

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 29, 2021  
Rough Draft

**HILGERS:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-first day of the One Hundred Seventh Legislature, First Session. Our chaplain for today is Senator Moser. Please rise.

**MOSER:** Father, we thank you for your many blessings on our nation and state. Give us wisdom and inspiration to make good decisions. We thank you for our colleagues here in the Capitol and in Washington. We ask for healing for all COVID patients, that they would all return to 100 percent health. Though at times we may fail to live up to your standards, we ask forgiveness in the name of your son, Jesus Christ, who makes our world right, for our shortcomings. Please bless us in all our work. Amen.

**HILGERS:** Thank you, Senator Moser. I recognize Senator Geist for the Pledge of Allegiance.

**GEIST:** I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**HILGERS:** Thank you, Senator Geist. I call to order the fifty-first day of the One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

**HILGERS:** Thank you, Mr. Clerk. Are there any questions for the Journal?

**CLERK:** I have no corrections.

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

**CLERK:** There are, Mr. President. Enrollment and Review reports LB572, LB40, LB40A, LB544, LB390, LB92, and LB197 all to Select File, some having Enrollment and Review amendments. Revenue Committee, chaired by Senator Linehan, reports LB432 and LB595 to General File with committee amendments attached. Senator Briese has an amendment to LB581 to be-- or LB561 to be printed-- excuse me. And I have an Attorney General's Opinion addressed to Senator Walz. That's all that I have, Mr. President.

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**HILGERS:** Thank you, Mr. Clerk. Senator Lowe would like to recognize Dr. Rob Messbarger of Kearney. Dr. Messbarger-- who is serving as our family physician of the day. Dr. Messbarger is sitting-- seated under the north balcony. Please rise and be recognized by your Nebraska Legislature. Turning to the agenda, General File appropriations bill, first item, Mr. Clerk.

**CLERK:** Mr. President, LB274A is by Senator Lowe. It's a bill for an act to appropriate funds to implement the provisions of LB274.

**HILGERS:** Senator Lowe, you're recognized to open on LB274A.

**LOWE:** Thank you, Mr. Speaker. This is a A bill for LB274. It simply combines the fiscal note from all the bills that were added to LB274 in the General Affairs Committee amendment. LB274 has been amended and is now included-- and now includes LB72 and LB578. Thank you, Mr. Speaker.

**HILGERS:** Thank you for opening, Senator Low. Debate is now open on LB274A. Seeing no one in the queue, Senator Lowe, you're recognized to close. Senator Lowe waives closing. The question before the body is the advancement of LB274A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 37 ayes, 0 nays on the advancement of LB274A.

**HILGERS:** LB274A advances. Next bill.

**CLERK:** LB324A, by Senator Brandt, it appropriates funds to implement the provisions of LB324.

**HILGERS:** Senator Brandt, you're recognized to open on LB324A

**BRANDT:** Thank you, Mr. Speaker. Good morning, colleagues. This is the A bill for my herd share bill, LB324, that was heard on March 16, a bill that makes it easier for the consumer to purchase meat directly from the producer or processor. When I introduced LB324, I said that we amended the bill to remove regulations to the herd share program in order to eliminate the fiscal note. That was true for the herd share program. However, there's still a fiscal note related to the second component of the bill: the creation of the Independent Processor Assistance Program. We met with the Nebraska Department of Agriculture who told us these funds will be appropriated if and only if the assistance fund receives grant funding. We need to appropriate the

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funds now so if and when funds-- when grant funds are received, the money is already appropriated to fund the hiring of a grant administrator if-- LB324A gives Nebraska Department of AG the authority to create the fund and hire the administrator. And with that, I'd appreciate your green vote on LB324A.

**HILGERS:** Thank you for opening, Senator Brandt. Debate is now open on LB324A. Seeing no one in the queue, Senator Brandt, you're recognized to close. Senator Brandt waives closing. The question before the body is the advancement of LB324A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 40 ayes, 0 nays, Mr. President, on the advancement of LB324A.

**HILGERS:** LB324A advances. Next bill.

**CLERK:** LB544A is a bill by Senator Wayne. It's a bill for an act relating to appropriations; it appropriates funds to carry out the provisions of LB544.

**HILGERS:** Senator Wayne, you're recognized to open on LB544A.

**WAYNE:** Thank you, Mr. President. This is just the A bill along-- to go with the underlying General File LB544, which was passed by this body first round. So this will allow it to catch up, to be on Select File, and I would appreciate a green vote on this. Thank you, Mr. President.

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

**CLERK:** Mr. President, Senator Wayne would move to amend with AM777.

**HILGERS:** Senator Wayne, you're recognized to open on AM777.

**WAYNE:** Thank you, Mr. President. This was just a catch by Bill Drafting that was brought to my office this morning, no significant change to the underlying bill; it was just a-- a catch that they made in Drafting. Thank you, Mr.-- vote for-- please vote green on the underlying amendment and the underlying bill. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Wayne. Debate is now open on AM777. Seeing no one in the queue, Senator Wayne, you're recognized to close. Senator Wayne waives closing. Question before the body is the adoption

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of AM777. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

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

**HILGERS:** AM777 is adopted. Turning to debate on LB544A. Seeing no one in the queue, Senator Wayne, you're recognized to close. Senator Wayne waives closing. The question before the body is the advancement of LB544A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 37 ayes, 0 nays, Mr. President, on the advancement of the bill.

**HILGERS:** LB544A advances. Next bill, Mr. Clerk.

**CLERK:** LB561A by Senator Briese. It's a bill for an act relating to appropriations; it appropriates funds to implement LB561.

**HILGERS:** Senator Briese, you're recognized to open on LB561A.

**BRIESE:** Thank you, Mr. President. Good morning, colleagues. I rise to present LB561A. LB561A is the appropriation bill for LB561, which you may recall is the committee priority bill to implement the voter initiative language on all games of chance that passed in 2020. These funds come from the Racetrack Gaming Fund, which is a cash fund, and are provided to the State Racing and Gaming Commission to allow the commission to properly regulate the newly operating gaming industry. The money for this fund comes from fees for applications for licenses and for the issuance of authorized gaming operator licenses, fees to authorize gaming operators in an amount necessary to offset the cost of oversight and regulatory services, and a one-time authorized gaming operator license fee of \$1 million on each authorized gaming operator for east-- each licensed racetrack enclosure. These are all fees authorized by the voters in the ballot initiative. Additionally, LB561A appropriates cash funds to the Nebraska Commission on Problem Gambling for them to continue to carry out their work. I urge your green vote to advance LB561A. Thank you, Mr. President.

**HILGERS:** Thank you for your opening, Senator Briese. Debate is now open on LB561A. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker, and good morning. Senator Briese, I'd like to ask you a few questions if you would yield.

**HILGERS:** Senator Briese, would you yield?

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**BRIESE:** Yes.

**ERDMAN:** Senator Briese, this fund is, for a better-- lack of a better description, is this the funds to set up to start so they can write the rules and regulations for the gambling? Is that what this is?

**BRIESE:** That will be part of the process. These-- these are funds that will be utilized in the budget year beginning July 1 of this year.

**ERDMAN:** So then I think you mentioned in your opening that there'll be a \$1 million registration fee or application fee for those people getting involved in this gambling. Is that true?

**BRIESE:** Yes.

**ERDMAN:** And so then they will replenish this money that we are taking from that fund, is that correct?

**BRIESE:** It would be my prediction that they would replenish it and probably then some.

**ERDMAN:** So then what happens to that cash fund going forward?

**BRIESE:** That cash fund, going forward, the language approved by the voters authorizes the commission to assess fees on these operators to an extent necessary to fund the operations of the commission related to oversight-- regulatory oversight of the casino gambling.

**ERDMAN:** OK.

**BRIESE:** And so I'm-- I'm not sure what the balance will be in that fund at some point.

**ERDMAN:** So will they use that fund then for operations to scrutinize or regulate gambling?

**BRIESE:** Yes, yes. This-- again, this is a cash fund. It'll be funded by the industry itself to-- to finance and fund the oversight of this industry.

**ERDMAN:** If this cash fund grows to the point where it's more than what's needed, is there a provision for us to use that cash fund for something else or how does that work?

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**BRIESE:** I don't know that there's a provision in statute or in the proposed bill at this point. I'm-- I'm not sure if any of that could be swept away at some point, Senator.

**ERDMAN:** OK. Thank you.

**HILGERS:** Thank you, Senator Briese and Senator Erdman. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. Some of you may have read your-- an email from a Loretta Fairchild, yesterday or today, discussing this bill. And would Senator Briese yield to a question?

**HILGERS:** Senator Briese, would you yield?

**BRIESE:** Yes.

**CLEMENTS:** I'm just wondering about the sports betting provision in LB561. The ballot measure was authorizing all forms of games of chance to be conducted by licensees within licensed racetrack enclosures in Nebraska. In the sports betting provision in LB5-- LB561, was intended to just be for people who are physically inside an enclosure and a casino in Nebraska?

**BRIESE:** Yes, it is. And-- and you correctly note that the ballot proposal restricts it to individuals within the licensed racetrack enclosure. LB5-- the amended LB561 takes that one step further. We're going to limit it to individuals within a designated area within the casino itself.

**CLEMENTS:** So online sports betting would not be allowed by this?

**BRIESE:** Yes, that would be correct. It would not be allowed by this.

**CLEMENTS:** Very good. That's a clarification that did not come up in our earlier discussion and I am glad to hear that and that all forms of games of chance still is restricted to within the enclosure. Is that correct?

**BRIESE:** Yes, that would be correct.

**CLEMENTS:** Thank you for that explanation. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Briese and Senator Clements. Senator Moser, you're recognized.

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**MOSER:** I was wondering if Senator Briese would respond to a question.

**HILGERS:** Senator Briese, would you yield?

**BRIESE:** Yes.

**MOSER:** Would the sports betting be subject to a tax?

**BRIESE:** Yes, it would. It would be taxed at 20 percent of revenue, as are-- as will be the other games there.

**MOSER:** Was there consideration given to allowing sports betting all across the state?

**BRIESE:** Not as far as I'm concerned.

**MOSER:** Well, you-- in the discussion of the bill, were there people who were interested in including sports betting everywhere?

**BRIESE:** Oh, no, not within LB561, no. There are other-- we actually do have a CA within the committee that probably could open it up all across the state and probably another-- another bill that possibly could also, but within this bill, no.

**MOSER:** Because it's going happen-- it's going to happen in the state. And as long as it's going to happen in the state, why not tax it?

**BRIESE:** Well, that-- that's a good point, Senator, and-- and 20-- and that's-- that was one objection of the industry. They-- they think 20 percent is too high on sports betting. I say, heck with it. Voters said 20 percent, it's going to be 20 percent.

**MOSER:** OK, thank you.

**HILGERS:** Thank you, Senator Briese and Senator Moser. Seeing no one else in the queue, Senator Briese, you're recognized to close. Senator Briese waives closing. Question before the body is the advancement of LB561A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 35 ayes, 5 nays on the advancement of LB561A.

**HILGERS:** LB561A is advanced. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR70, LR71, LR72, and LR73. Turning now to General File consent calendar, colleagues, this is our first consent calendar of the year.

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The rules are on the agenda. I'd ask you to refer to those rules, but in general there's 15 minutes for debate. We will take a vote at the earlier of the-- the ending of debate or at 15 minutes. First bill on consent calendar, Mr. Clerk.

**CLERK:** Mr. President, LB41 was a bill original-- originally introduced by Senator Dorn. It's a bill for an act relating to counties under township organization. It changes provision relating to certain payments of funds to townships. Bill was introduced on January 7 of this year, referred to the Government Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Senator Dorn, you're recognized to open on LB41.

**DORN:** Thank you, Mr. Speaker. Good morning, colleagues. LB41 is a straightforward bill. Under existing Statutes 23-1601, the county treasurer, on or before the 15th day of each month, pays to each city, village, school district, educational service unit, county agricultural society, and rural suburban fire protection districts located within the county the funds collected for those respective political subdivisions. When this statute was first passed, townships were left off that list. The bill simply adds townships to the list. In Nebraska, there are 22 counties with townships. A year ago, this issue was brought to my attention that a township had to submit a paper warrant every time they wanted money transferred from the county to the township. These funds are township funds, but only townships had to submit the warrants and request the funds. LB41 streamlines this process and allocates to the township their monthly allotment, like the other entities listed in the statute. There is no fiscal impact to the state and very minimal cost to the county. I would also like to thank the Nebraska Association of County Officials for working with me on this bill. Thank you. And I would be glad to answer any questions and I urge a green vote on this bill.

**HILGERS:** Thank you for your opening, Senator Dorn. Senator Erdman, you are recognized.

**ERDMAN:** Thank you, Mr. Speaker. Senator Dorn, I listened to your comments. I read the-- the bill and-- and I understand what the bill is doing. I was wondering if you'd yield to a question or two.

**HILGERS:** Senator Dorn, would you yield?



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**DORN:** Yes.

**ERDMAN:** Senator Dorn, is your county-- does it have townships?

**DORN:** Yes, it does. Gage County has townships.

**ERDMAN:** OK, so then you have-- what do you have, seven townships? How many?

**DORN:** We have 24 townships in Gage County.

**ERDMAN:** Twenty-four townships? So they have-- each one of those has a board?

**DORN:** Each one of those has a three-member board.

**ERDMAN:** And do those people get compensation for serving?

**DORN:** Some-- they are allowed up to \$25 a year-- well, \$25 dollars, I think maybe it's a meeting--

**ERDMAN:** OK.

**DORN:** --a maximum, maybe \$100 a year, maybe. But they do get compensated if they take it. When I visited with them, most of them do not take any compensation.

**ERDMAN:** All right.

**DORN:** But it is very, very minimal amount of compensation.

**ERDMAN:** OK. So do these townships have their own road maintenance people?

**DORN:** These townships have their own road maintenance people. They have their own budgets.

**ERDMAN:** OK. So in a county that has a commissioner form of government, doesn't have townships, that county does all the maintenance and they have one road crew that does or roads superintendent that does the whole county, isn't the township form of government a duplication of services?

**DORN:** We've had that discussion. I call it in the-- in the-- in the county part of this. We've also had a discussion in our county about duplication of service. We have 24 townships, so there's 24 graders.

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The county itself has eight graders that operate on gravel roads. If we got rid of the township form of government, the county would need at least a minimum of another eight road graders to do that operation.

**ERDMAN:** OK, so why does the county have eight graders if all your townships are responsible for maintaining their roads?

**DORN:** Certain gravel roads, the higher traffic roads in the county are called county roads. The county is responsible for those. Each of the township have their own roads. They-- they maintain approximately 40 miles of gravel road also.

**ERDMAN:** All right. Wouldn't it make sense to eliminate the townships and just have a county form of government?

**DORN:** That would require a vote of the people in that county to eliminate the townships. It's been brought up several times at, I call it, the NACO meetings. It's been brought up in our county. We have a yearly county-- I call it a county township meeting. Every time we would bring that up or have that for discussion, the resounding result was, no, they wanted to keep what they have because now they have a local person that they can call on those local roads.

**ERDMAN:** So would you assume then, and I know this is a difficult thing, but would you make an assumption that ta-- taxes are higher because we have townships and a duplication of those services?

**DORN:** I could also make the same assumption that taxes are less because now we have each of those maintaining those roads and giving better service and keeping track of those miles themselves. So I-- I would not assume that taxes are higher because of townships.

**ERDMAN:** So then a township has to have a road superintendent, right?

**DORN:** No, they just have a three-member board.

**ERDMAN:** Who makes the decision on what roads get graded?

**DORN:** They do and they hire the road grader. They buy their own road grader. So the township makes all of their own decisions.

**ERDMAN:** So then they have to have their own insurance policy?

**DORN:** They have to have their own insurance policy.

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**ERDMAN:** Are they a member of NIRMA, do you know?

**DORN:** No, I don't believe-- I call it-- some of them maybe have insurance through it. I don't know if they're a member or not. I could not tell you for that for sure. Some of them-- we-- we met with several of them. Several of them-- every time we had the, I call it, the yearly township meeting--

**HILGERS:** One minute.

**DORN:** --we normally have some kind of insurance company there would talk to them. They can go out on their own and get it from their own local bank or wherever they wanted to.

**ERDMAN:** OK, so currently how do they-- you should they have to do a warrant to get their-- get their funds now. Is that why you're changing this?

**DORN:** They-- they have to file that piece of paperwork. All of the other entities in--

**ERDMAN:** Right.

**DORN:** --in here a city, all those others, through that statute, they will-- it's automatically by the 15th of the month, the county treasurer automatically deposit-- direct deposits in their bank account. Townships were left off that list.

**ERDMAN:** OK, my time is about up. I'll get you on the next time.

**HILGERS:** Thank you, Senator Dorn and Senator Erdman. Senator Erdman, you're next in the queue. You may continue.

**ERDMAN:** Thank you, Mr. Speaker. Senator Dorn, we-- can we continue?

**HILGERS:** Senator Dorn, would you yield?

**DORN:** Yes.

**ERDMAN:** OK, Senator Dorn so how many commissioners or supervisors-- what do you call them in your county? Are they commissioners or supervisors?

**DORN:** We have seven supervisors.

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**ERDMAN:** All right. So if you have seven supervisors, wouldn't it be such that those people who think they have a local person to contact for their-- their road conditions or whatever it is, wouldn't seven be enough on the board to be a local person that they can contact?

**DORN:** Generally speaking, on some issues, they are. When you live out in, I call it, our county and you are on a certain gravel road, you also want somebody else to talk to sometimes; you want the guy that's in charge of allocating the miles and get the gravel or whatever--

**ERDMAN:** OK,

**DORN:** --and that you have a direct response to him.

**ERDMAN:** So are your supervisors elected by district?

**DORN:** Yes, our supervisors are elected by district. In Gage-- in Gage County, they are. I cannot tell you about every county.

**ERDMAN:** So one district may have 5,000 residents and the other one may have 1,000? Could that be possible?

**DORN:** No, we are-- we-- we are the same guidelines as the redistricting will be here. We have to be within a certain amount of-- a certain percentage of people in each district.

**ERDMAN:** So your township boundaries may change from time to time when the census changes?

**DORN:** Repeat that again?

**ERDMAN:** Your township-- township boundaries will change with the census?

**DORN:** No, our township boundaries are not changed. No, stay the same. They are based on six-mile-by-six-mile area

**ERDMAN:** Right, right.

**DORN:** Yeah.

**ERDMAN:** That's what I thought.

**DORN:** The townships do not change. The-- I thought you were asking about the supervisors.

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**ERDMAN:** Oh, OK.

**DORN:** The supervisor district does change.

**ERDMAN:** Oh, OK.

**DORN:** Yeah.

**ERDMAN:** I understand that. I understand that.

**DORN:** Yeah.

**ERDMAN:** Yeah. Well, it just seems to me, and I've always thought that, even when I was a county commissioner and I got involved with NACO to understand there were towns, counties that had township form of government, I always had the conclusion that it was more expensive, that it was a duplication of services; and instead of maybe going down the road to make sure townships can collect the revenue without doing a warrant, it would make more sense to eliminate the township form of government. That's-- that was my perception when I was a county commissioner, but I have never functioned under a township form of government. But for-- for the sake of not running past the 15 minutes, I will end it there. But I-- I guess I don't-- I don't think that a township form of government is applicable this time. But I appreciate you bringing the bill. Thank you.

**HILGERS:** Thank you, Senator Dorn and Senator Erdman. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. Speaker. And thank you, Senator Dorn, for bringing this. Didn't have a chance to talk to you on mike before the-- before now. But I-- I do have one question for you. I do support what you're-- what you're doing here. Butler County has, I think, 17 townships in it and they provide a valuable service to us. In order to get down our gravel roads, let me tell you, last week during the rains, I had to have my four-wheel drive engaged to get up and down the roads. They were that bad. So-- and our surrounding townships, they get right back out there as far as grading and take care of things. My question-- if Senator Dorn would yield to a question.

**HILGERS:** Senator Dorn, would you yield?

**DORN:** Yes.

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**HILGERS:** My-- this is rather obvious, but I-- I want to ask the question anyway. So we do have some townships that aren't necessarily organized anymore. So in those cases, obviously, they would not be getting funding. Would-- would that be correct? Or are they still getting funding? They have to have a board setting in order to be funded?

**DORN:** I cannot tell how it would be in your-- in your county for sure. In Gage County, if a county did not have enough people to-- and the county board was in charge of putting three people on the board and doing it, then there is-- was a provision that, yes, the county took that part of the application over.

**BOSTELMAN:** Yeah, because that's one-- I know in another county, that's one of the discussions that I have from the county is that the-- the township really isn't doing or isn't-- the board doesn't exist, so the county is now maintaining those roads and they're not getting funded, per se, by that. But this would then allow those funds to go to them to cover those-- whatever cost that would be to the county and not to that township board. Correct? Does that-- so if the township board does not exist--

**DORN:** Yes--

**BOSTELMAN:** --and they're not maintaining the roads--

**DORN:** --then the county--

**BOSTELMAN:** --and the county is now taking care of that--

**DORN:** The county--

**BOSTELMAN:** --because they don't exist and that-- that money-- as you're saying, that money would stay with the county.

**DORN:** Yes.

**BOSTELMAN:** Is that correct?

**DORN:** Yes.

**BOSTELMAN:** OK, that's my understanding. So our township boards do, do a lot of services to us in-- in-- in our counties. Like I say, in Butler County we value them quite a bit. This is an issue that I do appreciate you bringing as far as getting funding in time, because

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that's always an issue for them. But I can tell you they are very active--

**DORN:** Yes.

**BOSTELMAN:** --on our roadways and ditches and those type of things and-- and providing other support for us in the county. It's a-- it's a needed service. It's not something that the county is able to do, per se, then they would have to hire more staff, they'd have to hire more equipment, so we're fortunate to have our townships functioning as they are. So with that, I do support LB41. I want to thank Senator Dorn for bringing the bill. Thank you, Mr. Speaker.

**HILGERS:** Thank you. Senator Dorn and Senator Bostelman Seeing no one else in the queue, Senator Dorn, you're recognized to close.

**DORN:** A couple of minutes left yet on the fifteen minutes?

**HILGERS:** Three and a half.

**DORN:** Three and a half, OK. I-- I do. Thank you, Senator Bostelman, for bringing that up. In-- in Gage County, and-- and speaking to some of the other counties that do have townships, that has been something that has gone on for a lot of years. In Gage County, our townships, whenever we wanted to try to visit with them about maybe not having the townships, we were very, very adamantly opposed to that by the township board. Senator Bostelman brings it up. You have local control. These people that get paid that small amount of money, let me tell you, they do not get paid anything. It's about like our salary up here for the amount of work they put into that. The township boards in Gage County take it very seriously. The work that they are doing, they do an outstanding job of, I call it, saving the county money by the structure that we do have. So we are-- in Gage County we're very, very thankful to have it. This is just a bill that would now-- they would not have to file the warrant every time they wanted some of the allocation of their property taxes that they would be due in their budget. So thank you very much, and I or-- urge a green vote on this bill, LB41.

**HILGERS:** Thank you for your closing, Senator Dorn. Question before the body is the advancement of LB41 to E&R Initial. All those in favor of vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 43 ayes, 0 nays on the advancement of the bill.

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**HILGERS:** LB41 advances. Next bill.

**CLERK:** LB461 was a bill originally introduced by Senator Pansing Brooks. It relates to the Hu-- Human Trafficking Task Force. It requires replacement [SIC] of human trafficking informational posters in casinos. Introduced on January 15, referred to the Judiciary Committee, the bill was advanced to General File. I have no amendments to the bill, Mr. President.

**HILGERS:** Senator Pansing Brooks, you are recognized open on LB461.

**PANSING BROOKS:** Thank you, Mr. Speaker. Good morning, colleagues. LB461 as a simple but important bill that requires casinos to display human trafficking awareness posters. Current statute stipulates that the Nebraska Department of Labor shall work with Human Trafficking Task Force to develop informational posters for placement around the state. These posters include the National Human Trafficking Resource Center Hotline, a toll free number that a person may call for assistance. Pursuant to legislation we previously passed, posters are currently placed in rest stops and strip clubs by state law. The Attorney General's Office also works with businesses and nonprofits for placement of posters in schools, gas stations, hotels, motels, healthcare clinics, airports, train stations, bus stations, and other locations. Last November, the voters of Nebraska passed three ballot initiatives allowing for expanded gambling. LB461 is designed to ensure that casino gambling establishments are included in a statutory requirement for displaying these posters. Clearly, law enforcement routinely recognize-- recognizes that casinos are hubs for human trafficking, so it is especially important to make sure that these new establishments are among those required to post these signs. These posters increase awareness and help victims find the help that they need. These awareness efforts work hand in hand with the other successful legislation that I was grateful to previously sponsor to provide for legal immunity to victims, to impose tougher sentences on buyers and traffickers, to allow victims to have convictions set aside and allow victims to receive damages in court. It is thanks to the-- this work that we have all done together in the Nebraska Legislature since 2015 that Nebraska has moved from an F rating to an A rating by the national human trafficking group Polaris. Please vote green on LB461. Thank you.

**HILGERS:** Thank you for your opening, Senator Pansing Brooks Debate is now open on LB461. Senator Briese, you're recognized.



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**BRIESE:** Thank you, Mr. President. Good morning again, colleagues. I just wanted to make a couple brief comments on this. I first want to thank Senator Pansing Brooks for his-- her attention to this issue, and I wholeheartedly support this bill. We could all agree that there is no doubt some level of human trafficking across our state, and although I haven't studied the issue, I'm-- I'm certain there is potential for this type of activity in the casino environment. Anything we can do to prevent it and help the victims of it, we must do that. And requiring the placement of these posters in casinos, I think, is one very commonsense step we can take towards that endeavor, so I'd urge your support of LB461 and want to thank again Senator Pansing Brooks for bringing this.

**HILGERS:** Thank you, Senator Briese. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. And good morning, colleagues. Like Senator Briese before me, I won't take up too much time. I rise in support of LB461 and wanted to thank Senator Pansing Brooks on the record for her tire-- tireless efforts to pass legislation to crack down on human trafficking in our state. She has truly been a champion for this issue. And as someone who's served with her on the Judiciary Committee and has studied this topic myself for a few years now, her work has really saved lives in this state. So thank you, Senator Pansing Brooks, for your work, and I'd encourage everyone to vote green on LB461.

**HILGERS:** Thank you, Senator Slama. Seeing no one else in the queue, Senator Pansing Brooks, you're recognized to close.

**PANSING BROOKS:** I just want to say thank you for the kind comments. We've all worked together. This has been a-- a team effort to battle trafficking in our state. And I-- I also wanted to thank Nate Grasz with the Nebraska Family Alliance, who helped lead these efforts, and the Nebraska Catholic Conference and, of course, the Women's Fund, who are all supportive, also Suzanne Gage in the Attorney General's Office, so thank you for this important work.

**HILGERS:** Thank you, Senator Pansing Brooks. The question before the body is the advancement of LB461 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those who wish to? Record, Mr. Clerk.

**CLERK:** 45 ayes, 0 nays on the advancement of LB461.

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**HILGERS:** LB461 is advanced. Next bill.

**CLERK:** LB78 was a bill originally introduced by Senator Gragert. It's a bill for an act relating to motor vehicles. It requires applicants for certain license plates to register with the Department of Veterans' Affairs. It changes provisions relating to registrants of the Department of Veterans' Affairs. Bill was introduced on January 7, referred to the Transportation Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Senator Gragert, you're recognized to open on LB78.

**GRAGERT:** Thank you. Mr. President, members of the Legislature, LB78 would require applicants for the Gold Star Family license plate, ex-prisoner of war, Disabled American Veterans, and Purple Heart plates to register with the Department of Veterans' Affairs. The Department of Motor Vehicles would then verify an applicant's eligibility using the registry established by the Department of Veterans Affairs. Currently, this registry is used to verify information from applicants for military honor plates, a veteran's designation on an operator's license, and state ID. LB78 does not change the eligibility requirements nor fee structures for these plates. It only requires verification of eligibility using the registry established by the Veteran-- Department of Veterans' Affairs, Nebraska Veterans Council brought me this suggestion for this legislation. They had received some complaints that unauthorized persons were using the Gold Star Family license plates. Although the current application for these plates requires a signature and states that filing a false application violates the provisions of Motor Vehicle Registration Act and that any person that does-- does so may be subject to prosecution and cancelation of their certificate of registration, the DMV does not check their eligibility. LB78 would add this additional step. LB78 was heard before the Transportation and Telecommunications Committee. No one testified against the bill and it was advanced 8-0. The fiscal note stated that the-- any fi-- fiscal impact of the-- to the agencies could be absorbed within existing appropriations. I believe LB78 is a good bill as it will give veterans' groups peace of mind, knowing that only eligible persons will be authorized to receive these plates related to-- military-related license plates. Furthermore, since the county veterans service officers could fax the necessary documentation for applicants to the Department of Veterans' Affairs for submitting into the registry, DMV could offer these plates online, since a signature

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would no longer be required. I encourage your favorable vote on the advancement of LB78. Thank you.

**HILGERS:** Thank you, Senator Gragert. Debate is now open on LB78. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. Speaker. And thank you, Senator Gragert, for bringing the-- the bill. I think it's unfortunate that we actually have to have this bill, that some people were applying for this plate that really weren't entitled to it. And this really, really does clean up language, and so there's no doubt at the county level of who is entitled to it, because we'll have a clear-- clearly stated who will and who will not through the-- through our Veterans' Affairs folks that will help out with this. It was supported within the committee and by all of our veterans groups. And again, I just think it's-- it's-- it was unfortunate that we have individuals in the state that actually are applying for this plate who aren't entitled to it. So with that, I just want to thank Senator Gragert for bringing the bill, the veterans groups for bringing the bill. It's an unfortunate need, but it's reality. So with that, I urge you to vote green on LB78. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Bostelman. Seeing no one else in the queue, Senator Gragert, you're recognized to close. Senator Gragert waives closing. Question before the body is the advancement of LB78 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 45 ayes, 0 nays on the advancement of the bill.

**HILGERS:** LB78 advances. Next bill, Mr. Clerk.

**CLERK:** Mr. President, LB405 is a bill introduced by Senator Lowe. It's a bill for an act relating to village boards of trustees. It changes provisions relating to off-- officers and employees of villages; introduced on January 14, referred to the Urban Affairs Committee, advanced to General File. I have no amendments to the bill, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Senator Lowe, you're recognized to open on LB405.

**LOWE:** Thank you, Mr. Speaker. LB405 is a bill designed to clarify our statutes when it comes to the ability for village board members to receive compensation for seasonal or emergency work. Examples of this

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would be if a village board member is the person responsible for plowing the snow or if they're the only person in town trained as a lifeguard. It always is the intention of the statute to allow for compensation to these situation. Unfortunately, the way the law was written was messy and confusing. This led to a disagreement in interpretation between many of our village boards and the Nebraska Accountability and Disclosure Commission. LB405 cleans up the language and makes the process more clear for village board members to receive compensation. This bill made it out of Urban Affairs Committee on a 7-0 vote. The League of Municipalities and the NADC both testified in favor of clarifying bill. I urge you to vote yes and advance this bill to Select File. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Lowe. Debate is now open on LB405. Seeing no one in the queue, Senator Lowe, you're recognized to close. Senator Lowe waives closing. Question before the body is the advancement of LB405 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 43 ayes, 0 nays on the advancement of the bill.

**HILGERS:** LB405 is advanced. Next bill.

**CLERK:** LB252 is a bill introduced by Senator Matt Williams. It's a bill for an act relating to Veterinary Drug Distribution Licensing Act. It provides for refills pursuant to certain veterinary drug orders as prescribed; introduced on January 11, referred to the Health committee, advanced to General File. I have no amendments to the bill, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Senator Williams, you're recognized to open on LB252.

**WILLIAMS:** Thank you, Mr. President. And good morning, colleagues. LB252 was brought to me by the Nebraska Cattlemen Association. LB252 is an uncomplicated bill and simply proposes to authorize veterinary drug distribution companies to continue to refill prescribed drugs to livestock on farms, ranches and in feedlots for up to 30 days after the death of a prescribing veterinarian. Current Nebraska law requires a client-veterinary relationship in order for a drug distribution company to supply and refill prescribed drugs, but the law is silent on how to refill drugs when that relationship is severed due to the death of the veterinarian. Therefore, the bill allows a 30-day window for drugs to be refilled while farmers, ranchers and feedlot operators

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establish a relationship with a new veterinarian. We had an unusual circumstance happen this past fall when a veterinarian, Dr. Jeff Fox, who was a consulting feedlot var-- veterinarian primarily working with feedlots across the state of Nebraska, he was the sole veterinarian in his practice. It was discovered 48 hours after his passing that the valid and unexpired prescriptions he issued to one of his feedlot customers were deemed invalid. After extensive research to find guidance as to why this was the immediate case, it was discovered it was due to an interpretation of the Nebraska definition of a veterinary-client-patient relationship, and LB252 fixes that issue for the livestock industry. The Health and Human Services Committee held a hearing on 2-5 of 2021. There was no opposition testimony and the bill- bill was advanced on a 7-0 vote. I would encourage your green vote on LB252. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Williams. Debate is now open on LB252. Seeing no one in the queue, Senator Williams, you're recognized to close. Senator Williams waives closing. Question before the body is the advancement of LB252 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 43 ayes, 0 nays on the advancement of the bill.

**HILGERS:** LB252 is advanced. Next bill.

**CLERK:** LB70 is a bill originally introduced by Senator Wayne. It's a bill for an act relating to the State Athletic Commissioner; it authorizes the regulation of professional kickboxing and professional bare-knuckles boxing; introduced on January 7, at that time referred to the General Affairs Committee. There are committee amendments by General Affairs, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Senator Wayne, you're recognized to open on LB70.

**WAYNE:** Thank you, Mr. President. Today I am introducing a simple bill. It'll elevate the kick boxing and bare knuckle boxing to a more professional level in the state. LB70 will allow the State Athletic Commission to sanction matches and exhibits within the state. This will bring in a regulation that is seen in other states such as Alabama, Georgia, Tennessee and many more. Both of these sports are a growing industry, and kickboxing in particular has expanded throughout Nebraska. Many people can see martial arts and boxing schools popping

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up all over Nebraska. Currently, the Nebraska Athletic Commission already handles these regulations for boxing matches but does not handle kick boxing or bare-knuckle boxing. The Fiscal Office considers LB70 as a positive cash flow that will generate \$8,000 from promotional events and exhibits. The amendment is straightforward. It just simply clears up a bit of confusion where it comes to the eight-ounce gloves; but bare-knuckle boxing defeats the purpose of having a bare-- an eight-ounce glove, so it removes that section. Again, this is a simple bill. There was no opposition testimony. The bill came out unanimous. And with that, I'd ask for a green vote on the LB70 and the underlying amendment.

**HILGERS:** Thank you, Senator Wayne. As the Clerk noted, there are committee amendments. Senator Briese, as Chair of the General Affairs Committee, you're recognized to open on AM276.

**BRIESE:** Thank you, Mr. Speaker, and good morning again, colleagues. AM276 is an amendment adopted by the committee that exempts professional kickboxing and professional bare-knuckle boxing from the statutory requirement that contestants wear gloves during their fights found in 81-8,134. This amendment was adopted and voted out of the committee on an 8-0 vote. The bill had no opposition in the hearing and I urge you to vote green on AM 276 and LB70. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Briese. Debate is now open on AM276. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker, and good morning. I was wondering if Senator Wayne would yield to a question.

**HILGERS:** Senator Wayne, would you yield?

**WAYNE:** Yes.

**ERDMAN:** Senator Wayne, I see that the-- the fiscal note said \$4,000 from the cash fund. And then it also described down below in the-- in the comments that it would-- these events would collect about a thousand dollars in revenue. Is that-- do you see that?

**WAYNE:** Yes.

**ERDMAN:** So-- and-- and you're assuming, according-- well, the-- the fiscal note people are consum-- assuming that we'll have four events one year, the first year, and like eight the second? Was that correct?

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**WAYNE:** Correct.

**ERDMAN:** OK, we don't have any of those now?

**WAYNE:** No. Right now they're actually outside-- of mainly happen in Iowa or Colorado. They're-- they're outside of Nebraska because we don't have regulations--

**ERDMAN:** OK.

**WAYNE:** --to allow those events to take place.

**ERDMAN:** So then this amendment, AM276, is very similar to the other, AM15 or whatever it is. Are they both the same?

**WAYNE:** Yes, I withdrew my amendment because they're the exact same.

**ERDMAN:** OK, all right. So will this allow kickboxing without gloves?

**WAYNE:** Well, it's kind of a misnomer. It's-- they'll allow kickboxing, but the-- the actual-- they still wrap their hands.

**ERDMAN:** Right.

**WAYNE:** They just don't wear the eight-ounce gloves, so it's truly not bare knuckle. But, yeah, it will allow.

**ERDMAN:** And-- and will allow bare-knuckle fights?

**WAYNE:** Correct.

**ERDMAN:** OK. All right. I just wanted to be clear on that. I seen those two amendments and I had-- I did not know you withdrew one. I--

**WAYNE:** I just did like five minutes ago.

**ERDMAN:** OK, thank you.

**WAYNE:** Thank you.

**HILGERS:** Thank you. Senator Wayne and Senator Erdman. Seeing no one else in the queue, Senator Briese, you're recognized to close. Senator Briese waives closing. Question before the body is the adoption of AM276. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

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**CLERK:** 42 ayes, 0 nays on adoption of committee amendments.

**HILGERS:** The committee amendments are adopted. Mr. Clerk.

**CLERK:** Senator Wayne, I do understand you wish to withdraw AM15. Thank you. I have nothing further on the bill, Mr. President.

**HILGERS:** Turning to debate on LB70, Senator Ben Hansen, you're recognized.

**B. HANSEN:** Thank you, Mr. Speaker. I wonder if Senator Wayne would yield to a couple of questions, please.

**HILGERS:** Senator Wayne, would you yield?

**WAYNE:** Yes.

**B. HANSEN:** So right now in the state of Nebraska, they are not allowed to do kickboxing or bare-knuckle fighting?

**WAYNE:** Correct.

**B. HANSEN:** With this bill, they will be able to now?

**WAYNE:** Correct.

**B. HANSEN:** Have you ever done kickboxing or bare-knuckle fighting, Senator Wayne?

**WAYNE:** Not to incriminate myself, I'm sure growing up I-- it wasn't sanctioned.

**B. HANSEN:** OK. OK, good point. So now with the passage of this bill, are we able to-- and the passage of the sports betting in state Nebraska, are we allowed now to bet on this kind of activity in casinos?

**WAYNE:** Sure, yeah. It's-- it would be a game of chance. You-- if Senator Briese's bill would pass, it would allow for betting-- or even without Senator Briese, you allow for betting on this. Yes, you would be able to.

**B. HANSEN:** OK, all right. That's all the questions I had. Thank you, Mr. Speaker.



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**HILGERS:** Thank you, Senator Wayne and Senator Ben Hansen. Seeing no one else in the queue, Senator Wayne, you're recognized to close. Senator Wayne waives closing. The question before the body is the advancement of LB70 to E&R Initial. All those in favor vote aye; all those opposed to vote nay. have all those voted who wish to? Record, Mr. Clerk.

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

**HILGERS:** LB70 is advanced. Next bill.

**CLERK:** LB5 was a bill originally introduced by Senator Blood. It's a bill for an act relating to schools; adopts a Purple Star Schools Act; introduced in January of this year, referred to the Education Committee, advanced to General File. I have no amendments to the bill, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Senator Blood. you are recognized to open on LB5.

**BLOOD:** Thank you, Mr. Speaker. Fellow Senators, friends all, thank you for the opportunity to present LB5, and thank you to Speaker Hilgers for including this on his list of consent calendar bills. LB5, otherwise known as the Purple Star School program, is a state-sponsored recognition designed to emphasize the importance of helping military children deal with school transition while also developing programs that recognize the value of military service and civic responsibility. I'll add that it is a direct ask from the military families office at the Pentagon for this year's legislative session. LB5 allows for a voluntary process that a school may follow in order to be recognized as a Purple Star School. A school that wishes to participate in this initiative need only apply to the State Board of Education. The state board may yearly designate any school that applies in the manner that will be prescribed by the board and meets the qualifications set by the program. The NDE then designates any school as compliant with the program that first and foremost names a staff member at the school the military liaison. This does not require the hiring of a new staff person. This liaison then creates a programming that is relevant to military-connected students who are trans-- transitioning into the school. There should also be a website that is easily accessed and easy to navigate, that has resources for these military families. An existing school website can be utilized. And the good news is that many schools already have much of what is being requested available to students. Access to resources regarding

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enrollment, registration, and transferring records to the school, as well as possible counseling services available and how to get in touch with the military liaison, will all be included on this website. The Purple Star School program is a three-pronged approach. First, there's the benefit to the student in that they are given information and assets that will help them transition to their new school. Second, there's also a concerted effort by the school to demonstrate how important military service is to the community. And lastly, the Purple Star program recognition allows schools to promote that they are designated as military friendly. That kind of recognition can be beneficial for the community at-large, as well as it can bring a sense of pride to that municipality. It's important to note that the average military-connected child moves six to nine times during their school career. We need to remember that when these students move and must then attend a new school, they rarely have a say about where they end up. When we take a step back and look at this type of data, it truly clues us as to the importance of encouraging Nebraska schools to have programs in place that will make transition for these military-connected children a little easier and more welcoming, for the families also serve. An important part of any transition for these children from our military families is learning that they aren't on their own and have a tangible support system in place. The liaison can also focus on setting up student support programs that are led by other military-connected students. There is an aspect to this program I need to address. I want to be very clear for the record today. This is not a state mandate for Nebraska schools. The Purple Star program would offer a roadmap for schools who choose to take part, but it does not require participation from any district. I'll note that we received an enthusiastic response from many schools, both public and private, either in testimony at the hearing or through letters sent to the committee. The bottom line is that the Purple Star School program is one that helps a student transition to school in Nebraska and demonstrates that we understand and appreciate the sacrifices they are making for their military family and the sacrifices their families are making on behalf of all of us. And we know from past military family bills that I've brought forward that when we save the family, we save the mission. Parents who are deployed or stationed in new surroundings have a lot to worry about. How Nebraska embraces and welcomes those-- those families shouldn't be one of those-- their concerns. So with that, I would ask for your support and a green vote on LB5. Thank you.

**HILGERS:** Thank you, Senator. Blood. Debate is now open on LB5. Seeing no one in the queue, Senator Blood, you're recognized to close.

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Senator Blood waives closing. Question before the body is the advancement of LB5 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to?

**LINDSTROM:** Record, Mr. Clerk.

**CLERK:** 44 ayes, 0 nays, Mr. President, on the advancement of the bill.

**LINDSTROM:** LB5 does advance. Items, Mr. Clerk?

**CLERK:** Thank you, Mr. President. An amendment to be printed: Senator Hilkemann to LB390; Senator Wayne to LB544. New A bills: Senator Cavanaugh, John Cavanaugh, LB320A, it appropriates funds to implement LB320; LB156A, by Senator Wayne, it appropriates funds to implement LB156. And I have an explanation of vote from Senator Ben Hansen. That's all that I have, Mr. President.

**LINDSTROM:** Thank you, Mr. Clerk. We will now move on to LR29 on the agenda.

**CLERK:** Mr. President, LR29 is a resolution that has been discussed. It creates a special investigative committee. There were committee amendments offered and adopted on March 23. There have been subsequent amendments offered, one from Senator Hughes, one from Senator Han-- Ben Hansen that were adopted. When the Legislature left the issue, Senator Hughes had pending FA7. Senator Hughes, I understand you wish to withdraw FA7 and offer AM771.

**HUGHES:** That is correct.

**LINDSTROM:** Without objection-- objection, so ordered.

**CLERK:** Senator Hughes, AM771.

**LINDSTROM:** Senator Cavanaugh, would you refresh us on LR29?

**M. CAVANAUGH:** Yes, thank you, Mr. President. Good morning, colleagues. LR29 is a resolution to create a special investigative oversight committee to look into the contract with Saint Francis Ministries, the Department of Administrative Services, and the Department of Health and Human Services. Thank you.

**LINDSTROM:** Thank you, Senator Cavanaugh. Senator Hughes, you're welcome to open on AM771.

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**HUGHES:** Thank you, Mr. President. Good morning, colleagues, AM771 makes a clarification that Senator Lathrop pointed out, that the special committee would have to come to the Exec Board in order to call a meeting. That was certainly not the intent, so I believe this amendment clarifies that issue that the special committee can meet whenever the Chairman chooses to. And it also reaffirms that a subpoena needs to be approved by the Executive Board. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator Hughes. Turning to debate, Senator Lathrop, you are recognized.

**LATHROP:** Thank you, Mr. President. Colleagues, good morning. I ob-- am in opposition to AM771, and let me explain my position. I agree that AM771 fixes the problem that was evident in FA7, which is FA7 would require the Exec Board's permission for the group to even meet. I have an amendment that I filed this morning-- you'll find it on your gadget-- that I think addresses the problem that we heard which led to the amendments that would require Exec Board approval. So if you were to adopt this amendment and not adopt my amendment, which we'll take up after AM771, then every time a-- a subpoena gets issued, the Exec Board would have to approve that subpoena being issued, and-- and not just as to form and not just as to scope but the substance of the amendment. So if this committee were to meet and they wanted to subpoena a copy of early drafts of the agreement between HHS and Saint Francis, they'd have to go to the Exec Board and get permission to issue the subpoena. That seems to be the whole point of this process. We're-- by the way, the-- the-- this resolution came out of the Exec Board with authority to issue subpoenas in a process that we already recognize is set out in our own rules and in statute. This is an amendment to the authority to issue a subpoena. So we don't have a problem necessarily with the idea of this group issuing a subpoena. It's, what do they have to do, what hurdles do they have to clear in order to issue the subpoena? Right now, it would be up to the will of the Exec Board. So if there is a subpoena issued by the committee, they've made the decision they can't secure this information by any other means and they have voted and they voted to issue a subpoena to Saint Francis to give us a copy of any correspondence with HHS, for example, that would then go to the-- under the current amendment, that would go before the Exec Board, who could then say, oh, you know what, we're getting a lot of pressure, we don't want you to issue that subpoena, even though it is properly issued and it is in-- within the scope of the resolution that we're going to pass here momentarily. I think that's an issue. My amendment that we'll take up, hopefully

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after AM771 is defeated, would say the Exec Board will approve each subpoena issued by this committee after it satisfies itself two things: one, that the subpoena is requesting documents or the attendance of a witness, and that is within the scope of the resolution. So if it-- if somebody-- if a committee wants to go off and look into SNAP benefits just because they have the-- the authority to issue subpoenas, they wouldn't be able to because the Exec Board would be a check on what I would call a rogue subpoena. The Exec Board, under my amendment, would also have the responsibility to ensure that it is properly issued. So one of the problems we ran into in Ebke versus the state was it was very questionable whether that was properly issued, even according to our statute and the Legislature's rules. So the Exec Board would have two responsibilities for a subpoena this committee would want to issue--

**LINDSTROM:** One minute.

**LATHROP:** --under my amendment, which we'll get to after this AM771, and that's to make sure that the subpoena is asking for things within the scope of the resolution and that the subpoena is properly issued. Any other responsibility of the Exec Board would simply be second guessing or limiting the ability of this committee to do its work. Subpoenas, colleagues, are a tool to find the truth. They are a tool to find the truth. And if we care about the integrity of this institution, we will arm this committee with the tools they need to find the truth so that we can get to the bottom of those problems that became evident in the contract between Saint Francis and HHS. With-- and with that, I would encourage your no vote on AM771 and let us get to the Lathrop amendment. Thank you.

**LINDSTROM:** Thank you, Senator Lathrop. Senator DeBoer, you're now recognized.

**DeBOER:** Thank you, Mr. President. As I was thinking about how to organize my thoughts on this issue this weekend, I had some of the same thoughts that-- that apparently Senator Lathrop's amendment will sort of deal with. When I'm thinking about committees in this body, it's clear that there are subject matter expertises. You all know this because as you sit in committee, even over one legislative session, you begin to understand things that you didn't about the subject matter of your committees before you started. Just think about the acronyms alone. If you're on Approps, you know what FMAP means. If you're on HHS, you probably know CCDBG. If you're in Transportation and Telecommunications, you probably know what an RDOF is, but you

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might not if you're somewhere else. We develop expertises within this body. So my question, when I'm thinking about subpoena power and having the Executive Board sort of give the-- the go-ahead to these subpoenas, is where is Executive Board expertise? In this body we learn to trust each other to some extent about our expertises, so having someone else look over the shoulder and say, we're going to make the final decision about subpoena power and not defer to the subject matter experts, it seems a little bit of a question for me. This year in Transportation we had a bill that was accidentally mis-- misreferenced into our committee that should have been a Judiciary bill. I serve on that committee and on Judiciary with Senator Geist. And about half a minute into the introduction, she and I looked at each other because we knew that it was misreferenced and we knew that it should be in that other committee. So we do develop these expertises and they're important. If we're asking the Executive Board to evaluate the request for a subpoena, on what grounds are we asking them to evaluate that request for a subpoena? How will they evaluate that request? Now it sounds like Senator Lathrop has come up with some standards, but we need to know what the standard is. If we're just saying, here is a group of people who must decide, I wouldn't want to be on an Executive Board, without any expertise, trying to decide whether or not to OK a subpoena. How, I would ask, are they to perform guardrails? Last week, or whenever it was we last discussed this bill, there was a lot of discussion about how the Executive Board were supposed to be guardrails against any sort of, I suppose, going off the guard, going off the rails by the committee. So how are they supposed to perform those guardrails? There needs to be-- if there's going to be some request for the-- the non-subject matter experts to perform that service, there needs to be a much tighter set of rules for how they're supposed to do that. I do have a concern just generally about having the Executive Board be responsible for providing the OK on all of these subpoenas. It puts a lot of-- a lot of pressure onto one inflection point, and that is the Chair of the Executive Board. Now I think that Dan Hughes can handle it, but we're talking about the future of the subpoena power of this body. If an Executive Board Chair didn't want to schedule a discussion about whether or not to subpoena powers, they could slow-walk it. And we know that we're working on a clock with subpoena powers because in every instance at the end of the biennium--

**LINDSTROM:** One minute.

**DeBOER:** --that subpoena has been sort of vacated because our body is not a continuous body. That's what the Ebke case said. Finally, I'll

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address Senator Hilgers' argument. Senator Hilgers says that he rightly wants to protect our subpoena power from the threat of litigation. And that's really good. I think we all want to do that here. His argument is that we don't want litigation to make our subpoenas take so long that they die at the end of the biennium, and that's 100 percent a valid point. But the Ebke subpoena was slowed for many reasons, and my guess is that there are plenty of ways to find error capable of creating litigation. A clever lawyer will not be starved out by the absence of this one theory. The larger structural problems need to be resolved. And simply requiring Executive Board approvals won't do it and will actually make the whole process slower. So for that reason, I'll be waiting for--

**LINDSTROM:** Time, Senator.

**DeBOER:** -- the Lathrop amendment.

**LINDSTROM:** Thank you.

**DeBOER:** Thank you.

**LINDSTROM:** Thank you, Senator DeBoer. Senator Machaela Cavanaugh, you are now recognized.

**M. CAVANAUGH:** Thank you, Mr. President. Good morning again, colleagues. So I spent the weekend reviewing all of the comments that had been made last week on this resolution and-- and I believe that Senator Lathrop's amendment addresses all of the concerns that have been expressed in this body. I don't care for any of the amendments to this beyond the date change that we have already voted on. I worked for months on this resolution. I worked for several months with Speaker Hilgers on this resolution and it was voted out of the committee and brought to this floor, and I feel that its original state, with the date change, is the appropriate path forward. I have spoken with Speaker Hilgers and others in this body that I will accept whatever the outcome is from this body on these votes. But I do hope that AM771 is not adopted. And I, somewhat reluctantly, but am supportive of FA14 as a compromise, though I still believe that the resolution, as it stands, is sufficient. When I submitted LR29, it was my intention that the Executive Committee vote on the resolution and, if passed out of committee as it was, that the committee was agreeing to grant a special investigative oversight committee the authority to issue subpoenas if the Legislature also approved the resolution. Clearly, that's what this resolution did. It did what I intended it to

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do. And I am not a lawyer, though I am related to several. I am a bit flummoxed that the committee didn't understand that when they voted it out of committee. When the Executive Board voted this out of committee, it was doing exactly what I wanted it to do, what I intended it to do, so I'm sure the rest of the body can appreciate that I am a bit frustrated by all of this. But I want this to move forward quickly and cleanly and with the uproarious support of this body because, as I have stated numerous times before, this is the most important thing we can do this year. This is what we can do to protect children in our state, and I will not play politics with this, not even for a minute. I will be present, not voting, on this amendment. I will vote for the other floor amendment, FA14. I hope that others will follow suit and I hope that we can move forward quickly to resolve this and create a special investigative oversight committee to look into the Saint Francis Ministries contract. Saint Francis Ministries has a public record of financial malfeasance. On January 22, Saint Francis Ministries and the Department of Health and Human Services came before the Health and Human Services Committee to give us an update, an update which only vaguely referred to the fact that they were renegotiating a multimillion-dollar contract within the next seven days. Then between January 22 and January 29, when that contract was signed, a representative from Saint Francis Ministries gave a public report to the Kansas State Legislature that they were willing to walk away from Nebraska if we didn't give them what they wanted. They publicly stated that they were going to hold us essentially hostage in our child welfare of the Eastern Service Area. And that day I went to Speaker Hilgers--

**LINDSTROM:** One minute.

**M. CAVANAUGH:** --and Chairman Hughes and I said, this needs to move forward now, we cannot wait, and two days later, they signed a contract that gave \$10 million to backfill their budget to pay the state of Kansas. And now we are giving them more money than we gave to PromiseShip, more money than was in PromiseShip's bid, and they still are not providing the services. In fact, they are having services taken away from them. This is crucial. This is crucial. There are many important things in this Legislature. This is crucial; this is an emergency. I thank you all for your attention and I thank you for your consideration of the votes today.

**LINDSTROM:** Thank you, Senator Cavanaugh. Speaker Hilgers, you are now recognized.



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**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I rise in support of AM771. I want to really address two points, primarily Senator DeBoer's point, which I think really goes to the heart of my argument. But first let me just say, as someone who was heavily involved in the drafting of this amendment, and as I said last week, I support subpoena power in this LR. I fought to retain it. I've told that to Senator Cavanaugh from the beginning. When I drafted this amendment, the idea that this would be controversial, it would-- is actually sort-- somewhat of a surprise to me because I thought it was implied. When Senator Hughes came to me and said, look, we got to make this explicit, we-- we need to say the Exec Board signs off the subpoenas, I said, hey, that should be-- that should be a no-brainer, because that's how it's been done in the past. That's exactly what our standing committee did, the Judiciary Committee, a committee that has been with this institution for decades, did when it issued its subpoena that un-- that was the basis of the Ebke decision. So the idea that somehow this subpoena or that this is-- that this amendment was-- was-- was put forward and now we're trying to take away subpoena or we-- we missed this, frankly, I this-- I thought this was belt and suspenders. Now that this has been raised as an issue before the body, however, I actually think it hurts the ability of the LR29 Committee if it's created to do its work if this doesn't-- AM does not pass. Now Senator DeBoer, I think the way that she framed the question I think is very helpful because it goes to the heart of my argument. Senator DeBoer basically said committees have expertise, what expertise to the-- does the Exec Board have? And I think that is very easily and directly answered. The Exec Board has a specific expertise, which is protecting the institutional prerogatives of this body. It is the Exec Board, as an example, that hired counsel for-- to-- to handle the Ebke dispute. It is the Exec Board that was the party in the Ebke decision. It is the Exec Board now, under our new statute, from LB681, the Exec-- Exec Board Chair, who is one of only two potential parties in that decision. It is the Exec Board, including its counsel, including many of its members, who was heavily involved in the underlying Ebke decision, not-- or the dispute, the crafting of the arguments, the discussion with counsel, the reviewing of the decision. If there is one body in this entire Legislative Council, this entire body, if there's one entity that has the expertise to defend our institutional prerogatives, to make sure that we don't make bad strategic decisions that harm generations of legislators after us, it is quite clearly the Exec Board and I would submit it quite clearly isn't a committee that likely would not even have-- in many cases would have counsel. Colleagues, the Judiciary Committee, the Health and Human Services

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Committee, every standing committee of this body has counsel; all of those standing committees, before they issue a subpoena, have to come to the Exec Board for approval of those subpoenas. We can argue, I suppose, in the first instance, whether that's wise. I think there's a strong argument that it is. That's what we've done. That's what I think is driven under our rules. But the idea that we would treat a special committee in the era of in-- of term limits and elevate that above a standing committee, I just does-- I think that has it backwards. I think it has it backwards. I think it has it backwards in the normal course, but I think that's especially true, post-Ebke. After that decision, this body took a blow that we-- I hope we fix under LB681, the bill that I brought. We did a number of things to help clean up that statute and strengthen our authority. But nevertheless, we should all be very sensitive to what happens coming out of this LR or any other. This body, we touched the stove and it was hot a couple years ago, and I think we ought to be thinking twice, if not three times, before we touch the stove again and make sure we have it right. This is how the Exec Board has signed off on subpoenas for standing committees in the past. It's the Exec Board that has the authority, the institutional knowledge to make sure that we don't get over our skis in the future, and not just over our skis to have one subpoena squashed.

**LINDSTROM:** One minute.

**HILGERS:** Thank you, Mr. President. The idea of just having one subpoena get squashed by a court, delaying one process, you know, you can take that or you can leave that. The concern I have is an institutional one. When you create precedent on the scope of our subpoena that some committee might-- might issue, some court might then issue a ruling that restricts our authority going forward. Those are not easily undone decisions, colleagues. In my view, the right approach here is to adopt this amendment. We have an Exec Board that has shown willingness to provide subpoena authority here. Let the process-- let the one body that has the institutional knowledge to ensure that the body's power does not get unduly narrowed over time, and then pass the LR with the amendment, AM71, attached. Thank you, Mr. President.

**LINDSTROM:** Thank you, Speaker Hilgers. Senator John Cavanaugh, you are now recognized.

**J. CAVANAUGH:** Thank you, Mr. President. Thank you, colleagues. So, well, I guess I rise in support of the Lathrop amendment and in

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opposition to AM771. I appreciate the discussion we're having here today. I appreciate Senator DeBoer's comments and I appreciate Senator Hilgers' comments and his measured approach. I do respectfully disagree with Senator Hilgers-- Speaker Hilgers, I apologize. I don't mean to diminish your rank and stature. But I respectfully disagree in the sense that we have standing committees and they have a specific purview and an expertise that Senator DeBoer discussed. And when they require subpoena authority, they come and they ask for it because it's not in the everyday necessity of a standing committee. However, when we fi-- we are compelled to create a special investigative committee, as we are doing here, it should-- the reason it exists is specifically for the investigative authority that is part of-- or a subpoena is part of that special investigative authority. So I disagree with Speaker Hilgers in the sense that this is elevating a special committee above a standing committee. It is actually investing a special committee with the necessary resources and tools to act on the action that we are asking of them, as opposed to a standing committee which has many other callings, tasks, purviews to have hearings on bills and other matters. That is why there's a distinction and why the standing committees are not automatically invested with that authority and why we would invest a special committee with this. So I would ask if Senator Hilgers would yield to a question-- I'm sorry, Speaker Hilgers.

**LINDSTROM:** Speaker Hilgers, would you yield, please?

**HILGERS:** Absolutely.

**J. CAVANAUGH:** I apologize, first off, for continuing to call you "Senator" and not "Speaker." But, Speaker Hilgers, you and I have had this conversation a little bit off the microphone. But is it your position that we could not invest a special committee with an authority to issue subpoenas without going back to the Executive Board?

**HILGERS:** Thank you for the question, Senator Cavanaugh. I think it's theoretically possible for-- for the body to-- to provide a special committee sort of with a preauthorization. I-- but I do think that what-- it would have to be in-- it would have to essentially waive the Exec Board's right for a-- for a review before it gets issued, so it would have to be explicit. But I do think that would be possible, although I haven't dug into the question enough to know if there's something I'm missing.

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**J. CAVANAUGH:** I appreciate that response and I-- it goes along with the conversations we've had. It's my belief that we are trying to-- to protect the purview of the entirety of the Legislature here, and that is why it is important that we get this right. And I actually spent a little time over the weekend reading some previous debates as it pertained to issuing of subpoenas for committees. And I think it is important that we not take the position here that we could not grant subpoenas in this-- in this way. And so I think the question before the Legislature today, the question presented by AM771 and that I think we should focus discussion on, is not whether or not we could issue it in this way, but whether we are choosing to do so here today. I think that is the question. And so the question is, do you think-- and this is a question for everyone, not specifically to Speaker Hilgers. Do you think that this is such a-- a crisis, such a situation that this committee needs to be able to issue subpoenas and react quickly and get answers, the answers that we have not been able to get, that we-- that have been slow-walked and per-- will, we assume, continuing going forward, will be slow-walked? I rise in support of Senator Lathrop's amendment here today because it addresses the concerns that I think were raised by Speaker Hilgers that were raised by Senator DeBoer. It recognizes the importance of this committee and its--

**LINDSTROM:** One minute.

**J. CAVANAUGH:** --authority to issue these subpoenas, but it does so in a way that still protects the structure and the purview of the Legislature. We're concerned that the-- the Exec Board is going to be the one who is going to be responsible to defend these amendments-- or these subpoenas. Speak-- or Senator Lathrop's amendment includes a requirement that they approve as to form and make sure that these are properly executed. And so I'd ask for a no vote on AM771 and a vote on Senator Lathrop's amendment. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator Cavanaugh. Senator Hughes, you are now recognized.

**HUGHES:** Thank you, Mr. President. Good morning again, colleagues. I want to bring us back from lawyer speak for just a little bit. It is a fascinating discussion, but we need to get back to more of the level of a citizen Legislature where we are, and that is what the Executive Board of the Legislative Council does. If we remember, you know, when we voted for membership, you know, it is representative of all three congressional districts, plus myself, Senator Vargas, and Senator--

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and Speaker Hilgers. So we are a broad cross-section of this body. We have a lot of expertise. Senator DeBoer's point that we don't have expertise in all committees, I ran through my-- my book right quick, and the only committee that is not represented on the Executive Board is the Revenue Committee. The members of the Executive Board serve on all committees. We have expertise. Maybe we're not serving on them this year, but we served on them in the past. So it's extremely important that we keep in mind why we need to do this. We keep referring to the-- to the Ebke case. The Ebke case cost the Legislature almost \$80,000 to defend the Legislature because we didn't get it right, and that's what this discussion is about, to make sure that we get it right, that the Legislature does have subpoena power and we need to be able to use that. And I'm certainly in favor of that. I'd listen to some of the discussion and I get the feeling that they don't think the Exec Board wants subpoena-- wants a committee, whether it's standing or special, to have subpoena power. I want our committees to have subpoena power. We have to have that, absolutely. That's critical. As I mentioned before, we've all had run-ins with our bureaucracy that drive you crazy because they tend to stall on us, so we have to have subpoena power. I don't know how for-- much more forcefully I can say that. I think it will be very rare that I would not vote for a committee or a special committee to have subpoena power. But because the Executive Board of the Legislative Council is the one on the line to sign off on the bills, to make sure that it is done correctly so we don't get sued, the Executive Board needs to have authority to sign off on whether it's 1 or 20 subpoenas, but we need to have that oversight. The Legislative Council-- or the-- yes, the Legislative Executive Board has legal counsel as well. So besides the committee counsel that may be looking at this, there's another legal authority that is taking a look at that. And that's very important. I wanted to make sure that we keep focused on why this is important, because we don't want to lose our authority to have subpoenas, because that's-- that's one of the tools in our toolbox and I'm certainly not willing to give that up. But we need to make sure that we do it right, and that's what this amendment is. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator Hughes. Senator Lathrop, you're now recognized.

**LATHROP:** Thank you, Mr. President and colleagues. I do kind of want to bring this back to where we were the other day, last Thursday, I think, when we talked about this. There really are two things that we hear about: Why-- why-- why are we having this discussion? One is to

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make sure that we don't do something that diminishes this body. OK, that's one argument that you heard on Thursday. The other is, and Senator Hughes just mentioned it, we don't want to lose our authority by issuing a subpoena improperly, losing a case, and then ending up in a place where we have difficulty giving any committee subpoena power in the future. I think my amendment addresses that. So there is a very-- look at-- look at the-- look at the two amendments in this way. The Hughes amendment, AM771, would say, whatever you are doing down in the committee, you have to come up to the Exec Board for three things: approval as to the form so you're issuing it properly; secondly, that it's within the scope of what the resolution is; and third, we're going to weigh in on the substance of what you're asking for. My amendment would say the Exec Board can ensure that the subpoena is properly issued. They will not approve a subpoena, so we are protecting the institution. What Senator Hilgers said he wanted to do, what Senator Hughes said he wanted to do with AM771, we're protecting the institution by ensuring that the subpoena is not outside the scope of the resolution and that it is properly issued. So the only thing left is, is the Exec Board going to be in a position to weigh in and say, you're not going to ask, you're not going to get that, we're not going to let you go-- go ask them for something that's within the scope of your investigation? There's no reason for that. The guardrails in place, let me-- because I've-- by the way, I have issued subpoenas in the-- in the Corrections Special Investigative Committee with no more authority than currently exists in LR29. So to the extent anyone believes our history requires separate approval from the Exec Board, it doesn't. I've issued many subpoenas from that committee and it worked flawlessly. Here are the guardrails. The committee first has to make a determination as to whether or not they can secure the information or the attendance of a witness without a subpoena. If they cannot, then they take a vote. And if the committee votes to issue a subpoena, under the Lathrop amendment, you would then take that to the Exec Board and say, we are going to issue a subpoena for this person to attend or these documents to be produced. And the Exec Board would look at it and make a judgment and approve it, provided that they haven't gone outside the scope of this resolution. So they can't go hunting and fishing for information on Medicaid, SNAP, anything else that HHS has, YRTCs. It has to be focused on the subject matter in the resolution. And number two, before the Exec Board approves it, they'd have to ensure that it's properly issued. So those are the safeguards to this point. Now I've done these before and I've had the Attorney General step up and say, we think this is too broad. You go in front of a district court judge. If you can't work it out, a district court

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judge can narrow the scope of your ask. That's provided for in the bill that Senator Hilgers got passed last year dealing with our subpoena power.

**LINDSTROM:** One minute.

**LATHROP:** So those guardrails are in place. AM771 would let the Exec Board second-guess the committee. My amendment would have the Exec Board ensuring that it is properly issued and that it is within the scope of the resolution, and that's all after the committee has taken a vote, after the committee has determined that they cannot secure the attendance of a witness or documents by any other means. Colleagues, if we're going to not diminish the institution, not diminish the institution by handcuffing them and not giving them the tools they need to search for the truth, then we diminish the body. We diminish this branch of government if we don't fully embrace the ability of the committee to secure documents and the attendance of witnesses in a way that we can rely on in order to conduct an accurate and full investigation. With that, I would encourage you to vote no on AM771.

**LINDSTROM:** Thank you, Senator Lathrop. Senator DeBoer, you're now recognized.

**DeBOER:** Thank you, Mr. President. I think that we all see that we all share a common goal in wanting to protect this institution, and I think maybe now we start to turn our way to finding our solutions through the arguments that we're having. And I think the answer, the solution, is the Lathrop amendment. I think that is a compromise amendment that provides the guardrails that AM771 envisions, but also does one more step. It provides guardrails for the Executive Board in their providing guardrails to the special committee, and it does that by giving the standard by which the Executive Board should be making their decision. Colleagues, we have the ability today to say we're going to vote for the Lathrop amendment and we're going to tell the Executive Board upon what basis they have to decide whether or not to vote for the subpoena in the individual instances that a subpoena is requested by a special committee. I think Senator John Cavanaugh made a really good point, that these special committees are, in fact, special and they are, in fact, special investigatory committees, so their use of the subpoena is going to be more pronounced than perhaps a standing committee should be. And when we're envisioning how to work all of this out, having those guardrails for the guardrail providers makes us sure that we are, as a body, sort of funneling the-- the proper procedure to the proper people. So a standard of review for a



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subpoena power, that's Lathrop's two-prong approach, which is in his amendment, not in AM771, which doesn't provide that guidance to the Executive Board. So one other piece that I would add is that, as a member of the Executive Board-- or I think that there should be a member of the Executive Board on these special committees. If we're going to say we have subject matter expertise on all the standing committees on the Executive Board, that may not be true on these special committees. So perhaps there should be a member of the Executive Board on these special committees in order that that person can act as a liaison between the subject matter expertise of these special investigatory committees and the larger Executive Board, because the-- the sort of watching-out-for-the-institution kind of expertise that the Executive Board might have would not necessarily translate into proper oversight of these special investigatory committees' subpoena powers. So by having one member in common to both of those, I think that goes somewhat towards alleviating some of my concerns about that lack of expertise, so I would be willing to-- to look at something like that. But most importantly, I think the standard of review, the standard of-- of what makes them decide whether or not to OK these subpoena powers, needs to be spelled out and it needs to be spelled out by this body, and I think that is best done through the Lathrop two-prong amendment, which will come next, so I urge your vote red on AM771 and green on the Lathrop amendment-- amendment. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator DeBoer. Senator Vargas, you are now recognized.

**VARGAS:** Thank you very much. Now as a member of the Executive Committee, I just wanted to give part of my two cents here. But first is I do respect what Senator Chairman Hughes is trying to do. We've had this conversation off the mike, and I understand that we're trying to protect the institution as a whole. I think there's a balance. I also got up on the mike here a few days ago and mentioned that my-- my larger concerns are-- are on what we're really inherently trying to do here, which is I view LR29 and I view the investigative capacity as necessary and that if we are impeding the ability for that sort of in-- inherent power that is being provided through this-- through this resolution, if we're undermining it, then in some ways it concerns me because there shouldn't then be an LR. There should be LR29. But if we are going to create another barrier to being able to identify what the underlying causes or reasons why we got to this place, then it doesn't matter. I do think there's a balance here with the Lathrop amendment, which we'll discuss here, and part of this is because I do think



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inherently it's not just the power that the Legislature, the Executive Board has, but also a-- a committee-- a committed committee with a very clear purview and a clear purpose. And because we are establishing this in this language, I think it has merit. I think it has the balance that maybe we might not all agree with, necessarily, but I think it has the balance that provides deference to the Executive Board but also doesn't do it in a way that undermines the power that we want inherently LR29 to have. And I hope we get to that discussion, but I'm saying this is an Executive Board member. I understand sometimes even in Executive Board, you know, the-- the-- the way that we sort of make the sausage is we sometimes will agree on things and that's OK, and sometimes we also disagree on process and I think that's healthy. We've been elected to be representatives of the Legislature to do that. But in this instance, we are not, the Executive Board, taking up the helm of LR29. That's not our responsibility. That's not something we're doing. We are extending that ability to LR29 as a body and voting on that, and I support that and I don't want to impede upon that as an Executive Board member. That's what my concern is, and I also don't want to sort of lengthen out a potential-- and I would never hope that any of us would try to lengthen out-- now this is myself, you know, Senator Hilgers, Speaker Hilgers, or-- or Chairman Hughes, that we would try to lengthen something out unduly. You know, I really hope you would never do that. But in order to not to get to that place, I do hope we can get to some sort of a compromise, which is currently represented in this amendment. So, colleagues, I rise in support of the amendment. I rise in opposition to the current amendment. I do have concerns in the long run that if we create this LR and we don't provide it with the inherent power that is needed to then do its job, that we could be undermining future LRs like this, investigative committees, which we don't want to do. And so I think that we have a balance here that we may not all agree with but hopefully the majority of us can agree with, that will allow the committee to do its job while also protecting some deference to the Executive Board in a reasonable manner. Thank you very much.

**LINDSTROM:** Thank you, Senator Vargas. Seeing no one else in the queue, Senator Hughes, you're welcome to close on AM771.

**HUGHES:** Thank you, Mr. President. I'll-- I'll be brief. You know, a lot of the discussion that I'm hearing is whether or not we trust the Executive Board to make the right decision. When we vote on the first day for Chairman, Vice Chairman, Speaker, those positions are automatically on the Exec Board. The rest of the members come from our

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caucuses that we as caucuses vote to support them in the leadership positions, to make decisions for us when the need arises. So Senator Geist, Senator Hilgers, Senator Lathrop, Senator Lowe, Senator McCollister, Senator Pansing Brooks, Senator Slama, Senator Vargas, and myself, we were elected to do this job of providing leadership in areas where the Executive Board of the Legislative Council has jurisdiction. That's what it's coming down to. We need to be able to provide that leadership. There are a lot of senior members on this who have a lot of years of experience, and we're trying to make sure that the subpoena power of the Legislature is intact and can be used as effectively as possible to get our job done. That's what we're doing. I know we're not-- we're only debating AM771, and I would certainly appreciate your green vote on AM771. And I would ask for a call of the house, roll call vote in regular order, please.

**LINDSTROM:** Thank you, Senator Hughes. 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; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 29 ayes, 4 nays, Mr. President, to place 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 Arch, please return to the floor. The house is under call. All senators are present and accounted for. Mr. Clerk, there was a request for a roll call vote in regular order.

**CLERK:** Senator Aguilar not voting. Senator Albrecht voting yes. Senator Arch. Senator Blood not voting. Senator Bostar not voting. Senator Bostelman voting yes. Senator Brandt voting yes. Senator Brewer voting yes. Senator Briese voting yes. Senator John Cavanaugh not voting. Senator Machaela Cavanaugh not voting. Senator Clements voting yes. Senator Day not voting. Senator DeBoer voting no. Senator Dorn voting yes. Senator Erdman voting yes. Senator Flood voting yes. Senator Friesen voting yes. Senator Geist voting yes. Senator Gragert voting yes. Senator Groene voting yes. Senator Halloran. Senator Halloran-- I'm sorry-- voting yes. Thank you. Senator Ben Hansen voting yes. Senator Matt Hansen voting no. Senator Hilgers voting yes. Senator Hilkemann voting yes. Senator Hughes voting yes. Senator Hunt voting no. Senator Kolterman not voting. Senator Lathrop voting no. Senator Lindstrom not voting. Senator Linehan voting yes. Senator Lowe

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voting yes. Senator Linehan, did you vote yes, Senator? I'm not-- yes. Thank you. I'm sorry. OK. Senator McCollister not voting. Senator McDonnell voting yes. Senator McKinney not voting. Senator Morfeld voting no. Senator Moser voting yes. Senator Murman voting yes. Senator Pahls voting yes. Senator Pansing Brooks not voting. Senator Sanders voting-- Senator Sanders voting yes. Senator Slama voting yes. Senator Stinner voting yes. Senator Vargas voting no. Senator Walz not voting. Senator Wayne not voting. Senator Williams not voting. Senator Wishart voting yes. 28 ayes, 5 nays, Mr. President, on the amendment.

**LINDSTROM:** AM771 is adopted.

**CLERK:** Mr. President, raise the call.

**LINDSTROM:** Raise the call.

**CLERK:** Senator Lathrop would move to amend. Senator, your FA14.

**LINDSTROM:** Senator Lathrop, you're welcome to open on FA14.

**LATHROP:** Thank you, Mr. President and colleagues. I want you to know that after that last vote, this is still relevant. So what the last vote did was place into the resolution, the requirement that the Exec Board authorize the subpoena, so that check is in place. My amendment would set the scope of the Exec Board's inquiry. Instead of-- you can have three things that you can look at as the Exec Board. One would be whether the subpoena is properly issued. The second would be whether the subpoena and the materials sought or the person compelled to attend is within the scope of the resolution, so they're not off on some rogue subpoena process. And the third thing would be the substance. My amendment would say the responsibility of the Exec Board is limited to ensuring that the subpoena is properly issued. So when you hear people on the floor say we need to protect our ability, we need to protect our ability to issue a subpoena going forward, we don't want to impair our ability, we don't want to lose our power, we don't want to lose our authority, the things that you've heard here today, my resolution-- or, pardon me, my floor amendment would require that the Exec Board ensure that the issue-- the subpoena is issued properly. So that's not a concern. I get we're going to have the Exec Board be a check. They need to be a check to make sure that it is properly issued and they need to make sure-- and this amendment would require that they ensure that we also have a subpoena issued that is asking for material within the scope of this resolution. Anything else, or in the absence of the FA14, the absence of the FA14 would

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allow the Exec Board to weigh in on the substance. That's where I have a problem. We're going to put a committee together. That committee will be put together by the Exec Board. It will be chaired by somebody. There'll be a lawyer there to make sure that the subpoenas are issued properly. But the Exec Board will be able to make sure that's true and they'll make sure that the committee isn't going on a fishing expedition, and that will be the extent of the involvement of the Exec Board. Now why is that important? Thursday-- Thursday, when we had floor debate, there was an awful lot of debate that centered around diminishing this body. We don't want to diminish this body. If we don't give this committee the tools they need to conduct a proper investigation, we will be diminishing this body. Colleagues, you've probably figured this out now that you've been here, that there's no penalty for coming in front of a committee and not telling the truth. And if you ask for something from an agency, there's no penalty in failing to provide a complete answer or failing to provide all the documents that are requested. That's not the case with a subpoena. So if we want to try to put a check on this committee and not give them the ability to find and search for the truth and let the Exec Board second-guess the people that are doing the work-- by the way, I have all the confidence in the world those nine people care about this institution every bit as much as the members of the Exec Board. If we don't give them the tools, we do diminish this body. They'll just be rolling their eyes and coming in and saying whatever they want. And if you don't believe me, let me ask you what your last experience has been trying to get documents out of Health and Human Services, because I know there's two members of the Health Committee that have to send Freedom of Information requests to get information out of the Health Committee. That's ridiculous. That's ridiculous. When we ask for something, we ought to be able to get it. But they've demonstrated they don't. And now we have to use the FOIA request. And by the way, they want to charge members of this body to secure documents through a Freedom of Information request. That's what we've been relegated to. The body has already been diminished. What we are going to do today is say whether or not we're going to stand up and do the right thing and give this committee doing important work-- this Saint Francis contract is a mess. It was a mess from the beginning. We got rid of PromiseShip, and they knew what they were doing and we invested a lot of money in PromiseShip, getting them to that place. Now we have a-- now we have a vendor who is-- it's a mess down in Kansas. They're up here extorting us for more money. This is a serious subject matter. This is a very serious subject matter, and we ought to give this committee all the tools they need, all the tools they need to get to

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the truth. And I can tell you, as somebody that spent 40 years in another branch of government, in the courtroom, searching for the truth, it's not politics in that branch of government. It's a search for the truth, and we do that using tools. Those tools are questions that lawyers ask witnesses and it's the use of a subpoena and it's swearing witnesses in, because then there are consequences to not complying. But if we don't give this committee full authority with a check, an important check that they do it correctly so that we don't somehow fumble the ball and end up not having this authority the next time we need it, but I-- it's hard for me to stand here today and imagine a circumstance where it is more compelling to have the ability to issue a subpoena than the Saint Francis Ministry contract. That's it. What could be worse? They threatened to walk away unless we gave them more money. This contract was a disaster before it was signed. Everybody that's looked at that-- by the way, when we had a hearing on this resolution, Kerry Winterer came in. Some of you may know him. He's the former chair of the Republican Party. He was Dave Heineman's CEO of Health and Human Services. I worked with Kerry Winterer closely on issues relating to the Beatrice State Developmental Center and DD generally. He came in and said it's important. This is important, what we're doing, it's important what we're investigating, and this committee needs the tools. My-- my amendment will give a check on that committee for the two things that are important: Do it right and stay in the scope. But it won't give the Exec Board authority to say, you know what, we're getting a lot of heat from the executive branch, we're not going to let you issue that subpoena because somebody might get embarrassed. That's not a reason. That diminishes this body; that diminishes this body; it diminishes what it means to have a special investigative committee charged with the search for the truth. I don't expect to serve on this committee. I'm not trying to get subpoena power so Steve Lathrop can lead a committee into issuing a blizzard of subpoenas. But whoever serves on this committee needs tools, and the people that come in front of them need to be telling the truth. And if they won't come voluntarily, then they need to be subpoenaed. By the way, the Health-- the Health Committee tried to have a hearing on this subject. You know what the HHS agency did? They didn't show up and they told Saint Francis not to, told them not to. You want to talk about diminishing this body? That diminishes this body. That diminishes this body. What do you think they think at this branch of government if they just tell Saint Francis not to show up and they don't show up for a hearing? That diminishes this body. Today we're going to decide if we're going to stand up, use the power, put a proper check on it to make sure it's done correctly and we stay in the

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scope of the resolution, and that's what my amendment will do. I really, really feel strongly--

**LINDSTROM:** One minute.

**LATHROP:** --that we have allowed this branch of government to be diminished. We've allowed it to be diminished every time we ask for something and they won't respond. It happens to me with the Department of Corrections. Read the Inspector General's report. He's lucky if he gets an answer when he-- when he writes the Director of Corrections. This is becoming commonplace. This committee, if they're going to search for the truth and tell us where this went sideways and help us find the way forward, they need the tools. My-- my amendment will provide the necessary checks on that process, and I would strongly encourage your adoption of FA14. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator Lathrop. Mr. Clerk, for items.

**CLERK:** Mr. President, Enrollment and Review reports LB529 to Select File with amendments. Name adds: Morfeld to LB64; Brandt, LB103; Kolterman, LB108 and LB121; Blood to LB143; Brandt to LB454. Senator Brewer would move to recess the body until 1:30 pm.

**LINDSTROM:** Thank you, Mr. Clerk. The question is to recess till 1:30. All those in favor say aye. All those opposed say nay. We are in recess.

[RECESS]

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

**LINDSTROM:** Record, Mr. Clerk.

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

**LINDSTROM:** Thank you, Mr. Clerk. We'll return to LR29. When we left for recess we had an amendment. Senator Lathrop-- Senator Hilgers-- Speaker Hilgers you're recognized.

**HILGERS:** Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to FA14 and I understand the animating principle behind it. In other words, what, what is behind FA14 and maybe some of the no votes on the original amendment, AM771, that passed is that, look, we

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don't want to give the Exec Board some unfettered discretion to be able to do things that we don't think would be appropriate. One of-- the one thing being listed was maybe drag their feet or succumb to pressure from the political branches. So if you believe that, you might think that it would be reasonable to have some sort of guardrail on the guardrails, as it were. In other words, you might want to say, I don't want the Exec Board to have just completely unfettered discretion. Fair point as far as it goes. The question then is what standards do you apply to the Executive Board? And the reason, the reason I oppose FA14, although I appreciate the effort to try to find common ground, is that it's so severely restricts what the Executive Board can do. I think it ultimately will gut the protection that I believe the Executive Board can provide. So basically, FA14 says there are two reasons why the Exec Board could say no to a subpoena. The first is if that subpoena goes outside the resolution, the grant of authority given to the special committee by the Executive Board. In my view, that is actually-- doesn't really do anything. And the reason I say that is because a court would quash the subpoena for that very reason. If we have a subpoena that is about investigating Saint Francis, as an example, and we send a subpoena to get the secret formula to Coke, that is clearly outside of the scope of the subpoena and a court would say so. So the only thing new in here is the second piece, and that is the Exec Board under FA14 can say if you don't have the proper form. Now the lawyers in this body, the lawyers watch-- watching at home know that proper form what that generally means. You can object to the form of a subpoena or the form of a discovery request or the form of a deposition question. It doesn't mean, as a layperson might infer that it means-- just-- I don't really like how the subpoena is drafted in general. I think it's a bad idea. So I could say no. No, in fact, it's very limited. An objection to form might mean the Clerk didn't sign the subpoena. It might mean that the, the, the, the actual request in the subpoena are a little overbroad or a little ambiguous. Those are reasonable by the way. I, I think the Exec Board ought to have discretion to do that. But I could think of a whole host of other reasons why the Executive Board could reasonably, justifiably, defensively and for the further good of this body, say no to a subpoena. And I'll just give you a couple, none of which, in my view, are covered by the, by the narrow band of exception that is provided in FA14. One, one might be maybe the subpoena, maybe this committee did not follow the right process. They didn't have a hearing. That actually, colleagues, was an issue in the Ebke decision. In fact, that was the reason the district court quashed the subpoena in the first instance. That's not objection to form. So the Exec Board



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can get this and say, hey, you didn't follow the process. But this floor amendment would say, too bad, too bad they can do it anyway. You could have, it could be harassing. Forget about the, the, the branches of government, it could be to some individual. The Exec Board might say, well, wait a minute, we, we think the subpoena is drafted correctly, but we don't think it's a good idea to send a subpoena because it could be harassing, it could put the Legislature in a bad light. That discretion, too, would be taken away from this amendment. You could have-- the subpoena could be moot. There could be alternative means to getting the, the documents. Maybe getting those documents or getting the witness far faster than fighting it out in court. That, too, would be taken away from the Executive Board. It might be that the subpoena is taking a position or seeking documents that are bad. It's a bad legal position to take. So as an example, and this could happen if you have, if you have a special committee that doesn't have legal counsel, they could ask for documents that are privileged. Well, you are begging a fight in court if you're seeking documents that are privileged. So that also would not be something the Exec Board could do. It could be the wrong test case. We have put a statute, LB681, that said, in certain circumstances, this, this Legislature can rehabilitate a subpoena at the end of session. Well, you could have a special committee in November of next year say, oh, the heck with it.

**LINDSTROM:** One minute.

**HILGERS:** We want to do the subpoena and we, we want to, we want to be able to test this statutory authority to rehabilitate. But maybe it's the wrong subpoena at the wrong time or the wrong circumstances. And the Exec Board says, I don't think that's a good idea. It could also go against the advice of counsel. Either the counsel to the Executive Board or maybe the counsel that is retained if one's retained for the special committee. So what this amendment does is it says all those reasons, Exec Board, that I just outlined. Because we want-- we don't want like one reason, which I agree with, the idea of just succumbing to political pressure from another branch. I agree that's inappropriate. Because we don't like that, we're going to take away all this other discretion. That guts the whole point, in my view, of having the Exec Board involved. Thank you, Mr. President.

**LINDSTROM:** Thank you, Speaker Hilgers. Senator McCollister, you're now recognized.



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**McCOLLISTER:** Thank you, Mr. President. Good afternoon, colleagues. It's not my intent to prolong this discussion, but I want to rise in strong support of FA14 and LR29. I was a member of the Executive Board when the Ebke matter came to the Board. And to be brutally honest, the Corrections Department totally disregarded the efforts of that committee and disrespected the Legislature as a body and as a whole. So I think it's important for this body to protect its prerogatives and vote in favor of FA14 and LR29. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator McCollister. Senator Flood, you are now recognized.

**FLOOD:** Thank you, Mr. President. Good afternoon, members. I appreciate Senator Lathrop's focus on the subpoenas. I think that we clearly as a separate branch of government have the power in here to do what we want to do. I think that if we want-- and I want to preserve the idea of this body allowing committees to send out subpoenas. I'm here on my fifty-first day as a brand new state senator. And I guess from where I sit, we've communicated to the Legislature that we think it's a big deal. That we care about it and we expect it to be done if the situation warrants it. And I think at this point, we have to trust the leadership of the Legislature, trust the fact that we have an Exec Board that has counsel that deals with this, and then do our very best. Can I have you be quiet for just a second? I have trouble hearing. Thank you. Sorry, I was having some trouble hearing. Senator Dorn is giving a treatise on something over here to my right. But I guess from where I sit, we have the Exec Board, the Exec Board's in the position to be able to represent the Legislature as a branch of government. I don't think it's the end of the world that we allow this to happen, as there are a number of other things that happen in our branch of government where the Exec Board takes care of it. If we wanted to spend money, for instance, if the Judiciary Committee wanted to spend money or if the Health and Human Services Committee wanted to conduct a study, all of those contracts go through the Exec Board. We have very capable staff. We have a capable Chair. We have an Exec Board that we all elected. I don't think that this is a hill to die on personally. I think that if the Exec Board doesn't respect the work of the special committee, we're not likely to authorize the Exec Board to have a say in subpoenas again. And I think we'll, we'll know it when we see it, if there's a problem. But I don't think at this point anything's occurred that makes me think that the special committee is not going to be recognized and respected by every member of the Exec Board. And Senator DeBoer had a very good idea. She said it would be in all of our interest, our best interest if one member of the Exec

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Board was at least on the special committee as a liaison between those two committees. And I think that's reasonable. And that's something, again, the Exec Board will decide. So for all the right reasons, I'm going to vote no on FA14 while still respecting what Senator Lathrop's working on here. And I'm going to vote for LR29 and I'm hopeful that we can find a path forward with the subpoena business and that the Exec Board will preserve the trust down the road that we all have in it. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator Flood. Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President and colleagues. I, I can't help but notice the opposition to this has become a bit of a moving target. Last week we talked about diminishing-- this debate was focused on diminishing this branch of government. And in reality, if we don't step up, we are diminishing this branch of government, so then, then the debate became process. We on the Exec Board need to make sure that you're not getting this into a legal fight we can't win and setting bad precedents. So we have an amendment that addresses that. And ultimately, ultimately, at the end of the day, because, by the way, no one's asking me to fix FA14 to address the concerns that you just heard for the first time from the Speaker. What we're doing is we're finding fault with anything that won't run this process through the Exec Board in the first instance. And that's why it feels like a moving target to me. FA14 is responsive, directly responsive to the reasons we heard articulated and all the fear about diminishing this branch of government. And by the way, if anybody thinks that, that I don't care about this branch of government, I'm happy to have that conversation with you. I'm happy to have that conversation with you. I've watched this place get diminished bit by bit by bit. Giving this committee the authority they need, subject to making sure they issue a subpoena properly, and if form isn't the right word and you want it to say properly, we can do that. But I'm confident that there would be something else and then there would be something else. You know, the Exec Board's going to choose the people who serve on this committee. And I got to tell you, I've served on the Exec Board. I'm currently there. I've served in my previous service on the Exec Board. But they don't have the corner on caring about this institution. There's a lot of lawyers in this place that can make sure a subpoena is issued properly. But the Exec Board doesn't have a corner on the question of caring about this institution. There is no reason to expect that the nine people that will serve on this consequential committee don't care about the institution or don't care about some of the considerations

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you've heard the Speaker address. I serve on that committee. I've, I've chaired a couple of special investigative committees. At the end of the day, you're going to decide whether we allow this committee to go forward and search for the truth and have the tools to search for the truth and not have to go through a political process at the Exec Board to get permission to go forward. This is a consequential investigation. We respect this institution when we say this, this matter is serious enough that we will provide the tools necessary to get to the truth to the committee members and will, will allow the Exec Board to make sure it's done properly and not outside the scope. And that, by the way, never happens until the committee itself takes a vote. And that vote has to happen after they've come to realize that they can't get information by any other means. The safeguards are in place. FA14 provides the only necessary safeguards or the only necessary involvement--

**LINDSTROM:** One minute.

**LATHROP:** --of the Exec Board. I thought about not turning my light on because the-- to me, the reasons for not doing this, the reasons for running it through the Exec Board have become a moving target. FA14 needs to pass. It will show the rest of the world that we're serious about getting to the bottom of and finding the truth with respect to the contract between the state of Nebraska and Saint Francis Ministry. It's costing us millions of dollars, colleagues. It's now costing more than the prior provider would have charged. That, that, that screams for us to conduct an investigation not impaired by political considerations. And I would once again ask you to adopt FA14.

**LINDSTROM:** Thank you, Senator Lathrop. Speaker Hilgers, you're now recognized.

**HILGERS:** Thank you, Mr. President. And good afternoon again, colleagues. I wasn't going to hit my light, but I do want to respond to the suggestion that was just made that there would be some issue that's been-- that if, if FA14 was changed, there was some other proposal was changed, that there would inevitably be some objection. And I, I reject that, colleagues. Let me be clear, and I've said this a couple of times on the mike, but I think since this has been raised now on the floor, I supported Senator Cavanaugh's green copy amendment with the subpoena power. I kept it in the amendment. In fact, I came to her with an addition to the subpoena power to make sure that it was broader to accomplish the goals that she originally was seeking in LR29 because there was, there was a piece of that that was left out.

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And we added that in the amendment. This change, as I said earlier that it goes to the Exec Board, to me, was making explicit what I thought was already implied. The amendment-- the context of my remarks before in AM771 had to go directly to having the Exec Board involved. And there are a whole host of reasons. If the subpoenas are issued incorrectly, it can diminish the power of this institution. Now in context to the attempt to put some standards on it, which I have told Senator DeBoer off the mike, I have acknowledged on the floor that the idea of having some standard on the Exec Board to address the concern that are-- the concerns that are being articulated is something to think about. I disagree for the reasons I articulated with FA14. But the suggestion that this is some it doesn't matter what people will say, I think diminishes the work that we do on the floor. If we can't have a debate on the merits and we're hearing each other as to what arguments we're bringing and how they are distinguished between the various amendments that are before us. If we can't have that kind of discussion, then this, this floor time is far less valuable than it should be. I support the committee having subpoena power. I've supported it from day one. But the ability to serve a subpoena and having that subpoena be enforced, and further having that subpoena being enforced or not challenged in a way that diminishes our long-term authorities, those are important questions. They're reasonable to have that conversation on the floor here today in my view, and we don't have a Select File, by the way. We don't have another round to get this done where we could work through what a standard might be. This debate is likely coming to an end shortly, we're going to vote on it, I supported the committee in the first instance. I do today. I don't agree with the standard in FA14. I appreciate that what Senator Lathrop has tried to do. I appreciate the approach, but I just don't, I don't have a principled standard that I think could be applied now that also would not eliminate my concern or minimize it significantly for future bodies when we're all gone and we don't have maybe the lawyers we have here today or the institutional knowledge we have here today and years from now when people are looking at this precedent, it does things that harms this institution. So I do rise and I urge a red vote on FA14. And if that fails, on the underlying LR, LR29. Thank you, Mr. President.

**LINDSTROM:** Thank you, Speaker Hilgers. Senator Ben Hansen, you're now recognized.

**B. HANSEN:** Thank you, Mr. President. I just want to-- I wasn't planning on speaking, but after listening to discussion, I just want to provide maybe a little bit of clarity pertaining to the discussion

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that we are having, which is a good discussion, actually. I appreciate it all as an HHS Committee member and some of, and some of the testimony we've heard and some of the briefings we've had from CEO Dannette Smith and others. And it kind of pertains to nuts and bolts of the conversation I think we're trying to have with subpoena power about our ability to extract information from certain departments and from certain people. And with some of the things that have been brought up is that maybe the department hasn't been as forthcoming as they should be. And so, and actually one of the main questions we wanted CEO Dannette Smith to answer when she came to our briefing, and actually she didn't, we had a-- all the committee members got a, a, a big binder on the contract briefing, Eastern Service Area contract briefing, with a lot of good information that answered a lot of questions, maybe left us with even more questions, but it answered a lot of the questions that we had originally, which was very helpful. I just want to read real quick one of the questions that Senator-- or CEO Dannette Smith answered right off the bat when we had our briefing pertaining to why she was not at the briefing and maybe why Saint Francis wasn't, but is more from her aspect. Question one, why didn't DHHS attend the interim hearing on December 16, 2020? I was not able to attend for two primary reasons. First, DHHS continues to lead the state's response to COVID-19. And I'm actively, actively involved in day-to-day operations of the Division of Public Health in partnership with Dr. Gary Anthone. In December 2020, we were coming out of a major surge of cases in Nebraska and preparing for the next critical phase, the vaccine rollout. Second, our understanding of the Saint Francis situation, how best to address their budget and contract concerns have continued to evolve. The information we provide today is significantly more developed than what we could have provided a month ago. That was back in December. Additionally, and to reiterate, we do not-- we did not instruct Saint Francis not to attend the hearing. I just want to at least just clear a few things up so there's no confusion about who attended what meeting and why and who instructed who. And again, I think that just kind of pertains to the underlying discussion we're having about subpoena power and our ability to get information from people and why we need it in the first place. So just wanted to kind of give a little clarity on that. People vote how they want. I just felt as an HHS Committee member, I at least like to share some of the information that we heard during our briefing. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator Hansen. Senator McCollister, you're now recognized.

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**McCOLLISTER:** Yeah, thank you, Mr. President. Good afternoon again, colleagues. Would Senator Hughes yield to a few questions?

**LINDSTROM:** Senator Hughes, would you yield, please?

**HUGHES:** Of course.

**McCOLLISTER:** Senator Hughes, you and I've been talking about whether or not there'd be any operational difficulties for the Executive Board to promptly deal with requests from this investigative committee. What did our committee counsel tell us?

**HUGHES:** The Executive Board committee counsel said there's nothing that prohibits us from doing it, but there's nothing that gives us permission to do it either. So it's a gray area that probably the Legislature would need to address.

**McCOLLISTER:** But for the most matter, for the matters that could come up before the Executive Committee, the decision is fairly perfunctory, is it not, a yes or no without extended debate?

**HUGHES:** In, in something like this, you know, I would certainly poll the committee members to see whether or not they are comfortable doing that. Ultimately, the decision would be mine, you know, taking into account, you know, if someone was out of the country, you know, whether we could have it, you know, in two days or two weeks, you know, that certainly would come into play. I'm kind of old school. You know, I like to be able to sit across the table when we have those discussions, when a special committee chair would come to us and make their case for subpoenas. You know, that-- I would prefer to be in person and I would prefer that our Executive Board would be there in person to, you know, hear that same case. But in absence of that, you know, I mean, if it's, if it's a slam dunk, then, yeah, I, I could see no reason why unless committee counsel advises me not to, that we should be able to have a remote yes or no vote.

**McCOLLISTER:** But if we are of a mind to actually have a meeting of the committee itself, the Executive Committee, that could, you know, require an additional two or three weeks, which would inhibit the, the operation of the committee, the investigative committee. Don't you agree?

**HUGHES:** There's, there's nothing that says it's going to be two or three weeks. You know, I-- I'm-- I live the farthest away and I'm four and a half hours, you know, and I'm-- fortunately, I'm pretty flexible

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in my schedule. Now I can't speak for the rest of our committee of their commitment to do the job. But as Chairman, you know, when I signed up for this to be on the Exec Board, as well as Transportation and, and Natural Resources, that's our job. And I'm committed to doing that.

**McCOLLISTER:** Thank you. Seems to me that the unreasonable delay that could occur is another reason to support F14-- FA14 and LR29. I think we need to dispose of this issue as expeditiously as possible. So I, I would encourage your green vote for FA14.

**LINDSTROM:** Thank you, Senators McCollister and Hughes. Senator Hunt, you are now recognized.

**HUNT:** Thank you, Mr. President. I will say the quiet part out loud, because that's kind of in character for me, but I think that there's no reason to believe that the Executive Board won't slow walk this. And the Ebke case shows what happens when you delay. Ebke was drug out either deliberately or not, and we can debate that, but it resulted in the Supreme Court saying that all the legal questions in that case were essentially moot because it wasn't this Legislature that had issued that subpoena and that Legislature was no longer in existence. So we know what happens when you delay. If the department is compelled to issue a subpoena, there are people in the executive branch who stand to be embarrassed. To me, that's what all of this opposition is really about. Senator Lathrop makes a good point that the reason the Legislature has lost power and the power has chipped away over the years with term limits is because we have allowed it. And I would add that many people who have allowed it sit on our Executive Board. We are discussing a specific special committee that was created in response or, you know, proposed in response to a specific crisis, and time is of the essence to respond to that crisis because (a) we know from the Ebke decision that if we don't respond in a timely way, we're going to miss a window to do that. And (b) it's affecting kids that aren't receiving services that they're entitled to because Saint Francis is not in compliance. And not only is Saint Francis not in compliance, they wouldn't even come to the Legislature to answer for that. We are the body that provides the oversight and we have been robbed of our ability to do that. And besides that, we're on the clock. Time is of the essence and we have to act fast. I would be curious about special committees that have been, you know, brought about in the past in the Legislature that have had subpoena power because we're acting like the precedent that we set here with this resolution is the only precedent. But I think the fact that we're



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debating this and working this out shows that any time there could be a crisis in the future, that Legislature will use their power and they will manage their political relationships and motivations to do what it is they're going to do. We all know that precedent isn't the only basis that we use to make decisions. There are many incentives and motivations besides precedent and the idea that this special oversight committee would not be competent enough to carry out the work they need to do is not realistic. The idea that they're going to mess up the subpoena or they're going to be asking for the secret recipe to Coca-Cola, said Speaker Hilgers, that's not realistic. This resolution is carefully drafted, came out unanimously, we agree to, to have it end at the end of this Legislature. There are already very narrow guide rails in place and we know from precedent actually that we're on the clock and we have a window of time, we need to act, and this isn't something that we want to slow walk because we know that that could happen. The idea that the special committee would not do a good job with this is not realistic. However, the idea that the Executive Board could slow walk it is realistic. That's something that we do have precedent for. And I would ask you, colleagues, to think critically and generously about the small window of time that we have to act in the interest of the kids in the Eastern Service Area. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator Hunt. Seeing no one else in the queue, Senator Lathrop, you're welcome to close on FA14.

**LATHROP:** Thank you, Mr. President and colleagues. Last week when we talked about this resolution and the amendments to the resolution, the conversation was on diminishing this institution. That's been expressed in a lot of ways, harming this institution, affecting future bodies, their ability to issue a subpoena, a lot of things that have been said to kind of frighten you away from the idea that this committee ought to be able to go where it needs to go, go where the evidence takes it, and use a tool that the courts have recognized for as long as the courts have been around to compel the attendance of witness and to compel the production of documents. The courts understand that that's the only way you get to the truth. You ask the tough questions, you get people in front of you, people who are compelled to be there, people who are under oath and people who have a consequence if they don't attend or they're not truthful or they don't bring the documents to the committee that need to be brought there. I think we get to kind of the bottom of where we're at on this when the Speaker said I can't come up with any guardrails that I could agree to, that's because at the end of the day, after FA14, the only things



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left are the substance of what the committee's going to be working on. They're going to be trying to get to the truth. And there may be some people that don't want that to come out because they're going to look foolish. I don't understand how we got in this mess in the first place, but I know that we can get into that mess again in the future if we don't fully understand that and expose it to the light of day. That's what these committees do well. I would encourage all of you to sign up to be onto this committee. The Exec Board will choose the members of this committee. It's important that we have a good cross section of senators with different perspectives, different committee service that serve. And if you've never been on one of these things, it's horribly interesting when you have the authority to secure the documents that tell the story and you have an opportunity to require the attendance of people who you want to ask questions to, who will get you to the truth. But if this committee is left to hope and to beg and to cajole HHS to provide documents, it's not going to work. And we diminish this institution, we diminish this institution by setting up a committee that's not going to get to the bottom of what went wrong. And we're going to say that the committee did their work and here's a report. Here's a report. We didn't get to the bottom of it because we couldn't compel people to show up or we couldn't compel people to stay long enough to answer all the questions. You know, this whole time this debate's been going on, I've thought about our work on the Corrections Oversight Committee in 2014, that committee actually subpoenaed Dave Heineman, the sitting Governor. Probably could have claimed executive privilege, all right, he could have claimed, I suspect, executive privilege. I frankly didn't think he was going to show up. I thought he would file a motion to quash and, and we wouldn't hear what he had to say. But even, even the former Governor Dave Heineman came down because he understood something that we all ought to understand,--

**LINDSTROM:** One minute.

**LATHROP:** --that everybody is accountable to this institution. Everybody's accountable. And to get to the truth, you got to talk to everybody who knows something. And I'm not suggesting this committee ought to, ought to subpoena the Governor, but I am suggesting that Dave Heineman was in the middle of a-- of his own crisis and he came down to the Legislature effectively, voluntarily and answered questions. So if we don't arm this committee, we are diminishing this body. We're saying to ourselves, well, the executive branch might find this uncomfortable. So we're not going to make them. Well, you're giving up your power, you're giving up your power. I really think it's

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important to adopt FA14, it tells the members of the committee that we trust them, that we believe in what they're doing, that we want answers and we want the truth. Mr. President, I'd like a call of the house and a roll call in regular order. Thank you.

**LINDSTROM:** There's been a request to place the house under call. The question is shall the house go under call. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 20-- 30 ayes, 7 nays to place 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. All senators are present and accounted for. Senator Lathrop, did you say roll call vote in regular order? Thank you. Mr. Clerk, we'll have a, a roll call vote, vote in regular order, please.

**CLERK:** Senator Aguilar voting yes. Senator Albrecht voting no. Senator Arch. Senator Blood voting yes. Senator Bostar voting yes. Senator Bostelman. Senator Brandt not voting. Senator Brewer not voting. Senator Briese not voting. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Day voting yes. Senator DeBoer voting yes. Senator Dorn not voting. Senator Erdman voting no. Senator Flood voting no. Senator Friesen voting no. Senator Geist voting no. Senator Gragert not voting. Senator Groene voting no. Senator Halloran voting no. Senator Hansen-- Ben Hansen voting no. Senator Matt Hansen voting yes. Senator Hilgers voting no. Senator Hilkemann not voting. Senator Hughes voting no. Senator Hunt voting yes. Senator Kolterman voting yes. Senator Lathrop voting yes. Senator Lindstrom not voting. Senator Linehan voting no. Senator Lowe not voting. Senator McCollister voting yes. Senator McDonnell voting no. Senator McKinney voting yes. Senator Morfeld voting yes. Senator Moser voting no. Senator Murman-- I'm sorry, Senator, voting no. Senator Pahls voting yes. Senator Pansing Brooks voting yes. Senator Sanders voting no. Senator Slama voting no. Senator Stinner voting no. Senator Vargas voting yes. Senator Walz voting yes. Senator Wayne voting yes. Senator Williams not voting. Senator Wishart voting yes. 20 ayes, 18 nays on the amendment.

**LINDSTROM:** The amendment is not adopted. I raise the call.

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**CLERK:** I have nothing further pending on the resolution, Mr. President.

**LINDSTROM:** Returning to debate on LR29. Seeing no one in the queue, Senator Machaela Cavanaugh, you're recognized to close on LR29.

**M. CAVANAUGH:** Thank you, Mr. President. Thank you, colleagues. This has been certainly an interesting debate and one I'm sure that historians will be reviewing for years to come up. I appreciate everyone's attentiveness to this and support today. For me, this didn't begin in December of 2020 when the Kansas Reflector first reported the whistleblower reports about the financial malfeasance at Saint Francis Ministries. My concerns began in June of 2019, when Saint Francis Ministries, an out-of-state entity was awarded a multimillion dollar contract at 60 percent lower than the current contract with PromiseShip. It was clear from day one that this contract had serious red flags. From that time, the Health and Human Services Committee began asking questions of the department and CEO. When they attended the briefing in October of 2019, they refused to answer any of the questions about the contract, citing the lawsuit with PromiseShip. I typed up the questions, I went through the transcript from that hearing in October of 2019, and I typed up all of those questions and sent them to the CEO and the department since the lawsuit was no longer happening. And they still cannot give answers to most of the questions. Or won't, I suppose. I'd like to speak a moment to what Senator Ben Hansen said. The Department of Health and Human Services declined to attend our December 16 briefing with our committee. I requested documentation as to how that decision was reached and what they instructed Saint Francis Ministries. They did tell Saint Francis Ministries not to attend and there was no discussion in that correspondence about COVID-19 or vaccinations. In fact-- that's OK. They didn't show up and they told the contractor not to show up. And they did know in November about the financial malfeasance of Saint Francis Ministries and they began negotiating in November and December with Saint Francis Ministries on a new contract. And they refused to show up to the Health and Human Services Committee to give us an update on the child welfare immediately after that story in Kansas had broken, when they should absolutely have shown up, they refused to show up to our committee. They only showed up seven days, seven days before they knew they were going to ink a new contract with Saint Francis Ministries. And as I stated previously, between that seven days, Saint Francis Ministries reported to Kansas legislature that they would walk away from Nebraska if their demands were not met. We were being held hostage. We paid \$10 million to backfill their

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budget that they then turned around and gave to Kansas because they were in financial trouble with the state of Kansas. And then we gave them more money to continue to mismanage case management. This isn't a fishing expedition. This isn't a witch hunt. You can come look at my desk. I already have lots of documentation. This is about process and procedure, something that this body has discussed thoroughly around this resolution. This is about process and procedure. And I am not here this afternoon to lecture this body. I am here to state for the public record why we as a body are doing this, why we as a body are moving forward. It's going to be uncomfortable. It's going to be uncomfortable for whoever is on the special investigative committee. It's going to be uncomfortable for the Executive Board. It's going to be uncomfortable for the Legislature when bills have to be proposed to make changes that address this egregious situation. But it is our responsible-- responsibility to do uncomfortable things. It was a 60 percent underbid and everyone from day one knew that that was wrong, but there's been so much more ever since day one. So I hope that you all will join me in voting green on this resolution. Thank you.

**LINDSTROM:** Thank you, Senator Cavanaugh. Pursuant to the Rule 4, Section 5, Senator Clements has requested that LR29 require an affirmative vote of a majority of elected members. Senators, this will require 25 votes for adoption. The question before us is the adoption of LR29. All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk.

**CLERK:** 40 ayes, 6 nays, Mr. President, to adopt LR29.

**LINDSTROM:** LR29 is adopted. We will now move to General File 2021 senator priority bills, LB273.

**CLERK:** Mr. President, if I may, a couple of A bills before we do that. LB423A by Senator Lathrop appropriates funds to implement LB423; and Senator Pansing Brooks, LB359A, it appropriates funds to implement LB359. Mr. President, LB273 is a bill by Senator Lowe. It's a bill for an act relating to youth rehabilitation and treatment centers; it redefines terms; it provides for use of facilities as youth rehabilitation and treatment centers; permits provision of care at another youth rehabilitation and treatment center. Bill was introduced on January 12, referred to the Judiciary Committee, advanced to General File. There are committee amendments pending.

**LINDSTROM:** Thank you, Mr. Clerk. Senator Lowe, you're welcome to open on LB273.

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**LOWE:** Thank you, Mr. President. LB273 is my personal priority for 2021. LB273 looks to further improve the situation at our youth rehabilitation and treatment centers, especially address the long-running challenges at YRTC-Kearney. For a long time there have been challenges when a juvenile comes to YRTC-Kearney with some underlying substance abuse or behavioral health problems. At times a juvenile dealing with these problems can act out at the facility. Sometimes they do this in a way that causes self-harm or in a way that is threatening or dangerous to other juveniles or staff. YRTC-Kearney simply does not have the tools, space or enough trained staff to give the necessary care to the, to the residents dealing with these challenges. LB273 in its original form, would have allowed for an easy transfer of these youths to a facility better equipped to help them. Many senators on and off the Judiciary Committee expressed concerns about the lack of judicial oversight in the initial bill. AM600 addresses this concern and creates a process in which DHHS may apply for a change of location for a juvenile. This hearing must take place within 24 hours of the application and allows judicial oversight before a juvenile can be transferred. I want to take a moment and thank Senator Lathrop and his legal counsel, Josh Henningsen, for all their work on AM600. Josh put in long hours negotiating this amendment with the interested parties. This bill would not have made it out of, out of committee without his work. Thanks to the work of Senator Lathrop and his staff, LB273 and AM600 made it out of the Judiciary Committee on a 7-0 vote with one senator present not voting. I urge you to vote for both AM600 and then LB273 so we can advance this bill onto Select File. Thank you, Mr. President.

**LINDSTROM:** Thank you, Senator Lowe. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Lathrop, as Chair of the committee, you're recognized to open on AM600.

**LATHROP:** Thank you, Mr. President. Colleagues, good afternoon once again. LB273 was heard by the Judiciary Committee on January 28, 2021. The committee voted to advance LB273 with AM600 on a 7-0 with one member present not voting. AM600 replaces the original bill. The committee worked with Senator Lowe, the Department of Health and Human Services, and other interested parties to craft AM600. As you'll recall last year, the Legislature passed a number of bills related to the YRTCs. One of the changes that was included across this package of bills was to create a legal framework for DHHS to operate YRTCs other than facilities in Kearney and Geneva that comply with certain statutory requirements. Most of the changes in LB273 would seek to harmonize references to YRTCs and other areas of statute that were not

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included in last year's bill. AM600 would refine these references to avoid potential unintended consequences. One of the significant changes in last year's YRTC, YRTC bills was to create a more robust process for court review of YRTC commitments and movement of youth from one YRTC to another or the same facility. At the hearing on LB273, DHHS expressed a concern that this new process did not sufficiently account for situations in which a youth needed to be moved more quickly to a more appropriate facility to prevent harm to themselves or others. Rather than eliminate court review in these situations, AM600 would create a new process for moving a youth pending the hearing and court order required under the current law. Under the amendment, DHHS could file a motion for emergency change of placement in addition to the existing process. The court would hold a telephonic or video hearing within 24 hours on the motion for emergency change. Any part of the record would-- any party of record would receive notice and have the opportunity to participate in the hearing. If the court finds that the immediate change is in the best interest of the juvenile, the court would enter a temporary order to allow the youth to be moved until the court finds a full hearing-- court holds a full hearing and enters an order under the normal process. Two things I'd like to add to that introduction, colleagues. What we learned in our committee hearing on this bill is last year we set up a process that requires seven days notice and a hearing in front of the juvenile court. And what, what has taken place is when there is an emergency situation, some of these young people, and I'll talk about the boys, they will be confined to Dickson by themselves for seven days waiting for a hearing. And in some ways, that was an unintended consequence. And what this amendment does and what LB273 will do when passed is provide for that emergent situation where we need to transfer a youth to Lincoln, for example, or to the sex offender treatment for youth or a substance abuse treatment for youth in an emergent basis. It makes an awful lot of sense. The one thing this doesn't do, and this is the second point I wanted to make, this doesn't increase penalties for assaulting a YRTC officer. There is some harmonizing language where it says any YRTC officer instead of spelling out the various YRTCs. And with that, I would encourage your support of AM600 as well as LB273. Thank you.

**LINDSTROM:** Thank you, Senator Lathrop. Turning to debate. Senator Vargas, you're recognized.

**VARGAS:** Thank you very much, President. I do want to thank Senator Lowe and Chairman Lathrop for their work on this. And the reason I'm, I'm jumping in here and I'll ask a few questions and just make a few

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statements is the bill that they're referencing from last year that created the statutory framework for this, I think judicial-- I don't want to say the word oversight, but saying the process was my bill from last year that we passed. And I do want to thank you for that. And I'll preface before I jump into this, I talked with Senator Lowe about I wanted to make a few things known and also ask a few questions. There are a couple of, of questions, tweaks that I'll look at between General and Select that might strengthen some of the concerns I have. But I understand the intent and, and don't mean to get in the way of us moving to the next stage. It's just trying to make sure it's, it's becoming better and/or also just addressing some of the questions I have. So the whole intent of doing this in the first place largely had to do with the fact that I think you remember from the YRTC report that Chairwoman Howard and the HHS Committee put together is there were youth moving between the YRTCs without notice. The notice wasn't provided to the courts. The courts didn't have notice provided to them. Interested parties weren't being provided notice. And as a result, we had youth moving through OJS and none the individuals that had a stake in what was happening to those youth, to those juveniles, were-- had any idea. And so we needed to create some, some level of a statutory-- some level of insight-- direct line of sight for the judicial system and all the parties included, parents, youth, guardians, you know, defense attorneys, the courts, and judges. And so that's what we created last year as a result of it. And, and so I'm thankful that we passed that. So the unintended consequence is this, this aspect of an emergency placement. But my concern is, is a little bit in, in where there might be opportunities for us to strengthen some language. And some of this was already referenced in some other places. But, you know, the, the term emergency in this-- the emergency change of placement, the language in here says if the court determines that such change is appropriate and in the best interest of a juvenile provide some parameters, I am a little concerned about how this could be interpreted because it doesn't really define an emergency. It more defines that the judge has to determine whether or not it's an appropriate move and in the best interest of the juvenile. And that doesn't mean that there's an emergency need. It just means that they may be moved because of another reason. And so I want to try to see if there's any language we might be able to put in that sort of further clarifies what would deem an emergency level within this. It is-- it's, it's a concern. It's a question-- it's a, it's a question that I asked previously. The other concern or question that I'm going to have here has to do with consistency with the other legislation we passed last year. Last year,



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we passed legislation included some language and it would be helpful to have some of this reiterated here with the notification. I did hear Chairman Lathrop reference the notification to all interested parties or all, all those are party to, to that specific youth, because I want to make sure that within that 24 hours, if there is going to be this specific ask a motion for emergency placement that, that all the interested parties are notified as quickly as possible in writing and electronically. I know it's electronically, but we want to make sure people know what's happening to this individual youth or juvenile. And I know that's standard--

**LINDSTROM:** One minute.

**VARGAS:** --in another place in statute. And then the other place that I want to make sure that there's a little bit of insight here is also what documentation would need to be provided for this specific temporary stay to the courts, to the judge, because I think it is of a concern what information is provided. And one last one that I, I did write down, it would be helpful to sort of reiterate that no youth can move until the judge makes the determination. I do believe it's in another place in statute. But I think there might be some language maybe that can strengthen this so that no juveniles are moved up until the 24-- that, that motion is approved for, for the temporary emergency order by the judge. So these are just a couple of areas. Again, I told Senator Lowe this is something I'd work with him between Select-- between General and Select and also Chairman Lathrop. There's small, minor things, some of which might also be addressed by existing statute. But we'll look into it--

**LINDSTROM:** Time, Senator.

**VARGAS:** --[INAUDIBLE] time.

**LINDSTROM:** Thank you, Senator Vargas. Seeing no one else in the queue, Senator Lathrop, you're welcome to close on AM600.

**LATHROP:** Just very briefly, I'm happy to talk to and work with both Senator Lowe and Senator Vargas if, if this needs any changes. It was pretty well thought through, though. I know Senator Lowe acknowledged the work of Josh Henningsen. He spent a good deal of time working with HHS to make sure that this took care of those emergent situations without causing any problems to the protections provided in LB1148 by Senator Vargas last year. But as always, my door's open between



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General and Select if we need to do any work on the bill. Thank you and I would encourage your support of AM600.

**LINDSTROM:** Thank you, Senator Lathrop. The question is shall the committee amendment to LB273 be adopted. All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk.

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

**LINDSTROM:** The amendment is adopted. Returning to the debate. Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr. President. Would Senator Lowe yield to some questions?

**LINDSTROM:** Senator Lowe, would you yield, please?

**LOWE:** Yes, I will.

**WAYNE:** As I'm going through the bill, I'm just-- if, if you can tell me what-- how you see emergency and how you define emergency since we're talking about emergency and I, and I really don't see a definition except for the fire and nature things, but what other emergencies are you encompassing in this bill?

**LOWE:** You know, this language was written by legal counsel. Mine did not have emergency in it. And I, I would suggest you ask Josh Henningsen.

**WAYNE:** OK. Will Senator Lathrop yield to some questions?

**HILGERS:** Senator Lathrop, would you yield?

**LATHROP:** Yes.

**WAYNE:** Senator Lathrop, the question is emergency and how do we define emergency throughout this statute or throughout this bill?

**LATHROP:** So emergency isn't defined, the, the motion is called an emergency motion, but the standard is always the best interest of the child. So the hearing would be someone could explain the circumstances. For example, if a, if a young person's out YRTC-Kearney and they're having a, a psych-- psychological crisis of some kind and

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they need to be transported to Lincoln, the issue is the best interest of the child in any circumstance, including this one.

**WAYNE:** Are the parents notified of this hearing?

**LATHROP:** So the way it works, because it's a 24-hour notice thing, as I understand it, the court would enter an order for hearing that would be within 24 hours. That order for hearing would be transmitted to parties of record through the, through the same process you and I get notices of hearing as lawyers.

**WAYNE:** So the concern I have is when we remove a child from a home, let's say, using that same standard, there is a 24-hour hearing, but the parents are notified or the guardians. And in this case, my concern is a parent believes their kid's at YRTC in Kearney. Then there's a hearing, but that parent is never notified. And the reason why I have concerns about that is that, that parent has not lost their parental rights. If a kid is at Kearney it's not because of a (3)(a) situation, it's often most the time of what something the kid did so their parental rights are still intact. Their educational rights are still intact. Whether that kid should be provided psychotropic drugs, that parent still has an informed consent duty. My concern is if we don't have direct knowledge to that parent or notification of that parent, that parent doesn't know. And essentially we're removing those parental rights until whenever a hearing down the road may be heard. What would, what would be your response to that?

**LATHROP:** Well, if they're represented by counsel, their counsel is certainly going to get a notice of hearing. So if you're the lawyer representing the parents, it'll pop up in your email as a notice of hearing. It doesn't provide for someone at the YRTC to get on the phone and call everybody up and tell them.

**WAYNE:** But wouldn't you want to know that if that was your kid, somebody from the YRTC to tell you as a parent that we're going to have to move your kid for whatever incident? And you don't have to answer that question. My second question is more around at that hearing, how does the attorney prepare for it if there's no requirement of reports to be presented ahead of time?

**LATHROP:** Well, if you don't have a report and you don't provide something to the judge, then all you have is argument, right?

**WAYNE:** Well, yeah, but--

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**HILGERS:** One minute.

**WAYNE:** --at the time they could provide it to-- I mean, I guess that's kind of my, my concern is they're out in Buffalo County, we're in Omaha. They get this notice of a hearing by possibly telephone and you have no opportunity to review for your client what happened. So, so-- and I guess-- so in Douglas County, if they remove a kid or a kid gets stopped, violates probation, and there's a, a hearing within 24 hours, we get that notification and usually it's a 11:00 phone call or 10:00 phone call with the county attorney to walk through the documents. That's not in statute, I just think that's what we do in Douglas County. But I would like to see some type of requirement on that. Would you be amenable to some kind of requirement of notification prior to the hearing of these documents?

**LATHROP:** I'd be happy to. Yes, is the short answer. The longer version is, remember, it's got to be scheduled within 24 hours. So there is a--

**HILGERS:** Time, Senators.

**LATHROP:** --limited window of time.

**HILGERS:** Thank you, Senator Lowe, Senator Lathrop, and Senator Wayne. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. Speaker. Good afternoon, colleagues. I am unsure about how I will vote on this. I did vote for the committee amendment because I understand that it made some important changes. But I was reading over the committee statement and something caught my eye about the current public safety officer is currently defined to include employees of the YRTC-Kearney and the YRTC-Geneva. And Section 1 would expand this definition to include employees of any facility operated and utilized as a YRTC in compliance with Nebraska law. So there's a couple of things about this that caught my eye. And I did talk to the legal counsel for Judiciary and got one of my questions cleared up. And I do just want to state for the record that the reason that this change has to be made is because we no longer have a YRTC-Geneva, despite the efforts of this body to encourage the female youth that were emergency-- had an emergency relocation from that campus to Kearney over a year and a half ago to be moved back once the facility was renovated and suitable for habitation again. Instead, for those that are new to the body, the Department of Health and Human Services entered into a contract with Lancaster County to lease a

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portion of the Lancaster County Youth Detention Center, which is actually contrary to state law. But it is what it is now and we have another YRTC. We also are going to have a YRTC-Hastings beginning, I think, next week or maybe even this week that they'll be getting-- beginning to move female youth from Kearney to Hastings. Hastings was a drug treatment center prior to that time. And this body, again a little history lesson, authorized \$400,000 to renovate buildings on the Hastings campus for the drug rehabilitation program and they sat empty from July of 2020 until now when the female youth are being moved there. We did move the young men from the Hastings campus to the Whitehall campus, which has a different program at it for use with other issues. And now there's two programs running at the Whitehall campus. There's been no program since October running at the Hastings campus, and there's been no programming at the Geneva campus since, I believe, August of 2019. So a lot of moving pieces. And I bring all of that up because this talks about the enhanced penalties for public safety officers. And I'm, I'm concerned not-- I'm no longer concerned that we're expanding this. It's just expanding that it includes all YRTCs, wherever they may be, and who knows where they will be in the future. So this-- that's not the concern. My concern is the fact that we continue to have the enhanced penalties for these youth who are clearly being shuffled around the state and living in very tenuous circumstances at best. They aren't being informed about their movements in advance. Their families are not being informed about their movements. The young women who were at the YRTC-Geneva in 2019 were in uninhabitable conditions. And the only reason that that changed was because they took action. And I don't think that we should be penalizing the youth that are in the treatment center who don't feel safe, who feel threatened by staff.

**HILGERS:** One minute.

**M. CAVANAUGH:** So I would like to see us take this opportunity with this bill to strike those penalties from the law, from the statute, because these youth have been through enough and continuing the system of keeping them involved in the system further does no one any good. It's already-- there's already a penalty. Why do we need to assess an enhanced penalty to these youth? Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Cavanaugh. Senator McKinney, you're recognized.

**McKINNEY:** Thank you, Mr. President. I rise indifferent to LB273, mainly after reading the special report on the deterioration and

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closure of Geneva's YRTC. In the findings and recommendations it says the failures of leadership related to YRTC-Geneva occurred at multiple levels on multiple fronts in ways that were complexly intertwined with each compounding the consequences of the next. This reflects a failure by leadership to plan, to problem solve, and to dedicate the resources necessary to provide the legally required care of the youth at the YRTC-Geneva. The failure of leadership led to management, staffing, and training issues, lack of programming and treatment, and the, and the deterioration of the cottages. Each of these elements is required to effectively meet the mission of the YRTC in Geneva, the need-- and the needs of the girls. As a result of these failures, the youth at the YRTC-Geneva experienced varying levels of trauma. It was clear after interviewing all the youth, many of them were exposed to or experienced some sort of traumatization or re-traumatization during the commitment at the YRTC-Geneva. The investigation found the leadership at the-- the leadership of the Department of Health and Human Services, Office of Juvenile Services, and at YRTC-Geneva failed to ensure the YRTC-Geneva had the necessary management, staffing, programming and treatment, and facilities to care for the youth in custody as evidenced by-- what I'm basically getting at is why are we increasing penalties for kids that are failed by the system? Who's going to hold the system accountable for failing these kids? Would Senator Lowe yield to a question or a couple questions?

**HILGERS:** Senator Lowe, would you yield? Senator Lowe, would you yield to a question?

**LOWE:** Sorry, yes I will.

**HILGERS:** Would you yield?

**LOWE:** Yes.

**McKINNEY:** Senator Lowe, what are the penalties for the system failing our kids in the YRTCs?

**LOWE:** What are the penalties?

**McKINNEY:** Yes.

**LOWE:** That's not in this bill.

**McKINNEY:** I'm just asking what are the penalties?

**LOWE:** That are failing our kids?

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**McKINNEY:** What are the penalties for the system failing our kids? Who's responsible?

**LOWE:** You know, you'd have to take that up with DHHS, I believe.

**McKINNEY:** OK, so should there be crimes or enhanced penalties for DHHS or the YRTC directors for failing our kids?

**LOWE:** You know, you could probably bring that bill next year if you'd like.

**McKINNEY:** But we have a-- thank you, thank you. But we have a bill on the table currently that enhances penalties for the system failing our kids. But our kids would have to wait till next year to get any type of justice. That doesn't make any sense if we're going to increase penalties or have increased penalties for our kids that are being failed, which is clear in this investigation report, then there should also be an amendment for the kids to receive justice as well. How can you fail some kids and then say, hey, because we failed you, we're going to increase the penalty for you being failed? What sense does that make?

**HILGERS:** One minute.

**McKINNEY:** We really have to think about this, which is why I didn't vote on the bill, because I'm indifferent. I think the amendment that Senator Lathrop had was good. But I also don't agree with having increased penalties for kids that are being failed. If we got increased penalties for kids, we need to have increased penalties for the directors of the YRTCs and the director of the Department of Health and Human Services. And thank you.

**HILGERS:** Thank you, Senator Lowe and Senator McKinney. Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr. President. This will be my last time speaking on this issue. I do think for those who don't dabble in juvenile law, I think we need to just listen from a parental rights perspective. Your kid is oftentimes farther away if you're from Omaha, many times you can't get out there to see them. You might not have transportation. But the bigger issue is if something is happening to your child, the state-- let me remind people, the state is not required to notify you. That just seems bizarre to me, that seems sad. That if something were to happen to my child, we would have the same expectation of a school to call you, they call you when they're sick, they call you if they

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need to go home, especially if there was some emergency that would require removal, our schools notify you. But for the state to move a child from their facility at which they are living, for whatever reason, we don't feel it's necessary to notify the parent. That their attorney may be notified within 24 hours prior to the hearing if they have representation, but oftentimes the representation in these cases are not through a-- an attorney. Oftentimes, if a child is delinquent, they have their attorney but the parents don't have an attorney because they're not in the system. It's their child. So a child will get moved because of an emergency, but we as a state are not going to require the parent to be notified. We require notification if somebody takes your car, if somebody goes onto your land, if somebody-- we, we require notification about everything. But when it comes to your kid in a YRTC facility that has to be moved for an emergency reason, we don't require the state to notify the parent. We don't require the state before they put your kid on some drug that could have long-term effects to notify your-- notify the parent. I know everyone in here knows a kid. Many of us have children. And if we think that's OK, then we can just move forward and not worry about it. I hope from General to Select, we can make sure there is a parent notification. But if this was a property right issue and there wasn't people who-- if this was a water right issue, we couldn't take your water without notifying you, I would see many of my colleagues standing up with all their buttons pushed, saying we need to know, we need due process. We need to make sure our property rights are secure. But your child in state custody being removed from the facility, basically the home that they are in, we don't require notification. I hope to see that change on Select. If not, I mean,--

**HILGERS:** One minute.

**WAYNE:** --I hope others will push their queue and say it has to happen. I hope others will say parents should be notified at a bare minimum from the state. It's a phone call. It's an email. It's a letter. We're talking about our-- and what's bizarre about this whole thing with parental rights and juvenile law is you have more rights and due process if you steal a piece of candy bar from a Walmart than you do if you lose your child in our juvenile justice system. So I hope we work on it. I'll work with Senator Lathrop and counsel, but we have to make sure there is a parent notification before this bill passes its final, final passage. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Wayne. Senator Vargas, you're recognized.

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**VARGAS:** Thank you very much. I just wanted to try to clarify something. I, I do agree with Senator Wayne on the underlying cause for concern about notification having to do with this 24-hour sort of request for emergency placement. In the bill that we passed last year, there was language that we put in that said the following: The office shall file a report and notice of placement change with the court and shall send copies of the notice to all interested parties, including any parent or guardian of the juvenile at least seven days before the placement of the juvenile is changed from the order of the committing court. And I do think that-- so that carries over, that, that still is going to be the case. It's just whether or not it happens within the 24 hours for this emergency request. And so I understand that. I just wanted to make sure that that was clear because it is still done for the underlying move anywhere. But I wanted to make sure that was clarified for, for everyone here. And so I'll happily also work with Senator Lathrop, Senator Lowe, and Senator Wayne to see if there's any additional language we can put in that clarifies that or at least points to that subsection in the previous bill that we passed last year if we need to. Thank you.

**HILGERS:** Thank you, Senator Vargas. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. I won't belabor the point, but I did hit my light and rise to agree and take up Senator Wayne's challenge. I think across the board, improving parental notification for system-involved juveniles is very important. I won't go off to this too far off track, but I've had a bill I've worked on for a number of years about parental notification and juvenile arrests. And I think the standard that we've set of the state of Nebraska for our law enforcement, for our state agencies, in terms of providing parents accurate and adequate notice of where their child is even located or what's happening to them or where they're going to spend the night is way far below what most reasonable people would assume the standard is. We've put very few obligations on ourselves to inform parents correctly and accurately and quickly of where their child is located and why they're being taken to a certain place on a variety of different context. As we've changed the YRTC system repeatedly, as we've opened up a variety of new facilities and shuffled children around, I think it's even more important that at a bare minimum, parents are aware and aware and accurate-- accurately and adequately informed. So I would stand in support of any future amendments and compromises that could improve that notification. With that, I'll end my remarks. Thank you, Mr. President.



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**HILGERS:** Thank you, Senator Hansen. Seeing no, no one else in the queue, Senator Lowe, you're recognized to close.

**LOWE:** Thank you, Speaker Hilgers. And thank you for all the discussion today. We'll take everything under advisement. You know, we've been talking about a crisis situation. When a youth is in a crisis situation where he may harm himself or he might harm some-- someone else, we don't have seven days to fix it. We need an emergency. We need something to happen now and within 24 hours. And that is what AM600 did. So with that, I'd like to thank everyone. I'd like to thank Senator Lathrop, the Judiciary Committee, and Josh Henningsen for all the work that they did to improve this bill. Please vote green on LB273.

**HILGERS:** Thank you for your closing, Senator Lowe. The question before the body is the advancement of LB273 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

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

**HILGERS:** LB273 is advanced. Next bill.

**CLERK:** Mr. President, LB639 is a bill originally introduced by Senator Day. It's a bill for an act relating to schools; adopts the Seizure Safe Schools Act. Introduced on January 20 of this year. At that time referred to the Education Committee for public hearing. The bill was advanced to General File. Excuse me. There are committee amendments pending, Mr. President.

**HILGERS:** Thank you, Mr. Clerk. Senator Day, you're recognized open on LB639.

**DAY:** Thank you, Mr. President. And good afternoon, colleagues. I am excited to finally be introducing my priority bill today, LB639, the Seizure Safe Schools Act. This bill was brought to me by a constituent and since its introduction has helped to create quite a coalition of families, students, and advocates who care deeply about the safety of students experiencing seizures in schools. It passed out of the Education Committee 7-0, with one senator present not voting. And while I hadn't originally planned to prioritize this, the testimony at the hearing was so moving and impactful it quickly moved to the top of my list. According to the Epilepsy Foundation, one in ten people will have a seizure at some point in their life. Children, particularly

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under the age of ten, are in a window of prime vulnerability, and many first-time seizures happen within the walls of a school. The symptoms of seizures vary widely and often those who don't understand the signs and symptoms of seizures can and do mistake them for other behaviors or overlook them entirely. I recently heard testimony from one former educator who said after finding out about a student's seizure diagnosis, she realized that she had mistaken the student's seizures for misbehavior and was heartbroken that she didn't know better at the time what was happening. In addition to the prevalence of first-time seizures happening in schools, 1 in 26 people will be diagnosed with epilepsy at some point in their lives. According to a 2015 CDC study, Nebraska had 2,800 active epilepsy cases in persons under 18 years of age, and this number has surely grown in the last six years. These students are in schools where there is often no organized action plan and no one with adequate training on how to recognize and handle seizures when they happen. Additionally, permanent brain damage can and does result from seizures in young people, and rescue medications must be administered as soon as possible to mitigate these effects. Literal seconds can mean the difference in these children's quality of life and in preventing potentially life-altering brain damage. This bill provides a solution for the gap in care for students with seizures in schools. It provides for a self-study for all school personnel in emergency seizure first aid. And in the event that a student has a-- in the event that a school has a student with a diagnosed seizure disorder, one person in the building would be trained in administering seizure medications as specified in the student's seizure action plan. This is similar to a previous plan we have enacted to protect students with asthma in the event of an emergency in schools. This bill is imperative to provide safety for all students who experience seizures and to provide school personnel with the ability to recognize and react appropriately and swiftly in the event of a seizure in a school. I encourage your green vote on this bill. And at this time, Senator Walz will introduce the committee amendment.

**HILGERS:** Thank you for your opening, Senator Day. As the Clerk noted, there are committee amendments. Senator Walz, as Chair of the Education Committee, you're recognized to open AM541.

**WALZ:** Thank you, Mr. President. AM541 does a few things. First, it replaces line 8 with clarifying language to better align with the introducer's intent that this bill is meant to apply to public, private, denominational, or parochial schools. This language is more consistent with the statute. Second, this bill delays the

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implementation date for Section 4 that deals with the self-study review of certified school employees. This has been a standard of mine in the Education Committee that any substantive change placed on schools be delayed until the beginning of the school year '22-23 in order to give our schools the necessary time to prepare for the change. And lastly, the amendment clarifies that the one-hour, self-study review of seizure disorder materials by certified school employees be completed at least once every two years. Prior to this amendment, this was not clear, and it would have been a one-time review. This bill was advanced from committee with seven yes votes. I would appreciate a green vote on AM541. Thank you, Mr. President.

**HILGERS:** Thank you for your opening, Senator Walz. Mr. Clerk.

**CLERK:** Senator Day, you had filed AM683, but I have a note you wish to withdraw that, Senator. Right? Yep. Thank you.

**DAY:** Yep.

**CLERK:** OK.

**HILGERS:** Debate is now open on AM541. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. And good afternoon, colleagues. I, I was wondering if Senator Day would mind yielding to a couple of questions?

**HILGERS:** Senator Day, would you yield?

**DAY:** Yes, of course.

**SLAMA:** Thank you, Senator Day. So my first question is, outside of the asthma or anaphylaxis statutes that we have in place, and I'll reference those a little bit later, do we have any statutory mandates for care plans for students currently?

**DAY:** With seizures or--

**SLAMA:** No, for any other major medical condition?

**DAY:** I don't believe so. I'm not exactly sure on that.

**SLAMA:** OK. And then in your opening, you mentioned a gap in care. When it comes to responding to seizures within our schools, do we have any

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data, especially Nebraska-specific data, to show that seizures aren't being handled properly by our schools?

**DAY:** We don't have any data that discusses the fact that seizures aren't being handled properly, other than the several stories that I have had from families and, and parents who have come to me to tell me that something like this is desperately needed in our schools.

**SLAMA:** Thank you, Senator Day. Those questions cleared up some of my questions on this bill and really solidified as to why I am opposed to AM541 and LB639. This represents what I believe is an unfunded mandate on our schools. And the handout that was passed around, it noted that there would be no fiscal impact on the state level for our schools. That's true. But that mandate is passed down to the local level and wouldn't show up in that fiscal note. I, I still really have yet to hear a good reason or any type of evidence that's not anecdotal as to why we need this bill, specifically, which carves out liability protections and care plans for seizures and epilepsy. Schools already have these plans in place, and I, I still just don't see the widespread data to show a failure in our Nebraska schools handling these seizures properly. We don't have statutory carve outs for other serious ailments our students face that require a timely response. The statute that Senator Day referenced is Nebraska Revised Statute 79-224, which gives students the chance to have a managed healthcare plan for anaphylaxis or asthma, which means that they get to carry around their inhaler or their EpiPen. When now when seconds matter, I think that is a great concept and I believe I supported that bill if it came around when I was in the body. This is an entirely different animal where we're requiring our schools to put together care plans specifically for seizures. So I do think Nebraska Revised Statute 79-22 [SIC] to dealing with asthma and anaphylaxis is entirely different than what we're trying to achieve here with LB639. There's not the self-management as we saw in the statutes that we already have. I am hesitant to have the carve out in liability as well for our schools when it comes to seizures. And as far as I can tell from the evidence and the research I've tried to find on this issue, our schools are already taking care of our kids with epilepsy. There may be some exceptions we find. But overall, when it comes to serious medical conditions, our state as a whole is doing a great job taking care of our kids. So that's why I stand today opposed to AM541 and LB639 and I'd encourage my colleagues to vote red on this mandate.

**HILGERS:** Thank you, Senator Day and Senator Slama. Senator Erdman, you're recognized.

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**ERDMAN:** Thank you, Mr. Speaker. And good afternoon. I listened to Senator Day's presentation on the opening and, and I can appreciate being concerned about young people who have seizures. I was wondering if Senator Day would yield to several questions?

**HILGERS:** Senator Day, would you yield?

**DAY:** Yes.

**ERDMAN:** Senator Day, do you have a copy of the committee statement there?

**DAY:** I can pull it up.

**ERDMAN:** OK, pull it up, if you would. I had some questions about that. It'd be better if you've seen it. That way we would could-- I could ask these maybe more intelligently. One of the things that I seen that I will say that, that I'm opposed to is having this apply to private and denominational and parochial schools. We don't fund those with tax dollars to any significant extent, maybe none. And I find it not appropriate that we would ask them to do something that we're not actually have the authority to do that maybe. So under, under Section 3, under the committee statement, it, it says the following: Requires each school board and the governing body of each private, denominational, or parochial school to have at least one employee who has met training requirements necessary to administer or assist with self-administration of a seizure and medication approved by the United States Food and Drug Administration. What kind of training will these people get? What kind of training do they have to adhere to?

**DAY:** The, the training that is laid out that would be most commonly used is set up by the Epilepsy Foundation.

**ERDMAN:** OK.

**DAY:** And so I don't have all of the details on what the--

**ERDMAN:** OK.

**DAY:** --training looks like exactly.

**ERDMAN:** So maybe you can agree and maybe not, that, that training will have some cost. Would you agree?

**DAY:** The training is free.

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**ERDMAN:** It's free?

**DAY:** Yes.

**ERDMAN:** So if it's free, the, the person in the school that has to take this training has to spend their time taking the training, is that right?

**DAY:** Yes.

**ERDMAN:** So they would not be doing the job that they were normally doing when they had to go to the training. Would that be correct?

**DAY:** Well, this would be one of those things that, you know, like on an in-service day or teachers have time to do these trainings in the days that the students are not in the schools.

**ERDMAN:** OK, and then it goes on, as you see, down below Section 3, it says, "Before medication can be administered under this act the school must receive," and it talks about the training, authorization, the statements, and all that. So what currently happens to a young person who has epilepsy that is in a parochial or private or, or denominational school? What happens to those people now?

**DAY:** Nothing. If, if the parents wish to work with the school on, on providing the educators and, and the staff some kind of training, they do that. And we have a handful of families that I talked to that have--

**ERDMAN:** OK.

**DAY:** --done that. But it has to be initiated by the parent, otherwise there is no plan.

**ERDMAN:** OK, so but if this says it requires each school board and governing body to have this training and have this person trained before you can administer drugs or treatment, and the parochial school does not do that, say the parent had someone, a, a teacher or whomever in that school that knew how to take care of their child but hadn't gone through this training, then that person could, could not administer the necessary treatment because they haven't had this training. Would that be possible?

**DAY:** I'm not sure if they wouldn't be allowed to. I, I assume that it would be an emergency situation where they would be able to

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administer. There would be a nurse or someone who could administer the medication. But the issue is that-- the, the significance of the training is, is that it provides whoever is in the classroom with the student on a regular basis and understanding of what the seizure looks like and what's happening--

**ERDMAN:** OK.

**DAY:** --and how quickly they can react.

**ERDMAN:** All right. So let me, let me state it a little differently.

**DAY:** Yes.

**HILGERS:** One minute.

**ERDMAN:** It's a private school, doesn't have a nurse, but they have a student who has epilepsy. And they've, they've taken a teacher aside and said, here's how you, you handle the situation when my child has a seizure. But according to this, it requires the school to have this training. And it says if the school hasn't had this training, then therefore cannot administer the treatment to the child if they haven't had the training. So if I'm a private school, I don't have a nurse or someone who took the training, even though in the past I had someone designated on staff that would do that, this would prevent them from treating them because they haven't had the training. Would you agree?

**DAY:** But they have to take the training. That's the whole point, is that if you have a student with a seizure, with a diagnosed seizure disorder in your school, it would be required just like it would be through like a federally mandated 504 plan.

**ERDMAN:** Do you understand that people send their children to a private or parochial--

**HILGERS:** Time, Senators. Thank you, Senator Day and Senator Erdman. Senator Pahls, you're recognized.

**PAHLS:** Thank you, Mr. President. I just received some information from the school that at one time I was associated with, but I'm just going to give you a little bit of a personal experience. [INAUDIBLE] school, which is a public school, upon one Monday morning, a child from a private school came to my school to enroll because they found out the child had a peanut allergy and no one in that school could handle it. We were fortunate because in place we did, we did have a part-time

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nurse and a health para who was trained so then we could enroll that child because we had adequate training and facilities. The private school did not. So if a private school does not have that and I had a child-- I'm talking now about peanut allergy or any of these, seizures, I'd have to really think twice because I have to think about my child. I'm not saying that the private schools are required to do it, but you as a public school, you say we take everyone. We don't just say this one fits our profile of the student we want, we need to take everyone and it's just fortunate that we could take that child. And I tell you, it's a little scary because and I'm not talking about seizure, but this peanut allergy, if anyone came to that classroom, we could not have peanuts, peanut butter, anything in that. We had to set that child aside in the lunchroom. When, when that child went to the computer lab, we had to wipe it down. So many things happened in the public schools that many of us in here, including myself, are not aware of. So if a private school cannot handle it, it falls on the public school. Now when it comes to seizures, I'm reading from the document, a family doctor provides a plan to the family who did then provide it to the school, and then the school hopefully has a nurse or someone who is trained like a para-- nurse who is a health para and they get the training. This is not-- it sounds like it may be a really simple thing, but it is not. Just-- I don't know if anybody in here has an EpiPen, but somebody else probably needs to know how to handle that for you just in case you happen to go into shock. But one question that I know this particular school district has, they have-- they hope by-- if this does get passed that we go onto Select, we talk about the training because they're a little bit concerned about because you say all people. There are certain definitions that we do need to clean up. And I think that probably, like I say, if this does get to Select File in between, we could try to find the answer. Again, you're fortunate in your-- if you have no one in your family or no friends of yours who happen to have a issue such as this. I did get an email from-- and I'm wondering if it's not from your constituent, Senator Day, said she was surprised that when she talked about enrolling her child in kindergarten and the teacher was taken back by-- because she didn't know anything about epilepsy. That happens to us all the time. We do not know anything until it occurs to us, then it's our obligation to become trained or to receive some additional help. So I can see, like I say, when I found out about peanut allergies, I always heard about them, but I never had to be confronted with it. But there is a training and hopefully that you do have--

**HILGERS:** One minute.



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**PAHLS:** --someone in that building who has some type of a health background. If you don't, then you better be talking to that school, whether it be private or public. We need to hold everyone accountable. If you want to, to deal with young children, young adults, we all need to have our act together. It's that simple. We cannot be selective and say I will do this and I will not do that just because we happen to be a private or a public school. Own up to it. Thank you.

**HILGERS:** Thank you, Senator Pahls. Senator Linehan, you're recognized.

**LINEHAN:** Thank you, Mr. Speaker. Good afternoon, colleagues. First, I want to-- I am supporting AM541 and Senator Day's priority bill, LB63-- and I can't read with my glasses on-- 9. There you go. Thank you. I'd also like to thank her for working with me. I'd like to thank Senator Lathrop. We worked for the issues that are being discussed on the floor. The bill came out of committee 7-0. I, I believe here's the advantage the committee has, and you all know this. We were actually at the hearing. We actually heard the parents. We even had one young lady there. And you can't-- I mean, I've got six little grandkids. They're all pretty young yet. I don't know what's going to happen to them over the next few years, what issues they'll run into. But when you drop your child off at school, you want to know that that child's going to be safe. And you want them to be able to enjoy all the things that they can possibly enjoy, just like all the other kids. You don't want them to sit off in a corner or said they can't go to school because they're not prepared. The private schools that I know of, and I don't speak to all the private schools, they're already doing this. Who, who would want to be a teacher and not know how to handle this? Think about that, these are people that dedicate their lives to children and to students. And you don't think they want to be prepared to handle this? Of course they do. And I don't know, the education community is pretty good about reaching out to me when they don't like something. I haven't gotten any emails saying this is problematic for the schools-- I-- from my private or public school constituents or friends. I don't know anybody that has a problem with this that has looked at it and thought about it. Again, the schools, at least the private schools I know of are already doing this. And on the peanut allergy thing, it's a good, it's a good example. Hopefully, they're all handling that, too. I have-- surely a friend of my-- one of my children's who actually took their child out of public school and put them in a private school because they thought they could handle the peanut allergy better. I mean, parents had to make decisions. They talked to their schools. And I just think what Senator Day is doing here is making us aware. And something really important she first said

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in her first comments is young, little children when they're having seizures, it doesn't look like what we might imagine. It's more like daydreaming or they're just not attentive. Teachers will want to know that. It's an early sign that maybe teachers will notice that parents won't. I just don't know when we're talking about-- I want us to do all we can and I think all the schools do to protect children. Thank you.

**HILGERS:** Thank you, Senator Linehan. Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Good afternoon again, colleagues. Senator Day, will you yield to a few questions?

**HILGERS:** Senator Day, would you yield?

**DAY:** Yes.

**McCOLLISTER:** Senator Day, I came to you and we talked about the construction of LB639. I asked you whether or not you used Section 79, Chapter 224 when you built this bill, is that correct?

**DAY:** Correct.

**McCOLLISTER:** And you told me you had not. What did you base this bill on?

**DAY:** I based it off of language that has been used in other states that was in, in collaboration with the Epilepsy Foundation.

**McCOLLISTER:** Thank you. The reason I asked those questions is I had a son who had asthma. And I think that the condition of asthma is very similar to epilepsy, where you have seizures. My son had occasionally-- occasions in school where he had to use his machine to help him breathe. And so it's a very similar kind of condition. I like to read a passage-- thank you, Senator Day, from Chapter 79, Section 224: Upon written receipt-- a written request and authorization under subsection (1) of this section, the school and the parent or guardian, in consultation with the student's physician or such healthcare professional staff, shall develop an asthma medical management plan for the student for the current school year. Such plan shall identify the healthcare services the student may receive at school relating to such condition, permit regular monitoring of the student's self-management or his or her asthma condition by an appropriate credentialed healthcare professional, include the name, purpose, and

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dosage of the prescription asthma medication prescribed by such student-- for such student, include procedures for storage and access to backup supplies of such prescription asthma medication, and must be signed by the student's parent or guardian and the physician or such healthcare professional responsible for the student of this-- for treatment of the student's asthma. This goes to show you the kind of thing that we need for epilepsy kids in school. I think this is an important bill. I support AM541 and the overlying bill LB639. Thank you, Mr. President.

**HILGERS:** Thank you, Senator McCollister. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. And good afternoon again, colleagues. I rise still opposed to AM541 and LB639 and wanted to just briefly touch on a few points that had been raised on the mike. I don't want to drag this out. I'm not filibustering this. I just want to really drive home the point that what we're doing with LB639 is something that we don't have in place for any other major medical issue our students could be facing in our schools. And one of the biggest reasons a lot of us are here today are high property taxes. We all campaigned on high property taxes. How much of a hurdle to economic development they are, whether you're in a rural or an urban part of the state. And one of the biggest complaints I get from my school board members when they're talking through the issue of high property taxes with me is, look, we've got a lot of mandates that we have to keep track of. It seems like one thing after another with the Legislature. And this is just-- it's not a big thing. It's not going to be a high cost to most of our schools. But it's just one more thing. It's one more thing that adds potential liability. One question I have that I hope Senator Day can respond to during debate is what happens if this one school employee that's trained in responding to a seizure is on vacation? What if they're sick the day the kid has a seizure? What kind of liability does that open up for the school? I, I get that I'm not a member of the Education Committee, so I didn't have the chance to attend the hearing. But unfortunately, this issue is personal for me as well. My family does have experience in going through the Epilepsy Action Plan. It's something that I went through with a family member, unfortunately. So I'm, I'm savvy to the issue. I understand the issues associated with pediatric epilepsy because I've gone through it with my own family. I just don't see the data that shows that we need this mandate. Moreover, I don't see the data that we need this mandate specifically for seizures above all major medical

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conditions students can be facing in our schools. So I will leave it at that and just encourage a red vote on LB639. Thank you.

**HILGERS:** Thank you, Senator Slama. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker. I appreciate that. As I was reading the committee statement, one of the things that, that I see that could be a problem, it says that each school must have at least one employee who is trained. So the question then becomes, what happens if that person is on vacation that day or is ill and not there, then what happens? I am not in favor of imposing this on private, denominational, or parochial schools. If we want to do this to public schools, they probably have a nurse in place and they probably already had some training for seizures anyway. But I don't believe that we should tell private, denominational, and parochial schools what they can or cannot do. There's a reason why people place their children in a school besides public schools. So I was wondering if Senator Day would yield to a question?

**HILGERS:** Senator Day, would you yield? Senator Day, would you yield to a question?

**DAY:** Yes, sorry.

**ERDMAN:** Senator Day, thank you. So this-- your requirement says that one-- a school has to have one employee trained. What happens if that employee is absent that day?

**DAY:** I don't know. That's a great question.

**ERDMAN:** OK, I think that's a, that's a, that's a problem. Would you be in favor or would you agree with removing private, denominational, and parochial schools?

**DAY:** No.

**ERDMAN:** And why not?

**DAY:** Because several of the families that are very invested in this bill are private school families. And we had a couple of them that came to the hearing to testify in favor to it. In addition to that, we-- the Catholic Conference, who was representing the private schools, was originally opposed to this. But we have worked on the bill and they are no longer opposed to it. So for those reasons, no, I would not be willing to take private schools out.

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**ERDMAN:** OK, so if, if, in fact, that employee is missing that day, then they don't have one, one person that's trained, they have to have more than one. I would assume the bill needs to be amended to say that. The other issue, let me share a story that I have heard from a, a person who when they were in school, there was a young lady, was older than her little brother, her little brother had seizures and she was trained to take care of him. She had been around him a lot at back home. So they-- she had the ability to do that. Under your scenario, she would not be able to do that because she's not an employee and she hasn't had the training. Is that true?

**DAY:** I'm not-- I am not sure. I'm not going to speculate on whether or not--

**ERDMAN:** Well, it says here, it says, Before medication can be administered under this act the school must receive the following: Written authorization from a parent or guardian. Written statement from the student's healthcare practitioner. The method of providing the school with medication. And collaboration created from the seizure plan. So if his sister didn't have those things, wasn't trained, and she's not an employee, she wouldn't be able to administer those things to her little brother.

**DAY:** But I think the point is that there should be an adult in the room that should be able to handle that and it should not be left onto the students to be taking care of their fellow students.

**ERDMAN:** If she's the care provider at home, she can do that at home, and she has proven that she is capable of taking care of the situation, why shouldn't she be able to do that?

**DAY:** Because there should be an adult there. And again, that's what the adults are there for. Right?

**ERDMAN:** OK, so what if your adult is the one employee that's not there that day?

**DAY:** Then sure-- then there should be somebody else there who-- and if there is, then that's a, that's a great thing to have somebody that could be there as backup. But I don't think that--

**HILGERS:** One minute.

**DAY:** --we should be relying on students to administer medications to other students when we could provide training for educators to be more

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competent in the event of a seizure in a school and provide more protection for the students, too.

**ERDMAN:** So what you're saying when you do a bill like this is one-size-fits-all, would you agree?

**DAY:** No.

**ERDMAN:** Well, then there's no exceptions. You just told me that that young lady couldn't do that.

**DAY:** Because, because, because the reason is I don't understand why we should be putting the responsibility to-- of medical care for a student on another student. Would you agree?

**ERDMAN:** Have you, have you ever been to western Nebraska to see how many people we have?

**DAY:** I haven't been in any of the schools, no.

**ERDMAN:** We have very small schools.

**DAY:** Sure.

**ERDMAN:** They don't have any resources to have a school nurse, some of these small schools.

**DAY:** And that's why the, the training would be not necessarily just for a nurse, it could be for--

**HILGERS:** Time, Senators.

**ERDMAN:** Did you say--

**HILGERS:** Thank you, Senator Day and Senator Erdman. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. I don't have any trouble with the bill, but I-- I've got some concerns. When somebody tells me seizures, I think about the kid I played football with, got hit on the head and had the seizures. A young man I knew that got overheated and he had some seizures, seizures. Also, Senator Pahls mentioned allergies. But this seems-- Senator Day, would you take a question? I'm sorry, I didn't have a chance, but it's not an aggressive question.

**HILGERS:** Senator Day, would you yield?

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**DAY:** Yes.

**GROENE:** This is basically, this is-- what I read this is for epilepsy.

**DAY:** Correct. Well, for, for--

**GROENE:** That's, that's the training.

**DAY:** Yes.

**GROENE:** All right. Thank you.

**DAY:** Part, part of it. But it's also seizures in general. So it's not just for diagnosed seizure disorders, it's also in the event of a seizure happening in the first-- for the first time.

**GROENE:** Thank you. All right. But as I said, there's seizures where there's no medicine.

**DAY:** Correct.

**GROENE:** I don't see anything in here-- you know, we all had different experiences in life. I had a friend who had epilepsy really bad in high school. And we were all told by the parents, if they have a really bad case, make sure they don't swallow the tongue. Here's how you do this. Here's what you do while they're having that seizure. And I've seen a few of them. There's none of that in here. It's just how to give them a pill because they can choke on their tongue. But I don't-- I mean, it's not very-- the training isn't very well explained. Just seems to be all right, you got permission from the parents. I do like the idea you got permission from the guardians and then-- but it doesn't say anything about seizures in general, which can happen. So anyway, it's not very clear and it's, it's not a bad policy. But what I see here is epilepsy and the medications for epilepsy and, and administering the medication, so. Anyway, I'll vote for the bill, but it's, it's not very clear. Thank you.

**HILGERS:** Thank you, Senator Day and Senator Groene. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. Speaker. Colleagues, I rise in support of AM554-- 51 [SIC] and LB639 as amended. I appreciate-- I want to say thank you to Senator Day for bringing this bill. And I've been listening to the debate and heard a couple of things I just thought would bear mentioning. Senator Groene, just a reference that he's been

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familiar with people having seizures as a result of what sounds like concussive behavior. I heard Senator Slama reference that we've never done something like this before. I would just draw your attention to the Concussion Awareness Act that became law on July 1 of 2012, which was passed by this body, which requires all public, private and parochial schools, as well as youth sports organized and sponsored by villages, cities, businesses, or nonprofit organizations for children under the age of 19 to make available approved concussion training. Basically, we picked a specific medical issue that we thought was serious enough, we set out criteria by which all, not just schools, but also nonprofit and businesses that participate in sports that pertain to children and told them what they needed to do to address that issue. We did that because it was a serious issue that addressed the health and safety of children. And that's what Senator Day is doing here with this bill, is giving criteria to schools for how to address a serious issue that can seriously affect the health and safety of kids in schools. Reading the bill, I look at it and I don't see it as a mandate. I see it as guidance, really. I see it as giving schools instruction on how to properly deal with these issues. There is some criteria laid out for making sure that schools have approval, written approval from parents on how to administer medications and how to deal with these children and how to have a plan in place ahead of time. These are things that will be helpful to schools to know that they need to do before we get to the school year. And so this is not unusual. This is something we've done before. When it rises to the level of importance dealing with the health and safety of children, we have given this kind of guidance in the past. So I think that that's a, a false argument. And I think that we should stick to the, the issue at hand here. Is this something that is serious enough that affects kids in such a way that we should deal with it? And I think that we, we should. I think the testimony, the statements here today bear that out, the testimony at the hearing, the individuals who this matters to is very important. So I'd urge your green vote on AM541, on LB639, and I-- with that, I conclude. Thank you.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Pansing Brooks, you're recognized.

**PANSING BROOKS:** Thank you, Mr. Speaker. I, I stand to first rise, Senator-- to thank Senator Day for bringing this bill. I had a person in my family since this bill came to our Education Committee who had a small seizure. And I would never-- it didn't happen in front of me, but I would never have known what to do. I asked Senator Friesen if he knew and he knew because he's a voluntary firefighter. But those of us



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that haven't been-- had that experience and the fact that, you know, it may happen in front of kids, it, it needs to be something where an adult is not in a panic state because this has happened in a school. And I just want to thank Senator Day for bringing this really important bill. As we have stated, as Senator McCollister stated, we have it for things like asthma, we've-- Senator John Cavanaugh mentioned the, the legislation that we have on concussions from 2012. And I would just like to ask, Senator, I, I went around and, and have done a card to check on the votes on this bill. I was wondering if I could ask Senator Day a question?

**HILGERS:** Senator Day, would you yield?

**DAY:** Yes.

**PANSING BROOKS:** Thank you, Senator Day. So I was-- as I went around, people, I think had concerns about the parochial schools. And it's my understanding that the Catholic Conference has pulled their objection to this bill. Is that correct?

**DAY:** Yes, that's correct.

**PANSING BROOKS:** Was-- that was partly due to your negotiation and work. Can you explain a little bit about what happened?

**DAY:** Yes, we spent a lot of time going back and forth in between committee and today discussing it with the Catholic Conference and making sure that we came to a good place where they could support the bill.

**PANSING BROOKS:** Thank you. I have no further questions. I will give the rest of my time to Senator Day if she would like it.

**HILGERS:** Senator Day, 3:07.

**DAY:** Thank you, Senator Pansing Brooks. I appreciate that. Just a couple of things that I wanted to mention about this bill. The general training is a self-study. So it's not, you know, specified to one day. We tried to make it as relaxed as possible for schools who didn't have a student with a diagnosed seizure disorder, because we think the training is necessary because, again, there are multiple stories of children's first-time seizures happening within the walls of a school. So we do believe that people in schools need this training even if they don't have someone in the schools with an already diagnosed seizure disorder. And in addition to that, we do have a survey here

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that shows that there is a gap in training for educators on this specific issue and that I think it was almost 40 percent of teachers surveyed were looking for training on epilepsy and seizure disorders. So I just wanted to mention that. Thank you.

**HILGERS:** Thank you, Senator Day and Senator Pansing Brooks. Senator Pahls, you're recognized.

**PAHLS:** Thank you, Mr. President. I do support this bill. Just had a couple-- I, I do want to thank Senator Cavanaugh for bringing up what happened in 2012 dealing with brain concussions and that included all schools were involved, not just the public schools. And I must admit that the training, the self-study, we probably need a little bit more information. And I'll talk to you, Senator Day, before we get to Select on this. And I will say this much, if I were an administrator out in western Nebraska, small staff, if I had a child who had this issue enroll in my school, I would want some type of training. You just can't say no training, kid can come. So we do need that training. It's nice to know that there is an organization that will help provide that, especially many years ago when I taught in Atkinson, Nebraska, we did not have a nurse in the building. So that's why it would be nice to have one, two people to be trained for this. I do not see training as a major issue, just a couple things I'd like to clear up. Thank you.

**HILGERS:** Thank you, Senator Pahls. Senator Albrecht, you're recognized.

**ALBRECHT:** Thank you, Speaker Hilgers, and if I could have Senator Walz just speak to a couple issues that I have?

**HILGERS:** Senator Walz, would you yield?

**WALZ:** Yes.

**ALBRECHT:** OK. I think it's a great bill as well. But my question would be with this amendment, it says to strike-- on page 2, strike line 8 and insert "thereafter, each approved or accredited public, private." So are we taking out anything after that? And is it-- my other question is, is it customary for the-- your committee to seem to always want to include the other schools in the state besides just public schools? Is it customary to do that on bills like this and others?

**WALZ:** No, I wouldn't say it's customary

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**ALBRECHT:** Because that is a concern that I have. But, but on this one here, I-- I mean, I always trust and verify. So I did call to, to ask if the, the Catholic Conference or those affiliated with them were, in fact, neutral. And they are because they believe that what Senator Day has done in LB-- or the AM683, when she pulled that it made it stronger for private or parochial schools in this bill. So while I agree with that, my bigger question is, is it, is it something that we would be doing on this bill and others to include a lot of other schools that are not public schools?

**WALZ:** Oh, I'm sorry, I thought I answered that question.

**ALBRECHT:** Well, but do you feel in this particular bill as Chair and, and what you heard through the testimony that it validates it? Because I did visit with Senator Day, that it seems to be happening quite a bit in, in nonpublic schools. So is that why you decided to put the other schools in it?

**WALZ:** I think that Senator Day had some pretty good testimony regarding training for teachers in public and private schools. There was a number of testifiers that testified. So.

**ALBRECHT:** For that reason, you did. OK. So Senator Day, if you could just yield to a quick question? Senator Day.

**HILGERS:** Senator Day, would you yield?

**DAY:** Sure.

**ALBRECHT:** So a lot of the, the people that you had heard from in your-- with the committee hearing, was it, in fact, more nonpublic schools having this issue than actual public schools?

**DAY:** I wouldn't say that it was more. No. I just-- I would say-- I mean, in terms of the people that have been involved in this process and like I mentioned in my, my opening, the coalition of families that we've built, it's probably evenly split. And so, no, I wouldn't say it was more one or the other.

**ALBRECHT:** Yeah. Well, again, I know how exciting it is to have your first priority bill, and I just want to make it the best bill possible. So in doing so, I'm going to continue to listen to the debate. And I thank you for your time.

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**HILGERS:** Thank you, Senator Day, Senator Walz, and Senator Albrecht. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. And I'll just very briefly speak on this. I don't think there's many people left in the queue, so this should probably go to a vote here pretty quick. One big concern has been raised on the floor today during debate. I had my concerns about the bill before it came to the floor. But there's a huge question on the table that's been left unanswered during debate. It's if the trained employee isn't there when this child has a seizure, what's the potential liability repercussions for the school? Because this bill is doing two things. One, it's mandating the training. And then, on the other hand, it's also opening the door for liability for the school in the event of misconduct. Now we need to know the scope of that misconduct. What that means is what happens if this school employee that's trained in responding to seizures is on vacation or they're sick or they just don't happen to be around when the student in question is having a seizure? Another question arises when that student goes to events at other schools. Is this trained school employee going to go with this child to all of these after school events, to their volleyball games, to their speech meets, to their music concerts because they are the one trained school employee that's trained to respond to seizures? And I would push back against the point that kids are somehow offering medical services to other kids in our classrooms, the teachers are responding, they're trained in first aid as part of the things they're trained on, and when they become a teacher of the basics of responding to emergencies that they can expect in the classroom. There's nothing stopping schools from offering this free training now. The big difference here is with LB639, we're mandating it in statute and opening a door for liability. The scope of which we haven't been able to determine yet in debate. And that raises some really big red flags for me and it's why I'm still opposed to this bill. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Slama, and that was your third opportunity. Senator Erdman, you're recognized and this is your third opportunity.

**ERDMAN:** Thank you, Mr. Speaker. I appreciate that. So as I'm reading through the committee statement in the bill, while we're off the mike, I don't see any place in, in the bill where it says what happens to a school who doesn't adhere to this policy? And also it says in Section 6 that this bill provides protection under this act for the teachers.

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So I wonder if Senator Day could explain those things to me, if she would, if she'd answer a question or two?

**HILGERS:** Senator Day, would you yield?

**DAY:** Yes.

**ERDMAN:** Senator Day, let me, let me reiterate what I said there. Is there a required-- there's a requirement for the school to do this. Is there a penalty if they don't?

**DAY:** No, there is no penalty.

**ERDMAN:** So then a school could choose to do this or they could choose not to, even a parochial or private school?

**DAY:** Yes.

**ERDMAN:** And, and so do you know-- if, if you do know, what does this protection-- what does this act give for protection for the teacher? It says it provides protection under the act.

**DAY:** In terms of the liability or--

**ERDMAN:** I don't, I don't know, it just says that it provides teachers protection under this act, protection from whatever they might have done or didn't do or what, what kind of protection do they get?

**DAY:** The, the standard that's written in the bill and I don't have exactly the section number in front of me, but it's essentially the highest standard in terms of liability. It's-- the person would have to be acting with willful, willful or wanton misconduct in order to be held liable under this bill.

**ERDMAN:** So it gives them immunity if they, if they attempt to help the young person--

**DAY:** Correct.

**ERDMAN:** --and something goes awry, then they have protection that they can't be held liable for any of their actions?

**DAY:** Correct.

**ERDMAN:** OK.

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**DAY:** We-- yes.

**ERDMAN:** So wouldn't it make sense if you're going to ask these schools to do this there should it be some kind of a penalty if they don't?

**DAY:** I'm not sure that I would be in favor of making the bill even more restrictive than it already is.

**ERDMAN:** OK.

**DAY:** The whole goal with this bill is to provide training for teachers so that they can handle kids who have seizures--

**ERDMAN:** OK.

**DAY:** --and kids can be protected.

**ERDMAN:** So if I'm a rural school that has 50, 60 students, I don't have a student-- or a school nurse and I don't want to do this training or adhere to this policy, I don't have to?

**DAY:** Well, it's in statute. So, yes, you would be technically required, but I suppose you could not do it and there would be no penalty. But I would hope that the school nurse and the teachers in the building that are tasked with giving care to, to children would take this very seriously and would take the training.

**ERDMAN:** OK, don't get me wrong, I'm not opposed to treating people who have seizures. What I'm trying to say is there's the statutes and then there's a practical application of the statutes.

**DAY:** Right.

**ERDMAN:** And sometimes those are two different things.

**DAY:** Sure.

**ERDMAN:** And so if a private school, a parochial school has someone on staff that they've had trained in the past to help with seizures, and they want to continue with that procedure as they always have, they may not want to adhere to the policies that you've put in place in this statute. And according to what you just told me, there's no penalty for doing that.

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**DAY:** Yes, but again, the, the, the training that's provided in the bill and the standard of liability provides the schools with more protection than they would have if they weren't doing it.

**ERDMAN:** Correct. I understand that. But they choose not to. They can make that decision on their own.

**DAY:** Sure.

**ERDMAN:** OK. So as long as you're not restricting them, I think you should take the parochial schools and the private denominational schools out, because I don't believe that we as a Legislature should tell those people what to do. And you have said on the floor, and I heard you say it, and I, I believe you're telling the truth, that the Catholic Conference or those people who testified--

**HILGERS:** One minute.

**ERDMAN:** --against it have now worked out those things and they're no longer opposed. But the point is, numerous private schools, numerous parochial schools have no lobbyist. You have not heard from those people. So you have no idea, I have no idea whether those people are opposed or in favor. And so we're going to put a statute in place for everybody across the state not knowing if they agree or not. But because one group came in and said, we're in agreement, then we're saying all parochial and private schools are in agreement. I don't believe that to be the case. So as long as there's no penalty for it and as long as there is no repercussions for them not doing it, I don't-- I, I mean, I think we could tell the public schools to do whatever we want to because we fund those people. But those people, we don't fund, those schools, I don't think we have any business telling them what to do. Thank you.

**HILGERS:** Thank you, Senator Day and Senator Erdman. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. Speaker. As I've been listening to the, the discussions going on, something that was mentioned just a minute ago about school nurse. Maybe I missed it in earlier discussions. Would Senator Day yield to a question?

**HILGERS:** Senator Day, would you yield?

**DAY:** Yes.

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**BOSTELMAN:** Thank you. So this-- not all schools have a school nurse so--

**DAY:** Correct.

**BOSTELMAN:** --your intent, your intent with this is to train individual faculty, teachers, whatever, to respond specifically to this, this episode-- epilepsy?

**DAY:** Yes.

**BOSTELMAN:** So what about if we have a student that has an allergic reaction to a bee sting or a wasp sting or another reaction? It happened in one of the schools in my district where they had a reaction, unknown reaction at the time and an EpiPen had to be deployed or used. And fortunately, at the time, there happened to be someone, a paramedic on site that was trained, it was outside of school hours that could then administer at that school event that EpiPen. But I guess my question is, how does this affect, say, if it's a peanut allergy, if it's an allergic reaction? Where-- are all those also included in this or we're just specifically stating just for epilepsy?

**DAY:** No, none of those are included in this bill. This is specifically just for epileptic seizures. And in the event of a first-time seizure, not related to a peanut allergy or anything, bee sting or any of that type.

**BOSTELMAN:** OK. Thank you. Yeah, and I'm sympathetic to what you're, what you're trying to do here. And my thought is, is, is we have a lot other-- there's other instances of individuals, of children that are in a school that have other types of reactions, if you will, that aren't included in here and should they be included in it. I'm just not for sure on that. So with that, I'll yield the rest of my time back to-- or if Senator Day wants to address that, she may. Otherwise, I'll yield the time back to the chair.

**HILGERS:** Senator Day, Senator Day, 2:50.

**DAY:** Thank you for that, Senator Bostelman. I appreciate the question. You know, I, I think it's an important thing to discuss what this bill exactly applies to. And, you know, maybe why it doesn't apply to certain situations like a bee sting or a peanut allergy, because where-- this bill is meant to specifically deal with students with diagnosed seizure disorders or, again, first-time seizures that are



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happening within the walls of a school not related to using an EpiPen because of an allergy or something of the sort. Should that be covered in this bill? I-- you know, if that would happen in the future, then possibly. But that's not what we're looking for right now with this specifically. And I also did want to mention to-- relative to what Senator Erdman said earlier about private schools. No, I agree that not every private school has a lobbyist. But I would hope that those private schools are working for the students that are in the building. And I've actually heard from several students that are in those buildings and parents of those students that this bill is very necessary. So if the school doesn't have a lobbyist, I would defer to the students that are in the building. And we've heard several times that this bill is necessary to make sure that the teachers have the training that they need for-- to protect the students that are inside the walls of their school. So thank you.

**HILGERS:** Thank you, Senator Day and Senator Bostelman. Senator Geist, you're recognized.

**GEIST:** Thank you, Mr. Speaker. I've just been listening to the debate because I, I was-- I had heard that the public school-- or private schools were not in agreement and found out that now they've become neutral. And so that's good to hear. But I've also heard that this is a unfunded mandate, which, you know, people-- no one really likes those. We don't like them on the state. And we certainly don't love to give those to the counties or the schools. However, then I also heard there's no penalty if we-- if the schools don't follow that-- we're not putting-- making this a crime, obviously, and nor would we want to do that. But my concern then about that is that we're-- then, then would the schools be opened up to liability if they, in fact, did not have a nurse or someone trained but-- and a student did have a seizure or-- would that school then be opened up to being liable for being negligent of not having someone trained? So, Senator Day, I wonder if you would, you would yield to a question-- that question?

**HILGERS:** Senator Day, would you yield?

**DAY:** Yes.

**GEIST:** Is that-- yes, that question.

**DAY:** I'm sorry, I, I, I missed your question, Senator.

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**GEIST:** OK, the question is, let's say the school decided not to comply with this. They didn't have a school nurse and they hadn't appointed someone to go through the training at this time. A student had a seizure. Would then the school be liable for negligence for not having someone trained once this bill goes through?

**DAY:** I'm not sure. I don't-- first of all, I don't know why the schools wouldn't take the training when we have educators that are specifically asking for this training. But in addition to that, the schools also have insurance that would cover that type of an incident.

**GEIST:** So it's an insurance matter. OK. All right. That's--

**DAY:** Thank you.

**GEIST:** --just needed the answer to my question. Sure. Thank you.

**HILGERS:** Thank you, Senator Day and Senator Geist. Senator Murman, you're recognized.

**MURMAN:** Thank you, Mr. Speaker. I was the one on the school board that voted or didn't vote to move this out of committee, so I feel obligated to stand up and tell the reason why. And I don't have a lot to add because the reasons that I didn't vote yes have been voiced on the floor already. I'm not real excited about mandates, of course. But, you know, if a, a mandate like this that doesn't put a lot of obligation on a school would save one life, of course, it would be well worth it. I, I was concerned about perhaps being-- there being enhanced liability on the school because of the mandated training. So with those concerns and then also I'm a big advocate of local control and I thought, you know, the local administration and the school board should have the discretion on the type of training that they would do concerning seizures. But also, of course, there's, as has been mentioned, other disorders that could pop up and do pop up in our schools that do need medical-- medical disorders that would require training also. So I don't know exactly, you know, what, what should we train for and what shouldn't we? But I do think this is an important training that could be helpful. So, so I didn't vote no. And for those reasons, that's why I was not voting. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Murman. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. Speaker. You know, after listening to this discussion today, what I've found out is the training is out there. Schools are getting the training already. The students are being

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helped by the, the training that is happening. And so why do we need this bill? Do we need the bill to tell the schools that they have to have training? That's an unfunded mandate, even if it's covered with insurance or the, the training is free. If, if they're taking this training, then they're not doing the other training that they also need. But the training is already out there. We don't need to tell them to take it, they're doing it. So I can't imagine why we're making LB639 and trying to make it so they'd be liable. It's a good idea. I think it's a great idea for a couple of teachers to take the training in case one of the teachers isn't there. Heck, maybe eventually have all the teachers. That way if it happens in your classroom, you now have the training. But to tell the schools that this is something that they have to do when they can already do it, it just doesn't make sense. I appreciate Senator Day for bringing this and, and creating this discussion today and, and the care she has toward these individuals, these children. But because we say that if the school doesn't respond back to you, that we have to listen to the students. Well, that's not a good idea either. I had some young children of my own that would give me ideas and they weren't good ideas. But the teachers are, are already taking this education. We don't need LB639. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Lowe. Senator Aguilar, you're recognized.

**AGUILAR:** Thank you, Mr. President and members. When this debate first started, I wasn't exactly sure I was-- where I was on this bill. But as I listen to the debate, I started thinking about it and I thought about what I did for the last ten years before I come back to the Legislature, I worked in a school with about 2,500 kids and we had students with epilepsy. We even had teachers with epilepsy. We were fortunate enough to have a few nurses that were trained, so nobody else really had to get involved. But I can understand in a smaller school, when they don't have these people on board like we did, there should be another option. And I don't think it's any different than signing up for CPR training. And when we had CPR training at our school, we had people lined up to do that. And I don't see no reason why teachers won't do the same thing once they become aware of this bill. Teachers are caring people and there's no reason they want to-- wouldn't want to expand their knowledge and take advantage of this. And I thank Senator Day for bringing it forward. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Aguilar. Seeing no one else in the queue, Senator Walz, you're recognized to close.

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**WALZ:** Thank you, Mr. President. Thank you for the discussion today and thank you, Senator Day, for bringing this bill. I just want to reiterate something that Senator Linehan said. Teachers do want to be prepared. They absolutely want to be prepared. And I wanted to, I wanted to read something and now I can't find it. Oh, here it is. This, this is a-- just a quick testimony from one of the parents that came who had talked to teachers about getting seizure training. And she says that when reaching out to numerous teachers and support staff, I was overwhelmed by the support they had for this bill, which would provide them the necessary training should they be in a situation where one of their students has a seizure. She said we already received training for so many other situations that could affect our students. And if there's free training material available, it seems most irresponsible for our districts not to offer this. I am in support of this bill. Nobody, again, wants to be unprepared if an incident arises, regardless of the incident, regardless if it's abuse, neglect, suicide, behavioral issues. We all want to be prepared and we all want to be trained. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Walz. Question before the body is the adoption of AM541. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 34 ayes, 2 nays on adoption of committee amendments.

**HILGERS:** Committee amendments are adopted. Turning to debate on LB639. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. I'm trying to read the bill in its entirety. I'm a little bit confused on page 3, subsection (5), it says "The requirements of this section shall apply only to schools that have a student enrolled who has a seizure disorder and has a seizure rescue medication or medication prescribed to treat seizure disorder symptoms." So that seems to be a disclaimer or a-- that everything above it in Section 3, you don't have to do if you start the school year and you have nobody enrolled where the parent says, I have a child with-- that must take seizure rescue medication. Because up above it all the way through Section 3 is a school-- and each school year thereafter, each school board and the governing body of each private, denominational, or parochial school shall have at least one school employee. But when you get to subsection (5), it says, no, you don't, you don't have to have one employee if you don't have anybody enrolled. Senator Day, could you answer a question and clarify that?

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**HILGERS:** Senator Day, would you yield?

**DAY:** Yes.

**GROENE:** On--

**DAY:** So--

**GROENE:** --page 3, it says: The requirement of this section shall apply only to schools that have a student enrolled.

**DAY:** Correct.

**GROENE:** So, so then they don't have to do this training if they don't have [INAUDIBLE]?

**DAY:** So the, the more intensive training is only required for a school that has a student with a diagnosed seizure disorder. The more general training, which is the self-study, would be required of, of all teachers in all schools.

**GROENE:** Because that's the next section.

**DAY:** Correct.

**GROENE:** But, but they don't have to have a-- an employee designated unless they have a student, correct, because that's in Section 3?

**DAY:** Yes, Senator, that's correct.

**GROENE:** All right. Thank you.

**DAY:** Yep.

**HILGERS:** Thank you, Senator Day and Senator Groene. Seeing no one in the queue, Senator Day you're recognized to close.

**DAY:** Thank you, Mr. Speaker, and thank you, everyone, for the lively conversation we had on this bill today. I didn't expect to have so much conversation. I appreciate the comments. I appreciate the support. I appreciate the questions and some of the criticism even. I did want to mention relative to what Senator Lowe said, that the teachers are already getting this training. In a survey in the school health profiles from 2014, only 17 percent of Nebraska teachers had received training on epilepsy or seizure disorder, and nearly 40 percent wanted to receive the training. So this is not a type of

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training that many teachers already have or are already getting. Again, a few of the educators that I spoke to were unaware that this type of training was even available. And again, we, we tried to make-- to create this bill in a way that wasn't going to be overly restrictive because, again, if there's anybody that's in support of the hard work that teachers do, it's me. And I don't want to add to their plate to, you know, create more stress for them at a very stressful time. But I do know that when parents come to you and when families come to you and say, listen, we need something because our kids are, are not being treated the way that they should, we worry about them when they go to school, you do something about it. I know no-- again, just like Senator Geist said, none of us like the unfunded mandate. You know, none of us like to stand up here in the Legislature and tell schools what to do. I don't believe that that's our job. But it is also our job to make sure that we're helping the people that we represent. And I had people from my district that came to me specifically and said, we need this. And I talked to other families and they said, yes, we need this. And that's why I introduced this bill and that's why I've been working so hard to make it right for both public schools and private schools. This is not something that I take lightly. An unfunded mandate is not something that I take lightly, and it's not something that I, that I plan on doing a lot of. But I do think that there are times that it's important to make sure that we're protecting kids and that we're providing things to educators that maybe they wouldn't otherwise get. So, again, I really appreciate all of the conversation today on LB639, and I would urge your green vote.

**HILGERS:** Thank you, Senator Day. Question before the body is the advancement of LB639 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 33 ayes, 2 nays on the advancement of the bill.

**HILGERS:** LB639 is advanced. Turning to 2021 Speaker priority bills. Next bill, Mr. Clerk.

**CLERK:** Mr. President, LB154 was a bill introduced by Senator Wayne. It's a bill for an act relating to Quality Education Accountability Act; it requires tracking of student discipline. Introduced on January 8 of this year, referred to the Education Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

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**HILGERS:** Senator Wayne, you're recognized to open on LB154.

**WAYNE:** Thank you, Mr. President. First, I want to thank the-- Speaker Hilgers for allowing this to be a Speaker priority. I also want to take a moment just to talk about what this bill does. This is a very simple bill. It's not complex at all. Hopefully, we won't have a whole lot of interesting debate on it because it's pretty straightforward. What we are simply doing is we are making sure-- and I introduced LB154 to make sure that we have accurate data when it comes to suspension rates, when it comes to restraints or violence or incidents or expulsions across the state. This comes from my time on the school board when dealing with suspensions. And what we often talk about is truancy. But what's missed in this conversation is when the school suspends or expels kids. Although it's not considered truancy, the fact of the matter is time on task is lost. This bill will require the school district and the state to track both racial and economic disparities throughout the system. It'll highlight the differences between school districts to see which school districts in which schools are doing well within the school districts to hopefully create a collaboration effort where we can reduce suspension and reduce overall suspension rates. There is data throughout Nebraska, which I won't repeat over and over that shows that there is a, a gap, not just an achievement gap, but oftentimes that achievement gap relates directly to the suspension gap that occurs that oftentimes black and brown students are suspended at a higher rate. The problem is we don't have clear and convincing data because school districts calculate it differently, school districts-- some of them don't even report it. In fact, there was a large school district last year who board members repeatedly asked for suspension rates to be broken down and were repeatedly denied that information as a school board. So I'm more than happy to answer any questions. I'm more than happy to give philosophical reasons and hard concrete reasons why this bill needs to move forward. This is truly about making sure we as a state and as leaders across the state, we have a clear picture of what is going on as it relates to our schools and suspension data throughout the school district. And with that, I would ask you to vote green on LB154. Thank you, Mr. President.

**HILGERS:** Thank you for your opening, Senator Wayne. Debate is now open on LB154. Senator Pahls, you're recognized.

**PAHLS:** Thank you, Mr. Speaker. Senator Wayne, may I ask you a question or two?

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**HUGHES:** Senator Wayne, would you yield to a question, please?

**WAYNE:** Yes.

**PAHLS:** OK, so you're going to collect this data and my statement would be so what?

**WAYNE:** I agree with you with the so what, but until we have this data, I don't know what type of answers we can provide. It's like we don't know the data, so we don't know what solutions we may have to come up with to solve some of the issues that are facing our schools.

**PAHLS:** OK, I noticed that a number of organizations, including NSEA, did support this, so apparently they see merit in it. But your idea is to collect the data and then with the data we will make changes by-- at the school board level. Is that--

**WAYNE:** Yes, I hope the school board will be able to make those decisions. But as, as in our constitution, we are the ones who are guaranteed free education to all students. We are ultimately the say makers or, or the final word. But I do hope that if what's working well in Millard and they see the, the race gap and the suspension gap is closed, that, that data is information that, that is public, that maybe OPS or Ralston will reach out to them to figure out how to collaborate better. But it's about opening that data up.

**PAHLS:** OK, I thank you for answering those questions because I want to get to the bottom of it when Senator McKinney stands up and says that there's been some mistreatments in some schools. We need not only the Senator to back that, we need to have that data to say yes. Thank you.

**HUGHES:** Thank you, Senators Pahls and Wayne. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. I have a clarification I need from Senator Wayne. On page 2, it says "Act resulting in an in-school suspension, a short-term suspension, a long-term suspension, a one-semester expulsion, a two-semester expulsion, an assignment to an alternative school or alternative-learning program, the use of physical contact with such student." Senator Wayne, just for clarification, this is expulsion, this bill. This isn't for being removed from the classroom. This isn't somebody grabbing a kid to stop him from hurting himself. This is only for when it, it results in a removal from school for a few days. Is that correct?



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**HUGHES:** Senator Wayne, will you yield?

**GROENE:** Answer the question, please?

**WAYNE:** Yes, it is for suspensions or expulsions, correct.

**GROENE:** So they have to document that-- let's say principal goes up to a young man and puts his hand on his shoulder and says, you got-- we're going to remove you from the classroom. Does that have to be reported?

**WAYNE:** Not at that level unless they are missing-- unless they are suspended for the day or the next day. But if they're just removed to talk or, or things like that, we are not getting into the hour by hour. That isn't my intention.

**GROENE:** But I guess the physical contact is confusing to me, physical contact happens between humans, you shake hands, you put your arm on a kid's shoulder and say, hey, you misbehave, but you're going to have to leave for a day or two. Does that have to be reported?

**WAYNE:** No, not-- I mean, no. If we-- I can work on some language from General to Select to--

**GROENE:** To restrain the child, physical contact, put something like that in.

**WAYNE:** That was my-- yeah, that was my intent.

**GROENE:** All right. Well, thank you. I figured it was, but it's not very clear because I'd hate to be a principal and have to document what happened as far as anybody accidentally bumping into the kid or whatever before he is removed. So I would look forward to some type of small amendment to straighten that out. Thank you, Senator Wayne.

**HUGHES:** Thank you, Senator Groene and Senator Wayne. Seeing no one else in the-- Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you. Would Senator Wayne yield to a couple questions?

**HUGHES:** Senator Wayne, will you yield?

**WAYNE:** Yes.

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**BOSTELMAN:** Apologize for not talking to you before, but it just come up. This does not, your intent, this doesn't identify that student, correct?

**WAYNE:** No, it doesn't.

**BOSTELMAN:** It's just, it's just the general information.

**WAYNE:** Yes.

**BOSTELMAN:** So we're not, we're not tracking specific students. We're not identifying, so--

**WAYNE:** No, it's aggregate data. And actually, if there is identifiable data-- let's say it's a small school with only five people, that data would be blurred from the public because it would be too identifiable. So there's ways that they already do that now to make sure we don't identify a student.

**BOSTELMAN:** That's through a state system that we already have that--

**WAYNE:** Correct.

**BOSTELMAN:** And that was my-- that's getting to my-- the point of my question is identifying specific individuals within a school is, is problematic in the sense of, of if it's privacy or other type of issues that may be there, especially if we involve law enforcement I would say.

**WAYNE:** Absolutely. But it wouldn't, it wouldn't identify them specifically, and it, and it wouldn't be a way that you can narrow it down. It's aggregate data at the district level.

**BOSTELMAN:** OK, thank you, Senator Wayne. Yield the rest of my time back to the chair.

**HUGHES:** Thank you, Senator Bostelman and Senator Wayne. Senator Linehan, you're recognized.

**LINEHAN:** Thank you, Mr. President. I was wondering if Senator Wayne would yield for a couple of questions?

**HUGHES:** Senator Wayne, will you yield?

**WAYNE:** Yes.

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**LINEHAN:** So, Senator Wayne, in your legislation it talks about alternative schools. Could you explain? I've not had exposure to that. What is alternative schools?

**WAYNE:** So in Omaha Public Schools and, and different schools when a student is deemed to be expelled for the rest of the year, rather than have that kid not go to school, they often put them into an alternative school. So we have Blackburn High School, Parrish Middle School. These are middle schools and high schools where for suspension or behavior or whatever reason, they are not allowed into a public, into a regular school. So they're considered an alternative school so they can still go to school and meet their requirements to attend school.

**LINEHAN:** Besides OPS, do you know any other school districts that have alternative high schools?

**WAYNE:** Yes, Millard, Ralston-- actually, all the big school districts that I know of all have some type of alternative school or they're called alternative programming.

**LINEHAN:** Do you know what percentage of children spend some time in these alternative schools?

**WAYNE:** I don't know the exact percentage. The alarming data that we need to look at is once a student goes into one of these alternative schools, it's almost impossible to get out as far as get back into school and catch up and graduate on time.

**LINEHAN:** And how old might a student be that gets sent to an alternative school for the first time?

**WAYNE:** Well, I've seen them as young as third grade. I've seen them as old as they're seniors in high school.

**LINEHAN:** So there's alternative schools for grade school?

**WAYNE:** We call them alternative programming, not a school per say. But yes, in Omaha Public Schools it made the paper that we would suspend kindergartners of a tune about a thousand students per year.

**LINEHAN:** OK, thank you, Senator Wayne, for bringing this bill.

**HUGHES:** Thank you, Senator Linehan and Senator Wayne. Senator Murman, you're recognized.

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**MURMAN:** Thank you, Mr. President. Again, I was the one in the Education Committee that didn't vote this bill out. And I feel a little obligated to, to tell why. But I do thank Senator Wayne for bringing the bill. Would Senator Wayne yield to a question?

**HUGHES:** Senator Wayne, will you yield?

**WAYNE:** Yes.

**MURMAN:** Senator Wayne, is this information specific to school district or is it just statewide information?

**WAYNE:** It'll be school districts specific so we can-- so school districts also and we have as ability as state legislators have the ability to drill down that data to see where, where these suspensions are happening and why.

**MURMAN:** OK, thank you, Senator Wayne. And that is a concern of mine if it's specific to school district. I do remember concerning the Parkland shooting in Florida, there was some concern that the student that did the shooting wasn't-- I, I don't remember exactly what the situation was either. He wasn't pulled from school as he should have been or wasn't referred to an alternative school as he should have been. But, but in short, whatever the situation was, the, the school district didn't act properly because they didn't want to look bad. So that's a little bit of a concern of mine. Of course, when a student is pulled from school or any of these incidents happen in school, it, it should be-- those things should be based totally on why that incident happened and the students should get the supports they need. It should be-- it shouldn't, of course, have anything to do with race or, or disability or English proficiency or demographic information. It, it should be based-- these, these support should totally be based on the conduct or the, the incident that caused the, the support to happen. So I'm, I'm concerned that schools would be hesitant to report these kinds of things because, you know, if there is a racial disparity or a disability disparity and, and the students that were given the supports, the school might be hesitant to report that because the school didn't want to look bad. So, so that's the reason I was not voting. And-- but I thank Senator Wayne for bringing this bill. And thank you very much, Mr. Speaker.

**HUGHES:** Thank you, Senators Murman and Wayne. Seeing no one else in the queue, Senator Wayne, you're recognized to close on the advancement of LB154.

**WAYNE:** Thank you, Mr. President. And colleagues, I'll be really brief and because Senator Blood handed out this handout for her bill next, I do want to just tie everything together by saying this. I don't approach anything on this floor without data. The problem when it comes to school discipline issues, I only know the data for Omaha Public Schools. So we have to look broader than just that. And the reason why I say data is because two years ago, this, this body provided a study for a bridge. And I wanted to thank Senator Friesen again because I wanted to update him too that they have started the study-- actually, they just got the committee together. They'll start to study because that's what we do. We get data. The reason I bring up this handout that was just passed out was because Highway 34, we actually did a bridge across and we built this bridge, but it was based off of data. They studied it. They got the data. They proposed a solution. They said it was going to be 1,600 cars crossing that bridge, it's actually about 3,500 to 5,000 crossing that bridge on a regular basis. But we had data to support where we were spending money. Bring that fast forward to where we are today. We have COVID dollars. We have education dollars. But yet we don't know necessarily where to put those dollars when it comes to solving the suspension rate, and we know that there is a gap, every study has shown that there's a gap. We also know if a student is suspended, he's more likely to get caught up in the juvenile system, which we just had a bill from Senator Lowe on YRTC. But it all starts back in education. You know, they-- we've termed education as the great equalizer. That requires for us to be time on task, those students to actually be in the classroom, which a lot of us have seen this year with COVID of students not actually being in the classroom and the struggle that has caused many of our students to fall farther behind. And I will say a narrow piece of that is suspensions. A narrow piece of that is when students are often suspended at a higher rate because of the zip code they're in, because of the poverty level they may have, or because of race. And I could be completely wrong in four years. We may never have an issue, but we don't know until we have that data. But we've passed a lot of bills, a lot of things from the learning community to many other issues that we try to pass on education. But we've never figured out what does our suspension rates really look like, and those are the kids that we need to wrap our arms around and provide resources more to because those are oftentimes the kids that we deal with later on in the criminal justice system, the kids that we deal with later on in unemployment. And it starts right here. And that's what this bill is about. This bill is about getting the data around this small area to figure out if there's a problem or not. And in four years, I hopefully

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will say there's not. But if there is, I'm going to look to the Education Committee and local school boards to figure out how to solve it. But this is a way for us first to get that data so we can start a real conversation about what are the achievement gaps and how much of that is related to suspension gaps. And with that, I'll ask you to vote green on LB154. Thank you.

**HUGHES:** Thank you, Senator Wayne, for that brief closing. The question is the advancement of LB154 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

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

**HUGHES:** Next item.

**CLERK:** LB143, a bill originally introduced by Senator Kolterman, relating to juveniles; requires notice of placement change of a juvenile to a school district. Introduced on January 8, referred to the Health and Human Services Committee, advanced to General File. There are committee amendments.

**HUGHES:** Senator Kolterman, you're welcome to open on LB143.

**KOLTERMAN:** Good afternoon, colleagues, and thank you, Mr. President. I'd like to thank Speaker Hilgers for designating this bill as a Speaker priority bill. I ask for your support of LB143. This bill provides for greater communication and cooperation between the Department of Health and Human Services and our local school districts concerning the placement of a child who's in the care of the state. LB143 provides that if a determination is made by the Department of Health and Human Services, that if it is in the best interest of a child who is in the care of the department enroll in another school district after a placement change is made. The notice of placement change that the state or agency files with the court to notify the court of the change shall also be provided to the new school where the child will be enrolled. Last year, I introduced LB759, and it didn't go anywhere similar to many of my other bills. But during this hearing we heard that the department will provide what is known as a superintendent letter that provides information on the students to the new school district. But there's no statutory timeline, so-- when this letter must be provided to the school district, about the-- about receiving the child. Due to other technical issues with the legislation, I made a commitment to work with the interested parties

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to craft better legislation over the interim. Over the interim, we worked closely with advocates, our school organizations, a judge by the name of Larry Gendler, a juvenile justice judge from Sarpy County who has extensive experience in the field to craft this legislation in front of you today. Once the receiving school is notified by the department that a placement has been made, they are required by federal law to immediately contact the school, the school last attended by any such child to obtain relevant academic and other records. What this bill does, it provides quicker notices to our schools when a placement change is made. The receiving school district will have a much better picture of the needs of the student, what supports were utilized, and any staffing needs the student may need to be successful. We worked closely with the Department of Health and Human Services and, and this bill advanced from Health and Human Services Committee unanimously and received no opposition at the hearing. Thank you and I'd ask for your support of LB143 and AM105 that Senator Williams will introduce here in a moment. And I'd be open to any questions you might have.

**HILGERS:** Thank you, Senator Kolterman. As the Clerk noted, there are committee amendments. Senator Arch is not here. Senator Williams, as Vice Chair of the Health and Human Services Committee, you are recognized to open on AM105.

**WILLIAMS:** Thank you, Mr. President. AM105 makes a simple change to LB143. As introduced, the bill would have required DHHS to file a report and notice of placement change within 24 hours after the court approval of an emergency placement change. The department indicated that if a placement change occurs on a Friday or the day before a holiday, they would need additional staff to work on the weekends and holidays to file these reports. Under AM105, the department will have to provide notice, but not the report within 24 hours of emergency placement. With this change, this would eliminate the concern that DHHS had and also eliminate the fiscal note that you might have taken a look at. And I would urge your adoption of AM105. And again, as Senator Kolterman mentioned, this bill was heard, had no opposition testimony, and was voted out of the HHS Committee unanimously. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Williams. Debate is now open on AM105. Senator Pahls, you're recognized.

**PAHLS:** Thank you, Mr. Speaker. May I have a question or two from Senator Kolterman?

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**HILGERS:** Senator Kolterman, would you yield?

**KOLTERMAN:** Yes, I would.

**PAHLS:** Would you explain this procedure to me? Let's say that if a child is moved from this school to this school, there's going to be a notification within a day or so. Is that what you just told me?

**KOLTERMAN:** Twenty-four hours.

**PAHLS:** Twenty-four hour notice. Will the records be given from this school to that school in that same rate of speed?

**KOLTERMAN:** In all likelihood, probably not. But it will give them an opportunity to know that the child is coming and reach out to the school that has the records.

**PAHLS:** OK.

**KOLTERMAN:** It speeds up the process.

**PAHLS:** OK. Yes. And I, I appreciate that because in the past, in my life, we would request information from a particular school district, we may not get it from them for three or four weeks. I'm serious about that. There's one school system in this state, I'm assuming things have changed by now, but we'd get a child from that just, just moving, not have-- because of a particular reason, but just to get information from one school district to another is unbelievably slow. So I think this is going to hopefully speed up the process. That's the reason why I asked that question. Thank you for your efforts to make it work, Senator.

**HILGERS:** Thank you, Senator Kolterman and Senator Pahls. Seeing no one in the queue, Senator Williams, you're recognized to close. Senator Williams waives closing. Question before the body is the adoption of AM105. All those in favor vote aye; all those opposed vote nay. Have all those who wish to? Record, Mr. Clerk.

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

**HILGERS:** Committee amendments are adopted. Turning to debate on LB143. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. Had a couple of instances in my district where-- I assume this is HHS bringing in foster kids and



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transferring them to different foster families, where the child was a problem child and sexual predator was dumped into a school in my district by HHS. And part of the requirements of his-- he was homeschooled through a certain age and then they deemed it was OK for him to return back to school as long as he was not around children under 12, but the school they put him into had a one-building school with the grade school and a high school all in one building. Senator Kolterman, would you take your question?

**HILGERS:** Senator Kolterman, would you yield?

**KOLTERMAN:** Yes, I would.

**GROENE:** Did you look into or did anybody bring up the fact that their record or their HHS record should be given to the school, too, of any, any risk of or special needs where a school doesn't have that program and all of a sudden the child is transferred into their district and all of a sudden they need a speech therapist or, or as I said, the instances. That-- is that record transfer also included in this bill?

**KOLTERMAN:** Yes, it is. Can I elaborate a little bit on that?

**GROENE:** Yeah, I didn't see it anywhere where-- I've just seen the records, but-- educational records. So go ahead.

**KOLTERMAN:** Well, one, one of the problems we have is we can't, we can't mess with the federal law and the federal guidelines. And much of that is outlined in the federal guidelines. And this is not an attempt to change the position of HHS or tell them that they can't make that transfer. Some things are way beyond our control. But in working with Appleseed and the Department of HHS, what we wanted to do was give a heads up to the school districts, the superintendents primarily, that accept these transfers and let them know that, that this particular child is coming and that if there are problems, they're going to know ahead of time so they can address them at any given opportunity.

**GROENE:** Well, thank you. Thank you. But I don't see that, I'll have to read it closer, I didn't have a chance to read it that close. But I didn't see where if there's any HHS or a-- or the-- if there's any luggage coming along with this child for health reasons. In one instance in my community, that child, that child I mentioned, they had no resources. It cost them \$75,000 the next year, the school board, to transfer him into a bigger school district that had the resources. And

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it was a, it was a foster child just happened to be from eastern Nebraska that they couldn't find a place that anybody would take him in eastern Nebraska and ended up in Lincoln County. But I guess that's another problem-- question for a different bill. But I-- giving a heads up, I guess is OK, but it doesn't do any good if you got some major problems heading your way and your small school district and you have no way to handle the situation without all of a sudden looking for a specialist in a certain area for special education or violence or whatever the reason that child is in foster care. Anyway, I'll read it closer, Senator Kolterman. But at this point, I didn't see anybody in the queue and I wanted that on the record. Thank you.

**HILGERS:** Thank you, Senator Kolterman and Senator Groene. Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Again, good afternoon, colleagues. I have a question for Senator Kolterman. I'll ask the question, then I'll yield him the balance of my time. A good friend of my wife taught in OPS, and a problem that she faced often was all of a sudden a student would be gone, primarily because the parents would lose their lease on an apartment and they would have to move quickly to find a new place. How do school districts deal with a problem of that nature? Thank you, Mr. President.

**HILGERS:** Senator Kolterman, 4:25.

**KOLTERMAN:** Thank you for the question, Senator McCollister, as well as Senator Groene. The situation is this, when, when you're transferring a student from school to school, you really don't have any control, especially when HHS is doing it, they have no control over the school districts, except-- it has to accept that child no matter, no matter what the issue might be. That's all outlined in federal statute. And we, we don't have any control over that. And I will tell you this, that when, when the school districts came to me a year ago, this was brought to me by several superintendents. They wanted us to take a look at that. Well, the reality is we can't mess with that. We have to accept them. But what we are saying is if, if the school-- what we're trying to do here is get ahead of the game, we're trying to allow the school district to have a heads up that within 24 hours you're going to get this student and, and we're going to-- you're, you're going to know where he's coming from-- or he or she is coming from. And you're going to be able to reach out to that school district and find out the challenges that exist. Now the other side of that, though, is if it's a, if it's a student that has to have a lot of services and it's going

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to cost that school district \$100,000 to take care of that child, they can't turn it away. But it doesn't mean that, that the accepting school district, once they find out that the challenges exist and if they don't have the ability, it at least opens the door for them and gives them a heads up. And then they can go back to the courts. They can go back to the HHS and ask them to reconsider. But at the same time, they're not shrugging their responsibility one iota on this situation. The whole idea behind this was to give them a heads up that you're going to be getting the student. He might have baggage-- he or she might have some baggage. They might not. Plays right into what Senator Wayne was talking about in many regards, because if they've got some, if they've got some challenges, maybe we're going to know ahead of time in the future the disciplinary problems that that child might have had. Or maybe we're going to know that they're on the autism spectrum and we've got to provide this. What, what, what I think-- and this is just my perspective, when, when you move a child to a smaller school district in rural Nebraska and you bypass larger school districts that have the ability to take care of that child better, why not try and place the child there? On the other hand, you might be moving that child into a district where there's family that's going to love that. Maybe it's a grandparent, maybe it's an uncle or an aunt. They're going to love that student and take them under their wing and try and help them. In that particular case, again, we have no control on where they're going to place them, but we are going to have some say and at least know ahead of time who's coming, what the challenges might be, and then we can deal with it appropriately from there. That was the whole concept behind this bill, not to head off any problems that are coming, but to let people know that it is going to happen. Thank you.

**HILGERS:** Thank you, Senator Kolterman and Senator McCollister. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. Would Senator Kolterman yield to some questions?

**HILGERS:** Senator Kolterman, would you yield?

**KOLTERMAN:** Yes, I would.

**FRIESEN:** So we've got-- I mean, this has happened in my district, too, I think. And you're, you're saying these are, are court ordered moves, is that correct?

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**KOLTERMAN:** Some are court ordered. Some are-- well, typi-- the reason we got the judge involved is because he'd been familiar with a lot of this and we tried to figure out an easy way to do it. And he said, why not just have DHHS notify the school district at the same time that they, they notify them of the court order.

**FRIESEN:** OK. So when they're, when they're taking into account a child needs to be moved, it's going to be pulled out of a school. Do they do any analysis at all of the school that they're going to send them to to see if they have the ability to serve that child?

**KOLTERMAN:** That's a function of DHHS and I don't know. I can't answer that question for you.

**FRIESEN:** So I-- you know, I'll give an example of there's a small school out of our way that it's, it's very small. They have no special needs kids right now they didn't have. And an example would be that all of a sudden suddenly in foster care, they're placed a child. And so the explanation to me was, OK, they're here. We now have to go out and find somebody. Yeah, we have 24-hours notice, but it's going to be a really crappy program. And yet if they'd have chosen a school that had some, I guess, that special needs teachers ready, it would be a whole different program that might be much better than what the school could provide on such short notice. So you're saying you don't think HHS takes into account anything with the school's ability to handle these kids?

**KOLTERMAN:** I, I didn't say that. I just said I don't know what the answer to that question is. I--

**FRIESEN:** OK. Thank-- thanks, Senator Kolterman. I, I guess that's where I have kind of a problem here, I'm, I'm, I'm looking at where they're placing these kids sometimes. And if, and if you just look around there, there are schools in every region that have the ability to handle special needs kids. And, and not knowing what the special needs are to these kids, if they can't report exactly what is the problem or what is needed, you're put at a severe disadvantage when you're a small rural school. They're willing to take them and I know they have to take them and they're willing to work with them. But when you just dump this on them, programs for this kid are not going to be there. Whereas if you'd at least check into some schools and look at what's available in the surrounding area, you'd find much better services that were possibly available. So I, I think this is something that needs to be looked at. And these, these transfers, it just

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happened suddenly. You may get 24-hours notice, but if you don't know what those needs are, you don't know why this child is being transferred, you just have to accept it. I think we're doing that child a disservice also. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Kolterman and Senator Friesen. Seeing no one in the queue, Senator Kolterman, Senator Kolterman, you're recognized to close.

**KOLTERMAN:** Thank you again, Mr. Speaker. I couldn't agree more with-- in many regards with what Senator Friesen just said. However, that's not what this bill is about. This bill is designed specifically to give a school a heads up and let them know within 24 hours that a student is coming their way, where the student is coming from, and gives them an opportunity to reach out and find out any challenges that might exist. If you want to make changes at DHHS, that's a whole separate issue, but you also have to go through the federal government to make those changes. Again, the school districts are not turning kids away based on the fact that they're going to have to pay for this and maybe it's not the best fit because they have to take the child. But what they are saying is if we're going to get a child, we'd like to know. As Senator Pahls indicated, sometimes it was three or four weeks before they found out anything about the child and it might have been coming from across town in a different district. This is a, this is a challenge that you face when you're dealing with foster children. But at the same time, we're doing what the schools asked us to do, give them a heads up. I would encourage you to support LB143. And if you'd like to work on separate legislation, that would be a great idea. Thank you very much.

**HILGERS:** Thank you, Senator Kolterman. The question before the body is the advancement of LB143 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk.

**CLERK:** 41 ayes, 0 nays on the advancement of LB143.

**HILGERS:** LB143 is advanced. Mr. Clerk, for items.

**CLERK:** Mr. President, Business Labor Committee, Chaired by Senator Ben Hansen, reports LB298, LB567 to General File with amendments. Revenue Committee, Chaired by Senator Linehan, reports LB454 to General File with amendments. LR29 has been reported correctly enrolled. Name adds:

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Senator Matt Hansen to LB271 and LB639. Senator Lindstrom would move to adjourn the body until Tuesday, March 30, at 9:00 a.m.

**HILGERS:** Colleagues, you heard the motion. All those in favor say aye. Opposed say nay. We are adjourned.