEY: Senator Kolterman, you are recognized to open on your amendment.

KOLTERMAN: Thank you, Mr. President. I'd like to introduce AM2050. AM2050 simply changes the date from 2020 to 2021 for the biennial renewals because there will not be enough time to get the rules and regulations revised and in place for the 2020 renewal cycle. With that, I ask for a, vote green on AM2050, AM302 and LB30. Thank you.

FOLEY: Thank you, Senator Kolterman. Debate is now open on LB30 and the pending amendments. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. I do stand in support of AM2050, AM302, and LB30. I would ask if Senator Kolterman would please yield to a question?

FOLEY: Senator Kolterman, would you yield, please?

KOLTERMAN: Yes, I will.

BOSTELMAN: Thank you, Senator Kolterman. On page 7 of AM302, starting on line 23 to 27, I just want to ask you a question there and I'll read this. It says, "Applicants who hold a landscape architecture degree accredited by the Landscape Architectural Accreditation Board or its equivalent as determined by the board may sit for the Landscape Architect Registration Examination as administered by the Council of Landscape Architectural Registration Boards." When I read that, I do not see that there is a requirement for that person to, after graduation, just to, to wait any amount of time, say three years,

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before they take the test. Once they graduate, they can take the test. Would you-- am I reading that correctly?

KOLTERMAN: That is correct. Yes, your interpretation is accurate.

BOSTELMAN: OK. Thank you, Senator Kolterman. I yield the rest of my time back to the Speaker.

FOLEY: Thank you, Senator Bostelman. Senator Kolterman, you are recognized to close on AM2050; waives close. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, please.

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

FOLEY: AM2050 is amended. Is there any further discussion on the bill or the pending committee amendment? Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. I wonder if Senator Kolterman would yield to a question?

FOLEY: Senator Kolterman, would you yield, please?

KOLTERMAN: Yes, I will.

ERDMAN: Senator Kolterman, as I read this bill, the first question that comes to mind; what problem are we trying to solve here?

KOLTERMAN: Actually, there is no problem. It hadn't been looked at for almost 50 years. The way that we license people now can be done online. And it's more, more than anything, we're cleaning up some of the language in the old statute, bringing it up to date so that we make it actually easier for a landscape architect to apply for the application. Make it--

ERDMAN: OK.

KOLTERMAN: That's all we're doing.

ERDMAN: So as I read in the bill, it says there, to protect the land and the water resources and all that. Whose land are you referring to? Is that anybody who hires these people or is it public land or what are we trying to do with that?

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KOLTERMAN: It's all of the above. Some people will hire a landscape architect to come in and design their own personal landscape at home. That's not normally the case, but it has been done. Landscape architects are used in golf course planning. They're used in, like the Centennial Mall that was redone here--

ERDMAN: OK.

KOLTERMAN: --several years ago. So many public institutes or institutions will hire a landscape architect to come in and assist them in designing a, a plaza, things of that nature.

ERDMAN: OK. So where I live in Morrill County, we don't have any people who do that type of work. So let's say there is someone in Scotts Bluff County and I want to do a landscape change at my house. Do I need to hire a licensed architect to do that?

KOLTERMAN: No. That's excluded from the law.

ERDMAN: OK. Thank you, appreciate it.

KOLTERMAN: You're welcome.

ERDMAN: Thank you for your time.

FOLEY: Thank you, Senator Erdman. Senator Groene.

GROENE: Thank you, Mr. President. I have a question for Senator Kolterman also. First--

FOLEY: Senator Kolterman, would you yield, please?

GROENE: My first two years, my first two years down here, I was on the Government Committee and this bill came up. And it didn't come out of committee because the way it was written then, there was a concern that, that any government contract, anything dealing with a government, it had to be done by a, by a licensed landscape architect. In other words, if then-- Senator, I was talking to Senator Erdman, you got a little town of Bayard that has a courthouse and they want to redo their front, front lawn, put some shrubs in there, take the old ones out, put a berm in there. And they just call the local nursery and a guy comes out and draws up the plans. They take it to the county commissioners, it gets approved. Senator Kolterman, can that still happen or do they have to hire a licensed landscape architect?

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KOLTERMAN: It's my understanding that that can still happen, that they're, they're not required to hire a landscape architect.

GROENE: But it says here on government-- I'm looking, I mean, I'm going to be for the bill, probably, but I want a clarification, collaborate with architects, professional engineers, and registration land surveyors in the design of streets, highways, bridges, buildings, and structures with respect to the function-- requirements of the area in which such facilities-- preservation and management of natural, cultural, historical and aesthetic resources; design of sites, landforms, and water features, sediment and erosion control-- I'm wondering, does government have to hire a landscape architect to get anything done?

KOLTERMAN: No, they do not. They don't have to do that.

GROENE: With--

KOLTERMAN: It's not mandated.

GROENE: With your assurance, and we'll look into it a little bit between Select and General, I'm fine with it. As long as there's the freedom that that small landscaping company, that small nursery can go out and do those projects without--

KOLTERMAN: And we actually, we actually worked with the Home Builders Association to make sure that those types of things--

GROENE: I'm more worried about government entities.

KOLTERMAN: Yeah, I'll, I'll double-check that, whether or not--

GROENE: Thank you, Senator Kolterman.

KOLTERMAN: I don't--

GROENE: --help you get it.

KOLTERMAN: I don't believe we're mandating, we're giving that as an option, though.

GROENE: All right, we'll--

KOLTERMAN: If somebody wants to use it, they have that ability.

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GROENE: We'll help you get it to Select and, but we'll look at it between now and then. Thank you.

FOLEY: Thank you, Senators Groene and Kolterman. I see no further discussion. Senator Brewer, you are recognized to close on the committee amendment. He waives closing. The question before the body is the adoption AM302 committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

FOLEY: The committee amendments are adopted. Is there any further discussion on the bill as amended? I see none. Senator Kolterman, you are recognized to close. He waives close. The question before the body is the advance of LB30 to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: 43 nays, 0 nays, Mr. President, on the advancement of the bill.

FOLEY: LB30 advances. Items for the record, please.

CLERK: I do, Mr. President. Thank you. A new bill, LB991 is a bill by Senator Halloran. It's bill for an act relating to sex offenses. It changes provisions relating to sexual assault under the Nebraska Evidence Rules, enhanced penalties for certain sexual offenses and sexual assault protection orders; creates the offense of child enticement by a school official by means of electronic communication device; creates the offense of sexual assault of a student; defines and redefines terms; prohibits enticement by electronic communication device by a school official; changes the provisions relating to corroboration of victim testimony in sexual offenses. Mr. President, I have a hearing notice from the Banking, Commerce and Insurance Committee and a report from Select File. LB153 has been reported to Select File with Enrollment and Review amendments attached. I have name adds: Senator Hilgers to LB153; Senator Hilkemann to LB752; Senator McCollister to LB946 and LB949; and Senator Howard to LR294. Mr. President, a priority motion: Senator Briese would move to recess the body until 1:30 p.m.

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

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RECESS

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

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

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

CLERK: Just one. A reference report referring LB938-LB974. That's all that I have. Thank you.

FOLEY: Thank you, sir. Members, we will proceed to the next item on the agenda. Mr. Clerk.

CLERK: Mr. President, LB93 is a bill by Senator Wayne. It's a bill for an act relating to civil procedure. Provides for intervention by biological parent in certain proceedings involving juveniles. The bill was introduced on January 10 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Wayne, you're recognized to open on LB93.

WAYNE: Thank you, Mr. President. Good afternoon, colleagues. I will try to keep this brief and I will use a fact pattern to describe what this bill does. There's a lot of technical things, but here are the facts: That I represented somebody at one point, and he was the biological father, and there was no way for him to keep his kid out of the foster system. And why is that? Is that there is a presumption in Nebraska that if you are married the kids belong to both parents. Well, in this situation, and what I found out after this is it happens quite a bit, that people move to Nebraska, particularly maybe domestic violence. In this particular case from a young person in Alabama. They moved up here 20 years ago and they were involved with a new male at this time and had a kid. But because they were legally married in another state, Nebraska says it's the other kids-- it's the other person who is no longer with father. And so he tried to intervene to keep his kid out of the foster care system. And the judge said no. He hired me as an attorney. And what you saw in front of you with names blackened out is the response from our Human Health and Services

Department, which basically says, and this is the attorney from Human Health and Services that said-- basically said: We have two parents. We don't care if he's the bio-- biological parent and involved in that kid's life the entire time. We recognize people when they're married as being both parents. Now, the net effect of that is our Supreme Court has ruled multiple times that in order to even intervene in a case you have to have what's called standing. You don't have standing unless you're on the birth certificate or you're their actual parent. Well, the only way you can prove that you're your actual parent is through a DNA test. Well, the kid is now in foster care system underneath the custody of the state. So the state's position is: I don't have to make that kid available for DNA tests because we already have what we need, which is two parents to terminate their rights on. The caseworker in this case, the judge, everybody knew who the father was, but there was no legal way for us to get that done. So we had no opposition to this in tes-- in hearing testimony. There will be an amendment by the committee that just clarified a couple of things. And then last week, HHS approached me just to put the belts and suspenders on this bill to make sure that if a parent who is a biological parent has their rights terminated can't come back later to intervene because they already had their rights tournament-- terminated. So there is no opposition here. It's just a technical thing in an area around foster care that legally judges are following their orders, HHS is following the law, but the reality is, if you don't get divorced and you have a kid from somebody else, the courts and the state will assume the two people are still together, that there is a biological-- or that the biological father is the person that they're married to, not actually the biological father. And what we're trying to do is make sure that those dads, and it's mainly dads, who want to be in their child's life and keep them out of the foster care system, which is a good thing for the state, it saves us money, can access the courts to do so. It's not a complicated bill, but the email you got that was sent to me on this particular case explains exactly why this is a problem and is something that we need to fix. Now, there is a bigger issue that you will see next year or later on around adoption and around some other things, around this same presumption. That's not what my bill deals with and I don't want to get complicated with that. But there are-- approximately in the last two years I've met about 90 people who fall into this category. And in fact, one of them is a 70-year-old lady who has been-- her husband has left for over 30 years, but they never cared to get a divorce. And she can't intervene because she's not the biological grandparent, because

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it was never established by court. And HHS won't make that child available. And so we're just trying to put that together and close some of these loops for the biological father. And with that, I would ask you to vote green on the amendment, green on both amendments, and green on the underlying bill. Thank you.

FOLEY: Thank you, Senator Wayne. Before proceeding, Senator Hilkemann has a couple of guests we'd like to announce today. We have with us Selma-- Thelma Whitewater and Garan Coons, both with us under the south balcony. If those two guests could please rise, I'd like to welcome you both to the Nebraska Legislature. As the Clerk indicated, there are amendments from the Judiciary Committee. Senator Lathrop, you're recognized to open on the committee amendment.

LATHROP: Thank you very much, Mr. President. Colleagues, good afternoon. The Judiciary Committee held a public hearing on LB93 on January 31, 2019. On February 22, 2019, the committee voted to amend LB93 with AM422 on a vote of 7-0 with one guest-- member absent. The committee voted to advance the amended bill to General File also on a 7-0 vote, with one member absent. AM422 replaces the original bill. Based on feedback from juvenile court judges and practitioners, the language has been revised to clarify the filing and handling procedures for complaints to intervene authorized by the bill. In AM422, this revised language is placed in the Juvenile Code in Section 43-1411, which contains the existing prospect-- pardon me, process for instituting a civil action to establish paternity of a child. The new language was placed in 25-328 of the original bill. That correction having been made, I would encourage your support of AM422 and Senator Wayne's LB93. Thank you, colleagues.

FOLEY: Thank you, Senator Lathrop. Mr. Clerk.

CLERK: Mr. President, Senator Wayne would move to amend the committee amendments with AM2089.

FOLEY: Senator Wayne, you're recognized to open on AM2089.

WAYNE: Again, to be really short, thank you, Mr. President. This just clarifies that once a parent's rights have been terminated and they are the biological parent, they can't come back and later intervene in another case. It's just like I said, belts and suspenders. But we just want to make sure that parents who have their rights terminated by the

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court can't come back on another case and just try to intervene and clog up the system. I would ask for a green vote on this.

FOLEY: Thank you, Senator Wayne. Debate is now open on LB93 and the pending amendments. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. Senator Wayne, would you yield to a couple of questions?

CLERK: Senator Wayne, would you yield, please?

WAYNE: Yes.

BOSTELMAN: Senator Wayne, we spoke about this off-mike just a little bit. I've had some feedback from county attorneys and, and I think we can address these if this goes to Select File. But the big, the questions I have is, is the county will contract with child support enforcement that goes to another county, another city. And then what happens is they don't have child support enforcement in their location in that county. And then it becomes a mess to figure out who will do the DNA tests and also who would actually, who actually does the DNA test and then also who pays for them are the two questions that they brought up, as they don't have the services in county. They have to contract with someone in another county to do it, but then there's no control over that. And then who pays for it is, are the questions that I have.

WAYNE: So first I would answer and say, typically, if a person is found indigent, the state would, or the county would pick up that cost. And I would think the state would have to pick up that cost if they really wanted to make sure this, you know, person is the biological father. And I don't think it's gonna be where random people are coming up claiming a kid to take over that obligation. So there's that issue. I think that they're indigent, the county would pick up that cost. If they're not, which a court should find in any case before they appoint counsel, they should pay for it themselves. And we can add a language on Select File to, to clarify that if we need to. But I don't think we want to say: If you can't afford to pay for a DNA test to make sure your kid doesn't go into the foster care system, we should eliminate that right. I think we are a pro-family state and we want to make sure we keep families intact. And a DNA test costs roughly \$25 or less. So I think we can work that out from General to Select on how that works. But if they're indigent, I don't think we

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can require them to pay, legally require them to pay to maintain their parental rights. But we could figure that out. That's not a complicated issue that we can figure-- we can figure that out.

BOSTELMAN: Right. And I believe we talked before, the courts used to order child support enforcement but they don't do that necessarily anymore. And that therein lies the problem that they're facing, is trying to find how this, the process gets pushed, get, get-- is utilized the best for the, for the court or for the--

WAYNE: So the one thing I want to clarify, though, is you're talking about some child enforcement. That's in district court. And what we're trying to do is we only limit this to county court where there is a proceeding where you may potentially lose your kid to a foster care system or parental rights. So I'll be happy to look with you afterwards and clarify that. But I do think if, if you're going to intervene in any case, and this is not just juvenile, you should pay for the intervention. And if you want to maintain and protect your rights, you should pay for that. So I have no problem working on that.

BOSTELMAN: Thank you, Senator Wayne. I yield the time back to the--

FOLEY: Thank you, Senator Bostelman and Senator Wayne. Seeing no other members wishing to speak, Senator Wayne, you're recognized to close on AM2089. He waives close and the question before the body is the adoption of AM2089. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 42 ayes, 0 nays on adoption of Senator Wayne's amendment to the committee amendments.

FOLEY: AM2089 is adopted. Is there any further discussion on the bill or the pending amendment? Senator Lathrop, you're recognized to close. And he, he waives closing on the Judiciary Committee amendments. The question before the body is the adoption of AM422, Judiciary Committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

FOLEY: The committee amendment is adopted. Senator Wayne? He waives closing on the bill. The question before the body is the advance of

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LB93 to E&R Initial. Those in favor of vote aye; those opposed vote nay. Record, please.

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB93.

FOLEY: LB93 advances. Proceed to the next bill, Mr. Clerk.

CLERK: Mr. President, LB206 is a bill by Senator Morfeld. A bill for an act relating to journalism. It defines terms and provides protection for freedom of speech and freedom of the press for student journalists. Provides protection for student media advisers. Introduced on January 11 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are committee amendments, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Morfeld, you're recognized to open on LB206.

MORFELD: Thank you, Mr. President. Members of the body, I'm happy to introduce LB206, the Student Journalism Protection Act. The protection of student journalists and First Amendment rights in our K-12 schools and state institutions of higher education is critical to the development of our current and future civic leaders. As a representative of Nebraska's largest university, I represent many student journalists who will be the next generation of civic leaders to build a strong and robust democracy. This starts first with protecting their First Amendment rights in government institutions. The Student Journalism Protection Act works in the following ways. It will guarantee high school and university students have access to their First Amendment rights, regardless of the type of speech and whether the media-- whether or not the media is financially supported by the institution. Furthermore, this bill will protect student journalists from disciplinary action for exercising their First Amendment rights, with several key exceptions, which I'll get to in a moment. For instance, and I'll just get to them right now, actually, because I think this is one of the big questions I've been getting from a lot of people: If they violate student privacy or they engage in slander or libel. In addition, the Student Journalism Protection Act ensures that their professors and teachers of journalism that will be assisting them cannot be punished for protecting their students' First Amendment rights by the administration. Finally, LB206 promotes independence between the student media and educational institution by stating that: No publication or expression by the students shall be

deemed to be an expression of that institution's policy. It is important to note that this is not a blank check. There are restrictions. A student media advisor/teacher will still have oversight. And in addition to the prohibition on libel, slander, and any other speech that would violate state or federal laws, high school students must follow the ethical code of the Society of Professional Journalists, which is in the amendment to the committee amendment. Beyond the immediate implications, this legislation will also foster relationships between Nebraska public high schools and shall attempt to form relationships with postsecondary institutions to learn about and train in mass media law and journalistic ethics. Various states have implemented this legislation to protect student journalists. In fact, North Dakota and Iowa just passed similar pieces of legislation in 2015, 2016 respectively. Kansas, a state with these protections on the books since 1992, recently reaped the rewards of preserving First Amendment rights. At one of these Kansas high schools in southeastern Kansas, a student newspaper led by an incredibly bright and savvy student journalist published an investigative article that highlighted their principal's faulty credentials and questioned the legitimacy of their resumé, eventually leading to the principal's resignation because it turned out to be true. This is all because, under Kansas law, high school journalists are protected from administrative censorship, but still have the guidance of a full-time media professional and teacher. The First Amendment should carry with it no political agenda. Instead, the First Amendment ensures a free press for young Nebraskans when it comes to exercising their rights in state institutions of K-12 and higher education. It is incredible-- it is important to teach the incredible power of the First Amendment, its consequences at an early age so that we have bright civic leaders and engaged journalists. The committee amendment strikes references to private schools altogether. So we took private schools out of this. It wasn't meant to be there in the first place. So this won't affect private schools. And my amendment to the committee amendment does a few key things that I think Senator Slama and I will engage in a conversation about here pretty soon to put it on the record. One, it makes it so, and it's filed already to the bill and I'll pull it up here-- first, it makes it so that we set out the specific journalistic standards. And those standards, if you look on the committee amendment, are as set forth by the Society of Professional Journalists Code of Ethics as the code existed on January 1, 2020. In addition, we make it so that those apply just to the high school students. The college students already have their own journalistic and ethical code,

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so we take that part out. And then we also make it clear that this, the teacher, the media adviser, they have to enforce both journalistic standards and-- we change an "or" to "and"-- and also other types of academic standards as well, just to make that clear. I would like to thank my committee members who worked with me on this and that I've made several amendments for. This came out 7-0, with one not voting, who wasn't present for the Executive Session. And I also want to thank, for everybody who worked with me, from the administrators to the Catholic Conference and other folks, to make sure that this is something that is acceptable for everyone. I'd be happy to answer any questions. And as I noted, there's some amendments right after this. Thank you.

FOLEY: Thank you, Senator Morfeld. As the Clerk indicated, there are amendments from the Judiciary Committee. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President and colleagues. Good afternoon once again. LB206 was heard by the Judiciary Committee on February 1, 2019, and was advanced to General File with committee amendments. Both the amendment, AM430, and the motion to advance to General File were 7-0 votes, with one member absent. AM430 is a white copy amendment that makes three changes to LB206. First, it removes private universities and colleges from the provisions of the bill. Second, the amendment removes the liability limitation at both the university or college level and the high school level. Third, AM430 adds language regarding prevailing journalistic standards. This language, language is added to the role of the student advisor to ensure that the school media adheres to such standards. This language is also added to provide that LB206 does not authorize or protect the expressions that depart from that standard. This change applies to both the university or college level and the high school level. I would urge your adoption of the amendment, as well as advancing the bill to Select File. Thank you.

FOLEY: Thank you, Senator Lathrop. Mr. Clerk.

CLERK: Mr. President, Senator Morfeld, you had printed AM26-- AM2066, but I have a note you want to withdraw that one.

MORFELD: Correct.

CLERK: Senator Morfeld would move to amend committee amendments with AM2093.

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FOLEY: Senator Morfeld, you're recognized to open on AM2093.

MORFELD: Thank you, Mr. President. Thank you, Mr. Clerk. The reason why we withdrew that other amendment is because I worked with some of the administrators to add some other language, that's changing that "or" to "and" for the student media adviser to make sure that they understand their duties of care. And then also this amendment incorporates the other changes that I noted, including the specific standards, the types of standards that those high school students have to abide by and the student media adviser. I'd urge your adoption of both this amendment and the committee amendment.

FOLEY: Thank you, Senator Morfeld. Debate is now open on LB206 and the pending amendments. Senator Arch.

ARCH: Thank you. I just have a couple of questions for Senator Morfeld.

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

ARCH: So you draw a distinction between high school and college age. Do-- was, was there quite a bit of discussion, should there be different standards or different requirements for a high schooler versus, versus college age?

MORFELD: There was some internal discussions, particularly since college students, as you may remember, are adults. So it's a little bit different than a high school student. We wanted to make sure that-- members of the committee wanted to make sure that it wasn't just libel and slander that was the standard, that they also have to follow journalistic ethics. That's already something that is provided for in these college courses. So it's a little bit redundant for them and it could be seen as further restriction on these adults who are the college students. So that's why we have the distinction in the committee amendment.

ARCH: So in the language, then the, the Society of Professional Journalists Code of Ethics applies only to high school students.

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MORFELD: It only applies to the high school students. But actually, the college students often have more stringent ethical standards given their status as adults.

ARCH: OK. So the follow-up question is, because I'm not familiar with it, what's in those? What's in those standards? What, what's involved in them? I mean, I'm sure, I'm sure it's a long list, but what's, what's in that?

MORFELD: Yeah. I was afraid you were gonna ask me that. I looked at them over the interim. They're fairly extensive. I think my legislative aide can pull them up and get us copies of them. But essentially, what's in them is, is the standards by which you're reporting. Making sure that you have multiple sources; making sure that if you, for instance, report a sexual assault, that you're not naming the name of the accuser and the victim. Things like that. Those are, those are the things that the standards cover.

ARCH: You also mentioned it, with regards to other requirements, being good grammar, good writing, good, I mean, the skill of writing. Not just, not just putting ideas on paper, but the skill, was that-- is that what you were referencing when you were talking about other, other requirements in the courses for college students?

MORFELD: Yes. And I'm trying to find the-- yeah, here it is. If you look on page 2, line 3, it states: The subdivision shall be-- shall not be construed to prevent a student media adviser, so the teacher, from teaching professional standards of English and journalism to student journalists. And then we changed the "or" to "and", and ensuring that school-sponsored media adhere to the prevailing standards.

ARCH: OK.

MORFELD: And so, so, yes.

ARCH: All right. All right, thank you.

FOLEY: Thank you, Senator Arch and Senator Morfeld. Senator Slama.

SLAMA: Thank you, Mr. President. And good afternoon, colleagues. I voted in favor of this bill in the committee vote, and I did want to take a few time-- some time to address a few concerns that had been

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raised to me about my support of the bill. Senator Morfeld, would you be willing to yield to a few clarification questions?

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Happy to.

SLAMA: Fantastic. So, Senator, could you walk me through in a little bit more detail some of the ways you've tried to address the concerns of opponents of this bill?

MORFELD: Yeah. So if you look at the committee statement, first, there weren't a lot of opponents. There is one, at first, the Catholic Conference, because it originally applied to the private schools. We took the private schools out in the committee amendment, AM430. So that's been addressed. Second, some of the concern-- the other concern from the person that testified was just in general, just kind of being a blank check to students. And I think that we've worked hard in the committee amendment and the amendment to the committee amendment to demonstrate that this isn't just students going out and printing whatever they want. There has to be a, a media adviser that is assigned to these folks. The media adviser is usually a full-time teacher that have credentials, and they're working with them as a class to make sure that this adheres to the media standards and journalistic standards and it also follows all state and federal laws and doesn't run afoul of civil libel and slander as well. So I think that we've made it fairly clear. And I think that we've, by changing the "or" to an "and" and then also--

FOLEY: One minute.

MORFELD: --in talking to the folks, we've addressed some of those issues.

SLAMA: All right. So you said that this bill doesn't just give high school students a blank check to just print a bunch of offensive or slanderous material just for the sake of being offensive. So how does this bill protect freedom of expression for students then? And if we run out of time, I'll just hit my light again.

MORFELD: Yeah. So, I mean, essentially what it does is, if students want to talk about a certain issue, whether it be conservative or liberal or anything inside or outside, as long as it's not libelous or slander; constitute an unwarranted invasion of privacy; violates

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federal or state law; or departs from prevailing journalistic standards, then they can, they can talk about those things. And I think it's important to realize that this is being done in a controlled classroom environment. Whereas the alternative is that students post this stuff on Facebook and all these other things, that sometimes have a bigger following actually, than the school newspaper. So it's, it's doing it in an environment allowing them to express themselves in a professional way that is guided by ethics and standards.

FOLEY: That's time, Senator.

MORFELD: Thank you.

FOLEY: Thank you, Senator Morfeld and Senator Slama.

SLAMA: Sounds good. Thank you, Mr. President. Just a couple more questions for Senator Morfeld, if he would yield.

FOLEY: Senator, I think we're out of time.

SLAMA: Oh.

FOLEY: But your light is on, we'll come back to you.

SLAMA: Oh, sorry. I thought I was up again.

FOLEY: Senator Ben Hansen.

B. HANSEN: Thank you, Mr. President. OK, I don't have too much problem with the bill. Just have a couple of questions, maybe more about precedent or kind of what supersedes what. So if a high school student, because you say there's, there's-- they're following journalistic ethics. And so when it comes to-- this is mainly for high school students, which would come first, their protection from the First Amendment rights or their protection with the high school code of ethics. So if just-- if, so if a high school says, you can or cannot say this because there are certain rules, these are certain ethics of our school, but the student says, well, this protects me from those rights, which one kind of comes first?

FOLEY: Senator Morfeld, would you yield, please?

B. HANSEN: Oh, sorry. Yes.

MORFELD: Yes. Happy to answer these, answer these questions. So one or the other doesn't come first. If it violates the ethical standards as outlined by the Society of Journalistic Ethics and Professionalism, then that would prevent something from being printed just as though if it was libelous or slanderous. I mean, it's not either or and one supersedes. It has to fit all the criteria and standards of those five or six different exceptions.

B. HANSEN: OK. So for a little more clarity, thanks for answering that, though. So if a high school then, in their code of ethics or their rules and regulations according what they want to have in their paper, for instance, say: We don't want to have any kind of discussion about politics because we view it as, you know, it's just something they may not want to discuss.

MORFELD: Oh, I see what you're saying.

B. HANSEN: So and but a student still feels like they have the protection to discuss politics, would they still be able to or would they be refrained from doing that because the high school says they do not want that?

MORFELD: So they would be able to talk about politics by exercising their First Amendment right, right? So that's, that's what this bill is trying to protect. But they wouldn't be able to talk about politics if it was slanderous, libelous, if it violated some kind of journalistic ethics from that national code or violated federal or state law. So those are the exceptions.

B. HANSEN: OK.

MORFELD: So they wouldn't be able to be prevented. Now, here's the other thing. There is a student media adviser there, right? So a teacher, they're teaching the course. So they, they get to help decide too. So it's not just the students deciding what goes in there, there's also a teacher that's giving them a grade and helping guide them through this as well.

B. HANSEN: OK. All right. Just trying-- and I appreciate the answer.

MORFELD: Yeah, absolutely.

B. HANSEN: Just to figure out, like, in the, in the protection of it's like, say a school board wants something, you know, in their paper--

MORFELD: Yep.

B. HANSEN: --versus what we feel like they have the right to say, mainly when it comes to underage, you know, not adult, you know, high school kids. I just want to make sure that we're not infringing upon the school's right as well of what they feel like they want to have--

MORFELD: Yeah.

B. HANSEN: --done in their school too, so.

MORFELD: Can I respond to that, Senator?

B. HANSEN: Yes. Yeah.

MORFELD: OK. All I would say is that, yes, there are some boundaries and guidelines, the exceptions that we put in here that the school board or the administrator would be able to point to and say, hey, listen, this, this is an unwarranted invasion of another student's privacy or libelous or, or slanderous. So they would then be able to stop that, right? That being said, if they just want to talk about politics in an ethical way that doesn't get in the way of any of those exceptions, they'll have the right to do that. And that is the purpose of this bill, because we don't want any student to be discriminated against with their speech because they're expressing a liberal or conservative idea or something like that.

B. HANSEN: Sure. OK, thanks for answering those questions.

MORFELD: Yep.

B. HANSEN: Thank you.

FOLEY: Thank you, Senator Hansen and Morfeld. Senator Kolowski.

KOLOWSKI: I want to thank Senator Morfeld for bringing this topic up, and having lived in a high school environment for 41 years of my life, the one of the most important hires you can make as you're getting into building your staff is having a very good journalism teacher who is well-versed in the background of these topics with the state and with their particular district. Where we are as a district can be different from where the state is. Part of what can happen with this

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kind of legislation is that people will look at where they are and bring up, bring up more of a connection to the, the good things that are happening or the policies that exist on the state level and have a uniform way of bringing forward the journalism that they, they hope to produce. A lot of times the students may have an attitude toward doing one thing or another, but if you have a double column of a for and against, there's a lot of things you can do that makes a big difference on this. I hired very good teachers in the journalism area in the English department. They are your first wave of protection and knowledge of what's going on in their particular class with those students. And I have had some students who are more anxious and desirous than others of trying to put different things in the school newspaper. But your teacher should be able to handle that and, and do a good job with that. I don't know what all districts have as far as their board policies, but this would help a lot of different districts to align themselves with a proper way of student expression. And I think it's, it's going to be helpful to all districts as we move ahead on these particular areas. So I want to thank doctor-- excuse me, Senator Morfeld for what he has done here. And bringing this forward is good policy at this time, and I think it's helpful to see where we are as a state and people can judge themselves accordingly. Thank you very much.

FOLEY: Thank you, Senator Kolowski. Speaker Scheer.

SCHEER: Thank you, Mr. President. Would Senator Morfeld answer a few inquiries, please?

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

SCHEER: Thank you, Senator. And I apologize I didn't go over there, I just wasn't planning on speaking necessarily on this issue. When I look at the journalistic independence of students, I also look at the journalistic independence of real world to the extent that you may be a reporter for any newspaper, any TV, any radio, but your journalistic freedom only goes as far as your boss. Because, regardless of who that is, they're going to determine what they think is appropriate to be said at any point time. And I'm just wanting to make sure that we aren't taking youth and putting them in a different position than real world factors. The concern I have as well, and you can-- I'm certainly going to give you time to respond, there are some communities where

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they still may have the school newspaper, the yearbook, whatever you want to call it, but that adviser is just simply a community person that does it on a volunteer basis. So they're not an employee of the school system. And how do we protect the school system if the students feel they have carte blanche to say literally anything about anything in regards to the community or a staff member or the police or whatever, you know, whatever seems to be the de jure item of the week? I just want to make sure that we aren't literally putting youthful journalists in a subclass all to their own that really is not in a real world perspective.

MORFELD: May I respond?

SCHEER: Yeah, please.

MORFELD: Yeah. No, I think it's, it's a great question. And this is some, these are questions that came up in committee and amongst ourselves as committee members and, and out in the community. So first, there is some differences, obviously, in rural communities. Sometimes there are part-time, I didn't know that there are volunteer. Oftentimes they're a full-time staff member who's usually an English teacher. So this does put a little bit more burden on that student media adviser because they're going to be working more closely and have more independence with those students than maybe they have right now. And so it does put more of a burden on those, those individuals that are the student media adviser. That being said, the students aren't just out on an island publishing this on their own. There is some adult supervision. And I would just note that with today's technology, colleagues, students are already talking about these tough issues. If you don't allow them to do it in the student newspaper, they're doing it on Instagram, Facebook, mediums that, quite frankly, have a much bigger following than probably their student newspaper.

SCHEER: And I don't, I don't dispute that, Senator.

MORFELD: Yep.

SCHEER: But the big difference is when they are doing it in relationship to a school or a college, information that is published by that--

MORFELD: Yeah.

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SCHEER: --the liability is that of the school district or the university or college or secondary learning area, where if they do it on their Facebook or some other independent thing, it is their thoughts, their liability, not back to somebody else.

MORFELD: So actually the li-- there is, there is not going to be liability on the school on this. So in here we make it clear that it's not going to be construed as the legal position of the school. Second, we looked into and we took out an immunity provision, because in the Tort Claims Act there's already shielding there for that. So and I'll tell you that we have worked with national press law experts. There has never been a case of a school being found liable for something that students, students publish that was controversial. There's never been any liability found because the court sees that kind of distinction.

SCHEER: OK. So I just want to get it for the record here, just based on this legislation--

FOLEY: One minute.

SCHEER: --if-- thank you-- if there is something printed by a school, regardless of age category, the school is sued, they have, they are not liable for anything that the students may have published that would be derogatory to an institution or individual.

MORFELD: Correct. And I'm trying to find the line here. But we, we make it clear that this will not-- anything that's published in these student publications will not constitute an opinion or li-- or an opinion, I don't want to say a liability, but an opinion of the school or the administration.

SCHEER: OK. Thank you, Senator.

MORFELD: Yep.

FOLEY: Thank you, Mr. Speaker and Senator Morfeld. Senator Slama.

SLAMA: Thank you, Mr. President. I was hoping for Senator Morfeld to just yield to a couple more questions, if he is willing.

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Of course.

SLAMA: Fantastic. So, as I'm sure you've seen from the questions thus far, there have definitely been a few concerns raised by school administrators and leadership, worried that this bill may tie their hands when it comes to oversight of their school's journalism program. Could you take some time to respond to those concerns and the steps you've taken in this bill to address those concerns?

MORFELD: Yes, of course. Thank you, Senator Slama. As noted a few times, on page 2 and then also page 4, which deals with college students, there are several exceptions. So it cannot be libelous or slanderous; cannot constitute an invasion of privacy; violate federal or state law; or depart from the prevailing journalistic standards that we outline in the amendment to the committee amendment. So if any of the school administrators see any of that, they can stop publication of that. And quite frankly, a lot of times it's going to be the student media adviser that already flags those issues and stops it well before it even got to that level of the school. So there's several different layers, still, of accountability. Now, what they can't do is simply say, well, I disagree with your opinion on this, you can't publish that. Which is what's happening in some instances, but not all. So, so those are the things that were some of the concerns of administrators. In addition, I added some language in my amendment to the committee amendment that makes it clear that the student media adviser has that duty to adhere to those standards, both curriculum and otherwise.

SLAMA: Fantastic. And then in our hearing, for those of you who aren't on Judiciary Committee, it was a very well-attended hearing and we had several student journalists come and share their stories of the need for this bill. And Senator Morfeld, I would like to yield you the rest of my time to just chat about those examples and how they illustrate the need for this bill.

MORFELD: Yeah. If you look at the committee statement, I mean, it's pretty compelling. There was 30 or so students and, and teachers and faculty, actually, that showed up to testify to the need of this. And they brought in the stories. For instance, stories that were talking about current events in their schools or their community. They're very respectful stories. And there's just, you know, there's a lot of fear, I think sometimes, that students are going to talk about things that are inappropriate. But if you look at the stories that they're talking about, I mean, it's everything from building a new track or something going on in the national level and having a point, counterpoint, a

conservative point of view and a liberal point of view. And, and so there is a real need for this. I will tell you that there's the vast majority of the school districts across the state, they do very good at fostering this type of student expression. And, and so I want to commend them as well. I mean, it's not all bad news. But the fact of the matter is, is that students need to have the opportunity to express themselves. And I think the best opportunity to express themselves is in a controlled environment like a school with a student media adviser and being able to learn those skills, the power of the First Amendment, and also the consequences of the First Amendment. You talk about a controversial issue, you're going to have to answer to your peers and have a robust discussion about it. That's the types of experiences that we want young people to have at an early age. Thank you, Mr. President. Thank you, Senator Slama.

FOLEY: Thank you, Senator Morfeld. Senator Groene.

GROENE: Thank you, Mr. President. I'm trying to figure out why, why this bill is necessary. I would assume that any, and even when I was in high school, if you could write any, about anything you wanted in a journalism class, about any opinion you wanted and the journalism professor or teacher looked at it and graded it, you had free speech. The difference here is you're talking about a school banner on a piece of paper, represents the school board, the community. Because when you read that it's: This is what the school thinks? This is what the majority of the people in that school think? This is their opinion? And now you're going to take away the authority of the school board, the authority of the administration to peruse the paper before it's printed. All of this stuff, this section does not authorize or protect expression by student journalist that is libelous, slanderous, constitutes the unwarranted invasion of privacy. All of that list, when does that happen? Before it is printed or after it's printed? Doesn't say. Pretty hard to put it back in the can once it's printed. This is unnecessary. You have young, impressionable people depending on the politics of the adviser. That adviser will have politics. In my major school in my district, the only news channel that's played on the TV is CNN. The only one. Some parents have asked them to rotate between other news sources. They won't do it. This is not necessary. These young people-- the other thing you've got to remember, this might be written and it's going to haunt these young people for years. How many of you have the same views you had when you were 16 and 17 and then they're going to try to get a job at a newspaper somewhere or a small town newspaper that has different political views and they

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read that. We train the mind, we train the thought process in our public schools. We don't set it completely free. We don't. This could do more damage to a young person than good. They can write anything they want today, anything they want for a paper or term paper, whatever. And it's graded. And that adviser can tell them, you know, when you, when you express a story, you better have your facts a little better. And then they grade and they get a C or B. This is out in the press. It's the headline. Local school district. I go to my granddaughter's basketball, and before every game they say, fans, whatever you do reflects the school. Watch what you say, be good fans. You got that shirt on, that color. I'm sorry, but a young person puts something in that paper, it reflects the school. This is not the Omaha World-Herald, a public entity, a public business that has their own editorial board views. You are reflecting the school. If you come to a basketball game, a suit, and you are unkempt, your shoes are untied, the coach will say: You get straightened up, because you reflect the school. This is unnecessary. They have freedom to do what they want, to write what they want. They can be graded. I don't see any reason for this. You're putting the reputation of young people that they have to live with this for the rest of their lives. And it can be vastly influenced by one individual, the political views on a lot of issues by whoever the adviser is, because now they are the censor. Don't tell me there's not a censor, there is a censor. It's the political views of that adviser. That should be decided by the school board and the, the administration.

FOLEY: One minute.

GROENE: Thank you. That's enough.

FOLEY: Thank you, Senator Groene. Senator Friesen.

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

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

FRIESEN: Thank you, Senator Morfeld. Some questions as you were answering some of the other questions here brought up some questions of my own. So going back to my high school years when I did things probably that I wouldn't do today. Let's say I was on the, on the, you know, the school newspaper and somehow I get the story out there and

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it slips by my instructor. And, you know, kids have a way with words sometimes that--

MORFELD: Tricky kids.

FRIESEN: --suddenly printed something that's slanderous and somebody is upset, a parent sues. Now you're talking about liability on that issue. Can you go through that process if something does slip by and get out there and it is injurious to another student or some parents or something, but somebody ends up in court and sued for slander? Walk me through that process.

MORFELD: Yeah. So the person that is publishing the slander, the person that writes the story would be liable for the slander, but this would not be imputed to the school because we make it clear in statute that this is not the opinions of the schools that are published in the school newspaper.

FRIESEN: So as a, as a parent and my child did this, I would be subject to a lawsuit.

MORFELD: You could be, but you currently are. They could post that on Facebook and--

FRIESEN: Well, but again, I'll say Facebook and electronic media is different than having it in print in a sanctioned newspaper. Whether it's on Facebook, I guess the same thing goes whether it's put on Facebook--

MORFELD: Yep.

FRIESEN: --of the school's pages or-- I'm just talking, I know we can put all sorts of things on our gadgets.

MORFELD: [INAUDIBLE].

FRIESEN: I'm talking now of something sanctioned by the school.

MORFELD: This would not be sanctioned by the school, because in here we make it explicit in the law that is not sanctioned by the school.

FRIESEN: OK. You removed private colleges, you did not remove private K-12 schools. Did they not care?

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MORFELD: All private institutions.

FRIESEN: All private institutions?

MORFELD: Yep. And I'll double-check the committee amendment. But that's the purpose of it, is all private institutions.

FRIESEN: I just was scanning through it and I saw the colleges. But I didn't--

MORFELD: If that's a mistake, we'll take care of it on Select. All private institutions.

FRIESEN: I was just, I was really more concerned about how the, how some of that liability might be expressed and expose me as a parent to a lawsuit, because--

MORFELD: Yeah.

FRIESEN: --that's something that, when we send our kids to school, we, we don't expect that to happen.

MORFELD: Totally.

FRIESEN: We expect the instructors to cover that. But now, if you've opened that window in any way to what we would call more free speech, I-- that was my biggest concern.

MORFELD: Senator Friesen, can I respond a little bit more to that?

FRIESEN: Yes, you may.

MORFELD: Yeah. So I think the great thing about this is this makes it so that there's more, there's more opportunity for students to be able to have discussions and understand what their responsibilities are to the code of ethics. Because I think part of the problem is that young people, and even old people alike, don't understand what slander is. They don't understand that there is consequences for that. And what I'm trying to do is make it so that, one, we elevate journalistic ethics by making this one of the exemptions or exceptions, so they have to learn what it is. And then number two, making it so that students can express themselves, but in a controlled environment with the student media adviser. Now, listen, there could be a principal right now that's asleep at the wheel and let that slide by. There could be a student or a student media adviser that could also be

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asleep at the wheel. So there is responsibilities. Eventually there has to be responsibility on somebody. But what this does is it elevates journalistic standards and teaches more students that if you say that, not only in a school medium, but also put it on Facebook, Twitter, Instagram, whatever, TikTok, whatever the case may be, you have a responsibility. You have a responsibility as an individual, whether you're a journalist or an individual that's a nonjournalist. When you put something up--

FOLEY: One minute.

MORFELD: --and print it or say it, it's slander or libel, and you could, you could be civilly liable. So this elevates those standards and elevates understanding and learning around them.

FRIESEN: Thank you, Senator Morfeld. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen and Senator Morfeld. Senator Kolowski, you're recognized.

KOLOWSKI: Thank you, Mr. Speaker. One thing I want to bring across to everyone is the fact that when you look at the students that you're dealing with in this particular area, and you're dealing with some of the brightest kids in the school, you're dealing with kids who are really into the issues and know what's going on in the society around them, I'm talking about my own experiences and what I've dealt with and in working with a sponsor for that particular area, as well as the students themselves. If we had a lot of controls on the, the issue and not had good standards that we're trying to get placed into the rules now that would be available to the, to the students in their districts, we would be in a difficult situation trying to explain ourselves to the public and all others at the same time. If we had these standards and we have the standards that are being met, I don't know how many students in Class A schools would not have a teacher in with a, with a background experience in the area being the sponsor of that particular institution. That might different with Class B schools, Class C schools, or Class D schools because of the staffing issues that would come upon those particular districts. I know from this issue, from this topic, what I had to deal with as a high school principal of one of the largest high schools in the state of Nebraska for 15 years, and how important it was to have open dialogue with the people that were teaching those particular courses, as well as the students that were bringing those courses-- experiencing those courses

and bringing those productions to the, to the public on a regular basis. I hope we'll be open-minded about that. Keep in mind the, the rationale of the quality of the students that we're dealing with. And I think you'll understand how important this is in a, in a open democratic society that we have the ability to have a column that has one and another topics being discussed in a, in a realistic fashion. I appreciate it very much. Thank you.

FOLEY: Thank you, Senator Kolowski. Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. Senator Morfeld and I spoke of this off the mike here just a couple minutes ago. On page-- on AM430, page 2, lines 19-23 or 26, I think maybe, in here is what we're talking about. It reads: A student adviser shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for: (a) Acting to protect a student journalist engaged in conduct under (2) above of this section; or refusing to infringe upon conduct that is protected by (2) of this section or the First Amendment of the Constitution of the United States. What this is says to me is this setting out within the school and administration an immunity for a teacher or an employee of the school, that the administrator cannot take any action whatsoever on that individual, on that adviser. And I'm not for sure what other employee of that school, that school district would have similar immunity. If, whoever the student is, whatever they write about, if they're writing about something that's, that is extremely in their eyes, maybe not controversial or hurtful, but yet others do see it in the community and they're asked not to have that and they still continue to print that material, if that is an inflammatory or a hurtful piece, there is nothing that be can-- that can be done to that adviser by the administration if they're not following proper, I would call it etiquette or, or proper rules, following the guidance of what that school is, is about, what they stand for and who they are. So we're, we're giving immunity to, to an employee that I don't think we've given immunity, like immunity to, to any other employee in that school. So I think that's a real challenge for me to overcome. If there's another way to work that, maybe. But to flat out say that as a, and as the adviser-- and I'm, it's good that they stand up for their student. But if it's not within the appropriate character of that paper of that school and they continue to do it, there is no recourse. So I really have, I think I take pause on that immunity that's given there. And I think that that should be looked at and maybe changed a little bit that there is a way to be worked through. I

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understand potentially the intent, as some others have talked, they had a, an art-- an article they wrote and it was censored. It was taken out. It was probably-- it would have been beneficial to the school, school student body. And those are the things you're trying to overcome with this, trying to prevent. But providing immunity in certain cases, I'm not so certain that's what we should be doing. Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Senator Moser.

MOSER: Well, I just wanted to ask a couple of questions of Senator Morfeld, if he's available.

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

MOSER: So it's, to kind of mirror our discussion off a private discussion here, the problem is you feel that student journalists' work is being unduly censored?

MORFELD: Yes, we had four hours of testimony from students and teachers and advisers to attest to that.

MOSER: So four hours of testimony, you had a dozen teachers and 25 students or something or what?

MORFELD: Yeah, I think that's, that's close to the number, if you look at the committee statement.

MOSER: Yeah. And you feel that this censorship is bad enough that we need to pass a new bill to interfere in the way that school administrators run their schools? That you feel that that's serious enough that it deserves a new law by the Legislature to regulate that.

MORFELD: Yeah, and I'm not the only one. Iowa, North Dakota, and Kansas also saw this to be serious enough a problem to protect people's fundamental First Amendment right to express themselves and to create good journalists. They passed very similar laws over the last few years.

MOSER: I would think that, you know, that the reporters who write stories about, I mean, in the real journalistic world, not necessarily in the high school, that they have articles killed all the time or

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edited all the time based on what the editorial philosophy of the paper is or based on who it might anger that, that, you know, owns the newspaper or, you know, there would be a lot of politics involved. I would think growing up you might as well learn how politics works in the high school rather than giving them new protections. I don't see the benefit, I guess, in expanding protections for them. I don't know what the harm is in what they wrote not being printed. I mean, that could happen anyway.

MORFELD: Yes.

MOSER: You know, maybe I'm missing the point.

MORFELD: Yeah. Yes and no. I mean, I think the difference between your private newspaper is it's a private publication. The difference between this is that it's a public taxpayer-funded publication. I think Senator Erdman and other people talked about certain people's political views being censored on the university this last time around. This would make it so that in a government public forum, which is what a public school newspaper is, students have basic fundamental First Amendment rights to express themselves. And that's generally what we provide in government-funded forums, whether it's the sidewalk or the government-funded and sponsored newspaper, is allowing for students to be able to express themselves and protect their First Amendment rights within certain bounds, which we provide for here in the exemptions.

MOSER: As far as following journalistic standards and learning about slander and libel and what the differences are, those could be taught anyway without this bill, right?

MORFELD: They certainly could be taught without this bill, and they already are in many cases. That being said, by putting them into law, you're certainly going to elevate them and create a duty and a responsibility to those students that are going to make them more important and make them more worth learning.

MOSER: OK. Thank you. I think, I think I understand what the bill does. I'm kind of at a loss to see the reason to vote for it, though. Thank you.

FOLEY: Thank you, Senator Moser and Senator Morfeld. Senator Erdman.

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ERDMAN: Thank you, Lieutenant Governor. Been good questions, good dialogue. And as Senator Moser alluded to in his comments about the amount of people that came in and testified, and Senator Morfeld, if you would answer a question for me, I would appreciate that.

FOLEY: Senator Morfeld, would you yield, please?

MORFELD: Yes.

ERDMAN: Senator, there was a number of students that came in and testified, according to the committee statement.

MORFELD: Uh-huh.

ERDMAN: When, when they testified, I would make an assumption, and you know what happens when you assume, but I would make an assumption that there was a student or two that shared something with the committee that they had done or they had ran into some instant or, or occasion where they needed this protection. Can you share with us an example that may have been shared in the committee?

MORFELD: Yeah, I wish I would have brought the specific stories because it was about a year ago now, and I can't remember the specific details. But there were instances where, for instance, they wanted to talk about certain conservative or liberal political issues. And I-- one of the great things is they actually brought the stories that were censored, because if they brought a bunch of stories and they're clearly inappropriate, don't follow these standards and guidelines, I'd say, hey, folks, listen. But these were stories that were just kind of run-of-the-mill political opinions, quite frankly, that were very respectful, more well-written than some of the adult things that I've read. But they just had an administrator that was uncomfortable with them even talking about political issues or politics. And so those were the types of stories that were brought.

ERDMAN: OK.

MORFELD: And the types of instances. And there were a lot of them, it was pretty surprising.

ERDMAN: OK. Thank you for that. So as I, as I listen to the debate and think about what this does, it-- I think it gives immunity to those people who are under the supervision of some adult that's in charge of that part of their learning process. And I think it's important that

that adult still have some control. But as we look at this and we begin to consider what this does, I believe that we can accomplish exactly the same thing that you're wanting to accomplish here as far as instructing these young people on what is appropriate and what isn't. They can teach them these things without us passing a bill that tells them that they have certain responsibilities and they need to do things a certain way. And that can be happen-- that can happen in the instruction now. I don't know that we need a bill to do that. So unless I hear other information that makes more sense than what I've heard, it looks to me like this is a solution looking for a problem. So I think that we need to give the authority to those people who are making the decisions about what they print and what they write, should be that way because they're enrolled in a school, in a school or a classroom where that is a learning process. And we need to give those people in charge the opportunity to share with them in a way that they can learn what is correct and what isn't. So I don't know that we need a law to do that. And so unless I hear something more specific that encourages me to support this, I'm at a quandary as to why we need to do this. Thank you.

FOLEY: Thank you, Senators Erdman and Morfeld. Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. I wasn't gonna say anything on this bill. And I just wanted to make a quick comment as I've been listening to the debate, especially from listening to some of you with questions. It makes me wonder if any of you have participated in student journalism, if any of you ever wrote for your student newspaper growing up. I did. And what I remember most about it is our teacher, Mr. Behr [PHONETIC]. He wore a button that said kudos to school officials who teach First Amendment principles in practice rather than as a distant theory. Who teach First Amendment principles in practice rather than as a distant theory. And that was something that stuck with me for a long time. To speak to what Senator Groene said, the opinions I had when I was 14 to 18 are extremely different from the ones that I have now. They're very different from the ones I'm trying to put into statute and pass laws about and build policy around. And if I had to stand by the same principles I had when I was 15, I wouldn't be a very happy person because I've grown and learned a lot, as all of us have. So to say that students change their minds and they shouldn't be held accountable for things that they said when they were kids is not really a valid reason to oppose this bill. Someone else asked if this is actually a problem that's occurring, and the treasurer of the Nebraska High School Press Association emailed me,

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and she's from my district. She said, "At our annual convention that included students from all over the state, we conducted a survey that found that 78 percent of the students polled had experienced some form of censorship. That's why this bill unanimously made it out of the Judiciary Committee and is so important." This is something that's going to enhearten students who are speaking truth to power on any side of the aisle, who are trying to learn First Amendment principles in practice rather than as a distant theory. And I think that as lawmakers, that's something that we should support them in doing, and also support the Judiciary Committee in finding that there was definitely a reason to pass this bill. So I encourage your green vote and thanks.

FOLEY: Thank you, Senator Hunt. Senator Morfeld, you're recognized to close on AM2093.

MORFELD: Thank you, Mr. President. I'm closing on my amendment to the committee amendment, correct?

FOLEY: Correct.

MORFELD: OK. Just wanted to make sure. This has actually been really good debate. And I just, I wanted to, I know I have a closing and this is the committee amendment, but I think that this has been a great discussion about student free speech and expression. This isn't just about people being able to express themselves in their classroom. It's about protecting young people's fundamental constitutional right in a government environment. Everywhere else in government environments, whether it's the sidewalk, on the street, or anywhere else, we protect people's First Amendment rights. I took out the private schools because that's a private environment. That's a different set of circumstances, right? This bill promotes students being able to express themselves in acceptable way with a lot of exceptions. If there was not a need for this bill, I wouldn't have introduced it for the last three to four years. Students have been asking for this, but not only students, but also adults across the state. If you would have been there at the committee hearing, you would see why the committee voted 7-0 to vote it out of committee. And so I've talked to several senators that have concerns about the immunity for the student adviser. I have assured them that I will work with them between General and Select to take that out. If that is the main concern, is to have immunity for a student media adviser, I don't want to take it out, I don't think it's a good idea, but it's a step in the right

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direction. And so I would just let you know that this is an important bill. We wouldn't have had four hours of testimony-- if you would have seen these student journalists, these young Nebraskans, if you would've seen these young Nebraskans testifying and the stories that they had written, you would be proud. You'd be proud to be a Nebraskan and you'd be proud of our students. And so I'm willing to work with any senator on this bill between General and Select File to get it to a point where we can move the needle and protect these student journalists while also having reasonable exemptions. And I'm more than willing, if you don't think that there is a problem, to set up some meetings with these student journalism and these adult teachers to talk to you about that problem, why this bill is necessary, why it's passed in other states surrounding us, and why it actually is a problem. So, Senator Erdman, I'm more than happy to sit down and set that up so that you can see why this is an issue. All I ask is that you support this amendment, which tightens up the bill, which I think a lot of people have been talking about this amendment to the committee amendment. The committee amendment takes out private institutions and does a few other things that Senator Lathrop noted. And then let's work together between General and Select File to get it in a place where everybody is comfortable. But I'd ask that you vote on AM2093. Thank you.

FOLEY: Thank you, Senator Morfeld. The question before the body is the adoption of AM2093. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 29 ayes, 2 nays on adoption of the amendment to the committee amendments.

FOLEY: AM2093 is adopted. Further discussion on the bill and the pending Judiciary Committee amendment? I see none. Senator Lathrop, you're recognized to close on the committee amendment.

LATHROP: Thank you, Mr. President, very briefly. We did have a good hearing on this bill in the Judiciary Committee. The people that came in, the student journalists, as well as many of the instructors, made a pretty strong case for LB206. I think the amendment is important to pass and I would encourage its adoption. Thank you.

FOLEY: Thank you, Senator Lathrop. The question before the body is the adoption of AM430, the Judiciary Committee amendment. Those in favor

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vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 27 ayes, 2 nays on adoption of committee amendments.

FOLEY: Committee amendments are adopted. I see no further discussion of the bill. Senator Morfeld, you're recognized to close on the advance of the bill.

MORFELD: Thank you, Mr. President. For those just joining us, we adopted several amendments that tightens up the bill, also narrows the scope of it a little bit. As I noted, I'm more than happy to work with Senator Scheer, Senator Bostelman, and a few other people that had concerns about the immunity for the student media adviser between General and Select, and by working on it, getting rid of that provision, and then working with any other senator that would like to work with me to tighten up this bill and make it acceptable so that we can vote in support. And I'd urge your adoption and moving it to Select. Thank you.

FOLEY: Thank you, Senator Morfeld. The question before the body is the advance of LB206 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 27 ayes, 5 nays on the advancement of the bill.

FOLEY: LB206 advances. Items for the record, please.

CLERK: Thank you, Mr. President. A few bills, new bills. LB992 is a bill by Senator Friesen. It's a bill for an act relating to telecommunications; it adopts the Broadband Internet Service Infrastructure Act. It states legislative intent; provides for a state broadband coordinator; provides duties of the Public Service Commission, the Nebraska Library Commission; creates the Nebraska E-Rate Special Construction Matching Fund Program; it changes provisions related to the release of dark fiber; and terminates a fund. LB993 is by Senator Lowe. It's a bill for an act relating to city manager plan of government. It changes provisions relating to the number of members of the city council. LB994, Senator Murman. A bill for an act relating to health. Adopts the Organ Transplant Fairness Act. LB995 is by Senator Gragert. It's a bill for an act relating to appropriations. It appropriates funds to the Commission on Public Advocacy for Legal Education for Public Service and Rural Practice Loan Repayment Assistance aid. Excuse me. I have a series of hearing

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notices from the Banking, Commerce and Insurance Committee; the Health and Human Services Committee; and the Revenue Committee. New resolutions. Senator Clements offers LR296, that will be laid over. Senator Bolz would like to withdraw LB904, that will also be laid over. Mr. President, that's all that I have.

FOLEY: Thank you, Mr. Clerk. We'll now proceed to the next bill. Mr. Clerk.

CLERK: Mr. President, LB230 was a bill introduced by Senator Pansing Brooks relating to juvenile facilities. It changes provisions and provides requirements for room confinement for juveniles. Introduced on January 14 of last year, referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments pending.

FOLEY: Thank you, Mr. Clerk. Senator Pansing Brooks, you're recognized to open on LB230.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor, members of the body. LB230 is a bill that restricts the use of room confinement in juvenile facilities, except when it is necessary to eliminate a juvenile's substantial and immediate risk of harm to self or others. LB230 further specifies minimum standards of room-- of the room to be used for confinement; what necessitates-- what, what necessities should be available to any juvenile held in confinement; who must be notified of placement in confinement; and procedures that shall take place following confinement. I want to first offer some background on what has led to this proposal. In 2016, the Nebraska Legislature passed LB9-- LB894, a large juvenile justice package that included a bill that I brought to establish a system of investigation and performance review to provide increased accountability and oversight regarding the use of room confinement for juveniles in a juvenile facility. Nebraska law now requires facilities that serve children and youth to document information every time a child is placed in room confinement. It also requires the Inspector General for Child Welfare, who is now our new, brand new Ombudsman, Julie Rogers, to collect data, assess the use of room confinement and present an annual report to the Legislature. We were strengthened these reporting provisions further through legislation that I introduced in 2017: LB516. In line with these statutory requirements, Julie Rogers as the Inspector General, has recently released reports that show many facilities are grossly overusing room confinement. National best practices show that

room confinement should only be used for reasons of safety and when less intrusive interventions have been exhausted. Room confinement should not be used as punishment, retaliation, or as a matter of administrative convenience. According to the Inspector General's report, from 2018 to-- from June-- July 2018 to June 2019, the number of youths subject to room confinement in Nebraska was 621, confined alone for a total of 3,374 times. Reported confinement ranged from 15 minutes to as long as 113.8 days. The report also shows that limited changes have been made to juvenile room confinement among the facilities that report. The report pointed out, as was noted in previous years, that YRTC in Geneva had a higher population of youth who are considered a danger to selves, quote unquote, and continued to use solitary confinement for girls who were believed to be suicidal or self-harming. As Inspector Julie Rogers mentioned in the report, use of room confinement for these purposes isn't trauma-informed nor supported by research. Quote, In fact, best prac-- practices indicate that youth who are at high risk of suicide are-- or self-harm should not be isolated, end quote. As many of you know, I was among a contingent of senators that visited the YRTC in Geneva in August after the YRTC in Geneva reached a crisis point. I immediately asked to visit the girls in solitary because I wanted to get an immediate snapshot of what was happening. Three girls, three of the girls had been in solitary for five days at that time. Two of the three confinement rooms had no working lights. Wires were exposed. And one girl, one of the girls didn't have a mattress and was instead sleeping on the wooden platform. I took pictures of what I saw and I do have them here with me today. You're welcome to come and see the desperation that you'll see in them and the shocking, the shocking view that the pictures and the story that the pictures tell. I knew solitary confinement was an issue, but even I was shocked by what I saw. Colleagues, we have been lulled into believing facilities were using, quote unquote, room confinement. But what I saw was solitary isolation, plain and simple. I bring LB230 so Nebraska kids-- so Nebraska can integrate best practices on room confinement to do better for our Nebraska kids. Others have led the way on this necessary best practice. The use of solitary confinement for juveniles was banned three years ago in the federal prisons. Further, nine states have enacted legislation to limit or prohibit juvenile solitary confinement, including Texas, Oklahoma, Nevada, West Virginia, and Alaska, according to the Nebraska-- National Conference of State Legislatures. When I brought this bill last year, there were concerns about, about some of the time limits on room confinement duration. I

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had some productive discussions with county officials and does-- and addressed their concerns in this year's bill. So no stakeholders opposed this bill at the hearing. You can see that the Department of Health and Human Services attached a large fiscal note on LB230 based on the words, quote, continuously monitored, end quote. Apparently they interpreted this to mean that some sort of physical presence must be with the children in confinement at all times. We address the term "continuously monitored" in committee AM450, which follows, which makes clear this monitoring can be done by regular visits by staff. They may also supplement that with electronic video monitoring if they have that in place. I know that the Lancaster County Youth Center has staff check every 15 minutes, for example, and that sounds more than reasonable to me. We've spoken to the Fiscal Office, which inform-- and they have confirmed that the definitional change should eliminate the fiscal note. In closing, I believe LB230 helps ensure we are keeping our Nebraska children and staff safe in our juveniles facilities while helping children rehabilitate and become productive members of our society. I ask you to vote green on LB230 and on AM450. Thank you.

LINDSTROM: Thank you, Senator Pansing Brooks. Senator Arch, you're recognized. Oh, excuse me. As the Clerk stated, there are committee amendments. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. And good afternoon once again, colleagues. The Judiciary Committee held a public hearing on LB230 on February 14, 2019. A week later, the committee voted to amend LB230 with AM450 by a vote of 7-0 with one member absent. The bill advanced with the same vote. AM450 replaces the original bill. The amendment makes two main changes to clarify definitions. The first change is to add additional language to provide that continuous monitoring of juveniles in room confinement can be accomplished with in-person visits and video monitoring. The second change is to remove a new definition of juvenile facility in the original bill and replace it with references to specific facilities covered by the new requirements found in LB230. I would encourage your support of not only the amendment, but the underlying bill. Thank you.

LINDSTROM: Thank you, Senator Lathrop. Senator Arch, you're recognized.

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ARCH: Thank you. I just have a couple of questions for Senator Pansing Brooks.

LINDSTROM: Senator Pansing Brooks, would you yield to a question?

PANSING BROOKS: I will.

ARCH: You used the term "room confinement" and "solitary confinement." Do you use those synonymous?

PANSING BROOKS: Well, it's interesting because there are about, I think there's about 34 terms that people use and that's what I was talking about, that we were sort of lulled into believing that, that-- before in the previous bills with definitions and trying to get the demographics on who's going into confinement, we were, we were told: We'll use room confinement because, and because they're basically just left in their rooms with all their books. They can write letters to their family and all that. What I clearly saw and what I have before, any pictures that you'd like to see, is complete isolation. Nothing in the room. One girl did have six pieces of paper and a pencil. So it is very difficult. It is not, it is not clear. We have tried to overarchingly include all of the terms so that isolation is not room confinement, I mean, so that room confinement isn't more of a soft term indicating, which it had to me before that they got all of their things and they could write their families and things and have their books.

ARCH: I'm sure, as you know, the Health and Human Services Committee has also been very engaged in the issue--

PANSING BROOKS: Yes.

ARCH: --with Geneva and Kearney. And I, I notice in this, in this proposed language that there's very specific language that says "A juvenile shall not be placed in room confinement for any of the following reasons." I'm a little unclear as to then what would be the reason for placing a juvenile in room confinement.

PANSING BROOKS: Well, best practices say if they are a substantial or immediate risk of harm to self or others. Those are the, those are the reasons, but not for retaliation, not for administrative convenience. Those kinds of things are not considered best practices. And, as you probably know from your work up at Boys Town, they are, they are

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complying with a lot of this, and we've worked with them sufficient-- significantly on this.

ARCH: Yeah, this has always been one of our challenges, even on the committee, as we, we understand that this is-- that the Y RTCs, this is not a treatment as in medically necessary treatment, but rather this is, this is more of a juvenile justice issue that we're, that's we're dealing with. And I think this is probably some of the issues that we have in trying to find that definition and know exactly how best way to handle that.

PANSING BROOKS: And I agree. And if I can just add to that, it is supposed to be rehabilitation and treatment, as you're saying. And the youth services, the, the county service here for youth, is supposed to be more criminal justice directed. So, and that's what the judges had been so upset about with the changes at Y RTC Geneva. But that's a whole other story.

ARCH: So, so I'm assuming you've been having discussions as well with the Department of Health and Human Services that oversees the care within the Y RTCs. What was, what was their feedback? I guess concern that I would have is are we, are we restricting what they-- the, I guess the, I am, I am trying to find the word, the-- how they can, the op-- how they can handle the options that they have and dealing with, with a juvenile, with a youth that, that is out of control? Did they give you feedback that this is overly restrictive, that this is going to put conditions on them that will make it very difficult for them to run the program there?

PANSING BROOKS: Well, as you can see from the legislative history and the committee statement, they did not come to it. We have worked with them. I presume it's a difficult situation all the time. But best practices, no one can argue that best practices are not to put kids--

LINDSTROM: One minute.

PANSING BROOKS: --in solitary. It makes them much more-- it causes psychosis, it, it has a great, greater chance of harm and trauma for them.

ARCH: But where there is a substantial risk of harm to self or others, it is an option that they would have to use room confinement.

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PANSING BROOKS: Oh, yes, definitely. Yes. And that's what we were really clear about.

ARCH: All right. Thank you.

PANSING BROOKS: And, you know, the goal is to have it for hours, not up to 100 days--

ARCH: Right.

PANSING BROOKS: --to get things calmed down and get some help and get nursing or psychologists in to help, help with the whole situation.

ARCH: Thank you.

PANSING BROOKS: Thank you, Senator Arch.

LINDSTROM: Thank you, Senators Arch and Pansing Brooks. Senator Geist, you're recognized.

GEIST: Thank you, Mr. President. And if Senator Pansing Brooks would yield to a couple questions, please.

LINDSTROM: Senator Pansing Brooks, would you yield?

PANSING BROOKS: Yes, of course.

GEIST: Thank you. I just wanted to clarify, and I think you just did a second ago. But just to make sure that I heard correctly, was the longest period of time that the IG reported that a youth was in in-room confinement 113.8 days?

PANSING BROOKS: Yes.

GEIST: Is that correct?

PANSING BROOKS: 100-- yes, I'm trying to find it one more time. But yes, it was 100-- it went from, yes, here it is. I'm sorry. Fifteen minutes to as long as 113.8 days. Yes.

GEIST: OK. And I noticed in your legislation, which I agree, that is an extraordinarily long time to be in, in a room, the use of consecutive periods of room confinement, that your legislation is specifically stating that that should not occur. That consecutive days or consecutive periods. And I'm curious if that is wrapped around a

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definition. Is there a specific definition for those consecutive periods?

PANSING BROOKS: We were not that specific on it. And I am a little bit concerned about that because when we look at Inspector General Rogers' report, the number of children that have been placed in solitary has gone down a little bit. But the incidents have gone up. So one of the things that we're slightly concerned about, and here is, you know, a little warning to HHS to figure that out, but is whether or not they're putting a child into solitary confinement until like 10:00 at night. And then they'll say, oh, well, you're really out of solitary, even though you're just sleeping from 10:00 at night until 7:00 in the morning. So why did the number of incidents go up, but the number of children down? So I, I don't, I'm just hoping nobody is messing around with the numbers a little bit.

GEIST: So you're just needing clarity on that?

PANSING BROOKS: We need clarity.

GEIST: OK.

PANSING BROOKS: But that, I mean, if that's something you're concerned about, I can work on it over the-- between.

GEIST: I'm just curious on how, what would be considered a consecutive period of time. That's just clarity there was my only, my question.

PANSING BROOKS: Yes. Well, consecutive meant--

GEIST: Well, one after the other.

PANSING BROOKS: Yes.

GEIST: But just on, on a specific time frame. And I have one other question.

PANSING BROOKS: Sure.

GEIST: And I briefly brought it up to you a minute ago, so I'm not-- my intention is not to put you on the spot.

PANSING BROOKS: Yeah.

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GEIST: But, but I'm interested in your response to that. And that is, could you let us know as a body what the process is? It is not definitely delineated in your legislation, but I had asked what is the process when a youth is put into in-room confinement? What does that look like and how would this legislation change that? What's happening currently?

PANSING BROOKS: Well, hopefully what will happen is that there will not be confinement for ex-- really extended periods of time. We have not been specific as to, like, what has to be done to put somebody in other than giving notice.

GEIST: Uh-huh.

PANSING BROOKS: And when we-- I had said originally immediate notice in the bill when I wrote it, and then we switched it because we did get some pushback from the department saying that's too fast, and that instead 24-hour was more reasonable. So they are, they're trying to let families and others know of the trauma that's going on with the child.

GEIST: OK.

PANSING BROOKS: So but we didn't specifically, other than putting them in with the notice that they were to get them out as soon as things had calmed down. As soon as they could get all the different parties more under control. And again, we want it to be monitored to make sure, you know, when, when I went--

FOLEY: One minute.

PANSING BROOKS: --and talked to those girls, when I was speaking to the girls that I have pictures of-- and I think if any of you are interested, they're pretty shocking. Anyway, when I talked to them they, they said, well, yeah, somebody will come by and sort of knock on the door and go: You OK? And they will, like, come up, because it was pitch black. There's nothing else in the room, nothing to do. And they're sort of under a blanket and they're like: Yeah, I guess. And nobody was coming in--

GEIST: And Senator Pansing Brooks, I just want to emphasize one thing you did say--

PANSING BROOKS: I'm sorry.

GEIST: --because I want to make sure it gets on the record.

PANSING BROOKS: OK.

GEIST: And that is this that you said each facility will have its ability to set up their own protocol.

PANSING BROOKS: Yes.

GEIST: And this would be one of the guides they will use. I think that's important to know. I think that's important for the body to hear. So--

PANSING BROOKS: OK. Thank you. I'm sorry.

GEIST: Thank you.

PANSING BROOKS: Yes, that is true.

GEIST: No, thank you.

PANSING BROOKS: I got off on a tangent.

GEIST: Thank you very much. That's-- I yield back the rest of my time.

PANSING BROOKS: You'll be so surprised.

GEIST: Thank you.

LINDSTROM: Thank you, Senators Geist and Pansing Brooks. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President. Colleagues, I support not only the amendment, the underlying bill. I happened to have been one of the senators that went out to Geneva to see the facilities. And frankly, we went out there unannounced, it was when we first got wind there was a problem. Senator Howard and Pansing Brooks, Brandt, and myself went there. The idea was for us to have a look around before you get the executive tour. And you guys have all been on an executive tour where you show up at the Regional Center, some state facility, and the warden or the person running the place has everything sanitized. And you get the, you get the view where everything looks perfectly normal and, and all the staff is happy. What we saw was something entirely

different. And the idea of confining a young person to room confinement, I'll call it, is theoretical before I got out there. I will tell you that we did, we went through-- they have one building, it's called LaFlesche, and LaFlesche is the more newer building that happened to have a great big hole in the middle of one of the rooms because of an unresolved plumbing issue. But that, that facility had a, I think they called it a blue room, where kids that are upset and they need to calm down, they put them in there. You can see them, it's mostly glass. It's what we're looking to move towards. And from there, that building was completely empty because of some maintenance issues, we went over to one of the old housing units. And when we got to the housing unit, we walked, one of them has a-- you get to the end of the hallway and there's two doors. If you can imagine this, there's two doors. We open the doors and then there's a row of room confinement rooms. And we started to walk up and down the hallway and we saw girls in there. And I remember going into one room and there was a girl who was a young woman who was, I don't know, 14, 15, something like that. Not very old. She was lying on a mattress that was sitting on the floor. And the rooms, they have windows, but they're obscured. So it's very, very dim in there. And there was no light that worked. No light. None. She'd been there like five days. We went to another place, we looked at this whole row of, whole row of rooms. I think a light worked in maybe three out of a dozen of these rooms. And you-- we got to think about what we're trying to do. When we're talking about juveniles, we're trying to take-- and, and the law treats them differently for a good reason. We're trying to say, we're not going to punish you like an adult because you're a kid. And most of these kids are having problems either because of a psychiatric issue or the circumstances under which they were raised. And the idea of the juvenile code is to try to rescue them, get them on the right path so that they can become productive adults. Putting them in these rooms doesn't work. It traumatizes them. And it was-- the scary part was this girl was used to it. She'd been there long enough that she got used to it. She couldn't read a book. She had some wadded up paper, she had tried to write a letter and couldn't because it was too dark. This is a very serious issue. And it's part of the idea that we're going to make some reforms as a consequence of what we've seen as the problems at the YRTC's. This is a good step in the right direction. It's important that these young people, if we put them in a room by themselves for the purpose of isolating them, that it lasts--

LINDSTROM: One minute.

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LATHROP: --only as long as it takes for them to chill out. And, and, if you go to Boys Town, which I've also-- which I've also toured this summer, many of you did as well, they have these rooms, too. There's like monitors, there's glass so people can see what's going on so that, that young person doesn't harm themselves. But sometimes they just need to be segregated from the group long enough to catch their breath, to de-escalate and then come back where they can again return to a therapeutic environment. This is a, this is a consequential bill. It's important. I have had some conversation with Senator Stinner about county jails and whether they're in or out of this. That's something that we can address between now and Select File. But I really would encourage you to support this bill as one of our first steps in trying to treat juveniles and provide them with treatment and rehabilitation and not try to punish them by isolating--

LINDSTROM: Time, Senator.

LATHROP: Thank you.

LINDSTROM: Thank you, Senator Lathrop. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President. You know, as a senator who has a YRTC located in his district in Kearney, which was YRTC for the boys, is now YRTC for the boys and girls. And I hear the senators talking about YRTC Geneva. As of right now, there are no girls in YRTC Geneva. So I think that problem has been taken care of. Right now, they're all in Kearney, and only those girls who are getting ready to get out will return back to YRTC Geneva into LaF-- LaFlesche, which has been completely remodeled and is almost state of the art. It's a nice facility now, but there will probably be only four girls there at a time, something that is easy to manage. And they will get ready to get out and join the public once again and, and go about their daily lives, hopefully as successful young ladies. But I talked to the staff members. I talked to the young people that are up there, but I also talked to the staff members. And the staff members are some of the ones that get injured during these assaults, for the reason why these youth are going to these rooms. I can show pictures of those staff members, too. One has a broken neck, one's face is all beat up. I was up there the other day when seven youth escaped from YRTC. And I talked to the young staff member, the young lady who the youth tried to put his fist through her chest. So I stand here in support of the staff and their decisions, and they know what's going on, unlike us

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who sit here in Lincoln and try to tell the people in Kearney what to do. That doesn't always work well. By implementing this, Kearney will probably have to hire 10 more staff members to achieve this goal. We are about 30 staff members behind now that we can't hire. So how do we implement this? And does it just take one hour for a youth to calm down? Because that's all the time we're giving them, is one hour to calm down. And then what do we do with them? We return them back to the same vicinity where they were before that they had just assaulted somebody. And that youth or staff member is right there and they have to deal with that same person. Is an hour a long enough time for somebody to cool down? We in Lincoln, we're here in Lincoln, sure it is. But how about if you're sitting there in the room with that youth? I know Senator Arch is going to need some time to discuss this. I'd like to yield the rest of my time to Senator Arch.

LINDSTROM: Senator Arch, you're yielded 1:25.

ARCH: Thank you, Senator Lowe. I just, I again, I'm just trying to get my, my head around this. We've been talking about, we've been talking about the RT, I mean, the YRTCs as, as examples of where this has become an issue. But the bill, of course, on, on page 5, Section 5, I can--

LINDSTROM: One minute.

ARCH: Yeah, and I think my light is on as well. But on, on page 5, Section 5, it-- let me see if I can find it. I apologize here. It refers to juvenile detention facility staff, secure juvenile facility, facility operated by the Department of Correctional Services or by any county that houses youth under the age of majority, or the YRTCs. And so I, I do have some questions, but I'm going to, I'm gonna wait. My light is on, I'll, I'll wait until that time. Thank you.

LINDSTROM: Thank you, Senators Lowe and Arch. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President. I rise today with a few questions about LB230 that I was hoping Senator Pansing Brooks would be willing to yield to.

LINDSTROM: Senator Pansing Brooks, would you yield to a question?

PANSING BROOKS: Me? Oh, sorry. Yes.

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SLAMA: Thank you, Senator. So I just had a couple of clarification questions on my end. So does this bill apply to juveniles that have been tried and sentenced as adults?

PANSING BROOKS: It includes all, all juveniles. But, but the ones that had been sentenced as adults were already taken care of last year in Senator Vargas's bill. So these children have not been given the same protections as the children who are sentenced as adults.

SLAMA: OK. So I also had a question about the notification requirement for parents. We had this issue come up in LB147 yesterday, so it piqued my interest. Do you think that one business day is a sufficient length of time to get parents notified? I know that some of these juveniles, unfortunately, don't have parents or guardians that are that involved with their lives. So it may be a struggle to get a hold of them within a business day.

PANSING BROOKS: So as I said previously, when asked by Senator Geist, that they had, they had-- I had written immediately in the first bill, and I sent it back with the correction of 24 hours and they had no problem with it. So they're obviously calling people and it's not a problem.

SLAMA: OK. And then--

PANSING BROOKS: If the, if they, if something has changed, I'm willing. But as you saw in the hearing, no one came in on that.

SLAMA: Yeah. It had just been something that was in the back of my mind with yesterday's--

PANSING BROOKS: Sure.

SLAMA: --discussion on LB147. And then finally, and I'd like to yield you the remainder of my time to speak to this issue, so county jails, as I'm reading right now, are included in this. Could you discuss the intent there? Because I do see some different challenges in implementing this in a YRTC versus a county jail setting. And I'd just like to yield you the rest of my time to answer that question.

PANSING BROOKS: OK. Well, the difference is the part-- I'm sorry.

LINDSTROM: Senator Pansing Brooks, you're yielded 2:40.

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PANSING BROOKS: OK. This affects all children in Nebraska. Senator Vargas's bill last year handled the children and set-- and it was a ban on solitary for children that were sentenced under the adult prison system. I've been concerned and also at that point thought about trying to merge this, because I had this on the floor at that point, because it didn't make any sense to separate it. It's clear that, especially with the YRTCs, where they're sentenced for rehabilitation and treatment, to be giving them the least trauma-informed treatment doesn't make any sense. So, yes, if they're at a place that, that is because they've either-- are you saying because they've been sent by the adult system to a county jail? That's already true under Senator Vargas's bill. So I'm not sure what you're asking. It looks like Senator Vargas is coming to talk to you about it. But are you-- OK, good. So I have nothing further to say, but it's this is to close the gap and cover all children within the state of Nebraska. We have, we've covered them for the adult system, now we need to cover them for youth and rehabilitation. And also just to clarify. Number one, Senator Lowe, it is, it is not just for the girls, it's for the girls and the boys. Number two, it is not room confinement for the-- the only thing that's a 24-hour period is that it's already part of--

LINDSTROM: One minute.

PANSING BROOKS: --law that that they have to report and give the information on demographics, ethnicity, age, gender. So they have to do documentation on race, age, ethnicity. So if it's longer than one hour during a 24-hour period, so that if it, so if it's not, if it's 15 minutes one day, 15 the next, and 15 the next, they don't have to do all that documentation. If they have an-- longer than an hour period during a 24-hour period, they do have to file the documentation. And that's what they've been doing anyway already. That's already part of our statutes.

LINDSTROM: Thank you, Senator Slama and Pansing Brooks. Senator Howard, you're recognized.

HOWARD: Thank you, Mr. President. I rise in support of LB230 and AM450. And I just want to sort of talk a little bit about what the Health and Human Services Committee has been doing for the past six months, because I assure you, we have been working quite diligently. The Health and Human Services was first-- Committee was first alerted to the challenges in Geneva on August 12, and since that time has been

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engaged in a fact-finding process that has been very comprehensive and arduous, I would say. And then, and just so everyone is aware, next Wednesday the committee will release its recommendations to the body at large around the YRTC's, around the issues that arose in Geneva and the ongoing issues in Kearney. And so you can anticipate those. Although we do not deal specifically with room confinement, partially because we knew that Senator Pansing Brooks had LB230 sitting and it addressed a lot of the concerns that I saw on my first day. When I went to Geneva, I was stunned by the situation for children in room confinement. I was stunned by the facilities. I was stunned by sort of how staff didn't interact with girls. They were just there to make sure that they didn't harm other people. But there was no programming. And then I was stunned by-- I remember standing outside of a door and a girl was crying, saying: Let me out, let me out. And all of the girls who were with me said, you can't talk to her. You can't talk to her, and we're not allowed to look at her. And so the, the, the OD was standing right next to me. And I figured, well, I'm a senator, I can do what I want. And I said to her, I said, you know, we're here, we're going to try to fix this. And two days later, they were all moved to Kearney. What I was struck by was that she was in the, in a dark room, that the light fixture didn't work, and that there were several rooms where the light fixtures either didn't work or had been removed. And then they had taken sort of a metal plate and covered the hole where the light fixture had previously been. And so there were several rooms where, even if you were-- even if that was your room, that was your bedroom. There was one girl who said, this is my bedroom. And I said, well, you don't have a light. And she said, well, this is my bedroom. And so even if you wanted to go, like, sit in your room and take a break and read a book, you couldn't do that. But then if you were on confinement, you wouldn't be able to read a book, write a letter home, or do anything like that. It's literally you're in a dark room for four days. An LMHP is required to visit you, or a licensed mental health practitioner, at least once during your room confinement. What the girls reported was that the, the licensed mental health practitioner was maybe too busy. And so they would yell through the door: Are you OK? And if a girl said, well, I mean, yeah, I guess I'm OK, then they would say, OK, you're fine. And that sort of met that standard. Each girl was required to get one hour of exercise. And so instead of allowing them to go outside, because by the, by the time we were visiting, the girls were not allowed outside, they would wheel in sort of an exercise bike and they would exercise in their room if they so chose. I think there were a-- I had a lot of grave concerns about

room confinement and the way it was being utilized. And what I appreciate here is that room confinement now with the passage of LB230 can't be used as retaliation, it can't be used for punishment. We can't say we don't have enough staff, so we're gonna put you all in a room and we're gonna leave you there for four days, especially if the rooms are not in a condition. It also requires that they have heating and lighting, and we shouldn't have to say that, right? You would think that people would know that. But, but clearly we do because we're not seeing these things being utilized in some of our youth rehabilitation and treatment centers. The other piece, I think--

LINDSTROM: One minute.

HOWARD: --I would like to add for the record is that room confinement is different at Kearney than it was at Geneva. In Geneva, all of the girls had their own rooms-- here, I'll turn on my light. All of the girls had their own rooms. If they needed to cool off, they could go into their own room, read a book, relax, take a nap. In Kearney, the boys-- the girls still have their own room, but the boys all have-- sleep in a dormitory setting. And some, and that is actually where we have the most, what you would consider safety concerns. And the safety concerns come at night because the guards are situated, they would have to walk through the dormitory in order to get out. And so if there's any recommendation that we can make, we ought to consider addressing the dormitory situation. Because there's a safety issue, they have to sleep with the lights on. So I don't know if any of you have tried to sleep with the lights bright on, but it's very challenging. And then you don't sleep enough and then, obviously, your behavioral issues are exacerbated during the day. I know that we have a staffing shortage in Kearney.

LINDSTROM: Time, Senator.

HOWARD: Thank you, Mr. President.

LINDSTROM: Thank you, Senator Howard. Senator Arch, you're recognized.

ARCH: Thank you. I want to make clear on this particular bill that I am not, I'm honestly not concerned with the intended consequences of the bill. It's always the unintended consequences of our bills that, that give us most problems that we have to come back and say, well, we didn't anticipate that. So I'm just trying to anticipate some of those. And, and I want to go back to the definition of room

confinement, which is on page 3 [SIC], I believe, of this, of the bill. And it, here, here's how room confinement is defined. "Room confinement means the involuntary restriction of a juvenile placed alone in a cell, alone in a room, or alone in another area, including the juvenile's own room, except during normal sleeping hours, whether or not such cell, room, or other area is subject to video or...electronic monitoring.'" With-- it was actually page 2. With, with that, then when we go to page 5 and we, and we see the various institutions that would be covered by this, this is where some of my concern comes. And I understand there's some discussion even now on, on how to address some of this. But when you start listing a juvenile detention facility, a staff-secure juvenile facility, a facility operated by the department, or any county that houses youth under the age of majority, and I stumble there because I think of the counties and I think of the limited resources. I think of the one juvenile that may be in, in juvenile in, in that detention at that particular time. And, and does that mean with, with room confinement, as defined in this bill, that the county would not be able to leave that juvenile in their cell? In this case, it's not the YRTC but, but within their cell. Or would that, would that juvenile have to come out? Do they have the staff? Do they have the space? What about if there's adults in the same area, all of those issues? And I'm sure that, I mean, there's been discussion on this bill for some time. So, Senator Pansing Brooks, if you have comments on those types of what I would consider to be may be unintended consequences, how would you address those?

LINDSTROM: Senator Pansing Brooks, would you yield?

PANSING BROOKS: Yes, thank you. Now I'm understanding that question better, and I'm sorry I didn't really respond to Senator Slama either. I received help from Mr. Henningsen, legal counsel for Judiciary. So I think that is correct. Part of the, part-- an unintended consequence might be a child that's placed in a county place for a little bit, too, before they're placed in a final destination and that we have to, of course, allow that child to be placed alone. The intentions were not to punish the child or to have any kind of retribution. So we can fix that. I think it's a good fix between now and, and Select. So I appreciate bringing that up, Senator Arch. And can I add one more thing? Or did you have something? Go ahead.

ARCH: I have one more quest-- I have one more question.

PANSING BROOKS: OK.

ARCH: And that is, that is the fiscal note. You referenced that earlier.

PANSING BROOKS: Yes.

ARCH: Did you say that there was a fix for the fiscal note?

PANSING BROOKS: There is. I--

ARCH: Could you explain that, please?

PANSING BROOKS: You bet. Thanks for asking. So when I, when we first drafted this bill, we had "continuously monitored." So fiscal, the Fiscal Office took that to mean somebody, they had to hire somebody to sit in the, in the child, in the juvenile's room. So that is not what was intended. And so we took that verbiage out. And by doing so, they said, you know, and that's what I'd said that in Lancaster County they go and run by and check every 15 minutes or so. But if you also have video conferencing, you could be watching that way. So Fiscal said there will be-- not be a note once that has been fixed like that.

ARCH: And so that would be another, another issue as it relates to the counties, because I'm sure some don't have video monitoring. And do they have to have continuous monitoring if they have one juvenile in their, in their--

LINDSTROM: One minute.

ARCH: --detention at that moment? And do they have to have continuous monitoring?

PANSING BROOKS: Well, they're going to have to check periodically on that child.

ARCH: Well, yeah. Which is not continuous monitoring.

PANSING BROOKS: Well.

ARCH: So.

PANSING BROOKS: It's, it's a definition of what continuous monitoring is, yeah.

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ARCH: Right. So I, I just say, as I say, I'm not, I'm not opposed to the intended consequences of the bill. But I just want to make sure that we have discussion of those and make sure that we can cover as many unintended consequences as possible. Thank you.

PANSING BROOKS: I appreciate that.

LINDSTROM: Thank you, Senators Arch and Pansing Brooks. Senator Brandt, you're recognized.

BRANDT: Thank you, Mr. President. Thank you, Senator Pansing Brooks, for bringing this bill. Geneva YRTC is in my district. I'm very proud of that, as are the people in Geneva. Started in 1892. Two years ago, they scored 100 on their accreditation. They were the best in the nation. To those of you in this room and those of you watching, be very careful. This shows how fast you can go from the very best to the bottom of the heap. We are here for oversight. We are here to watch that things like this will not continue to happen. Senator Lowe, I agree with you, staff assaults are a serious problem at Kearney and at Geneva. And I have talked to the CEO of HHS and said I would be more than willing, as I am-- I know you are more than willing to address that particular problem. My concern also is for the, for the children in these facilities. Now, it's pretty tough sometimes to look at, at some of these kids that are 14 years old or 18 and a half years old, and they're bigger than I am. And they can be violent, but they didn't get sent to the YRTC just for their health. When we toured Geneva, I was appalled. And I can't speak to Kearney, but I can speak to when I went with Senator Lathrop and Pansing Brooks and Senator Howard to Geneva. When we went to the room confinement specifically, I saw some girls in there. The rooms were dark, there were no lights in the room. The one that I talked to did not even have a mattress in the room. The only thing she was allowed was a pencil and some paper, no books, nothing else. And I think she'd been in there for three or four days. And I didn't ask her specifically why she was in there, but she was conversant. I mean, she was willing to talk to us. Senator Howard, would you yield for a question?

LINDSTROM: Senator Howard, would you yield?

HOWARD: Yes, I will.

BRANDT: Do you recall on, and I think you talked to this individual also, what the situation was with their education? When they go into

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room confinement, were they supposed to come out and take their schooling or what that situation was?

HOWARD: I don't think they come out to get their schooling. I think they get packets from the school. But it's hard to do packets in a room that's completely dark.

BRANDT: Yeah, I, I-- yeah, there was just a little window in there and there was no light. It would've been very difficult to read anything, let alone learn anything in that environment. Would you agree with that?

HOWARD: Yes.

BRANDT: So, yeah, I guess for the people of Geneva watching today, we're working on this. I know HHS Committee members, thank you very much for all you have done and are going to do. The attention is, is getting brought to bear on Geneva, on Kearney, and on Lincoln. And with that, I would yield the rest of my time to Senator Howard.

LINDSTROM: Senator Howard, you are yielded 1:45.

HOWARD: All right, I will use it well. Thank you, Mr. President. Just to finish my previous thought. I think we're all aware that there's a staffing shortage across the state, but in particular, there's one at Kearney because of the new challenge of having the girls on the same campus. Something that I think we can all acknowledge, though, is that it's not a best practice to have boys and girls on the same campus. What we're seeing is that because the PREA ratios are quite a bit lower than what you would see in a medical facility where you can ensure safety, there are concerns about whether or not it's in the girls' best interests or the boys' best interest, really, to have them on the same campus. And so I also wanted to clarify the one hour, because the one hour is not about they stay in for one hour--

LINDSTROM: One minute.

HOWARD: --and then you have to do something. It is they stay in for one hour and then you have to tell a supervisor that they're there so that other people are aware of it and then start filing some paperwork. We want to make sure that when you put a child in confinement that you're putting them in for a reason and you can document it, right? And so I think LB230 takes us light-years ahead of where we are right now in terms of dealing with room confinement for

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kids, not just in our youth rehabilitation and treatment centers, although I know they're a hot topic right now, but for kids in any facility in this state. What I was talking about previously with Kearney and the dorms is that room confinement in Kearney is very different. They're taken to an entirely different building called Dickson. And right now, there are two sides to Dickson and they have girls on one side, boys on the other, and they share a yard. And so they're really struggling with, you know, boys exposing themselves at the window when the girls are out in the yard or--

LINDSTROM: Time, Senator.

HOWARD: --banging on the windows. So that's some of their challenges. Thank you, Mr. President.

LINDSTROM: Thank you, Senators Brandt and Howard. Senator Howard would like to welcome two guests, Ilene Grossman and Tim Anderson from the Council of State Governments under the north balcony. Please stand and be recognized by your Nebraska Legislature. Returning to, to debate, Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. I appreciate that. I've read through the amendment and I have some questions about that. But before I ask those questions, I want to discuss what the Building and Maintenance Committee did on September 18. We had toured the YRTC in Kearney, spent a significant amount of time there that morning looking at the facility, seeing where the girls were housed. It is a situation, as has been alluded to, it's not the best situation to have girls and boys in the same institution. But it appeared that the girls had separate rooms where they were housed and so they weren't in a setting like the boys were, as Senator Howard had commented on. The staff there was very interested in doing the best thing they can for these young people. And the situation in Geneva or the facility there, I'm not speaking as one who's been there to see it, but it's my understanding, and maybe someone can help answer this, that these young ladies had damaged the fire sprinkler system. And maybe perhaps the reason there were no lights in these rooms, the young ladies had broken the fixtures for the lights as well. No one has said anything about that. So as I read through the amendment on page 4, on line 9, if Senator Pansing Brooks would yield to a question and answer the question that I'm about to ask, I would appreciate that. Anyway, on page 4, line 9, it says: When a young person is confined to a room for more than an hour, there has to be a written report as to why they are

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in there. So in the case of Kearney, when the young ladies were put in their room for the evening, that's longer than an hour. So does every day they have to write a report as to why they're in the room? That's my question, Senator.

LINDSTROM: Senator Pansing Brooks, would you yield?

PANSING BROOKS: Well, thank you for asking, Senator Erdman. Number one, you can see that that requirement for documentation is already in our statutes. And it's only saying that during a 24-hour period, because you can't break it up and put them in for 15 minutes for one-- during one hour and then in the afternoon another 15 minutes, and in the evening another 15 minutes, effectively putting them in for a total of an hour. It has to be during a 24-hour period. As far as that, that building, the building that the kids were in solitary, it was not the one that was attacked and destroyed or--

ERDMAN: OK.

PANSING BROOKS: --hurt during the fracas. But Senator Howard can speak to that better.

ERDMAN: OK. So let me ask them a question in a little different manner then. So the one-hour confinement, yes or no, one-hour confinement does not apply to an overnight when they put the children or the young ladies in there for over the evening for their-- that is a residence for the evening. That does not apply, they don't have to write a report for that. Is that a yes or no?

PANSING BROOKS: No, they do not, because definition of room confinement does not include sleeping hours.

ERDMAN: I don't know that the bill says specifically that they are put in there for a specific reason. It just says, and help me understand that, it says if you're confined-- if they're confined to a room for more than an hour, and I would assume if they're going to be in there overnight it's more than an hour. So maybe it needs to be clarified what that means about being confined to the room.

PANSING BROOKS: OK. I will be happy to check that over--

ERDMAN: OK.

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PANSING BROOKS: --in between now and Select. And I'm going to work with Senator Arch on a couple of things about the counties.

ERDMAN: OK. Then the other question I had, and I seen your fiscal note, pretty significant. And I heard your comments about that it probably was--

LINDSTROM: One minute.

ERDMAN: --not appropriate. But do you have an opinion of what a fiscal note should look like? What should be the number?

PANSING BROOKS: I don't really, because some other places have already been doing this. Boys Town has been doing this, Lancaster County has been using checkups every 15 minutes or so on kids in confinement. They've never said they needed more money. But I'm happy to try and check that out. I think, you know, they, they, Fiscal Office said that they thought it would take care of the whole note.

ERDMAN: So I'm going to conclude from your comments that you think that the fiscal note is zero. Would that be fair?

PANSING BROOKS: I cannot promise what they'll say. I think it will be substantially reduced.

ERDMAN: OK.

PANSING BROOKS: And Fiscal told me that it would take, quote, take care of the fiscal note. So I don't know-- well, I can't say that that means that they think it's zero.

ERDMAN: OK. Thank you.

LINDSTROM: Thank you, Senators Erdman and Pansing Brooks. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President. I'm trying to unhook my computer here, but I'm not being successful. So I just wanted to clarify based on my last turn at the mike about what we're talking about here. We're talking about room confinement for juveniles, which in the state of Nebraska is defined differently than solitary confinement in our statutes. We define a juvenile room confinement as: The involuntary restriction of a juvenile to a cell, room, or other area alone, including a juvenile's own room, except during normal sleeping hours.

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Whereas we as a state define solitary confinement as-- means the status of confinement of an inmate in an individual cell having a solid, soundproof doors which deprives the inmate of all visual and auditory contact with the other person. So it's important for us to recognize that we're not talking about statutory solitary confinement for juveniles in Nebraska. We're talking about a different form of confinement, which I am seeing as right now just being in a room or a cell by yourself. I share Senator Arch's concerns as to how this would apply to county facilities, especially when there are only other adults as occupants of the facility to share a cell with. But also, I worry with this bill, the potential for unfunded mandates when it comes to continuously supervising juveniles in our state facilities. Sure, it may be completely practical and within the state's budget to get recording equipment and to have a staff member be present to continuously supervise these juveniles in confinement for as long as it takes for them to, in essence, cool down. However, in our county facilities, and for me it's very important that we as a Legislature do not establish more unfunded mandates for our counties because we on a state level already impose dozens, if not hundreds, of those on our counties already, that we're not passing along those costs to our county. I would like to ask Senator Brandt a couple of questions just about the conditions at Geneva if he was available.

LINDSTROM: Senator Brandt, would you yield to a question?

BRANDT: Yes, I would.

SLAMA: So, Senator Brandt, did you have the chance to visit the Geneva facility prior to what you referred to as it kind of going downhill in the last year?

BRANDT: No, I did not.

SLAMA: OK. So the only time you've toured the facility was this interim, correct?

BRANDT: Yes.

SLAMA: Or--

BRANDT: The only time I toured the facility, and I was probably in there five or six times--

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SLAMA: OK.

BRANDT: --in the interim. And I probably spoke to at least 20 to 25 individuals that worked or had worked there.

SLAMA: Um-hum. A concern I have with this bill is that we forbid consecutive assignments to confinement. When talking with staff, did you find that certain juveniles were committing staff assaults more than one time, say, in a 24-hour period? Is that something that you had heard about at all?

BRANDT: I guess I didn't get into the specifics--

SLAMA: OK.

BRANDT: --on why that individual was, was locked up. I didn't feel that was my place.

SLAMA: OK. OK, well, that's all the questions I have for you, Senator Brandt. Thank you very much.

BRANDT: OK.

SLAMA: I also want to make sure in this bill we don't have the unintended consequences of juveniles committing multiple staff assaults in a single day and not being able to be confined to their rooms or separated from the general--

LINDSTROM: One minute.

SLAMA: --population. Because I do see that as being a possibility in the two sections which note that consecutive room confinements to get around the statute are not allowed. So those are the comments I have for right now. I may get on the mike again just as I'm re-reviewing this and refreshing myself, because the hearing was held almost a year ago, just to clarify in my mind what some of the intended consequences of this bill are, what some of the unintended consequences of this bill are. Thank you, Mr. President.

LINDSTROM: Thank you, Senators Slama and Brandt. Senator Groene, you're recognized.

GROENE: Thank you. I, I have some questions about this bill. Senator Pansing Brooks, would you take a few questions?

PANSING BROOKS: Sure.

LINDSTROM: Senator Pansing Brooks, would you yield?

PANSING BROOKS: You bet.

GROENE: This is about incarcerated youths that have already been through the judiciary system?

PANSING BROOKS: These are the kids that have been, that have been placed in Y RTCs. We already took care of the kids that went through the criminal justice system in the adult system. But yes, some of them have been placed but through the court system.

GROENE: So my county picks up a youth that's did a serious crime, and they don't have a youth area. So they put him-- they have two youth cells, individual cells. And the judge, they finally get a hold of a judge at 3:00 in the morning. And the judge says, all right, you, you can hold that individual for his own safety. He's all alone in that youth cell. Does this mean to him, too?

PANSING BROOKS: No. I just said before that, and Senator Arch had asked some question. So it's a good question.

GROENE: I heard that, but--

PANSING BROOKS: Yeah. That we can, we can work through that to, to make a tweak to make sure that for safekeeping purposes in a county cell that they, that they obviously get to be in their own cell. That's not the problem.

GROENE: But if they're all alone, it's solitary. They can be in there for a length of time.

PANSING BROOKS: What, what we saw at Geneva were people without books, there were people without lights.

GROENE: I understand that, but--

PANSING BROOKS: So--

GROENE: But if they put a book in there, then it's OK?

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PANSING BROOKS: I don't know. We will, I will work with Senator Arch and you, if you'd like [INAUDIBLE].

GROENE: Thank you. And then also remember back a bill we did about jail standards. Are you telling me jail standards now, commission don't already have a standard when they inspect the facility that it has to have a light in a room? That we have to be redundant and put this in there again?

PANSING BROOKS: I guess so, because we had two rooms where kids, or actually more than two where kids did not have lights in their rooms so.

GROENE: Well, but did you check with jail standards?

PANSING BROOKS: We did, but they violated those standards. So other than--

GROENE: They did what?

PANSING BROOKS: Well, when--

GROENE: They violated jail standards?

PANSING BROOKS: Yes.

GROENE: So what does it do any good to be redundant and put this in the statute when we already have a jail standards that's apparently isn't doing their job? What, what makes us think they would do it?

PANSING BROOKS: You're right, we shouldn't have to. But we feel that some of these basic requirements need to be set forth in statute.

PANSING BROOKS: But jail standards, have you looked at jail standards? Does jail standards already say you have to have a light in a room, you have to have-- facilities shall provide notice. I mean, the basic heating and cooling, doesn't jail standards already have that?

PANSING BROOKS: They do have that. But obviously they weren't followed so.

GROENE: So also-- you've got to--

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PANSING BROOKS: This gives us some power as the state to direct them what to do.

GROENE: And I don't know this question. Maybe Senator Lathrop does, or you. Is there any county that has a juvenile facility right now? I think with what we did who--

PANSING BROOKS: Lancaster County, Douglas County, there are a lot of--

GROENE: Do they?

PANSING BROOKS: --places. Yeah.

GROENE: And they follow the same rules--

PANSING BROOKS: Yes.

GROENE: --of when we pass the juvenile laws?

PANSING BROOKS: And Boys Town. A lot of places.

GROENE: Is considered a place where--

PANSING BROOKS: But we have not covered Boys Town, this does not cover the private places so. Pardon me?

GROENE: All right. So anyway, and then--

PANSING BROOKS: That's treatment.

GROENE: So Lincoln County does have this person in juvenile and room confinement shall have access to appropriate medical or mental health services. And some, you get some areas mental health services promptly, I mean, they don't have them 3:00 in the morning. So what's promptly mean?

PANSING BROOKS: Well, I presume they can't do it at 3:00 in the morning. They're going to have to do it as quickly as they can.

GROENE: So promptly as quickly as they can. All right, well, thank you--

PANSING BROOKS: Thank you.

GROENE: Senator Pansing Brooks.

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LINDSTROM: Thank you, Senators Groene and Pansing Brooks. Senator Howard, you're recognized.

HOWARD: Howard or Halloran? Howard?

LINDSTROM: Howard.

HOWARD: I'll be very, very brief. There were just a couple of things. And Senator Lowe and I were chatting because, you know, I absolutely agree that, that there has to be safety for the staff there. But the challenge with both of our youth rehabilitation and treatment centers is that the facilities are old and they don't really comport with the ability to maintain safety the way that you would want to. And so the best-case scenario is, especially in Kearney where the guards have to walk through the dormitories, you would be able to build out separate rooms and then you could do room confinement there. Senator Erdman made a great, had a great question. Is it the girls who are damaging the lights? Is it the girls who are pulling the sprinklers? It absolutely is, because you do a lot more damage when you don't have anything to do, when you have no programming, when you're not getting treatment, when you're not able to go to school. And so the kids, you know, get into fights and they damage buildings. And these, these are the kids that we're dealing with. And so I'm glad we're having this conversation. I would urge adoption of AM450 and LB230. And I appreciate the body's time today. Thank you, Mr. President.

LINDSTROM: Thank you, Senator Howard. Seeing no one else in the queue, Senator Lathrop, you're recognized to close on AM450.

LATHROP: Thank you, Mr. President. And I am going to take a moment with a close on AM450. I didn't turn my light on again. But I do-- first of all, I want, I would encourage your adoption of AM450. A number of you have asked questions about the county jails. I think those are fair questions. Senator Pansing Brooks understands that they're fair questions. We'll address those. We understand that as written, the bill is broad enough to cover every young person who is brought into a county jail and that needs to be fixed. That fix will happen before Select File. OK? Senator Pansing Brooks, myself will work with those of you that have concerns. That, I think, is an easy fix. We'll figure out a way to accommodate. We're not trying-- this isn't about those primarily, but we, we, we I think we can get a fix. This is an important bill to pass. This is best practice. We need to make sure that these young people are not put in a cell. You know,

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along the way, along the way doing all this corrections stuff, I had an opportunity to ask questions of the Director of the Department of Corrections. And I've and I've never forgotten this. He said: We'll have a lot less staff assaults if we have enough programing and activities for our inmates. When you don't and they're idle and they're running around in a herd, you get problems. And so a lot of this will correct itself. I think this bill is important nevertheless. A lot of things, a lot of these things will correct themselves as we have the proper programing and the proper treatment and rehabilitate--rehabilitation at these facilities. I would encourage your support of AM450 and of LB230. Thank you.

LINDSTROM: Thank you, Senator Lathrop. The question is, shall the committee amendment to LB230 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of committee amendments.

LINDSTROM: The amendment is adopted. Returning to LB230. Seeing no one in the queue, Senator Pansing Brooks, you're recognized to close on LB230.

PANSING BROOKS: Thank you. Thank you for that vote, I appreciate it. I am correcting now. My staff said that, Senator Erdman, not that they would, that would take care of it substantially. We were told by Fiscal that it will be eliminated, the fiscal note will be eliminated. So that's what we've been told. Because of getting rid of the verbiage "continuously monitor." Again, I'm happy to talk about and try to fix, as Senator Lathrop said, the issue about counties. And I think that's a fairly easy tweak and we can work between now and Select. They did not come to the hearing, so we didn't address that. We would have, had they come. Again, also, their solitary confinement in-- or room confinement is different than solitary confinement in our Nebraska statutes. What concerned me, and I mentioned in the beginning of my testimony, was that when we brought that bill, I think it was two or three years, three years ago now, we were led to believe that room confinement was within their own rooms. They had their books, they had their papers. They could write to their parents, they could, they could do all of that stuff. We saw three girls, one of whom had six pieces of paper and a pencil. The other two, two of them without working lights, one without a mattress, just lying on a wooden platform. So this is not the best way to take care of Nebraska

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children. We do want to keep the staff safe. We do want to move forward and make sure that, that the best practices are used in the, in the state. But it hasn't helped the staff to traumatize the youth more than they already are traumatized. So putting them into solitary, best practices all across the board. And I have all sorts of statistics for you on that and how, how that all applies. Just that's not best practices, it doesn't work. It's not how to keep our, our employees and our staff whom we're grateful to safe. So thank you. I hope you'll vote for LB230. I'll look forward to working with Senator Arch and others on the county issue and anything else that you're, you're concerned about. So it's really important to take care of our kids. Thank you very much.

LINDSTROM: Thank you, Senator Pansing Brooks. The question is the advancement of LB230 to E&R Initial. All those in favor vote aye; all those opposed-- there has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 30 ayes, 4 nays to please the house under call.

LINDSTROM: 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. Senator Albrecht, please check in. There is a request for a machine vote. Senator Chambers, please report to the Chamber, the house is under call. Senator Pansing Brooks has requested a machine vote. All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk.

CLERK: 29 ayes, 2 nays, Mr. President on the advancement of the bill.

LINDSTROM: The bill advances.

CLERK: Would you--

LINDSTROM: Raise the call. Mr. Clerk, we will now proceed to General File, LB322.

CLERK: Thank you, Mr. President. LB322 is a bill by Senator Crawford. It's a bill for an act relating to crimes and offenses. It changes provisions relating to enforcement of certain tobacco restriction provisions related to possession by minors. Introduced on January 16,

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referred to Judiciary, advanced to General File. There are committee amendments pending, Mr. President.

LINDSTROM: Thank you, Mr. Clerk. Senator Crawford, you're welcome to open on LB322.

CRAWFORD: Thank you, Mr. President. And thank-- and good afternoon, colleagues. LB322 is a bill to authorize a clear and uniform process for law enforcement to conduct compliance checks on tobacco vendors. While we currently have a statute in place to authorize law enforcement to cooperate with youth volunteers to conduct alcohol compliance checks, we do not have authorization in place for tobacco compliance checks. This has caused hesitation among some law enforcement units, including in my district, to conduct the compliance checks. LB322 as amended creates statutory authority and uniform standards for minors to work with police departments on tobacco compliance checks. Since the committee amendment is a white copy amendment that replaces the bill, I will speak to the bill in this opening as the amended version. The committee amendment, AM271, accomplishes two things. One, it eliminates previous language that referred to entities other than law enforcement conducting checks. The new language under the amendment limits the checks only to those conducted in partnerships with law enforcement. Two, it specifies that young people involved in diversion or probation cannot participate in the compliance checks. This was requested by the Nebraska Court Administrator. Under current statute, any person under the age of 19 who misrepresents their age to obtain tobacco is guilty of a Class V misdemeanor. This has caused apprehension on the part of some of our law enforcement agencies and a hesitate-- hesitancy to work with young people to conduct compliance checks out of fear they would run the risk of violating that statute. LB322 clarifies that youth volunteers are not at risk at breaking the law if they are working in cooperation with law enforcement to conduct the checks under the conditions outlined in the bill. Almost all of our realtor-- realtors [SIC] who sell tobacco products are doing their part to ensure tobacco does not get into the hands of minors. LB322 ensures there is a clear standard known to the retail establishments when these compliance checks are conducted and allows law enforcement to cooperate with youth to conduct these checks without worry that the youth would be at risk of violating the law so long as they follow the conditions outlined in the bill. LB322 advanced from the committee with support of all those present, and only the grocers testified against the bill. And we met with the grocers right before the session and, with the committee

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amendment, they no longer oppose the bill. So I urge your support-- I'll, I'll discuss the other amendment when we get to the point of introducing the amendment. I urge your support of LB322. Thank you.

LINDSTROM: Thank you, Senator Crawford. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Lathrop, as Chair of the committee, you're recognized to open on the amendment.

LATHROP: Thank you, Mr. President and colleagues. Good afternoon once again. LB322 was heard by the Judiciary Committee on February 1, 2019, and was advanced to General File with committee amendments. Both the amendment, AM271, and the motion to advance were 7-0 votes with one member absent. AM271 limits tobacco compliance checks using minors aged 15 to 18 to law enforcement agency efforts only, eliminating licensees, the Department of Health and Human Services, and coalition grantees, and the FDA from the original proposal. The amendment also prohibits using juveniles actively involved in a diversion program, on probation, or subject to a criminal proceeding. I would urge your adoption of the amendment, as well as advancing LB322 to Select File. Thank you.

LINDSTROM: Thank you, Senator Lathrop. Mr. Clerk, there is an amendment to the committee amendment.

CLERK: There is, Mr. President. Senator Crawford would move to amend the committee amendments with AM322 [SIC].

LINDSTROM: Senator Crawford, you are recognized to open on your amendment to the committee amendment.

CRAWFORD: Thank you, Mr. President. AM2082 is an amendment to the committee amendment. It simply updates the language to reflect the new changes in tobacco law which passed last year in Senator Quick's bill, including changing the language of 18 in the bill to 19. This is a white copy amendment because the language referencing Section 28-1419 changed as a result of Senator Quick's LB149 last year. This is the language that has to do with the violations for minors obtaining tobacco by misrepresenting their age. That language now has new terminology in the terms of what's considered tobacco for the purposes of the violation. The white copy amendment updates that language and changes the age from 18 to 19 to make it consistent with the new law. Please vote green on AM2082 and LB322 and the committee amendments. Thank you, Mr. President.

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LINDSTROM: Thank you, Senator Crawford. Thank you. Seeing no one in the queue, Senator Crawford, you're welcome to close on AM2082.

CRAWFORD: I'll waive closing.

LINDSTROM: Senator Crawford waives closing. The question is, shall the amendment to the committee amendment to LB322 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 adoption of the amendment to the committee amendments.

LINDSTROM: The amendment is adopt, adopted, returning to AM271. Seeing no one in the queue, Senator Lathrop, you're welcome to close on AM2-- Senator Lathrop waives closing. The question is the adoption of AM271 to LB322. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of the committee amendments.

LINDSTROM: The amendment is adopted. Returning to LB322. Seeing no one in the queue, Senator Crawford, you're welcome to close on LB322.

CRAWFORD: Thank you for those votes on those amendments and I appreciate your green vote on LB322.

LINDSTROM: The question before the body is the advancement of LB322 to E&R for Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB322.

LINDSTROM: LB322 advances. Items, Mr. Clerk.

CLERK: Thank you, Mr. President. I do have a few things. New bills: LB996 is by Senator Brandt. It's a bill for an act relating to the Nebraska Telecommunications Regulation Act. It creates a Broadband Data Improvement Program; provides powers and duties to the Public Service Commission. LB89-- or LB997, excuse me, by Senator Morfeld, relates to insurance. Adopts the Out-of-Network Emergency Medical Care Act. LB998 is Senator Murman. It's a bill for an act relating to schools. It transfers money; it creates a fund; and provides duties;

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requires behavioral awareness and intervention training and behavioral awareness and intervention points of contact as prescribed. LB999 is by Senator Wayne. It's a bill for an act relating to criminal procedure. Requires cities and villages to pay for the costs of appointed counsel for indigent defendants and juveniles in prosecutions of and adjudications for violations of city or village ordinances. I have some hearing notices, Mr. President, from the Transportation Committee. I also have amendments to be printed: Senator Wayne LB68 and Senator Vargas to LB477.

Mr. President, Senator Slama would move to adjourn the body until Wednesday morning, January 15, at 9:00 a.m.

LINDSTROM: The question for the body is to adjourn. All those in favor say aye. There's been a request for a roll call vote.

CLERK: Senator Albrecht? Not voting. Senator Arch?

ARCH: Yes.

CLERK: Voting yes. Senator Blood?

BLOOD: No.

CLERK: Voting no. Senator Bolz? Senator Bostelman?

BOSTELMAN: Yes.

CLERK: Voting yes. Senator Brandt? Voting no. Senator Brewer?

BREWER: No.

CLERK: Voting no. Senator Briese?

BRIESE: Yes.

CLERK: Voting yes. Senator Cavanaugh?

CAVANAUGH: No.

CLERK: Voting no. Senator Chambers? Senator Clements?

CLEMENTS: Yes.

CLERK: Voting yes. Senator Crawford?

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CRAWFORD: No.

CLERK: Just a moment, Senator. I'm sorry. Senator Clements, did you say no, Senator?

CLEMENTS: Yes.

CLERK: Yes, thank you. Senator Clements voting yes. Senator Crawford?

CRAWFORD: No.

CLERK: Voting no. Senator DeBoer?

DeBOER: No.

CLERK: Voting no. Senator Dorn? Senator Erdman?

ERDMAN: Yes.

CLERK: Voting yes. Senator Friesen? Not voting. Senator Geist? Senator Gragert?

GRAGERT: Yes.

CLERK: Voting yes. Senator Groene?

GROENE: Yes.

CLERK: Voting yes. 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? Senator Hilkemann?

HILKEMANN: Yes.

CLERK: Voting yes. Senator Howard?

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HOWARD: Yes.

CLERK: Voting yes. Senator Hughes? 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.

CLERK: Voting yes. Senator Lathrop?

LATHROP: Yes.

CLERK: Voting yes. Senator Lindstrom?

LINDSTROM: Yes.

CLERK: Voting yes. Senator Linehan?

LINEHAN: Yes.

CLERK: Voting yes. Senator Lowe?

LOWE: Yes.

CLERK: Voting yes. Senator McCollister?

McCOLLISTER: No.

CLERK: Voting no. Senator McDonnell? Senator Morfeld?

MORFELD: No.

CLERK: Voting no. Senator Moser?

MOSER: Yes.

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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?

STINNER: Yes.

CLERK: Voting yes. Senator Vargas?

VARGAS: No.

CLERK: Voting no. Senator Walz?

WALZ: Yes.

CLERK: Voting yes. Senator Wayne?

WAYNE: No.

CLERK: Voting no. Senator Williams?

WILLIAMS: Yes.

CLERK: Voting yes. Senator Wishart?

WISHART: No.

CLERK: Voting no. I can't take votes, we're not under call, Senator.
28 ayes, 11 nays to adjourn.

LINDSTROM: The ayes have it. We are adjourned.