

FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the One Hundred Seventh Legislature, Second Session. Our chaplain for today is Pastor Derek Geist, who happens to be the son of Senator Suzanne Geist. Pastor Geist is with the mission-- excuse me, the Mercy City Church, Lincoln, Nebraska, Senator Bostar's District. Please rise.

PASTOR DEREK GEIST: Heavenly Father, thank you so much for this amazing group of legislators, Lord, that you've called and appointed for such a time as this. And this morning, Father, we just ask for wisdom. God, we just ask for wisdom, not simply for quick solutions, but for long-lasting change. And God, I pray that every person that you've called to this office would be not in it for self-promotion, but God for your glory, to see you reign in our state. God, I pray that there would be not just short-term peace, but long-lasting unity. Lord, we know that it is where there's unity that you command your blessing and where there's division that a house cannot stand. So God, we pray that we would not necessarily be united on the things that we stand for, but God, that we would not be divided because of our differences. God, we pray that we would be moving forward for the unity of our state, for the people in our state. And God, I pray that Nebraska would be a state that leads in terms of living, legislating, and leading by true wisdom. God, we just ask all of these things in Jesus' name, Amen.

FOLEY: Thank you, Pastor Geist. Senator Dorn, can I ask you to lead us in the Pledge of Allegiance, please?

DORN: Colleagues, please join me in the Pledge of Allegiance. 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.

FOLEY: Thank you. I call to order the fifty-sixth day of the One Hundred Seventh Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

FOLEY: Thank you Mr. Clerk. Any corrections for the Journal?

CLERK: Mr. President, on page 1181, line 25, strike "AM171" and insert "FA171." That's all that I have.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

CLERK: Agency reports on file and available to the members on the legislative website; the lobby report as required by state law. That's all that I have.

FOLEY: Thank you, Mr. Clerk. Speaker Hilgers.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I want to give you an update as we head into our final five days of the second session of the One Hundred Seventh Legislature. So let me start, big picture where-- with where we are. On day sixty, my intent on day sixty is only to do the goodbyes from departing Senators. We will, of course, have the yearly remarks from the Governor, and we may-- and that is also reserved for any veto overrides. In order to accommodate that, I need to make sure everything is done on Final Reading by day fifty-nine, which is next Wednesday. In order to accommodate that and our constitutional layover requirement day-- requirement in the constitution to have a layover day, which will be next Tuesday, I have to have all Select File done on Monday, on day fifty-seven, which means I have to have all of General File done of anything that could be considered for Select done today. So in order to accommodate all of that work, here's how the next few days are going to work out. Today, as I noted last week, expect to go late-- a little bit later than we have over the last, the last several weeks. At the end of the week, we've been adjourning around 3:00. We might-- that might happen today, but I anticipate going a little bit later. You can see the agenda I have at least contemplated that we will probably go to maybe 5:00 or 5:30. However, because we're going to go later, I am going to give everyone a lunch recess today. So we've been working through the lunch on Fridays. We're not going to do that today. We will recess at noon to accommodate that. And we-- I want to be very clear, the Select File agenda at the end of this-- at the end of today's agenda is actually really important to move because we have to have so much Select File done on Monday. So that's not filler. So my intent today is to go to get that-- all that Select File done no matter what time it is. If it's 1:00 or 1:30 or whether it's 5:30 or 6:00, that is the goal for today. We have to make sure that Select moves today, so that's today's agenda. On Monday, we have to get all the Select File done and we have to have everything that gets past Select to Final back from Revisor's before we adjourn. So on Monday, please be prepared to be here up to 11:59. Now to accommodate that, I also will provide a short dinner recess, probably around 6:00 on Monday, because I do anticipate that we will be here later. We have to get through all the Select File and have it returned. Now, on Tuesday, we should-- that Monday should be our final late night. And I appreciate everyone's work over the late nights that we've had over the last several weeks. I know it's been a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

long stretch. On Tuesday, we will have two sets of things: one will be everything that's on Final Reading, that's currently ready to go for Final Reading, will be on Tuesday. We've already had the layover day for that-- for those items. In addition, we have some miscellaneous items. We have some resolutions that need to be debated as well as some confirmation reports. That will be Tuesday. I do anticipate a 9:00 start time. I don't know exactly when we'll get done, but I antic-- what-- with what we see, probably mid-afternoon. On Wednesday, what we will have will be Final Reading of everything that gets through on Select File on Monday. I'm hoping that we can start Wednesday a little later in the morning, say 2-- 10:00, and maybe just work through lunch and be done by 1:00 or 2:00. It just will depend on the volume of work that we have to accomplish on Wednesday. So the schedule Wednesday and Tuesday, please be a little bit flexible. We will have morning start times, but I just won't know it and precisely until we see exactly the volume of work that we have to have. The last thing from a deadline perspective is the last day for congratulatory or ceremonial resolutions is Tuesday, April 12. So next Tuesday, so please have that deadline in mind, and that will give us enough time to be able to publish it and get it done before sine die. If you have any questions about the last couple of days, please let me know. I've been trying to reach out to us and talk individually with senators who have questions about their particular bills or when they're going to get up or scheduled or the like. But please don't hesitate to come find me if you've got something and you haven't got an update for me, I'm trying to reach everyone as quickly as I can to talk through the status of their bills and when they will be heard. But big picture, that's the direction we're headed. We only have a few days left and I appreciate everyone's work so far. Have a great weekend and we'll see you on Monday. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. Senator Kolterman would like us to recognize Dr. Pat Hotovy of York, Nebraska, who's serving us today as family physician today. Dr. Hotovy is with us under the north balcony. Doctor, please rise so we can welcome you to the Nebraska Legislature. Moving now to the General File appropriations bills, Mr. Clerk.

CLERK: LB984A, Senator Moser, it's a bill for an act to appropriate funds to implement LB984.

FOLEY: Senator Moser you're recognized to open on LB984A.

MOSER: This is the A bill that allows the implementation of LB984. It's \$22,000-some dollars. There are changes in revenue caused by LB984, but this is just the expense to reprogram some computer

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

software that handles sales tax remittance information. I'd appreciate your support. Thank you.

FOLEY: Thank you, Senator Moser. Any discussion of the bill? I see none. Senator Moser, you're recognized to close. Waives closing. The question before the body is the advance of LB984A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 37 ayes, 0 nays on the advancement of the A bill.

FOLEY: LB984A advances. Next bill, please.

CLERK: LB1144A by Senator Friesen. It appropriates funds to implement the provisions of LB1144.

FOLEY: Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. LB1144A is the appropriations bill for LB1144, the trade and tele--trade-- Transportation and Telecommunications Committee's priority bill that makes revisions to the Broadband Bridge Act; it adopts the Precision Agriculture Act and provides authority to the Public Service Commission to adopt and maintain a statewide broadband map. The appropriations bill will authorize the commission to add three new staff to carry out the new provisions delegated to the commission, a contract for assistance with speed testing and requirements and the mapping. Funding for these new activities will be provided by federal funds. And with that, I ask for your green light on LB1144A. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Any discussion of the bill? I see none. Senator Friesen, you're recognized to close. He waives closing. The question before the body is the advance of LB1144A to E&R Initial. Those in favor of vote aye; those opposed vote nay. Have you all voted? Record, please.

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

FOLEY: LB1144A advances. Moving now to Select File, voice votes. Mr. Clerk, first bill.

CLERK: Mr. President, LB917A, no E&R. Senator Wayne would move to amend AM2640.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

WAYNE: Thank you, Mr. President. Colleagues, you'll recall that we went from 25 percent of the wage to 10 percent already on the underlying bill. This just corrects that amount. Please vote green.

FOLEY: Thank you, Senator Wayne. Any discussion on the amendment? I see none. Senator Wayne, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM2640. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 36 ayes, 0 nays on the adoption of Senator Wayne's amendment.

FOLEY: The amendment has been adopted. Anything further on the bill, Mr. Clerk?

CLERK: Nothing further, Mr. President.

FOLEY: Senator McKinney, for a motion.

McKINNEY: Mr. President, I move to advance LB917A to E&R for engrossing.

FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB917A advances. Next bill, please.

CLERK: LB1024A, no Enrollment and Review. Senator Wayne, AM2752.

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

WAYNE: Thank you, Mr. President. Members of the Legislature, AM2752 is a white copy amendment of LB2084A [SIC - LB1024A] and provides updates that we already passed yesterday on Select File. I do want to give a special shout out to Tom Bergquist in the Fiscal Office, with your help making sure that we have this A bill done for today. They worked tremendously and they worked diligently and-- for about 24 hours trying to figure out this A bill. So I really do appreciate it and vote green.

FOLEY: Thank you, Senator Wayne. Discussion on the amendments, Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. So I have a few names to get through, so I've, I've got to keep going on this. And so for Nebraskans, I want you to know that on the last day we get to talk about positive experiences and they don't give us all the time in the

world. So there's not enough time to talk about the value and friendship that I've made with each person here, each of my legislative colleagues. So I've gone through almost everybody through the H's. That's a lot-- boy, I've got to get a lot in before the end. So now I'd like to talk about Senator Mike Jacobson. Senator Jacobson, I know you the least well, but I have truly enjoyed getting to know you here. I don't know that you recognize the huge value that you have brought by changing the tenor in the body. You have brought a peace and a, a calmness with each other, and I truly value that. Each day since you have come has been a breath of fresh air to me, and the calm that you bring is completely palpable. And I look forward to knowing you in the future, and it has been an honor to serve the people of Nebraska with you. Thank you, Senator Jacobson. Senator Kolterman. Senator Kolterman is a lifetime friend. I will, I will be his friend. I hope he'll be mine for the rest of our lives. Senator Kolterman and I did not know each other before coming into this body, but, oh my gosh, his humor, his kindness, his fun, his ability to work with all people and to do it kindly, is amazing. And that doesn't mean he won't give you a quick, sharp jab once in a while, but then he's got the best laugh afterwards. So we've been through a-- he's been through a lot in the past eight years. Our darling Suzanne left too, too early and now we have the addition of, of another fabulous woman, Michelle Waite, and she too will be another lifetime friend. I have admired his ability to, to govern rather than rule. And he really has a great-- it, it has truly been an honor to serve with you, Senator Kolterman. Thank you. Oh, Steve Lathrop, another friend that I, I did not know prior to coming into the Legislature. Senator Lathrop is the velvet hammer. He is bright. He is an amazing addition to the Legislature. He's a determined worker. He's an excellent lawyer and a friend. It has been a fun-- I, I've, I've been able to serve as the Vice Chair of the Judiciary Committee with him, and I appreciate him immensely and the seriousness with which he takes his role in the Legislature on the Judiciary Committee. And he is a blast to tease. He, he has this sort of serious demeanor and will sort of give you a nod when he, when he sees you. But it's good to tease him once in a while. And I, I really have adored my time with him. He's a wonderful human being and I'm-- I also adore his, his wife, Karen. She's a precious person. So Senator Lathrop, it has been a, a true honor to serve the people of Nebraska with you.

FOLEY: One minute.

PANSING BROOKS: One minute?

FOLEY: Correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

PANSING BROOKS: OK. I better stop for a sec. Thank you.

FOLEY: Thank you, Senator Pansing Brooks. Senator Wayne, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM2752. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 29 ayes, 1 nay on the adoption of the amendment.

FOLEY: The amendment has been adopted. Anything further on the bill?

CLERK: Nothing further, Mr. President.

FOLEY: Senator McKinney.

MCKINNEY: Mr. President, I move to advance LB1024A to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB1024A advances. I'm informed that we're going to pass over LB1173A, which takes us to General File, 2022, committee priority bill. Mr. Clerk.

CLERK: LB922 by Senator Lathrop. It's a bill for an act relating to courts. It increases the number of district judges in the 4th Judicial District. Introduced on January 10, referred to the Judiciary Committee, advanced to General File. I do have committee amendments, Mr. President.

FOLEY: Thank you, Mr. Clerk. Members, please come to order. Senator Lathrop, you're recognized to open on LB922.

LATHROP: Thank you, Mr. President. Colleagues, good morning. LB922 is a bill I introduced to add a district court judge in District 4, which is Douglas County. This bill was heard on February 17 of this year and was designated as a committee priority. It will be a vehicle for five other bills that I'll explain when we get to the committee amendment. In October of 2020, the research division of the National Center for State Courts issued a final report of the Nebraska Judicial Workload Assessment. The report implied Douglas County should use up to 20.68 judges. And in the appendix to the report, the workloads and the needs portion clearly indicated the need for at least 18 district court judges in Douglas County. Douglas County currently has 17 district court judges and other, other court districts listed in the appendix currently have the number of judges identified in the report. The Judicial Resource Commission passed a motion in mid-December of last

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

year, 2021, to recommend an additional or 18th judge in Douglas County, which prompted the introduction of this bill. At the end of 2021, Douglas County District Court had almost 8,100 pending cases. I believe that the caseload and the case made today is strong for adding an additional judge in the 4th district. And with that explanation of LB922, Mr. President, I would ask to move on to the committee amendment.

FOLEY: Yes, please proceed.

LATHROP: Thank you. LB922, pardon me, LB922 is a Judiciary Committee priority bill, with several bills heard in the Judiciary Committee, which have been added with this amendment. AM2332 is a white copy amendment. And while I've already described the purpose of LB922, I'll turn to the ornaments of this Christmas tree with a brief description of each and would invite the sponsors of the individual bills to add comment if they choose to. The base bill, LB922, was introduced by me, and as mentioned, would add a district court judge in Douglas County. The other bills included are as follows: LB1171 and-- a bill introduced by Senator Sanders would have the clerk of the district court perform the function of jury commissioner in all counties in the state. The bill eliminates the provision that allowed the election commissioner to serve as the jury commissioner in certain circumstances. Currently, the only county that has an election commissioner serving as a jury commissioner is Sarpy County. There were no opponents at the hearing and LB1171 was added into this amendment on an 8-0 vote. Next, LB903 was introduced by Senator Bostar to address privacy violations by drones. To address concerns raised by opponents, the committee amended LB903 to replace the original bill and create a new type of second-degree trespass that criminalizes flying a drone over the property of another with the intent to observe the person without their consent in a place of solitude or seclusion. This bill was amended into AM2332 on a 7-0-1 vote. Next one is LB990, introduced by Senator Ben Hansen. This bill-- and, and with the amendment, it would create the offense of stolen valor and provide a penalty. In the green copy, LB990 proposed a new section that created a new Class I misdemeanor for fraudulently obtaining money, property or other tangible benefits through falsely representing that a person is a member or a veteran of the U.S. Armed Forces or a recipient of a military decoration. The committee amendment-- pardon me, the committee amended LB990 to replace the original bill with an amendment that reorganizes the new offense as a type of criminal impersonation. The amendment also requires the intent to deceive or harm. The amended provision of LB990 were included in AM2332 on a 7-0-1 vote. Next, LB870 was introduced by Senator Matt Hansen and would add attorney

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

fees to other court costs paid from the State Self-insured Indemnification Fund or the State Self-insured Indemnification Fund. The allowed attorney fees would include either an agency's legal counsel or hired counsel to represent an agency official or employee in any required appearance. There were no opponents at the hearing, and LB870 was added to AM2332 on an 8-0 vote. Next, LB1059 was introduced by Senator Flood. It would remove Judicial Resource Commission from the Open Meetings Act provisions. Last year, when we passed LB83, the Judicial Resource Commission was included in the modernization of the Open Meetings Act. The inclusion of the commission in those provisions inadvertently limited the practice of the commission to holding its hearings on judicial vacancies by virtual conference or telephone conferencing. This practice is provided in other sections of the statute, Section 24-1204, which provides the necessary transparency. At the hearing, LB1059, there was an opponent, as well as a couple of neutral test fires. However, the opponent testimony was on another matter. LB1059 was added to AM2332 on an 8-0 vote by the committee members. This is a brief description of the bills included in LB922. I'd be happy to answer any questions you may have on any of them. I would encourage a green vote on the committee amendments, the committee amendment AM2332, and on the package contained in LB922. Colleagues, if you do have specific questions, I'm happy to answer them or those who have bills that are contained within AM2332 are available as well. Thank you, Mr. President.

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

CLERK: Senator DeBoer would move to amend the committee amendments with AM2429.

FOLEY: Senator DeBoer, you're recognized to open on your amendment.

DeBOER: Thank you, Mr. President. Good morning, colleagues. I think my Chairman mispronounced-- he said this is a vehicle for five bills, but I think he mispronounced. I think he was trying to say six bills, because I have another one here that I would like to introduce for your consideration that could go onto this Christmas tree, another lovely ornament. AM2429 contains the provisions of LB830, which I introduced on behalf of the Nebraska Department of Health and Human Services. LB830 was heard in the Judiciary Committee. It had no opposition testimony and was advanced by the committee unanimously. The bill is a cleanup bill. The changes provisions relating to child support laws. Current law allows a court to order a parent to provide health insurance coverage for a child if the reasonable cost is below

a certain percentage of the parent's income. The language of the statute puts this at 3 percent, which is no longer commonly used in child support cases. The Nebraska Supreme Court child-- Court's child support guidelines now define reasonable cost as 5 percent of the parent's income. As a result, a majority of cases use this 5 percent standard because it is different than the statutory definition. This could possibly lead to unnecessary litigation. Amending the statute to refer to reasonable cost as defined in the child support guidelines will solve this issue. It will also allow for regular adjustment to contemporary economic circumstances as the child support guidelines are periodically reviewed and updated without requiring new legislation. So thank you very much. I encourage you to adopt AM2429 to support AM2332 and the underlying Christmas tree bill from Judiciary, LB922. I'd also like to take a second at this time to say thank you to both the Chair and Vice Chair of the Judiciary Committee, and to the members who have served with me these last four years. I don't think I'll have another amendment to another Judiciary bill this year, so I just wanted to say thank you, colleagues. We put in some time there together, and as I've said before, there's almost nowhere in the world that I feel more myself than I do sitting amongst you in Judiciary Committee. So thank you very much, and please vote for AM2429, AM2332, and LB922. Thank you very much, Mr. President.

FOLEY: Thank you, Senator DeBoer. Debate is now open on LB922 and the pending amendments. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. So again, just for the sake of any Nebraskans that just turned in, on the last day, we get to talk about our positive experiences and we don't-- we are not given all the time in the world. Think how much time I would have taken. Actually, the Speaker said I could take the time the last day. You can all thank your lucky stars that I have not done that and saved it for the last day. So anyway, there's not enough time to talk about the friendship and the value of, of knowing each person in here and being able to talk about the friendship that I have made with so many of you. So next, I want to talk about Senator Brett Lindstrom. Senator Lindstrom, you have always been fair, conscientious, serious and a great listener. You care about people and you care about working with others, and you care about making our Nebraska work workforce strong and help it grow. And you are a thinker. And I really appreciate the fact that you care, from people-- from young people to older people in need of Social Security. You've really run the gamut. So I appreciate it, and it's been an honor to serve with you, Senator Lin--to serve the people of Nebraska with you, Senator Lindstrom. Thank you. Senator Linehan. Senator Linehan is an indomitable force in this Legislature.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

I, I am fortunate to have been able to serve with her and know her. She is fierce, and at the same time, she's very caring. Senator Linehan has a big heart, but she will never admit that to you, and she doesn't like to show, show it or, or admit it at all. On our trip across Nebraska, when we were looking at reading and dyslexia, Senator Linehan was the first person on the floor, under the table with the kids reading to them. And I'd be looking around like, where in the world did she go now? And there she was under the table trying to read to these little kids who are sort of off and away and not really feeling confident about the work they were doing. And Senator Linehan brought smiles to their faces. It was, it was a joy to get to watch all of that. My dad would have said she's one tough cookie, and that's for sure, and he would have meant it as a compliment. I've enjoyed getting to know her kids. They are amazing people. And while I haven't always been on the same side with Senator Linehan, I have always appreciated her passion and her concern for kids and for families. And in my opinion, she is another lifetime friend that I will have. So Senator Linehan. It has been a true honor to serve the people of Nebraska with you. Thank you. OK. Crazy-- Senator John Lowe. This guy, Senator Lowe, is impossible and funny and caring and totally aggravating. I cannot-- I can bear-- I think I can count on one hand the number of times that Senator Lowe has voted with me-- one, no-- well, one this year. So Senator Lowe is the perfect example of never agreeing but still finding room to become friends. And he is the perfect example. And it just drives me crazy that it-- the way he thinks about things sometimes. And we got to sit by each other in Exec and I was able to, you know, kick him in the shins once in a while, but it still didn't matter. So I am-- I am--

FOLEY: One minute.

PANSING BROOKS: --still consider Senator Lowe a friend. He, he was the first one to invite a number of us to his home, and I have never looked back on that friendship. And I'm grateful to know Kim. And she is a lifetime friend, too, and I will look forward-- this is where the beauty of the Legislature-- where we can know each other and come from completely different sides and come together and walk away friends. Thank you for-- it's been an honor to serve the people of Nebraska with you, Senator Lowe. Thank you, Mr. President.

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

BLOOD: Thank you, Mr. President. Fellow Senators, friends all, I stand in support of Senator DeBoer's amendment, the Judiciary amendment and

the underlying bill, but do have one question. I would ask that Senator Lathrop please yield.

FOLEY: Senator Lathrop would you yield, please?

LATHROP: I'd be happy to.

BLOOD: Senator Lathrop, I was reading the Bostar amendment, and I'm a little puzzled. Isn't that already a crime?

LATHROP: We have, as I'm trying to remember--

BLOOD: In reference to the drone?

LATHROP: --because we put this out of committee a little while ago. The issue there was that it wasn't specifically addressed. So we think of trespass as walking on somebody's property, right? And so what is it when a drone is right outside your window? And as it was introduced, it would have more generally created a, a brand new crime with a higher level of penalty. What we did was try to fashion it into the current trespass statute if I'm remembering that correctly.

BLOOD: I, I have to tell you the reason I ask is I, I actually had a drone bill several years ago, and I was told that one of the reasons that we couldn't move it forward was that in particular, that it was already considered a crime and that a new definition didn't need to happen.

LATHROP: Well, I'm not sure, I'm not sure, Senator Blood, that somebody couldn't be prosecuted today for flying a drone out somebody's-- right outside someone's bedroom or bathroom window for the purpose of viewing people inside in a, in a private circumstance. This doesn't broaden it, but clarifies the opportunity to make-- to prosecute somebody for that particular offense.

BLOOD: So it doesn't really add a new crime that would incarcerate people as much as expands the definition to make it more-- have better clarification. Do I understand that correctly?

LATHROP: If I can find the section, I'll, I'll try to answer that question for you, Senator Blood. I, I know that we had some discussion, a lot of discussion about whether it was necessary at all. And rather than create a new crime and jack up the penalty, we tried to massage the current law so that, that it was clear that if you're flying a drone with the intent of viewing people in a place of a private situation, like through a bedroom window, for example, that

that would actually be a form of trespass. And what's-- we think of trespass is physically going onto the property of another. And of course, you fly a drone to somebody's house and, and put it outside their bedroom window or their bathroom window, for example, they've never touched the ground. They've gone from one property to the next. Without that drone ever being on the ground. And so this is a clarification that when you do it with the intent to see someone in a private situation, that it would be-- that it would fall under this offense.

BLOOD: So is, is there a, a footage that it stops at, like if they happen to go-- be passing by?

LATHROP: No, it-- that-- it's not a-- it-- that's a great question, Senator Blood. So if we had a footage off the ground, then it wouldn't help somebody on the eighth floor of an apartment complex.

BLOOD: Right.

LATHROP: And so putting "with the intent to view someone" makes that-- makes the crime require that the drone be in a position relative to the dwelling with the intent to capture an image or to view somebody in a private circumstance.

BLOOD: So, so if I'm a cattleman-- that was part of the issue when I brought my bill forward too, and they're on my property and they're spying on what, what my staff is doing, what, what the ranchers are doing, the cattle--

FOLEY: One minute.

BLOOD: --is that also trespassing?

LATHROP: Not under this, not under this, because this requires some intent to try to see someone in a, in a-- I'm trying to think of the term, I just read it-- committee intent [INAUDIBLE]. A place of solitude or seclusion. OK?

BLOOD: All right, thank you. I, I should told-- I didn't have a chance to talk to you before. I appreciate you answering these questions.

LATHROP: No, that's fine. I'm happy to answer questions.

BLOOD: I, I still question this amendment. I'm going to go ahead and vote because the rest of the bill is so important. But, but I have concerns about that amendment.

LATHROP: I'm happy to answer more questions.

BLOOD: Thank you, Senator Lathrop.

LATHROP: I found it in my-- yeah.

BLOOD: In your directory there. Thank you.

FOLEY: Thank you, Senator Blood and Senator Lathrop. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President. And I just want to rise and, for the moment, thank Senator Lathrop and their Judiciary Committee for their work in this package. Part of the reason I'm doing that is, of course, this package contains one of my own bills, and so therefore I'm especially excited. It is, by all definition, I think, one of the simplest cleanup bills I've ever done. But it gets to kind of a niche area, so I wanted to talk about it. We had no testimony of any kind at the hearing because it is apparently kind of changing a bit of a legislative process, in terms of processing state claims, and specifically, processing state claims for outside attorneys' fees. Current state law allows for state claims bills to do reasonable costs, so reasonable costs incurred as part of a lawsuit as a part of the state. But what that didn't necessarily specify is whether or not that included legal fees, especially if there's legal fees needed by outside counsel. And so for most of the time, the need for outside counsel isn't there because the Attorney General's Office is, of course, the one who typically defends the state. What this comes up occasionally is in which there are situations in which the Attorney General's Office is conflicted out, as happens occasionally, either because they are the ones taking the action against the state agency or another state Department, or if there's a, say, a rare situation in which two state Departments disagree and maybe some other edge cases as well. And so what we went in is into some of the state claims processes, specifically, the State Self-insured Indemnification Fund and the process for that to make sure that we can-- as well as the State Self-insured Liability Fund-- those two funds-- that making sure that attorneys' fees are added to the term reasonable costs required with a court case and specifying if those agency costs can be by legal counsel, both agency legal counsel and outside legal counsel if, if needed. We specify that this is contingent upon the Attorney General in fact being conflicted out, because that is, of course, the preferred, and in most cases, required way. But it is an important thing. This came up a couple of years ago where this had in fact happened, where an agency had been sued by the attorney general and of

course, had to then retain outside counsel. And kind of-- we ultimately paid it through the state's claims bill process, but our debate and discussion on that state claims bill led to some indications that this probably could be clarified better. The last thing that it adds is that there's a one-liner that says, in terms of when a state agency is claiming that they have insufficient funds to pay a judgment. Currently, the state law just says they should notify the state risk manager of their insufficient claim funds. But there's not any kind of rationale or documentation involved. When we were working on a prior state claim spill, the letter saying that they had insufficient funds was really just a one or two sentence letter, saying We have insufficient funds. And as a legislative body, as the committee, we had some difficulty looking at that, deciding, well, how do you measure that? And that was a case in which we ultimately, as a body, decided that the, that the agency did have sufficient funds. This wouldn't necessarily-- this amendment wouldn't necessarily change that process except for at the very beginning. We will add the new language that the state agency has to provide documentation of such insufficient funds to the risk manager. So ideally, they would be providing, you know, the billing statements as well as their budget and showing the gap, showing that they don't have the cash funds or available general funds in order to pay the statement before appealing to the Legislature to help spend the rest of the statement. So with that, I'm appreciative. That was LB870. We heard it earlier this year, and with that, I'm appreciative that it got rolled into the Judiciary Committee amendment. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Lathrop.

LATHROP: Thank you, Mr. President. Colleagues, I want to take just a minute to talk about the underlying bill, LB922, and adding a district court judge in Douglas County and why that's important. It's important, obviously, because that's a, that's the nonpolitical branch of government. And I think as policymakers, we have a responsibility to take care of the nonpolitical branch of government. And that means that we make sure that those folks are paid well, that they are-- that they have sufficient resources to do the function of the other branch, the third branch of, of government. So up in Douglas County, they have-- I think they're responsible for like 40 percent of all criminal actions that are filed. They deal with divorces, they deal with civil actions, they deal with what we used to call equity actions. But I want to talk about another assignment that these judges take on. And that's problem-solving courts. You've heard us talk about the importance of problem-solving courts, and even when we had the discussion on LB920, Senator Geist and I both agree on the importance

of problem-solving courts. District court judges serve in that capacity and generally they volunteer for that kind of work, so they have a very consequential caseload. And then as a sort of a volunteer assignment, if you will, they will serve as problem-solving judges and hold problem-solving courts. When we don't have the capacity for them to take that additional responsibility on, we limit our ability to expand problem-solving courts. So this isn't just about problem-solving courts, but you should understand that in Douglas County, we are-- we-- these judges are working more than a full caseload and a quarter. That's the criteria before you can add a, a judge. And it's quite a bit more up in Douglas County. This is important just to make sure that justice is administered without delay in Douglas County, but it's also going to afford us more capacity, how much more will depend upon the willingness of judges to volunteer for this kind of work. But this is the only way we can expand problem-solving courts. I put a bill in this year to have referees to have sort of magistrates or deputy judges, if you will, to help with the problem-solving courts, and that ran into challenges that make it an unworkable-- at least something that I'm-- I was-- pretty clear to me after the hearing it was not going to advance. So having these judicial resources, my hope is in addition to administering justice in Douglas County in a timely fashion that our district court judges will have more time and the willingness to expand problem-solving courts in Douglas County. Does it solve the overcrowding issue? No, it doesn't. These are, these are very effective, very, very useful. Not everybody that gets into a problem-solving court was headed to prison, but some of them are. This bill is not solving the problem that, that we spend a good deal of time talking about in LB920, but it does help at the margins. And so I would appreciate your support of LB922. I just want to say, as a practicing lawyer for 40 years, I appreciate what those judges do. Many of them are people that I've known from law school and/or the practice of law. They're good, thoughtful people that we have serving on the bench. Many of them could be doing better in private practice, but like those of us here, they're engaged in public service and--

FOLEY: One minute.

LATHROP: --I want to express my appreciation for the work of those who put on the black robes every morning and tried to administer justice, not only in Douglas County but across the state, in a fair and impartial way. Thank you, Mr. President.

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

PANSING BROOKS: Thank you. I'm sorry, I was down asking a question at the front. So again, for Nebraskans just tuning in on the last day, we get to talk about our positive experiences, but we don't have all the time in the world. There's not enough time to talk about the value and friendship that I have made with each of you here. My legislative colleagues. And so I want to remind you all of your value to me. So the next one is John McCollister. Senator McCollister, who's currently engaged in conversation, so I'll skip him a second. OK. Senator McDonnell. Senator McDonnell is an amazing legislator. You can always depend on him to help explain positions that the unions have. And he has great knowledge on the floor about what workers are needing and wanting. He has a great sense of humor and is a really hard worker. He understands the budgeting process really well. So if we have a question, we can always go to Senator McDonnell and Senator McDonnell. It has been an honor to serve the people of Nebraska with you. Thank you, my friend. OK. Senator McKinney. Senator McKinney, I am grateful to have gotten the time to serve with Senator McKinney. He is an amazing leader who has confidently, quietly and wisely filled the shoes of one of Nebraska Legislature's most iconic, larger than life senators, Ernie Chambers, and he has done it more than well. He fights and teaches about his community in North Omaha. He is beyond trustworthy. If you ask Senator McKinney where he is on an issue, you can always count on him to be there. And if he's having difficulty on an issue, he explains it. I appreciate that, Senator McKinney. He, he no longer lives in the shadow of the former senator. He has risen to his own stature and substance and value in this body. And Senator McKinney, it has been a true, a true honor to serve the people of Nebraska with you. Thank you. Senator McCollister. Senator McCollister. [LAUGHTER]. Can somebody get him? OK. Well, part of the fun about Senator McCollister is that we're good enough friends that I can tease him a bunch on things. And, you know, fortunately, I'm friends with his wife, Deb as well, and that's been a, a blessing of this whole legislative process as well. And you know, if he's talking too loudly on the phone or something like that, I just turn around and say, McCollister, shh, you need to go quiet down. But Senator McCollister is, is another lifetime friend that I have here. He is a total character with an incredible heart of gold. He came from the Platte Institute. And when I first met him, he invited me to something at the beginning of the year, the first night at the, at the chamber event, and then uninvited me. And at that point I thought, well, and of course, many of you know, I have the worst FOMO of anybody in the Legislature, fear of missing out. So the fact that this guy uninvited me, that was, you know, that was it. I was probably not going to speak

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

to him again. But, you know, we have become lifetime friends and those, those who call him a RINO--

FOLEY: One minute.

PANSING BROOKS: --those who call him a RINO must understand that he is a thoughtful man of substance who thinks about issues and takes his own stand. It's about people, not politics. And he also has to be able to go home and live with his wife, who may not let him in if he didn't have some of the positions he's taken. So anyway. Senator McCollister, it has been a true honor to serve the people of Nebraska with you. Thank you. Thank you, Mr. President.

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

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. And, and following Senator Pansing Brooks is, is always difficult, but especially when she does freely talk about her fear of being left out. And we wouldn't want you left out of this, either, Patty. I want you to know that each one of us has a special place in, in our hearts for you that we've developed over this period of time. I look at my life as being better, knowing you and Loel and having you as dear friends over this period of time. It's been lots of fun. You are a person that I probably never would have met without this experience, so I appreciate that. But I'm actually up here not to talk about you. I'm actually up here to, to, to throw a, a real shout out to the judges that Senator Lathrop was talking about that have taken on the extra responsibility of working in problem-solving courts. And I want to emphasize that by talking about a, a dear friend of mine that is, is a personal friend and also a professional friend, and that's District Court Judge Jim Doyle, who resides in my legislative district in Lexington. And Jim has been a tremendous advocate for problem-solving courts during his time on the bench, which has been a significant amount of time now. As you might guess, his workload and his caseload is very heavy, being in Lexington and North Platte and traveling around central Nebraska. But he continues to find time to devote himself to problem-solving court, in particular in our area, drug court. And when I say a significant amount of time, he devotes one day every week to problem-solving court. That means that he has to do all of his other work in the other six days of the week. And I don't say four days, with, with Judge Doyle I say six days because to take the entire day, Monday, one week it is in Lexington. The next week it is in North Platte to take that whole day with meeting with the approximately 80 participants, 40 in, in Lexington and 40 in North Platte that are in drug court, working with each one of those

participants that shows up in front of him each week. He's one week in Lexington and, and the next week in, in North Platte. It is significant. And what that does to him is require that he spends a great deal of time on Saturday and Sunday also, being sure that his normal caseload is taken care of the way it should be. So I think Jim is an example-- Judge Doyle, I should say, is an example of that. But we have other judges all across the state that are willing to do that. What has been disappointing to me, to some degree, with problem-solving courts, is we have some members of the Judiciary who have been unwilling to step up and spend that extra time. And I would just challenge them and challenge our whole Judiciary system to recognize that problem-solving court is a way of moving people through the system with a significantly less costly situation. It avoids incarceration, but more importantly, it puts people back in society with checks and balances. It finds a course that puts them there where they are in better shape than when they started this. So a big shout out to our Judiciary with that. Thank you, Mr. President.

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

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. So I just-- I'm taking a second to support all of this and, and what people are saying. The legislative-- I have a resolut-- legislative resolution that will come and be on-- we will end up voting for it. And I want to read it to you, whereas, the Lancaster-- I want you to understand they've just won some big awards-- whereas, the Lancaster County Adult Drug Court has served over 1,000 individuals and has positively impacted the lives of countless family members and friends of each participant as well as the community at large; and whereas, individuals receive a highly structured, intensively supervised program individualized to address their specific behavioral health needs; and whereas, all charges are dismissed for individuals who graduate from the program which eases the strain on correctional services and the courts; and whereas, the Lancaster County Adult Drug Court has been named to the exclusive list of national mentor courts by the National Association of Drug Court Professionals and the United States Department of Justice; and whereas, the Lancaster County Adult Drug Court will receive an award during a meeting of the Lancaster County Board of Commissioners to celebrate the national distinction of becoming a mentor court; and whereas, national mentor courts are exemplary treatment courts selected to act as model programs to assist new or growing courts for a three-year term. Such courts follow evidence-based practices and play a significant role in the national training, technical assistance, and research efforts for the nearly 4,000 treatment courts that are currently operating nationwide; and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

whereas, as part of Mentor Drug Network for 22-- 2022-2024, the Lancaster County Adult Drug Court will help develop, identify and test national best practices and provide technical assistance to jurisdictions in implementing a treatment court, including hosting site visits by team members from other jurisdictions around the country. Now, therefore, be it resolved by the members of the One Hundred Seventh Legislature of Nebraska second session: that (1) That the Legislature congratulates the Lancaster County Adult Drug Court and all the dedicated individuals involved with the Lancaster County Adult Drug Court on receiving national recognition as a mentor court. That a copy of this resolution shall be sent to the Lancaster County Adult Drug Court. And I just want to say that I also want to thank the Chief Justice and the judges that are working on all of this. If it weren't for the leadership and vision of Chief Justice Mike, Mike Heavican, this would not all be happening. If it weren't for his willingness to move forward and progress and institute best practices across our state. We are very fortunate with the judges that we have in this state, with the leadership provided by Justice Heavican and the, the whole Supreme Court. And again, I want to thank the Supreme Court for their vision and their leadership. Thank you, Mr., Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Pansing Brooks. Senator Brewer would like us to recognize 20 high school students from Keya Paha County Schools in Springview, Nebraska. Those students are with us in the north balcony. Students, please rise. We welcome you to the Nebraska Legislature. Senator Lathrop.

LATHROP: Thank you, Mr. President. Colleagues, I-- the next bill we're going to hear LB921, was a bill that came out of Judiciary Committee-- and you're probably wondering why are you talking about the next bill Lathrop, when we're not through this one? I'll tell you why. On the next bill, we're going to talk about the, the Regional Center and the challenge of getting people who need to have their competency restored-- into the Regional Center to have their competency restored-- how much time they have to wait in county jails incompetent. And I'm told that HHS is out in the lobby right now, pulling people out and trying to convince them to be against the next bill up. And so I want to give you a preview of why LB921 is coming up, what the amendment does, and why it is so desperately important. You've heard me talk about this on the floor, but you should know before you get pulled out to have this conversation that we have people in this state charged with crimes who are incompetent. That means that their mental illness is so bad that they can't effectively participate in a criminal proceeding. I like to call it, they're in a

place where they don't know the defense lawyer from the judge or the role of a jury or the bailiff. Right? That's how decomposed these people are mentally. And the law requires that if you are-- if a court finds that you should have a competency-- your competency restored, it must happen at the Regional Center. Here's what's happening. On average, people are waiting 128 days in county jails. And you will hear-- I'm sorry Senator Geist isn't here today because this is important to her, as it is to people that serve on the Judiciary Committee and have heard this testimony. People will sit for 128 days isolated in a county jail, insane, waiting because the Regional Center doesn't have the capacity or won't create the capacity for them to go down there. And colleagues, colleagues, you want to talk about what your values are. We cannot leave people who are mentally incompetent in county jails for 128 days before they're taken to the only place the law allows them to have their competency restored. Senator Hansen has a part of LB921, but it's not enough today. By the way, it causes a huge problem if you running a county jail the size of Lancaster County. We've had the Lancaster County commissioners, their jailer, Douglas County, their commissioners-- we've spoken to the, the person that runs the Department of Corrections in Douglas County. It's happening in your county jails and you're not equipped to deal with these folks. So when you get pulled out, understand that this isn't just some DHHS fiscal issue. It is a human dignity issue. It is a county fiscal issue. It is-- counties are not equipped to hold these people. I hope you'll take that into account. I hope you will ask questions when people are lobbying you on the next bill, and I hope you will be with us ultimately when we get to LB921. Thank you.

FOLEY: Thank you, Senator Lathrop. Senator Erdman.

ERDMAN: Thank you, Mr. President. Good morning. I noticed in this LB922, there's LB1059, LB1059 in there and Senator Flood introduced that. So I was wondering if Senator Flood would yield to a question.

FOLEY: Senator Flood, would you yield, please?

FLOOD: Yes.

ERDMAN: Thank you, Senator Flood. Senator Flood, explain to me, because when I see these Christmas tree bills and all this stuff comes up, sometimes I don't have a chance to do the research before we vote. What does LB1059 do?

FLOOD: Thank you, Senator Erdman. Let me just explain the process. So when a judge retires or for whatever reason leaves his or her office

as a judge, whether as a county or district judge, there are two steps. There's the Judicial Resources Commission that meets to declare whether or not there should be a vacancy created. So let's, let's think about Judge Broadback in O'Neill. He was a county court judge. He retired and the Judicial Resources Commission met and the question was, shall we create a vacancy in Holt County or that judicial district? The next step is that the State Bar Association and more importantly, the Judicial Nominating Commission, will then receive applications from judges or lawyers interested in filling the vacancy in Holt County, and then they will meet. What-- the situation with this is, we passed LB83 last year, which governs the use of teleconferencing like Zoom. And on the Judicial Resources Commission, we have, for instance, a judge from McCook. Now, the only question that they have is, shall we put-- shall we create a vacancy? It's not anything to do with the nomination of a judge, it's simply whether or not we should create a vacancy. And so, so that we use court time more effectively and not have a judge from McCook have to drive to wherever it is or everybody leave their post because there are judges on the Judicial Resources Committee. The Supreme Court and I worked together because I was the author of the bill on LB83. And we cut-- we inadvertently swept everybody up and this is one that we felt could be-- videoconferencing could be used. And I think, I think that's a good, a good thing. Does that answer your question?

ERDMAN: So, so what you're saying is you're just-- this bill, this amendment is just allowing video conference to be part of the process?

FLOOD: Right. So not much of the process, just the Judicial Resources Commission. So just the first step as to whether or not there's a vacancy. The judicial nominating process is all in-person. No video conferencing.

ERDMAN: Thank you, I appreciate that. Thank you for answering that. You know, when we see these Christmas tree bills, they come up and then they have all these bills amended into them, and there is no committee statement because they don't vote on in committee. It's sometimes difficult to figure out what exactly these amendments do. And so, if you're here in the room today and you have questions about the other bills on LB922, the other amendments, I believe you need to ask questions to figure out where we're at because oftentimes I vote for Christmas tree bills and then after I voted, I wish I hadn't because I didn't fully understand it. So I appreciate Senator Flood clarifying that. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

FOLEY: Thank you, Senator Erdman. Senator Clements. He waives the opportunity. Senator Jacobson.

JACOBSON: Thank you, Mr. President. First, I want to tell Senator Lathrop thank you for bringing this bill and particularly the amendment. I think as I look at the problems, one of the concerns I had with LB920 was one of the concerns it would tie back to misdemeanor arrests for drugs, and then we end up overcrowding our county jails with an unfunded mandate. And I-- my concern with LB921 by itself without any kind of funding would have made me opposed to that as well because we, we can't continue to lay on more and more prisoners in our counties and not have them reimbursed for that. With the amendment, I'm in full support. With the amendment. I'll support the bill all the way through with the amendment. So again, I just want to thank him for bringing that aspect back in. I've checked with my constituents, certainly the county sheriffs and the prosecutors, and they are in full support of this with the amendment. So I would encourage everyone to, to vote for. And when we get to nine-- to, to LB920-- to the, the A bill that we would move that forward and I would be in support. So thank you.

FOLEY: Thank you, Senator Jacobson. Senator McDonnell. Is Senator McDonnell on the floor? I do not see him. Senator DeBoer, you're recognized to close on your amendment.

DeBOER: Again, colleagues, we've been talking about a number of different things, so a reminder that this particular amendment is to amend my bill LB830, which I brought at the request of the Department of Health and Human Services, that just makes our process in statute the same as what is actually practiced. And makes it-- the language match up by saying that it will-- the amount that is reasonable is what is reflected in the Supreme Court Child Support Guidelines. So I would encourage a green vote. Thank you very much.

FOLEY: Thank you, Senator DeBoer. Members, you heard the debate on AM2429. Those in favor of the amendment vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 32 ayes, no-- 33 ayes, 0 nays on the adoption of the amendment

FOLEY: AM2429 has been adopted. Mr. Clerk.

CLERK: Senator Matt Hansen would move to amend AM2771.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

M. HANSEN: Thank you, Mr. President and colleagues. And I appreciate Senator Lathrop allowing me the opportunity to attach this to LB922. I'm introducing AM2771, which, if anybody wants to look it up, also incorporates the provisions of my bill, LB444. LB444 was introduced and advanced from Judiciary Committee last year and we've been looking for an opportunity to move it forward. LB444 does two main things. One is it aligns jail time, sorry, jail good time with prison good time, in the sense that in prison you get jail time starting with day one. In jail, you get good time starting with day 15. And we have looked and I have not necessarily found a rationale for why that is, why that is the case. So that's just a-- striking a line to align jail with prison, make sure good time operates the same in both places. The big-- the thing it does, and I think this is kind of a larger issue, is clarifies another section that if a person is sitting in jail for one charge but are not prosecuted on that charge, but instead prosecuted on a separate charge, that-- clarifying that that time sat in jail can be used as jail credit. So I'm sure many of you are aware, but obviously if you're sentenced to a jail sentence, the time you get-- spend in jail prior to your jail can be applied to your jail sentence. For some, it's not much if you bail out, for others, if you don't bail out, it can be considerable. And so you take that jail credit of where you are prior to your trial and can be applied. The specific scenario in which we are trying to correct is where a person is arrested on one charge and then ultimately prosecuted on another. Sometimes this is via a plea deal and sometimes this is-- maybe they are arrested on one charge and they later discover an outstanding warrant that's not the reason they were initially arrested, and therefore that's ultimately the charge the prosecutor gets to stick and go forward with. Some-- we understand that some judges in some courtrooms do this and allow for this, but to put it expressly in statute and make sure that this is the default policy, saying that if you're sitting in jail awaiting trial, it should be applied to your final charges regardless of what charges you were initially arrested for. And so in that way, it's in my mind really cleaning up a procedural or bureaucratic issue. Those are the main two things. It was advanced from Judiciary 7-0 with one not voting. We had no opponent testimony, no fiscal note, and the only group that spoke in any capacity was the defense attorneys who spoke in support. So with that, I would encourage the body to adopt LB2771 [SIC - AM2771]. Thank you.

FOLEY: Thank you, Senator Matt Hansen. Senator McDonnell.

McDONNELL: Thank you, Mr. President. Good morning, colleagues. I rise in support of LB922 and the following--and the underlying amendments.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

Last night, there was a fire chief that was responding in southwest Nebraska to emergency, and he was killed. He was Senator Briese's nephew. I'd like you to keep Senator Briese, his nephew and their family in your, your thoughts and prayers. I'd yield the remainder of my time to Senator Patty Pansing Brooks.

FOLEY: Thank you, Senator McDonnell. Senator Pansing Brooks, 4:30.

PANSING BROOKS: Thank you, Senator McDonnell, and all of our blessings and prayers go to Senator Briese and his family. And it just-- I just want to make a comment because we have LB-- and I talked with Senator McDonnell about talking about this. Senator McDonnell, we have LB717 coming up on Final Read on Tuesday. And that is a bill that pays compensation to people that are killed in the line of duty. It is Senator Morfeld's bill that I prioritized, and when we had the previous discussion, people were saying, oh, it's political. They're doing this because it's so political. It's not political. It's about a man's life that he gave for his community. And fortunately for Senator Briese's family, the bill says that any deaths occurring during 2022 will get \$250,000 rather than the \$50,000. So and then after-- from 2023 on, it will increase by the Consumer Price Index. So I, I just want people to realize when you talk about things and disparage efforts that some of us make on behalf of people and say it's political, it's not political. It's about people. It's not about party. It's about lives. And I ask that we have a moment of silence right now for Senator Briese's family. Thank you, Mr. Lieutenant Governor.

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

SLAMA: Thank you, Mr. President, and good morning, colleagues. I, I rise today in respectful opposition to AM2771. This amendment is the language of LB444, which has been hanging out on General File for a year. So I get it, today when it comes to General File stuff, it's like the last lifeboat off the Titanic. So we're all trying to find vehicles for our different bills. But when it comes to AM2771, I'm going to quote the great sportscaster Lee Corso, "not so fast, my friend." In addition to being opposed to the substance of this bill, I was the one who was present not voting. That was intended to be a respectful no on LB444, accruing credit for time served on other charges. I'm opposed on the procedural side of this, so this amendment was dropped a few minutes ago, and LB44 had zero testifiers on either side. So in addition to it not having any opposition, also at the hearing, there were no proponents besides the introducer. The only proponents of this bill that have voiced any kind of opinion on this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

to the committee were the defense attorneys who did submit a letter. So I'm, I'm not a fan and this is my general just shot across the bow of, we have a very limited amount of time left today. At noon, we'll take a lunch break. At 2:30, we're going to hop over to Senator McCollister's LB709. And I mean, I respect that and see the need for the bills on General File that are coming up. Oddly enough, Senator Lathrop and I are actually on the same page with LB921 as its, as its amended. Senator Geist could speak to that issue that she supported coming out of committee far more eloquently than I could. But just now, on a very basic level, I support Senator Lathrop's amendment to LB921. But when it comes to reviving bills at the last second at like the last day of General File debate, I'm, I'm not a fan of it on the procedural side, and I'm telling you right now, I'm a no on AM2771, and I will be taking some time on LB922 if it does get attached. So I would encourage everyone, just vote no on AM2771. And if you're considering dropping bills that have been sitting on General File for a year on other bills or reviving your bills by attaching them on to the very limited number of General File vehicles we have left, just please don't do it. So I'm, I'm going to go through and hop off the mike on this side, let Senator Hansen think about it for a bit, because I, I would only need to take about two hours' worth of debate time to get us to 2:30. So I'll leave that for the body's consideration. Please vote no on AM2771. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Senator Williams would like to recognize 70 fourth-graders from Aspen Creek Elementary School in Gretna, Nebraska. Those students are with us in the north balcony. Students, please rise so we can welcome you to the Nebraska Legislature. Senator Pansing Brooks.

PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, I rise in wholehearted support for AM2771. Not only is it germane, it has the acceptance of the introducer of the underlying bill, and there were absolutely no opponents. So we're talking about good time, and whether or not you like good time, good time, if it's an-- instituted at the beginning of the sentence, helps prison time. And prison time, as we know, is what's-- the length of prison time is, is adding to our overcrowding process and our overcrowding problem here in the state. So I thank Senator Hansen for finding a vehicle-- yeah, he was the only one because the county attorneys didn't come in opposition, the police didn't come in opposition, the Attorney General's Office didn't come in opposition, because it should start at the beginning. And counties, if you are worried about the amount of money you're spending, then we ought to start good time right when somebody gets in. And this is-- I, I'm not sure when that law was passed originally,

and I can find that out later, but this makes no sense. It is not something-- it's not a cross to-- a, a sword to die on. It's something that will help the overcrowding price-- crisis. It's just a little tiny thing that we can do instead of 15 days later to start, start good time when somebody gets in. And the counties, I'm sure the, the counties also didn't come in. And what they don't-- what they are not going to know is that by not doing this, we're not going to be able to save them some money. So I thank Senator Hansen for doing this. I'm going to go on and read the resolution that will be passed next week for the Veterans Treatment Court as well. Whereas, Lancaster County Veterans Treatment Court honors the service of justice-involved veterans through a rehabilitative program that combines intensive judicial supervision and treatment services to address the service-connected experiences of veterans and enhance public safety by returning law abiding and productive citizens to the community; and whereas, the Lancaster County Veterans Treatment Court provides veterans support and rehabilitation through comprehensive substance use and mental health treatment, education, employment, vocational programs, and community resource referrals for housing, child care, and transportation; and whereas, all charges are dismissed for veterans who graduate from the program which eases the strain on correctional services and the courts; and whereas, the Lancaster County Veterans Treatment Court has been named to the exclusive list of national mentor courts by the National Association of Drug Court Professionals and the United States Department of Justice; and whereas, the Lancaster County Veterans Treatment Court has been named one of just five national veterans mentor courts by Justice for Vets, a division of the National Association of Drug Court Professionals; whereas, the Lancaster County Veterans Treatment Court will receive an award during a meeting of the Lancaster County Board of Commissioners to celebrate the national distinction of becoming a mentor court; and whereas, national mentor courts are exemplary treatment courts selected to act as model programs to assist new or growing courts for a three-year term. Such courts follow evidence-based best practices and play a significant role in national training, technical assistance, and research efforts for the nearly 4,000 treatment courts that are currently operating nationwide; and whereas, as part of the mentor court network for 2022 through 2024, the Lancaster County Veterans Court-- Treatment Court will help develop, identify, and test national best practices and provide technical assistance to jurisdictions interested in implementing--

FOLEY: One minute.

PANSING BROOKS: --a treatment court, including hosting site visits by team members from other jurisdictions around the country. Now, therefore, be it resolved by the members of the One Hundred Seventh Legislature of Nebraska Second Session: that the Legislature congratulates the Lancaster County Veterans Treatment Court and all the dedicated individuals involved with Lancaster County Treatment Court on receiving national recognition as a mentor court. That a copy of this resolution be sent to the Lancaster County Veterans Treatment Court. Thank you to the Chief Justice again and all the judges and those who make these treatment courts possible and available for our, our precious veterans who need treatment and help. Thank you, Mr. Lieutenant Governor.

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

LATHROP: Thank you, Mr. President. I want to talk a little bit about the amendment filed by Senator Hansen. And before I talk about it, I want to talk about where we're at. Like, the fact that this was a bill we heard in Judiciary Committee a year ago is no reason to, to say that it shouldn't be amended on to this LB922. I, you know, I looked at the committee amendment as, as Senator Slama has, clearly, because she noted that she was present not voting, not, not against which she regularly does in Judiciary Committee. The ayes included Brandt, DeBoer, Geist, Lathrop, McKinney, Morfeld, Pansing Brooks. This bill had a hearing in Judiciary Committee. It was introduced. It had an-- a proponent. Remember, remember that over in the Judiciary Committee, the carpet is worn out by prosecutors and law enforcement coming in to oppose bills. It's not like they don't know their way down there. They do, and they regularly oppose bills. They did not oppose this bill. The prosecutors didn't oppose this bill. We also hear a great deal, and we'll talk about this on the next bill, that the county jails are filling up. In fact, it was Senator Slama, just a couple of days ago, concerned about the county jails filling up. And that might be why these people didn't come in in opposition, because this helps with that, that circumstance. What we're doing is having the good time in county jails mirror the good time practices in-- for felony convictions and people that end up at the Department of Corrections. There's no reason-- the, the reasons advanced and the argument that you heard-- this was a year ago. I know it's late. We shouldn't be doing this. Those aren't reasons. If you, if you have a problem with the substance of this bill, we can talk about that. It had a hearing-- before it had a hearing, notice went out. People had an opportunity to see what we were going to take up that day and there was no opposition. The other day, it was interesting when Senator Erdman said, some people are going to support this bill because of who

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

introduced it and some people are going to oppose it because of who introduced it. And now I feel like he's right. Well, I felt like he was right when he said it. Believe me, I've been on the receiving end of that. Senator Erdman's right, this-- but that shouldn't affect whether we adopt or don't adopt this amendment. It shouldn't be about who introduced it, how long it was in Judiciary Committee. Let's talk about whether it's a good idea or a bad idea. And I'll just say, that through the committee process, this bill drew no opponents. None. So let's not make it about who introduced the amendment, but about whether it's good policy or not. And start with the fact that no one came in opposition. Thank you.

FOLEY: Thank you, Senator Lathrop. Senator Matt Hansen.

M. HANSEN: Thank you, Mr. President. Colleagues, I did want to, kind of make one thing-- just to be clear for the record-- yes, the defense attorneys didn't appear in person. They submitted a letter. But I'll remind you, as has been established, this was a year ago. This hearing was on Wednesday, February 10, 2021. If all of you can think back to how we were running hearings a year ago, we had that special provision that if you showed up in the building, dropped off a letter, signed the sheet-- I can't remember all the steps, but you would get to appear on the committee statement. And that's what the criminal defense attorneys chose to do that, this was, you know, very early on in hearings last year when we were kind of actively discouraging as many testifiers. And I had the thought this would be a consensus bill and I encourage them to do just the letter. So that was a COVID-specific situation. Had this bill been introduced this year, I'm sure they absolutely would have shown up in person. And the other thing, and I'm happy to, to clarify or debate the, the merits as well, the other thing I want to clarify in terms of it being late in session-- a couple of years ago, I had a bill that ultimately, pocket veto was not the right term, but it got vetoed and I didn't have the chance to override. And the reason it got vetoed --one of the reasons mentioned in the veto letter was that it got out of committee late. And therefore-- and then was heard, one of the last bills on General File, and so on. And colleagues, I, I felt frustrated by that because in that situation, that was a situation where it was in committee because we had worked a long time to get a broad committee support. We'd worked on a compromise amendment and it was scheduled for late or last day because-- I mean, the terms of the calendar, these are all days. This is the last day for General File, just the same the first day for General File was. I didn't mean for this to be a disruption. I didn't mean for this to be a, a, a kind of bump, but there is an opportunity for us to discuss things in General File. I imagine people

might even be trying to do things in Select File on Tuesday, and that's fine, because that's the day that we have to debate the bill in that round. You know, I don't control the agenda. This is something that I've been thinking of for a while. It's something I had actually hoped was consent calendar worthy. I didn't necessarily expect many things, but in my mind, it really is a technical cleanup to mirror county jail statutes, to state prison statutes for in terms of serving good time. And the second provision really is, in my mind, just kind of a bureaucratic provision, that if you're sitting in jail for one charge and if you ultimately don't get convicted of the charge that got you in jail, but you get convicted of a different charge, that time can be used to calculate that you were in fact in jail. And currently, we're having people in this situation who sit in jail, who get convicted and don't get any credit for the time they sat in jail because of how the charges stacked up. This is something I've certainly shown to the county attorneys. I try and have a good habit of working with the county attorneys and when I'm doing anything with criminal justice at least running, either before the hearing or oftentimes before I've introduced, try to show them, you know, the copy of the bill or the-- or a draft or two. And I've taken their considerations into account on a number of issues. We've worked on a number and I think their lack of opposition or lack of any stance kind of confirms what I remember about, it is that it was intended to be a pretty bureaucratic cleanup bill in the second version. And the first version, I understand, is in fact granting up to 14 days more good time. But you know, the point of good time is to incentivize good behavior. And if you know you can't gain or lose good time in your first two weeks, that's two weeks in which the good time doesn't have any purpose or connection to that particular sentence. So those are my reasons for introducing an amendment. I'm going to keep listening to debate and talk with some of my colleagues more, too. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Senator Erdman. Is Senator Erdman on the floor? He waives the opportunity. Senator Slama.

SLAMA: Thank you, Mr. President. While, while I appreciate Senator Lathrop's comments about all the-- as he's the gatekeeper and the procurer of good reasons on the floor, all of our votes count equally on the floor. So actually, yeah, I can oppose bills for whatever reasons I want, but to imply that it's in any way personal between Senator Hansen and I is tot-- totally wrong. Senator Hansen and I disagree fervently on just about every policy, especially when it comes to school funding, but he is a delightful human. We've had some wonderful conversations about Game of Thrones, and I consider him an

absolute delight. I wouldn't go after any bills he introduced because he was the introducer. He's just-- he's a lovely, very kind person, so to imply otherwise just isn't true. So I, I am opposed to the substance of AM2771. And while I do make a fun habit of voting no on things in Judiciary, I also, out of respect for Matt Hansen, was a polite no and being present, not voting. So if you want any other indicators that I, I respect and am very collegial towards him, I-- that PNV was kind of a courtesy on my end to discuss-- to communicate my dislike of the substance of the bill, which includes [INAUDIBLE] and increased good time provisions that-- I disagree with it from a policy perspective, and I'm glad we're having this discussion because the clock, the clock is very much ticking and I'm, I'm still taking my time on this because I disagree with this from a policy perspective. But it is good that we just review the text of the bill real quick and just to reinforce, again, law enforcement and the county attorneys, the attorney generals-- the proponents of the amendment are absolutely correct. You're right, they didn't come in opposition, but they weren't proponents either. They weren't neutral. They didn't express any opinion. No one, in fact, in person expressed any opinion on this besides the introducer. In my substantive disagreement, besides the language of your accruing time served on different charges than what you're actually convicted of, and we can have a disagreement about that, that's substantive. I think that you should get credit for the time served on charges that you're actually convicted of. But moreover, I, I don't support increasing access to good time. We have a system right now that is nearly automatic good time, and I think that 15-day waiting period is absolutely reasonable. So I, I do not support taking that out. So when it gets to the substance of the bill, it's a very short bill to Senator Matt Hansen's credit. It has two clear parts, both of which I just happen to disagree with. I'm not going to burn the world to the ground. I'm not going to take it-- LB922 eight hours if it gets attached. I'm wholeheartedly opposed from both the policy perspective and a procedural perspective, but it is absolutely nothing against Senator Matt, Matt Hansen. He's a lovely human and I, I wholeheartedly respect him. It's just when it comes to both the policy and the procedural side of this, I disagree. And this is my warning shot on the ballot. The clock's ticking and I would encourage you all to vote red on AM2771. Thank you, Mr. President.

FOLEY: Thank you, Senator Slama. Senator Lindstrom would like us to welcome some guests today. We have a group called the Angel Guardians from Omaha, Nebraska. They're with us in the north balcony. If those citizens can please rise, we'd like to welcome you to the Nebraska Legislature. Continuing discussions, Senator Linehan.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

LINEHAN: Good morning, Mr., good morning, Mr. President. Morning, colleagues. I rise in opposition to AM2771. And here's my thought process, it-- we're all tired. At least I am and not feeling that great. But this is it-- the Chairman of the Judiciary Committee is a very, very capable legislator. So if this was an important bill, why isn't it already in the package? It's been sitting in Judiciary for a year. I understand it. My guess, it's not in the package because they thought it might hurt the package, if I understand it right. And I'm not on Judiciary so somebody can respond to me. But this-- the package has the support of the whole Judiciary Committee. When we put packages together in Revenue Committee, this is, this is a way to help get good legislation done. And you can't have enough priorities for everything you're going to want to do, so you put them in a package. So my question would be if it's so great, why isn't it already in the package? Thank you, Mr. President.

FOLEY: Thank you, Senator Linehan. Senator Slama. She waives the opportunity. Senator Albrecht. Senator Albrecht. She waives the opportunity. Senator John Cavanaugh.

J. CAVANAUGH: Thank you, Mr. President. Well, as long as people were talking, I thought I'd get up and talk on this. I support this amendment and, and the package overall, but I think it looks like we're going to be getting to a vote. But as long as I'm talking, I'll just tell you why. So this is a-- this amendment-- and to answer Senator Linehan's question, I think sometimes you put together a package and there are a lot of other ideas that sometimes they just get left out. My bill, a bill Senator Brewer agreed to add to the Government package a couple of days ago, was a good bill. It came out of Committee 8-0. Senator Brewer agreed with it and I-- it didn't get put in the original package originally, even though it was a good idea and a good bill, because I didn't ask him to because it was out on the floor already on its own. And we just basically didn't think to include it in the package at the time, so we'd use the process to put it on. But this amendment applies good time to all the time that somebody is in county jail. And I, as somebody who has been involved in probably thousands of cases of this nature, where people are sitting in county jail for sentences that-- as little as 15 or 10 days. I can tell you that the way that good time is calculated is factored into every sentence that is given in those sorts of short county sentences. That the purpose of good time, of course, the actual purpose is good behavior to get people-- give some people a reason to behave. And if a large number of people who are serving sentences serve sentences that are shorter than 15 days in county jail. There-- I, I don't have the data, but I can tell you anecdotally from just my

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

experience, the number of cases I've been involved in that were 10 day-- pleading for 10 days' time served type of thing is huge. And so, our county jails are full of people who have no incentive to behave under the theory of good time. So what this does is it applies the logic, the sound logic of good time to everyone that-- and a large number of people that are serving sentences that it doesn't currently apply to. So this is smart, reasonable, very small and in the grand scheme of things, will affect a very small number of days, but a large number of people. So thank you, Mr. President. And I'd ask for your green vote on AM2771.

FOLEY: Thank you, Senator Cavanaugh. Senator Matt Hansen, you're recognized to close.

M. HANSEN: Yes. Thank you, Mr. President. I'll be brief. After talking with Senator Slama, Speaker Hilgers, and Senator Lethrop about the bill, the amendment in the package, I think it's best if I withdraw it at this time.

FOLEY: The amendment is withdrawn. Thank you, Senator. Mr. Clerk.

CLERK: Mr. President, Senator John Cavanaugh would move to amend with floor amendment, FA204.

FOLEY: Senator John Cavanaugh, you're recognized to open on your amendment.

J. CAVANAUGH: Thank you, Mr. President. So this is an amendment to strike a section that Senator Blood mentioned earlier, and it is this section that changes the trespass statute. And the reason I brought this amendment is that when we're talking about criminal, criminal conduct, we have criminal statutes and we had-- everybody here, I think, is up to their eyeballs in like criminal terminology and logic and rationale now, because we talked about it so much this session. And so I know you all understand this, but it's very important that when we make conduct criminal, that we don't add extra language, extra-- extraneous actions that could be arguably criminalized and not argue-- and not arguably criminalized. It's important that it be clear that the conduct is criminal, and in this particular case, we're adding something to the statute that I think is unnecessary. The statute already covers the conduct we're talking about. It's not, not clarifying, it's just adding extra words to the criminal statute that we-- are unnecessary. So I spoke to the introducer of this-- the original bill, Senator Bostar, about this. I let him know I was bringing this amendment, and he asked me as a courtesy that we could

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

work on it between now and Select. So I will pull this amendment. Well, I thought there was somebody else in the queue, but so I, I will, at this time, pull FA20-- what is it, FA204, but I would continue the conversation on this issue going forward. And I do think it is an important point that we make sure that we are not adding more criminal conduct when we don't need it. So thank you, Mr. President.

FOLEY: FA204 is withdrawn. Thank you, Senator. Is there any further discussion on LB922 and the pending Judiciary Committee amendment? I see none. Senator Lathrop, you're recognized to close on the committee amendment.

LATHROP: Thank you, Mr. President. Colleagues, I appreciate the, the discussion this morning. Senator Linehan, I know how you feel because I think there's a lot of people in here that aren't feeling great today and that would include me. Notwithstanding that and the fact that there's something going around this body, it's like a daycare center. Everybody I talk to is like, oh my God [LAUGHTER]. And I don't think it's just because it's day 56. There's something that's going around this place, but that having been said, I appreciate your support of AM2332 and the underlying LB922. Thank you, Mr. President.

FOLEY: Thank you, Senator Lathrop. The question before the body is the adoption of the committee amendment AM2332. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 31 ayes, 0 nays on the adoption of the committee amendments.

FOLEY: The committee amendment has been adopted. Further discussion of the bill? I see none. Senator Lathrop, you're recognized to close. Waives closing. The question before the body is advance of LB922 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 33 ayes, 0 nays, on the advancement of the bill.

FOLEY: LB922 advances. Next bill, please.

CLERK: LB902A, or LB920A-- excuse me, LB922A. A bill by Senator Lathrop that appropriates funds to implement LB922. I have an amendment, Senator Lathrop, AM2767.

FOLEY: Senator Lathrop, you're recognized to open on LB922A.

LATHROP: This is just the fiscal or the A bill for LB922. I would appreciate your support of the-- LB922A. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

FOLEY: Thank you, Senator. Senator Lathrop, you're recognized to open on the amendment to the bill.

LATHROP: So they had to make some changes from where the money came from to, to the fiscal note. That's all that the, the amendment does to LB922A. I would appreciate your support of the AM, as well as the underlying bill. Thank you.

FOLEY: Thank you, Senator Lathrop. Any discussion on the amendment to the bill? I see none. Senator Lathrop, you're recognized to close on the amendment. He waives closing. The question before the body is the adoption of the amendment, AM2767. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 34 ayes, 0 nays on the adoption of Senator Lathrop's amendment.

FOLEY: The amendment has been adopted. Any further discussion of the bill as amended? I see none. Senator Lathrop waives closing. The question before the body is the advance of the, the bill LB922A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

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

FOLEY: LB922A advances. We will pause for some items for the record, please.

CLERK: Mr. President, Enrollment and Review reports LB843, LB686, LB1130, LB1130A, LB1150, LB1150A to Select File. It also reports bills [SIC - resolution] LR917, LR1024, LR1173 as correctly engrossed. Finally, an Attorney General's Opinion to Senator Flood (re LB1010). That's all that I have, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Blood would like to recognize 28 fourth graders from Golden Hills Elementary School in Bellevue, Nebraska. Those students are with us in the north balcony. Students please rise so we can welcome you to the Nebraska Legislature [APPLAUSE]. Proceeding on the General, General File 2022. Senator priority bill, Mr. Clerk.

CLERK: LB921, a bill by Senator Lathrop. It's a bill for an act relating to crimes and offenses. It changes where certain sentences of imprisonment are served. Introduced on January 10, referred to Judiciary, the bill was advanced to General File. There are committee amendments, Mr. President.

FOLEY: Senator Lathrop, you're recognized to open on LB921.

LATHROP: Thank you, Mr. President and colleagues. And by the way, thank you for those last couple of votes. I appreciate that. LB921 is a bill that I introduced, and you'll recognize that it's only one digit beyond LB920. That's because I introduced them at the same time. LB921 when originally introduced was sort of my alternative to LB920. I'm going to talk about it a little bit, but when I open on the amendment, you'll see that we are going to replace LB921 as introduced with two substantive bills, and we will remove this-- provisions of LB921 that were originally in the bill that would have people serving time in county jails. So I want to make sure I give some context to what I'm going to say. When LB921 was introduced, I wanted to have sort of a backup plan to LB920. And the backup plan was to take the lower two classes of felonies, the IIIs and the IVs, and have those penalties served in county jails. Now you might ask, why would you do that and what effect would that have on the population and how might that be a solution to the state's overcrowding? If you had the Class IIIs and IVs, the two lower levels of felonies served in county jails, it would have a tremendous impact on two things: our prison system and your county jail. These people would then be doing time in county jails rather than the Department of Corrections. Now, as you might expect, the counties got very, very, very uneasy with this notion of having felons-- IIIs and IVs served in county jail. But we start doing the math on this one. And I'm going to go through it with you, only because we spent a lot of time on corrections and some of you are going to be around next year to work on these issues. And here's an idea worth your consideration: to have IIIs and IVs served in county jails. And by the way, my thought was, take the money we were going to spend on a new prison and share it with the counties and let them expand their capacity. And I have some logic behind this. 40 percent of admissions to the Department of Corrections are for a Class III, IIIa, and a Class IV felony. The average daily population in fiscal year '21 was 5,355 inmates, and 40 percent of that number is 2,142. At the per diem cost-- and this is the nominal cost or the extra cost and not the, the cost divided by the number of inmates-- the nominal cost is \$11,500 an inmate per year. If we transfer 2,142 inmates, the Department would save almost \$25 million in marginal costs-- having these people do their time in county jails. Transferring those inmates to jail would also decrease the average daily population at the Department of Corrections to 3,200. The current design capacity of our prisons-- 3,600. The design capacity will increase to 40-- almost 4,000 in June, when we open up some additional capacity that's currently under construction. So if we passed LB921 or had the IIIs

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

and IVs serve their time in county jail, our prisons would immediately be at 88 percent of capacity. I hope you're following this math because this is impressive math. In June, that number would drop to 79 percent. Nebraska could close the state penitentiary later this year, and the design capacity would drop to 3,242. Our prison population would be at 99 percent of design capacity. According to the most recent budget request, operating costs at the Department of Corrections State Penitentiary is about \$36 million. It would be unnecessary to build a replacement prison. By passing LB921 in its original form, we would not have needed to spend \$270 million to build a new prison. We could have saved up to \$60 million a year. This money could have been distributed to the counties to defray some of the costs of them housing the Class IIIs and IVs. I'm going through that with you because LB920 failed, but next year you're going to have to look for a solution. What do we do with overcrowding? This idea of having IIIs and IVs served in county jail is a meritorious idea. It will be taken out of this bill in the committee amendment that I'll introduce, but I wanted to share this with you so that you understood if we sent the money we're going to spend on prisons to the counties and let them expand their capacity and provide for the operating costs of having the Class IIIs and IVs, two things would happen: the counties would expand their capacity, the state would close the penitentiary and not need to build a new facility, and most importantly, the counties would then have a dog in this fight, because right now the counties have no skin in the game. They simply say, we're going to do what we want over on the law enforcement, prosecutors' side of this equation, and you guys are going to accept these people, and it's your problem to figure out how to pay for it. There is a lot of merit to this. We don't have enough time left in this session to try to hammer that out. And so we have amended this bill to take this provision out, but I hope you're thinking about this as a solution for next year because I believe it has merit. It will incent counties-- it will incentivize counties to look for alternatives to incarceration. It will incentivize counties to have some skin in the game when it comes to incarcerating people convicted of Class IIIs and IVs. If you have questions during the debate that follows on that topic, I'm happy to talk to you about it or answer questions. And with that, we'll go to the committee amendment, Mr. President.

FOLEY: Please proceed.

LATHROP: LB921 was heard in the Judiciary Committee on January 27, 2022. The committee voted 8-0 to amend the bill with AM2503 and voted 7-0 to advance the bill to General File. Let me say that part again.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

AM2503 advanced on a 7-0 vote from the Committee to General File. The amendment removes the provisions of the original bill, the ones I just talked about, and adds revised versions of LB1223, Senator Matt Hansen's bill, and LB952, Senator John Cavanaugh's bill. The provisions of LB1223 seek to address the issue of people that are held in county jails, even though they have been found by a court to be incompetent to stand trial and committed to the Department of Health and Human Services to restore their competency. These provisions are in Sections 1, 3 and 4 of AM2503. Section 1 would require the Department of Health and Human Services to reimburse county jails at the rate of \$100 a day for continuing to house a person that has been committed to the Department as needing to have their competency restored. Section 3 would require the Department of Health and Human Services to reserve 15 percent of capacity at state hospitals for people who have been found incompetent to stand trial. Section 4 would, would create the Legislative Mental Health Care Capacity Strategic Planning Committee to determine how much additional inpatient mental health care is necessary in Nebraska. The provisions of LB952 seek to provide additional enrollment assistance in the medical assistance program for people leaving incarceration. Making sure that people are enrolled when they exit is an important part of helping them obtain mental health care, substance abuse treatment and other resources they may need to successfully reenter the community and avoid returning to incarceration. That's the amendment. To be-- to, to distill it down to its simplest terms, it has a Hansen bill dealing with people waiting to have their competency restored, and a Cavanaugh-- John Cavanaugh bill dealing with getting people enrolled in Medicaid before they leave. It would not apply to them while they're incarcerated, but when they leave jail or the Department of Corrections, they would be enrolled in Medicaid so that they can get the mental health or substance abuse treatment many of them are required to have without some gap where they might get in trouble awaiting enrollment. And with that, I would very much appreciate your support of AM2503. I am happy to answer any questions. And of course, I would appreciate your support of LB921 as well. Thank you.

WILLIAMS: Thank you, Senator Lathrop. Debate is now open. Senator John Cavanaugh, you are recognized.

J. CAVANAUGH: Thank-- thank you, Mr. President. So I rise in support of this amendment in this bill. This is my priority bill this year and I appreciate Chairman Lathrop, Senator Lathrop for bringing this bill, for allowing me to prioritize it and for including my original bill as part of this. So, as amended-- as Senator Lathrop just went through describing what LB921 was originally, but I just want to make sure

everybody understands-- and I know some people got some pushback from their counties. I-- when I prioritized this bill originally, there was a lot of, of people who came and talked to me about the parts they were concerned about. That is no longer in this bill, the parts where the counties are going to be holding the IIIs and IVs-- the lower-level felonies. And Senator Lathrop explained the logic behind why that was a proposed idea and all that. But I just want to make sure everybody understands, that is not what we're talking about here. That's not what we're voting on. This bill is completely different from that at this point. We-- my portion of this bill, as Senator Lathrop just described, was a bill I introduced called LB952, which requires the Department of Health and Human Services to provide Medicaid enrollment assistance to incarcerated individuals prior to their release. The committee amendment allows for the assistance to be provided on site, by phone, or live video conference. The goal is to get all eligible people enrolled in Medicaid when they are released. Access to healthcare is a barrier to reentry. By making sure more people are eligible-- who are eligible for Medicaid as soon as they're released, will not only help the reentry population get back on their feet, but it will also reduce the long-term costs of the state's uncompensated care. LB921 also includes Senator Matt Hansen's LB1223, which contains needed reforms for those awaiting det-- determinations of competency, and I think Senator Hansen will explain that part. But basically, what this does-- and the reason I brought this, we were having a bigger conversation about criminal justice reform, and access to health care has always been one of those things that I say-- access to health care is criminal justice reform. And we had that long conversation-- and I've referenced this many, many times, which is these jails-- the prison population census quarterly population summary that was on the Judiciary Committee page, and you can see the number of people, the recidivism rates and the programming and reentry. And there's a number of programs on here that people undertake that they would be-- benefit from continuing when they get out. And so what my part of AM2503 does-- it doesn't expand eligibility for Medicaid. All it does is make sure that those who are eligible properly fill out the form, get the form reviewed, approved, get their insurance, their Medicaid set up before they walk out of the Pen or a county jail. And the reason that is important is, if individuals-- one-- they might fill it out improperly and not, not get approved for services that they are eligible for; and then we lose contact with them once they're out of, out of the facility. So this is an opportunity to get people signed up while they're in the facility, get them their insurance, get them set up with the next step, which can be residential drug and alcohol treatment. It's something that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

Medicaid can pay for. People will use it for that, and that gets them into that programming after incarceration. We talked about the problems with jamouts, we talked about people wanting, wanting people to do programming when they get out-- this is a bill-- all it does is make sure that individuals have the opportunity to get into the programming that we want them to get into. So it is criminal justice reform. It reduces recidivism which will reduce crime. It'll have a benefit for people in their lives, but-- and it will save the state money in the long run. I handed out this flier that I hope everybody can take a look at--

WILLIAMS: One minute.

J. CAVANAUGH: Thank you, Mr. President. But the one part I would like to draw your attention to the most is 56 percent of incarcerated ind-- Nebraskans have a mental illness. That's in the box there in the middle of this page that I handed out. 56 percent of people who are-- kind of come out of the institutions, the State Pen, need mental health care. And if we can get them set up with Medicaid before they leave, we can get them their meds so they can continue their treatment and progress they've made being medicated, getting their medication and having-- getting back to their life and being successful. This will be a huge help to those individuals and it will be a huge help to reducing recidivism, reducing crime in the long run. And that's why I'm asking for your vote on AM2503, and I'd be happy to answer any questions if people have them about what this bill does and where-- where we're going with it. Thank you.

WILLIAMS: Thank you, Senator Cavanaugh. Senator Arch, you are recognized.

ARCH: Thank you, Mr. President. I, I have some questions about one particular section of the amendment AM2503. And I've had some conversations with Senator Matt Hansen, and I see he is up next in the queue, so I'm assuming he'll also be addressing some of these questions. It is, it is Section 3(2) that talks about the percentages of beds that will be required-- that DHHS maintain for certain, for certain functions. And so if, if Senator-- well, let me say, let me say first of all, that I completely understand with the motivation for this type of a section. I know that there's a lot of frustration regarding the Lincoln Regional Center and the use of beds and the capacity, and the issue was the issue-- I mean, Joint Commission was there. They had ligature issues-- in other words, in other words, opportunity for patients to self-harm. They needed to be corrected. They had to shut down beds. There were staffing issues with everybody,

with pandemic, and so it has not been functioning well and I understand the frustration with that. My concern is now we are moving to something very prescriptive. And my concern, specifically, is the percentages that are listed here, you must maintain 15 percent for this and 15 percent for that, and it can lead to serious inefficiency. Having run a hospital, I would be very concerned that somebody would say, well, those 20 beds have to be used for this, and those 20 beds have to be used for that, because then of course, I have two empty here, and I am full here, and I can't use those because I have to maintain those for capacity, and the inefficiencies and the cost, the additional cost that is a, that is a, an, an outcome of that is obvious. But that being said, I am committed to helping in, in the process here of solving this issue because-- I mentioned previously on another bill that the committee HHS, it has an LR400 for this, for this interim. And the purpose of this resolution is to propose an interim study to examine the Department of Health and Human Services capacity and resources to treat individuals who have been committed to the Department for treatment to restore competency to stand trial. The study should include, but not be limited to, an examination of the current challenges to increasing availability for such treatment. And the Department of Health and Human Services immediate long-term plans for capacity. So recognize the issue. My solution was the interim study on this, and, and I see the language here. So if Senator Hansen would yield to a couple of questions, I'd appreciate that.

WILLIAMS: Senator Matt Hansen, would you yield?

M. HANSEN: Yes, I would.

ARCH: So referring to Section 3(2), it, it refers to state hospitals for the mentally ill. What are those? Is that-- is Norfolk in there? What, what are those?

M. HANSEN: Yes. So it's functionally the Lincoln and Norfolk Regional Center.

ARCH: So it would include the Norfolk Regional Center as well?

M. HANSEN: Yes, that's my understanding.

ARCH: OK. All right. So then, so then with regards to total availability capacity, how were the percentages arrived at?

M. HANSEN: The percentages were arrived at-- we worked with Lancaster-- so I should say in the original bill, we had raw numbers based on 200 that were based on what we thought the operating capacity

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

of just the Lincoln Regional Center was. And these were numbers that we estimated with Lancaster County and I think region five of what they were currently being used as or could be used as. And then-- at the hearing, we-- obviously with the ligature issues, the renovations, we realized there wasn't that many beds, so we switched those numbers from raw numbers to percentages.

ARCH: OK. OK. And like-- as I said, as I said previously, I understand completely the motivation for something like this, because this has been a problem. And, and we heard it in the debate on LB920. Senator Lathrop laid that out very clearly that people are waiting for competency assessments and, and restoring of competency. And so that's certainly what triggered the LR.

WILLIAMS: One minute.

ARCH: So I guess my, my statement here this morning is simply this-- we're, we're, we're coming down to the end of our, of our time here in the Legislature or 60 days. I'm simply asking for an opportunity to have a conversation with you, Senator Hansen, between here and Select, which could be very fast the way this is moving. But, but-- and, and the possibility of proposing some other language that, that maybe we could put into here because as I say, I understand completely the motivation for that. And so I'll be approaching you and hopefully you'll have some willingness to have that discussion with me.

M. HANSEN: I'm absolutely open to that.

ARCH: Thank, thank you. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Arch and Senator Matt Hansen. Senator Matt Hansen, you are recognized.

M. HANSEN: Thank you, Mr. President. And thank you, Senator Arch, for asking me that. I'm going to-- I'll maybe punch in my light and kind of address some of your concerns. I'll do my general opening now. But I'll talk more specifically about those provisions of the future. So as you-- as, as people may know or may remember, about a month ago, Senator Lathrop, right at the end of committee hearings, got up and gave a speech on the floor about a bill that moved him in Judiciary Committee, about the need to have mental healthcare capacity in the state. And it was my bill and a number of you came up and asked me, you know, is that your priority bill? Are you going to move it? Are you going to get to the floor? And I said, I'm going to try. Just to be 100 percent clear, that is this amendment. It is my LB1223. It was

the last bill I introduced, the last bill hearing we had, and it's now in the committee amendment. And what it does is, it does a series of things. It's been mentioned there, but it both tries to-- overall, it addresses the issue and tries to help with the-- primarily with the wait list to get in the Regional Center from people waiting on competency issues in the county jails. So just to lay that process out, competency is an issue where if you don't understand the court case well enough to help yourself, you cannot be brought to trial until you're restored to competency. It's a pretty severe thing. It's a pretty high standard to meet. It basically requires you to not be able to communicate with your defense attorney, not understand who the judge is. Sometimes the people aren't communicative at all. Sometimes they are, you know, in some sort of, hallucinating or otherwise, you know, not very coherent. It's a high standard. It's not--it's not something easy. And as you'll see in this process, it's not necessarily something you want to have happen to you, because it likely leads to you sitting in both the county jail and the Regional Center for an extended amount of time. So when a judge orders competency, and it could be raised by the prosecutor, the defense, or the judge themselves, when a judge raises or orders a competency restoration, by state law, it has to be done by the Department Health and Human Services. For a number of years, it had to be done in a Department of Human-- DHHS facility, which is where the language of the State Hospital for the Mentally Ill comes in. That's the language we've used to refer to the Lincoln Regional Center for a number of years. We have since then, and this has been a prior bill of mine, allowed for some opportunities, for example, for outpatient or contract providers. That's still in its early stages, but if you know, a private hospital wants to have a mental health wing and take cases from DHHS-- but at the end of the day, DHHS is the organization that decides how and where those persons get restored to competency. That's by state law. No one else can do it. The issue we're having is, as has been mentioned, we're really struggling with capacity at a lot of places, including the Lincoln Regional Center. Senator Arch already mentioned it, but there's renovations going on related to ligatures. There's been the same staffing challenges and capacity issues related to staffing as we've seen in other facilities like the Department of Corrections. And so they don't necessarily have the capacity right now to handle the waitlist. So that means that there are people who are in jail, typically in jail, they're arrested. They go to their first hearing and the judge, the prosecutor, the defense attorney, somebody says, this person is not competent or I'm worried they're not competent, we need them to be evaluated. And they get ordered to go to the Regional Center. Well, the problem is, as Senator Lathrop

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

mentioned, that waitlist is often measured-- it's always measured in months, and it's often, sometimes between 90 and 120, maybe 150 days, depending on the time and just-- the year. I think as of the hearing, as of the hearing this year, there were about 77 people on the waitlist and they were averaging about 120 days. So these are people who are supposed to be in state care who are typically waiting in county jails.

WILLIAMS: One minute.

M. HANSEN: Thank you, Mr. President. Which is where the burden coming from, which is where the burden comes from, on the counties. They are basically housing people on a wait list because the state is not stepping up to provide their end of the bargain. So I know I've burned through all of my five minutes. I'm happy to work with Senator Arch and others, but just-- the genesis of this bill is it's been a repeated issue. We've worked with Lancaster County, Douglas counties and NACO. This is a repeated issue that every county sees to some extent where there are people who are being housed in county jails who are not supposed to be there because they're supposed to be in a DHHS either run or contracted place. And this is our most recent attempt to try and provide that wait list and get those people to the places they're supposed to be. So I'll punch my light in again. I definitely have more to say.

WILLIAMS: Thank you, Senator Matt Hansen. Senator McKinney, you are recognized.

McKINNEY: Thank you, Mr. President. I rise in support of LB921 and AM2503. And if Senator Matt Hansen wants time, I'll yield it to him. Thank you.

WILLIAMS: You're yielded 4:45.

M. HANSEN: Perfect. Thank you, and thank you for your courtesy, Senator McKinney. So as I said, so that's kind of the genesis. And as I've referenced, I've brought several bills over the years, some bills we've adopted, some we haven't, that have kind of worked on competency to speed up the issues. We've done some things in court procedure, we've done some things in timing and we've done some things, including allowing both DHHS to, like I said, contract with the outside providers. And I even got a budget bill one year to help DHHS fund that program earlier. But we still have, in general, the wait times. And the issue that we kind of keep getting to-- and more and more people are acknowledging-- and I appreciate Senator Arch mentioning it

and I appreciate the LR I think it's 409. But the interim study looking at capacity is that we, as a state, probably just simply don't have enough inpatient mental healthcare beds for a state our size-- public or private. And that's an issue we see because when we don't have those, it creates these waitlists and it creates people of varying priority jockeying, kind of, for the same treatment and the same thing. So it often ends up with people in the county jails waiting to go somewhere like the Regional Center. So what we tried to do is a variety of things. One is we tried to help the counties by allowing for some sort of reimbursement for people who are on the waitlist because functionally, they should be at a state-run or state-contracted facility, but they're at the county jail because they can't-- they have to be somewhere. And so since it's a state obligation, but they're being at held at the counties, we are reimbursing the counties for days on the waitlist. There's a little bit of grace time that it doesn't start day one. So obviously, in any situation, in a perfect world, there's probably a-- still a few days of transitional time, making sure the beds available, making sure transport is available. We also included competency as a specific item in a list of requirements for the Regional Center. That's bylaw has kind of always been there but hasn't necessarily been included in the section. We also include funding or attempt to have a study for long term mental healthcare capacity in the state. I think the consensus is we're short. And that's something I've known a number of senators have mentioned and talked about. And the last thing that we did, which is the one that Senator Arch mentioned to me, was try to have some sort of minimum percentage of beds available. Because the Lincoln Regional Center, especially in the Norfolk Regional Center, which is a smaller and dedicated largely to one issue, are the main facilities. And we see this where they have to be available for-- let me just put up the whole list. So they have to be available for kind of civil commitments, competency, patients committed by the mental health board and others who are benefitting by need to state hospital. So you can get there through like, a civil health commitment, you can get there through, I believe--yeah, the Mental Health Commitment Act or the Sex Offender Commitment Act. You can get there through one of those acts, you can get there through competency. So you have a lot of people kind of coming to DHHS, and there are two main facilities in Norfolk and Lincoln from a lot of different avenues. And the concern with the counties is, is how those beds are being allocated. And my understanding is, traditionally throughout time, there's been some kind of minimum number that are reserved for various groups, but that number is not official and not-- has been reserved or preserved anywhere. And that's always been kind of more of an informal

negotiation between the regions themselves, between DHHS, and sometimes between the counties. Because really, people coming up through the regions or up through the counties are how people get in to--

WILLIAMS: One minute.

M. HANSEN: --to the Lincoln or Norfolk Regional Center. We attempted to figure out what those numbers are and we have proposed some initial percentages. I'm by no means a capacity expert. I'm no means-- know what is truly out there, so if we have perspective on what could be better or what could fit better, absolutely willing to work on that. Really, the main concern I've been hearing-- and again, I worked primarily with Lincoln and Lancaster Count-- sorry, Lancaster and Douglas Counties on this. The main concern is making sure that there's some sort of minimum number of beds for competency, such that if there's ever push comes to shove and maybe some other group has-- is rising up in terms of need, that these waitlists from the county jails are going to be served at, at least a minimum rate that is known and public. And I believe that's what we've covered in the amendment in-- that is now included in AM2503. Happy to answer questions and I will look forward to debate. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hansen. Senator Pansing Brooks, you are recognized.

PANSING BROOKS: Thank you, Mr. President. So on the last day, again, for Nebraskans that are just tuning in, we get to talk about positive experiences. And we're not given all the time in the world and certainly not enough time to talk about the value and friendship we have made-- that I have made with each of you during my time here with my legislative colleagues. So I'm going to continue this, this-- these talks. I want to talk about Senator Hunt. Senator Hunt, you have been-- you are persistent, brilliant, strong. You're great at extending debate and finding things to talk about when it's-- when we need to take time on an issue. You really have a talent for that. And you are also a great teacher and mentor to the new senators. And I really appreciate that. You have also learned well from your mentor and hero and mine, Senator Ernie Chambers. And I know that he is grateful for your willingness to step up and do so many, so many things in your own way, but with him in mind. And I think that, that Senator Hunt is resilient and wise beyond her years. She is an incredible friend and also a great mentor to me. I've learned so much from Senator Hunt. So she has fabulous Danny Tannenbaum, who's a constituent and a wonderful person, and also her son, Ash, is a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

precious soul who's courageous beyond his years. And that's because of the incredible job parenting that Senator Hunt has done. So Senator Hunt, it has been a true honor to serve the people of Nebraska with you. Thank you. Senator Moser, are you here? Does anybody see Senator-- oh the-- Senator Moser's there. Senator Moser is a quiet leader, but he's always willing to listen. Sometimes the quietest people in the body don't always get to know everybody as well. And I just think that one-- and I, I really have been fortunate in the past year to get to know him and appreciate him more. One of my greatest regrets in this Legislature, and I'm going to hope that you all put pressure on him. One of my greatest regrets is not playing guitar with Senator Moser. I play guitar very poorly. But Senator Moser plays well, and I've even talked to him about doing something at sine die or something together. But unfortunately, politics too often tends to come into the field, and I guess we've decided not to do it. But at some point, friends, I hope you all encourage him to bring his guitar and play for all of you at one of the events when we're all together. He, he's an amazing guy, and he agreed to let me put, put the Social Security amendment on his bill that came up yesterday. It was very kind of him. I was worried that the Social Security part of of Senator Lindstrom's bill was not going to be heard because of the political shenanigans going on. And he agreed to let me put that on his bill, and I'm very grateful. Senator Moser works with people and listens--

WILLIAMS: One minute.

PANSING BROOKS: --and I am grateful, Senator Moser, to serve the people of Nebraska with you. Thank you. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Pansing Brooks. Senator Lathrop, you are recognized.

LATHROP: Thank you, Mr. President. Colleagues, I have four days left and I have spent a lot of time talking about prisons and I've spent a lot of time talking about mental health and the relationship between the two. I want to read an article. It doesn't really deal with competency, but it very much deals with crime and punishment and mental health. On March 11-- I'm going to try to do this quickly because it's kind of a long article. March 11-- The World-Herald posted the following article. The caption is, "Gun Spree at Hy-Vee Results in Prison Term." Reeling from a psychotic break and diagnosed with depression, Jacob Muhle thought the only solution was to kill himself and the method he chose was suicide by cop. After researching mass shootings, Muhle, who at the time was 21, first headed to a school in an attempt to target a populated site. But the date was

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

March 17, 2020, mere days after the Nebraska reported the first case of community spread of COVID-19. The day before, officials at Omaha, Millard, Papillion-La Vista, and Bellevue Districts announced the schools would be closed indefinitely. No one was at school-- at the school Muhle selected, so Muhle headed for the next-busiest nearby site, a Hy-Vee supermarket store near 180th and Q. Chaos ensued as Muhle began firing outside the store. After Muhle entered the store, a 50-year-old Omaha, Omaha man tackled him. An off-duty Omaha deputy police chief then wrestled Muhle's gun away from him. No one was struck by the gunfire thanks to the actions of Tom Wenzl and Deputy Omaha Police Chief Scott Gray, but also, Muhle's attorney argued, because he didn't actually intend to hurt anyone. Douglas-- the Douglas County District Court judge said Thursday she wasn't so sure about that. The court was disturbed by the fact that he had gone to a school prior to this and luckily, the one time you can say for the pandemic, the school was closed. You posed a very high threat of harm to society, to yourself, and I can't find anything to think that this would not happen again. In January, he pled guilty to six felonies, including shooting a gun at an occupied vehicle, terroristic threats, attempts-- attempted assault and firearm use. In exchange for a guilty plea, prosecutors dismissed 5 additional felonies-- so he had 11 felonies. The charges he pled to carried punishment anywhere from 11 to 176 years in prison. Thursday, the judge sentenced him-- Muhle, now 23, to 42 to 64 years. He'll serve 26 years before his eligibility for parole and must be discharged after 37, counting mandatory minimums and the state's good-time law. Muhle already had spent nearly two years behind bars. He declined the opportunity to address the court. The public defender that represented him said a psychologist who evaluated Muhle after he was arrested and diagnosed with autism spectrum disorder, for which he'd never been treated. That, a depression diagnosis, fear of losing his job led him to a desperation that put him in a tailspin, said his public defender. His public defender further said she had discussed with Muhle the option of pursuing an insanity defense, but he rejected that idea. He wanted to take responsibility for what his actions could have done, but just asked the court and the victims to look at Mr. Muhle with some mercy in their hearts and some understanding about his situation. I don't think Mr. Muhle had any intent to harm anybody--

WILLIAMS: One minute.

LATHROP: --or shoot anybody, honestly. I tell you, I know it didn't look that way from a victim's point of view. After the public defender's comments, the bystander that helped take him down told the judge he could tell that Muhle was-- just wanted to die that day. He

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

started-- this is the bystander that helped take him down-- started to weep as he asked the judge for leniency. I ask that you show some empathy towards the situation, said this bystander, Mr. Wenzl. I lay awake at night thinking about him. Muhle had shot two vehicles at the Hy-Vee Pharmacy drive-thru-- one with a father and a daughter inside, and another driven by a grandmother, who later was grateful. Muhle went-- then went inside the store [INAUDIBLE]. The point of this story is --I'm going to-- I don't have much time so I'm going to advance. Wenzl, the bystander guy that was at the sentencing, said he plans to send Muhle his address and give him--

WILLIAMS: Time, Senator. Thank you, Senator Lathrop. Senator Dorn, you are recognized.

DORN: Thank you, Mr. President. Wanted to get up and talk a little bit on the part of this bill that Senator John Cavanaugh has-- the part about getting him to be on Medicaid before they are released or whatever, because a, a story we had in Gage County that happened while I was still on the County Board-- we had a expecting mother that was released. As it stands today, the first 30 days afterwards, Medicaid does not cover them. During that time, she had a baby. There were complications with the baby. In a way to make the story shorter, \$250,000 over that was the amount of that bill because, whatever reasons, it didn't happen before she left the facility. Medicaid didn't cover it and insurance didn't cover it. The county ended up covering that bill or whatever. So I think it's critically important that we have John's part of this bill. So I'll yield the rest of my time to Senator Lathrop if he would like it.

WILLIAMS: Senator Lathrop, you are yielded four minutes.

LATHROP: Thank you for that. I want you to listen to the words of the guy who was a bystander and help take this young man down who went to the sentencing. Listen, this could have been really bad. Really, really bad. Like national news bad. Thank God, it wasn't. Thank God it wasn't, and thank God for the work of the law enforcement guy and this bystander. But when I read this article, I was struck, colleagues, by the fact that we just sent somebody with that kind of mental illness to 26 years at the Department of Corrections, because we have this notion that it's-- we have one solution to everything that happens, and this discussion about the capacity to treat the mentally ill is a very serious, very serious-- and you can look at it from a prison capacity point of view, a fiscal point of view, or you can look at it as us respecting the dignity of people with mental illness. We can't not have the services we need. We can't not have the capacity we need

to provide for these people and then throw them in prison for 26 years when they do, regrettably, exactly what you expect them to do when they go untreated. One of the things we heard, and the reason this bill is on the floor right now, is that when we-- and, and we deal with or talk a lot about the capacity for mental illness treatment in the state over in the Judiciary Committee, you'd think it was just the province of, of HHS. But it's important. It's important in the criminal justice system. Because a third of the people that are incarcerated in our population at the Department of Corrections are on psychotropic medications. When we closed-- when we closed the Regional Centers, when we closed the Regional Centers, we were caught up in a national movement to have people in the least restrictive environment, and that's a good thing. We did the right thing by recognizing that there are some people who were in institutions that didn't need to be there. We closed some and we closed too many, is what we heard. We do not have the capacity at the Regional Center for all the people the state should be taking care of. And as a consequence, our private facilities are now-- their beds are now occupied by people that should be in a state institution. Those people include sex offenders. They include people that need to have their competency restored. And they include the long-term, mentally ill, dangerous people. We need to figure out what our capacity is. This bill will help us do that. We need to figure out what our need is and then we can figure out what our capacity is.

WILLIAMS: One minute.

LATHROP: I struggle. I struggle with HHS coming in on these kind of bills and saying, no, we can't. Here's a huge fiscal note. Don't do this to us. It's important that we take care of these people or they're going to become the next shooter at Hy-Vee or the next shooter at the school. And then we'll spend tens of thousands or hundreds of thousands of dollars incarcerating them and trying to provide them mental healthcare in a prison. This is an important bill, it's why with this amendment, it's why I was willing to essentially hollow out LB921 and fill it with two important policy matters coming out of the Judiciary Committee. Again, I would encourage your your support of AM2503 as well as LB921. Thank you.

WILLIAMS: Thank you, Senator Lathrop and Senator Dorn. Senator John Cavanaugh, you are recognized.

J. CAVANAUGH: Thank you, Mr. President. Well, again, I rise in support of AM2503 and LB921. It sounds-- there's some good questions and conversations going on about this issue and I appreciate what Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

Dorn just spoke about from his experience being on a county board that ended up bearing the cost for medical care for an incarcerated person. And that is a problem that, in the counties, one of the reasons counties are here in favor of this bill now and again support both parts of LB921 because they both help counties meet their obligation and make sure that the state is covering the costs of the state's obligation. But they're also in favor of the part about what Senator Dorn was talking about-- getting people medical care because it will save the counties money in the long run. If we get people set up as they're coming out, and Senator Lathrop just talked about all these-- all the individuals who are incarcerated, who are on medication for mental health issues, and we make sure that they do not have a gap in coverage, do not have a gap in access to their medicine. Because when they are incarcerated, we are providing for them and making sure that they get their medical care. We're responsible for that. And then if we can make sure that they get-- have their insurance coverage that they're eligible for the day they walk out of the, the Penitentiary or the county jail, they will be able to go straight to-- we can, we can get them signed up. One of the things in this bill is that it's 60 days before they're known out date, we need to start working to make sure they get signed up, which means that they'll know they're approved, which means then a social worker or somebody can facilitate to get them set up with a place to transition. So that would be a huge boon for people, for our system, for the individuals who need this kind of help. There will be a huge boon for increasing success rates for people coming out of the Penitentiary and needing to go into treatment because they will be able to have some knowledge about where are they going to go, how are they going to pay for it, what services are going to be available to them before they leave. It'll give more certainty, more options, more programming for people, that's going to achieve the objectives we've talked about for days here that will decrease recidivism, increase positive results. So I don't need to belabor that point, I suppose. I think everybody-- if anybody has any questions again, I'd be happy to answer them or talk through specifics. But this is a good bill. This is a criminal justice reform bill. This is a saving money for local governments bill, which is property tax relief as we all like to talk about. And it's just good policy, so I'd encourage you to vote yes on AM2503, yes on LB921. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Cavanaugh. Senator Arch, you are recognized.

ARCH: Thank you, Mr. President. When I was first on the mike, I talked about one section of the, of the bill that I would, I would like some

consideration of some different language. And I'm--be-- I'll be working on that over the weekend to try to, to try to find some language for the percentages of beds and, and so forth. The, the second section I want to talk about is, is in the amendment-- is on page 5 beginning-- it is, it is sub 4 on page 5, beginning with line 11. It has to do with enrollment of inmates, enrollment of those people incarcerated that, that-- enrollment into Medicaid to make this transition. And I will tell you that I am not in opposition of that concept. I think that helping transition is, is something that is, that is appropriate. Now, now my question has more to do with the implementation of that. So when I compare the two fiscal notes of, of the department as well as, as well as our office-- legislative office, I see quite a discrepancy. So when the department came in and requested resources to do this, they were requesting 70 individuals, 70 staff members, large number. When the fiscal note from our legislative office came out, it was 10, so a reduction from 70 to 10. And, and, and part of the, part of the requests for the large number is is we are not talking just about our, our state facilities, but we were talking about all county facilities as well-- having the ability to enroll within our county facilities as well as in our state facilities. And I guess what I would, what I would propose given-- well, there's another complicating factor here I'll talk about in a second. But given, given this large discrepancy from-- about the resources needed, the people I think that we're talking about are those within our state facilities. Those who have been incarcerated for longer than a year and in some cases, much longer than a year, who are in need of assistance in transitioning back out into, into, into society. And, and the ones in the county facilities, of course, by, by statute, are less than one year. So in some cases, much less than one year where they would transition out quickly and and may not need this type of assistance. So I guess what I'm going to propose, and, and this originally was Senator Morfeld's bill, who's not on the floor today, but what I'm going to propose is that maybe we start with our state facilities. We start with the state, the state incarceration, where we have longer terms more likely in need of that. Now, the reason I'm, the reason I'm going to propose this is because there's a-- there is something on the horizon coming up for the Department that we've had numerous discussions about. And that is when this pandemic is finally done officially, when the emergency is-- from the federal government is done, our state is going to be required to go back and recertify for Medicaid enrollment, meaning that-- what has happened during the pandemic is they have-- that it was-- that they were not allowed to do any recertification. So there was once you certify, once you are enrolled in Medicaid-- we're talking about

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

adults now. Once you're certified you, you must continue without-- and you can't not-- you cannot drop based upon recertification, which is a typical Medicaid program you can. So what they're facing is really recertification for all the, all the Medicaid enrollees. Large task coming up. These are the same people that know Medicaid enrollment that then would be doing-- would be enrolling and, and helping the enrollment process for those people who are incarcerated, who will be, who will be transitioning out. So--

WILLIAMS: One minute.

ARCH: --simple [INAUDIBLE] fact, hiring of those staff, training of those staff, getting everybody up to speed, that is going to be, that is going to be a challenge for the Department. So, so those two things-- I, I do want to have a conversation about the percentages of beds and we can talk about that, and Senator Hansen and I will have that conversation. And then I want to also have the conversation about the possibility of starting just with state facilities with regards to Medicaid and, and really addressing the people who are in most need of this service and, and not including all of the county facilities in that. So with that, Mr. President, I yield the balance of my time. Thank you.

WILLIAMS: Thank you, Senator Arch. Senator Lathrop, you are recognized and this is your third opportunity. You still will have an opportunity to close later.

LATHROP: Very good. Thank you, Mr. President. I've talked about the competency and the mental health component of this bill. It also has a Medicaid enrollment component to this bill. And I want to talk about that because I think it is as important as the mental health piece. For those who are leaving the Department of Corrections-- so we, we talked about people being paroled or on probation, having served a period of time. You cannot be on Medicaid and in a jail facility at the same time. It's a disqualifying event. So as soon as you go in to a county jail and do a stint, I think it's a stint longer than 30 days, or you go into the Department of Corrections, you-- if you were on Medicaid, you're now no longer enrolled. And of course, you can imagine people that go into jail for more than 30 days don't have a job coming out. Oftentimes, they don't, and most of the time they don't have health insurance when they come out. Those folks oftentimes come out with the requirements, so you might go through the Department of Corrections and you're paroled or you're discharged under supervision, and you have a requirement that you participate in some kind of outpatient substance abuse treatment or you may have a

requirement that you participate in some kind of mental health treatment. This, this John Cavanaugh piece of this bill or this amendment basically says that before you are discharged, before you're discharged, HHS needs to get you enrolled if you qualify-- enrolled in Medicaid, not for the period of time you're incarcerated for when you get out. And you can do that 30 days before. And when that doesn't happen, here's, here's the, here's the harm that we're trying to resolve with this amendment. If somebody leaves the Department of Corrections and they have-- they're immediately, they're already enrolled in Medicaid, then they can go from the Department of Corrections to a substance abuse facility. Right? There's Medicaid now that's covered. The person will get the care and treatment they need, whether it's substance abuse or mental health. If they're not and they leave and they talk to their parole officer, the parole officer now has to figure out how to get them enrolled in Medicaid and days or weeks go by. In the meantime, in the meantime, all the temptations and all of the things that are related to either their mental health problems or their substance abuse, those temptations are there. And that's a-- that's like the sweet spot for failure, if you will. And having these people have access to Medicaid on their way out of the facility so that they can get the treatment they need is very important. Even the CJI folks and the people in the study group, this really was a consensus item in that everybody recognized the importance of having folks leaving confinement, enrolled in Medicaid on their way out of the door so that they have access to mental health treatment and substance abuse treatment as they leave, and not with some window of delay that often gives way to the temptations of the street and people's mental health challenges. So that's why the John Cavanaugh component to this bill is, in my estimation, very important, very consequential and very substantive. That, married with the, the work on Senator Hansen's bill dealing with competency, makes this an important bill coming out of the Judiciary Committee. And with that, I would appreciate your support of both the amendment and the underlying bill. Thank you.

WILLIAMS: Thank you, Senator Lathrop. Senator John Cavanaugh, you are recognized and this is your third opportunity.

J. CAVANAUGH: Thank you, Mr. President. I just push my light to get on and clarify a little bit. I talked to Senator Arch about what he was talking about, and we did have an initial fiscal note from HHS that came and testified at the committee hearing in opposition to my original bill, which was LB952 I think at the time, and one of their concerns that they raised was that they thought they would need to hire basically 70 or so employees to facilitate this. And so we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

addressed that concern in the amended bill, which changed it to allow them to-- they don't have to have a person on site. They don't have to, you know, in every county-- I'm trying to think of a small county that has jail like-- well, Gage County I have used as an example before. So they might not have somebody getting out every day or even every week in smaller counties. And so of course it wouldn't make sense to have a full-time person there, and it wouldn't even necessarily make sense for somebody to drive a circuit in certain counties. What we did was say that it could be done onsite by telephone or by live video just to make sure that they could have people doing it out of the office here in Lincoln, and they could just call up, you know, when they know somebody is within the window of release that they're required to fill out under this, which would be 60 days before their release, or somebody is doing six months in a county jail. They would just have to, within the 60 days of release, call down there, have them put them on the phone or do it via Zoom, which all the counties do now have that capability because I know they've used it for court hearings. So they just have to have somebody in the Lincoln office call or the facility itself could call into the Lincoln office and walk the person through filling out the form just to make sure it has all the right information on the right lines and then they submit it and process that form within those 60 days. So it shouldn't really be much more cumbersome. This is something that we should already be doing is processing those forms, and if they're filled out correctly the first time, that will actually bring an efficiency to that side. And then we have the benefit of all the things that Senator Lathrop just talked about that are required and why CJI suggested this and why this getting people on coverage when they're walking out the door is such a good idea. And so it's not-- it should not cost nearly as much. The actual A bill on this is much less than the fiscal note was-- that was submitted. And so we, we did address the concern that HHS brought at the committee. We made the bill give them more flexibility to respond and how they implement this program in a way that would be actually workable because of course, we want this to work. So that is why, why the fiscal note is less-- is, is much higher than the actual cost is going to be in the A bill here. So again, I would encourage everyone's support of AM2503 and LB921. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Cavanaugh. Seeing no one in the queue, Senator Lathrop, you are recognized to close on the Judiciary Committee amendment, AM2503.

LATHROP: Very briefly, I appreciate the conversation, having Senator Arch involved. It will provide an opportunity between General and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

Select for Senator Hansen and Senator Arch to see if they can agree. I got to say I think we need to, I think we need to force the hand of HHS to do something. It is a lumbering agency that isn't nimble and not responsive, and it's time that the counties stop having to bear the brunt of the unwillingness to expand capacity at the Regional Center. This bill is a step forward in that direction. And as I said just a moment ago, Senator John Cavanaugh's piece of this that provides for Medicaid enrollment for the soon-to-be released and returning to our communities is an important piece in trying to prevent or lower our recidivism rates. So I would encourage your support of AM2503 and the underlying bill. Thank you.

WILLIAMS: Thank you, Senator Lathrop. Members, the question is the adoption of AM2503 to LB921. All those in favor vote yes. Those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

CLERK: 39 ayes, 0 nays on the advan-- or adoption of committee amendments.

WILLIAMS: The amendment is adopted. Returning to debate. Seeing no one in the queue, Senator Lathrop, you are recognized to close on LB921.

LATHROP: Very, very quickly. Thank you for that vote. Please move LB921 on to Select File. Thank you.

WILLIAMS: Thank you, Senator Lathrop. Members, the question is the advancement of LB921 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

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

WILLIAMS: LB921 advances. Mr. Clerk for items. Excuse me. We're going to go ahead and do LB921A. Senator Lathrop, you are recognized to open on LB921A.

LATHROP: This is the A bill to the bill we just passed. Please support the A bill and advance LB921A. Thank you.

WILLIAMS: Debate is now open. Seeing no one in the queue, Senator Lathrop, you are recognized to close. Senator Lathrop waives closing. Members, the question is the advancement of LB921A to E&R Initial. All those in favor vote aye; those opposed vote nay. Have all voted that wish? Record, Mr. Clerk.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

WILLIAMS: LB921A advances. Mr. Clerk for items.

CLERK: Mr. President, new resolutions: LR437, Senator Flood, be laid over; Health Committee offers a study resolution (LR438). Senator Hilkemann, LR439; Senator Ben Hansen, LR440, those two will be laid over. Name adds: Senator Murman to LR427; Brandt, LR427. Senator Clements would move to recess the body until 1:00.

WILLIAMS: Members, we are voting on recessing until 1:00. All those in favor say aye. Those opposed say nay. We are in recess till 1:00 p.m.

[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. Please record, Mr. Clerk.

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

WILLIAMS: Do you have any items for the record?

CLERK: Amendments to be printed: Senator Cavanaugh to LB922; Senator Linehan to LB927. That's all that I have, Mr. President.

WILLIAMS: Thank you, Mr. Clerk. We'll return to the afternoon's agenda. General File Speaker Priority Bill, LB661.

CLERK: Mr. President, LB661 is a bill by Senator McDonnell. It's a bill for an act relating to crimes and offenses. It prohibits assault on a public transportation driver; changes and eliminates provisions and penalties relating to offenses involving assault on an officer, emergency responders, certain employees or healthcare professional. Introduced on January 20, referred to the Judiciary Committee. The bill was advanced to General File. The committee amendments were offered and adopted on March 14, I believe. I do have an amendment to the bill, Mr. President.

WILLIAMS: Thank you, Mr. Clerk. Senator McDonnell, would you like to give us a short refresher of LB661?

McDONNELL: Thank you, Mr. President. Good afternoon, colleagues. LB661 proposes to expand the offense of assault to include public transportation drivers. The bill was presented to me by the men and women who drive the buses for the Omaha Metro Area Transit Authority and who belong to the Transport Workers Union Local 223. There have

been numerous instances of horrible assaults on these drivers while in the scope and the basic duties of his or her daily employment. In these examples, there is no provocation. These men and women are simply doing their, their jobs and providing a service to citizens of the community. During the LB661 testimony that was shared before the Judiciary Committee last year, it was noted that these assaults endured by our community transportation drivers occur on a weekly basis without fail. Experiences shared by these individuals included being punched, beaten, spit on, and one driver even encountered an individual on his bus with a hatchet. The men and women who drive buses and provide this service to our community are sitting ducks in their seats. They need to focus on the road and traffic and the pedestrians, all while trying to observe the commuters and activity on their bus. They have their backs to the passenger and have nothing to protect them from should an incident occur. Further, these horrible instances and assaults have taken place for nothing more than a driver requesting a passenger to wear a mask under the mandate; a passenger boarding the bus and refusing to pay \$1.25 fee; and as we heard during the hearing, for absolutely no reason at all. To add even more insult to these assaults, the offenders are rarely, rarely reprimanded or charged for these actions because current penalties are taken lightly and have little teeth for prosecutors to pursue. To go one step further, these drivers do not only endure these encounters on a weekly basis, they must then return to the same spot during the same route on a timely and routine basis throughout each day and week. Perpetrators know precisely where to find them to retaliate. And these common threats are beyond concerning and disheartening when a driver begins his or her shift to start their day. They should not have to feel this level of fear or concern when performing a respectable and important job to provide for their families. Can you even imagine being helplessly beaten while sitting in your seat over a discrepancy of \$1.25? An increase in the penalty for assault on the public transportation driver would send a message to these horrible offenders and actually provide some teeth for prosecutors so the repercussions would be more than a slap on the hand should someone choose to assault one of these men or women during the scope of their daily job duties and requirements. You will note LB661 appears to make numerous changes in the statute. These changes were incorporated at the Bill Drafter's request to clean up this section of the law. The Legislature has added certain professions to this section over the years to include healthcare professionals, first responders, probation officers, police officers, correctional officers, and firefighters. The term "public safety officer" was created to provide a more cohesive section of the statute. AM612 has also been filed to fix a typographical error. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

would like to thank Speaker Hilgers for designating LB661 as a Speaker priority bill. We have a group of people that are being assaulted because of their occupation. We have 99 percent of the people that are using the public transportation system that just want to get from Point A to point B.. We've heard stories that were in the hearings about a driver being assaulted for, for absolutely nothing, a driver being assaulted for trying to get someone again to wear their mask. But we also got phone calls based on people that ride the bus. A person that remembers the story or the incident when she was a child, she got to know the bus driver. She'd ride the bus with their grand-- grandmother. That was the only form of transportation. [RECORDER MALFUNCTION] the bus driver based on the job they do, that's important and show them that they have, they have value and we are going to take their protection seriously. Thank you, Mr. President.

WILLIAMS: Thank you, Senator McDonnell. As the Clerk stated, there are amendments.

CLERK: Mr. President, Senator McKinney would move to amend the bill with AM2772.

WILLIAMS: Senator McKinney, you are recognized to open on AM2772.

McKINNEY: Thank you, Mr. President. AM2772, I'll just read it. So starting at line 4, "A new trial, after a verdict of conviction, may be granted, or the application of the defendant, for any of the following grounds affecting materially his or her substantial rights:" [RECORDER MALFUNCTION] "surprise which ordinary prudence could not have guarded against; (4) The verdict is not sustained by sufficient evidence or is contrary to law; (5) Newly discovered evidence material for the defendant which he or she could not with reasonable diligence have discovered or produced at trial. For the purposes of this" subsection [SIC], "testimony or evidence from a codefendant witness shall be considered newly discovered evidence if: (a) ...codefendant previously had a testimonial or constitutional privilege and, because of such privilege, refused to testify or produce evidence in a prior proceeding; (b) Such codefendant was charged or tried in a separate trial which was severed pursuant to Section 29-2002 at the request of the prosecution; (6) Newly discovered exculpatory DNA or similar forensic testing evidence obtained under the DNA Testing Act; or (7) Error of law occurring at the trial. The changes made to this section by this legislative bill shall apply to all persons, otherwise eligible in accordance with the provisions of this section, whether convicted prior to, on, or subsequent to the effective date of this section." I brought this amendment and I'll be frank. When this-- when

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

LB661 came up, I forget when that happened, like a few weeks ago, I did stand up and oppose it, and I still oppose it. But if I AM2772 gets adopted to LB661, I'll be OK with it. But I will say that the reason why I oppose LB661 is because the police aren't doing their job. The-- the bus, Metro Area Transit or whoever it is, is not doing their job. I don't see no reason why Metro doesn't post posters or signage on, on buses to say if you assault a driver, it is a crime. It's just that simple. A lot of the individuals that ride the bus aren't well off. And from just experience of riding the bus when I was younger, a lot of individuals, not all, deal with, you know, poverty, mental health, substance abuse, and things like that. So I don't see a reason to increase offense for individuals, a good portion of people that are dealing with these type of things. But if we can adopt AM2772 to this bill, I'll live with it. But I really don't necessarily like LB661, but I believe AM2772 would do the trick to neutralize my opposition. And I'm open to any questions. Thank you.

WILLIAMS: Thank you, Senator McKinney. Senator McDonnell, for what reason do you rise?

McDONNELL: Germaneness.

WILLIAMS: Senator McDonnell, you would like to challenge the germaneness of AM2772. Would you please state your reasons?

McDONNELL: The details of the specific subject of LB661 relate to adding public transportation worker to the state's prohibitions of assaults on officers, emergency responders, and healthcare professionals. It does not deal with anyone's constitutional right to trial, retrial, witness, or evidence, which are substantially different subjects. Basically, my part of the bill is dealing with the criminal code, and Senator McKinney is talking about the criminal procedure.

WILLIAMS: Thank you, Senator McDonnell. Senator McKinney, you are recognized. Do you have a counter argument?

McKINNEY: I introduced this because, one, LB661 comes from the Judiciary Committee. And earlier today we had an omnibus bill, omnibus bill that featured different items that if we go through this theory, weren't germane technically. I believe AM2772 is germane and I'll leave it there. Thank you.

WILLIAMS: I would invite both Senator McDonnell and Senator McKinney to come forward. Members, it's the ruling of the Chair that AM2772 is not germane. Senator McKinney, you're recognized

McKINNEY: I move to overrule the Chair.

WILLIAMS: The ruling of the Chair has been challenged. Each member will be allowed to speak once, and you may not yield time to another senator. Senator McKinney, you are recognized to open on your motion to overrule the Chair.

McKINNEY: Thank you, Mr. President. I motion to overrule the Chair because I strongly believe that AM2772 is germane to LB661, and I do believe that it should be attached to this bill. I see no reason why many bills come out of committees that feature multiple items, as we saw earlier today. And if we're going to stand up and, you know, challenge germaneness of bills, why didn't-- why didn't this happen earlier to other bills? I think it's germane. I believe it's germane and that's where I'll leave it. Thank you.

WILLIAMS: Thank you, Senator McKinney. Debate is now open on the motion to overrule the Chair. Senator Jacobson, you are recognized.

JACOBSON: Actually, I was just going to rise to speak in favor of the primary motion of Senator McDonnell, which I'm a cosponsor of. So I'm not really here to speak about the germaneness other than I believe that the Chair's ruling is correct and would urge everyone to confirm the decision of the Chair and urge them to vote in favor of LB661.

WILLIAMS: Members, we are discussing the overruling the Chair issue. If you are in the queue to speak on the bill, we would appreciate if you would remove yourself and stay in the queue if you would like to discuss the issue of overruling the Chair. Senator Erdman, you were in the queue and they-- thank you. Senator John Cavanaugh, you are recognized.

J. CAVANAUGH: Thank you, Mr. President. Well, I was in to speak on the underlying AM2772. But I was sitting here trying to figure out looking at the germaneness question, and I would say that this bill, LB661, does open up Section 29-2221 which is in the criminal procedure section of the statute. And I was trying to find what that section reads as. But if the-- if the bill opens up any part, Senator McKinney's amendment doesn't need to be germane to the entire bill. It just has to be germane to some part of the bill. And since this bill does open up the criminal procedure statute, it clearly would be

germane to that. So Senator McKinney's bill, amendment, AM2772, goes to Section 29-2101 in criminal procedure, and Senator McDonnell's bill opens up 29-2221, which has to do with criminal procedure on determination of the habitual criminal and other aspects of criminal procedure. So the question of germaneness seems pretty clear here that we have a bill that opens up a section of criminal procedure, an amendment that opens up a section of criminal procedure. If we start constraining bills more beyond that, we've had this conversation again the last week on germaneness and we overruled the Chair at that point in time. But if we start saying that amendments can't be brought that address the same section of law that-- and they're not germane, I think that becomes problematic. I would like to speak to the actual amendment. I don't know if we'll get a chance to talk on it. This amendment, I'm in favor of this amendment. I've been in favor of this amendment when it's been on other bills. What it does is it says that if somebody is not able to get testimony at their trial from a codefendant because that codefendant exercised their Fifth Amendment right and then that codefendant subsequently testifies that the first defendant who was tried should be entitled to get a new trial if that codefendant's now testimony would be relevant to their case. And this happens in cases where there are codefendants in-- relevant to a case like this. If there are two people being charged with an assault on a bus driver, those individuals, one-- one could get tried first and say it was self-defense and say that he needs the other person's testimony to say it was self-defense or something along those lines; and the other person say, no, I'm exercising my Fifth Amendment right not to testify. And so then the first person could get convicted because they didn't have the corroborating witness. And then you go to the second trial and that person says, yeah, it was self-defense. And I have the testimony from the other guy from the first trial and that person gets acquitted, the first person should be entitled then to get a trial with that testimony from the person who exercised their Fifth Amendment right. And the distinction here is that people in the past have argued that those defendants would game the system. You cannot game the system in this case because the only reason you get a separate trial is at the request of the state, the prosecutor, if the prosecutor is the one moving to sever the trial. So if they get tried together, you don't have this problem. If you get tried separately at the defendant's request, you don't have this problem. You only get it if the state is the one that seeks to divide the trials and have them tried separately, which is what creates this problem of two separate individuals not being able to have the full-- all of their evidence adduced at trial. So it is relevant to this particular case because it can-- it opens up the same section of law. The fact pattern that this

addresses could actually come up in the scenario set out by this bill. And it is an important piece of legislation, small but very critical correction to our evidence.

WILLIAMS: One minute.

J. CAVANAUGH: Wow. I've only been talking for four minutes. It feels longer. I'm sure you guys all feel the same. So that-- so that's why I think this is important. I think this is relevant. I think that it's pretty clearly when you open up a section of statute, it doesn't have to be germane to every section in the bill. Senator McDonnell's bill opens up 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, at least 10 separate sections. One of them that I can see here is in Section 29, which is the criminal procedure statute. Senator McKinney's amendment opens up the criminal procedure statute so clearly germane. And again, it's just a good idea that we should adopt. And as Senator McKinney said, that that would help alleviate his concerns about this underlying bill. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Cavanaugh. Senator Slama, you are recognized.

SLAMA: Came up just about a turn quicker than I thought I would. So thank you very much, Mr. President. I rise opposed to the overruling the Chair motion in support of Senator McDonnell's challenge to the germaneness. I think that Senator McKinney's amendment is, in fact, a very narrowly tailored bill, and that is exactly what plays against it in its germaneness here. If we're arguing that any amendment that opens up Chapter 29 is going to be germane in bills moving forward, we're talking about anything to do with any kind of criminal procedure being germane to being attached to any other bill that opens that Chapter 29, which is extremely, extremely broad. So I think that Senator McKinney's very narrow amendment very clearly does not fall within the scope of Senator McDonnell's bill. It revises AM-- Section 29-2101. Senator McDonnell only has one reference to Chapter 29 in his underlying bill, and that is an entirely different part of that section. So I am very concerned if we overrule the Chair here what kind of consequences we're going to have is trickle down consequences of this. Because if we're going to operate under the assumption that any Chapter 29 criminal procedure amendment is germane to anything else that deals with criminal procedure, anything with any kind of criminal penalty can be amended into any bill. So with that argument, I rise in full opposition of overruling the Chair and in support of Senator McDonnell's bill. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Slama. Senator Matt Hansen, you are recognized. Senator Matt Hansen waives. Senator Machaela Cavanaugh, you are recognized. Senator Machaela Cavanaugh waives. Senator Hunt, you are recognized.

HUNT: Thank you, Mr. President. I agree with points that have been made by Senator McKinney and Senator John Cavanaugh. And this is another one of those cases where I'm afraid that something partisan is going on when we're talking about an amendment to a bill that for some reason, it's just-- it's just kind of one faction of people that don't support this. When we're talking about a bill that has a criminal penalty and then we want to introduce an amendment to do something to affect that criminal penalty, I think there is a germaneness argument. And I would also like to speak to the amendment, given that I may not have the opportunity if-- if we do not overrule the Chair. I, I support, of course, our transportation workers and don't think that anybody should be assaulted. I'm glad that we already have a lot of penalties and, you know, laws around assault already. And my concern is that this isn't the intent of the bill, but that this is the kind of legislation that contributes to the racial disparity that we have in our carceral system, in prosecution, in punishment, and in imprisonment. This bill will help increase our prison numbers and also it will increase the disproportional amount of people in color in prison. This law applies to people who ride buses. Who in Nebraska rides the bus? First, people who live in Omaha and also in Lincoln, because in rural Nebraska, there are no bus services at all. So rural Nebraskans, which is primarily white people, will not be exposed to this crime. People who ride the buses regularly will be exposed to these felonies, and that will be poor people and people of color who largely are the people who ride the bus in Omaha and Lincoln. These people are the ones who will be exposed to this felony prosecution. Any sort of incident or confrontation that they might have due to any issue, you know, mental illness, addiction, poverty, whatever it is that's contributing to their mindset. Now, if they have an incident, they could have a felony on their record. So that would be regardless to the level of injury or harm that they caused the driver. I also think that this will kind of disproportionately impact the mentally ill. And I also want to raise the concern that bus drivers are not the same as law enforcement. They aren't the same as police. This bill elevates the status of bus drivers to the same level of protection for police, and proponents have talked about the hazards that bus drivers face, and some of the incidents that they describe are definitely terrible. They're definitely of concern. But those things that they've described are already criminal acts. And if the injury is significant

and it involves a weapon, then that is a felony assault already. So what this bill does is it increases the penalties arbitrarily, and it will put bus drivers on par with police officers as protected victims. And there are different risks involved with being a law enforcement officer and being a Metro bus driver, and the obligation that we have with what law enforcement has the power to do impacts what we do to protect them. Generally, I'm against broadening the criminal code and increasing felony crimes. I think that AM2772 from Senator McKinney will improve this bill because it will improve our carceral system--

WILLIAMS: One minute.

HUNT: --which LB661 will be expanding. That's clear. So to me, the germaneness is completely clear. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hunt. Senator Lathrop, you are recognized.

LATHROP: Thank you, Mr. President and colleagues. When it comes to these kind of motions, I think we're talking about, I think it's important that we think about the institution. It's important that we think about the institution. The first time when I came back and we had one of these things come up, I made this point and I'm going to make it again, which is this decision to vote for or against, with or overrule the Chair shouldn't be based upon where you want this bill to go, how you want it to go. I think this is one of those things where you step back from your own fight and you try to figure out what the right thing to do is. Because if we start gaming germaneness and saying I think it's germane because I like the idea, and we're going to get more of that over the next three days, do these both deal with criminal law in a broader sense? They do. One deals with crime and punishment. The other deals with criminal procedure. When I was in law school, we had two different classes. One was on crime and punishment. The other was on criminal procedure. I will say it's not in the black and white. It's not in the black and white. But I also feel like this is important that we-- we not fudge when we're trying to interpret our rules. I got to tell you that the Chair, I think, has made a reasonable interpretation. I don't know that there's-- that it is so clearly germane or that it falls into germane where we ought to be overruling the Chair on this. And-- and I will tell you, I, as long as I'm here and interpreting this rule and trying to-- trying to make a decision about what we ought to do and where we ought to land on things like this, I think this is where we step back from our own interests and in the bill or the amendment and try to call this one independent of our other interests. And when I do that as best I can,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

I think this is probably the germaneness objection and the ruling are in order. Thank you.

WILLIAMS: Thank you, Senator Lathrop. Seeing no one else in the queue, Senator McKinney, you are recognized to close on your motion to overrule the Chair.

McKINNEY: Thank you, Mr. President. I would like a call of the house. Thank you.

WILLIAMS: Record, Mr. Clerk.

CLERK: 22 ayes, 5 nays to place the house under call, Mr. President.

WILLIAMS: 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 McKinney, would you like to begin your close?

McKINNEY: Sure. I guess I'll continue the conversation on LB661 as the people get here. The problem with the bill is that we're trying to increase penalties when it's already a penalty to assault a bus driver. The problem that was found in the hearing in talking to bus drivers, their employer doesn't do enough to help them and the police don't do anything to help them either. So I really don't understand the philosophy to increase a crime when the police currently aren't doing their job. It doesn't make any sense. And then another thing is we're adding-- we're trying to-- trying to add felonies when we already have an overcrowded criminal justice system as it is. And then the other issue is if we increase a penalty and it has a negative impact and it increases our population, there will be a thousand people in the Rotunda and in the Judiciary Committee stopping me or anyone else that tries to decrease this penalty. We have to think about that when we attempt to raise penalties. It's hard to go back from it because you'll have county attorneys and police saying, no, no, no, no, you cannot take this away. I feel for the bus drivers. I don't think they should be assaulted, but I also-- and I'm not in support of raising penalties, especially when their employer and the police and the county attorneys aren't doing their job. And on the issue of germaneness, I mean, it deals with a section, but we're going to say it's so narrow that it can't deal with that section. And, you know, since we're working under that philosophy, I hope going forward this session or any other that when anyone attempts to attach an amendment and only deal-- and it's narrow or not narrow, and the bill

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

that they're trying to attach to only deals with one section that the Chair said it's not germane since we're setting precedent here or it's already here. So I'm glad that it's being ruled not germane because now we have a clear picture. And when anyone attempts to do this going forward, it should be an easy case to say it's not germane. So I thank the Chair for overruling me and set-- setting a standard for-- for this session and any session going forward. But, you know, since AM2772 probably won't get attached, I'll just spend my time talking about how LB661 is not needed in the state of Nebraska. Thank you.

WILLIAMS: Thank you, Senator McKinney. Members, the motion we are voting on takes a majority of those present. The motion will require 21 votes to be adopted. The motion will require 21 votes to be adopted. The question is the adoption of the motion to overrule the Chair. There has been a request for a roll call vote in reverse order.

CLERK: Senator Wishart not voting, Senator Williams voting no. Senator Wayne. Senator Walz voting no. Senator Vargas not voting. Senator Stinner. I'm sorry, Senator. Thank you, voting no. Senator Slama voting no. Senator Sanders. Senator Pansing Brooks not voting. Senator Pahls. Senator Murman voting no. Senator Moser voting no. Senator Morfeld. Senator McKinney voting yes. Senator McDonnell voting no. Senator McCollister not voting. Senator Lowe voting no. Senator Linehan. Senator Lindstrom voting no. Senator Lathrop voting no. Senator Kolterman, voting no. Senator Jacobson voting no. Senator Hunt voting yes. Senator Hughes voting no. Senator Hilkemann voting no. Senator Hilgers voting no. Senator Matt Hansen voting yes. Senator Ben Hansen. Senator Halloran voting no. Senator Gragert voting no. Senator Geist. Senator Friesen voting no. Senator Flood voting no. Senator Erdman voting no. Senator Dorn voting no. Senator DeBoer voting no. Senator Day not voting. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Sir John Cavanaugh voting no. Senator Brieese voting no. Senator Brewer voting no. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar. Senator Blood voting no. Senator Arch. Senator Albrecht voting no. Senator Aguilar voting no. 4 ayes, 31 nays on the motion to overrule the Chair.

WILLIAMS: The motion to overrule the Chair is not adopted. Moving back on to the bill. We'll raise the call. And, Mr. Clerk, you have a motion.

CLERK: I do, Mr. President. Senator McKinney would move to bracket legis-- I'm sorry, Machaela Cavanaugh, excuse me, would move to bracket the bill until April 20.

WILLIAMS: Senator Machaela Cavanaugh, you are recognized to open on your bracket motion.

M. CAVANAUGH: Thank you, Mr. President. Senator DeBoer and I have oftentimes been mistaken for one another. I think that's the first time I've been mistaken for Senator McKinney. So this bill has been something that has given me a lot of concern over the years. As Senator McKinney said in his closing just a few minutes ago, that this is already a crime and so creating an enhanced penalty is not going to prevent these crimes from happening. It's just going to clog up our justice system even further. And I think that the one theme that I have taken away from the session so far is the imperative need to do the opposite: to do more, to provide supports to the people that are part of the system and not to create more opportunities for penalties. And oftentimes, when people are in that position where they're attacking somebody, a bus driver, they are mentally ill and they need help and services, not enhanced penalties. So I hope that we can just move on from this and to whatever else is on the agenda. But I just wanted to say that, and I'll yield the remainder of my time to Senator McKinney.

WILLIAMS: Senator McKinney, you're yielded 8:30.

McKINNEY: Thank you, Mr. President. So now we're on LB661, a bill that I oppose because as I stated prior, it creates a offense that isn't needed. Currently if you assault a bus driver, that is a felony. The problem and why the bus drivers feel like this bill is needed is because the police and the county attorneys and their employer doesn't do anything to help them. And our state has a history of increasing penalties and also having an unwillingness to decrease those penalties once it's found that those increased penalties are problematic. And we need to really think about that because it's hard to go back on increase penalty, as the case with, you know, LB63 that was passed and filled up our prisons with people with gun possessions. I just don't understand why anyone would think there's a need for this bill. Tell the police, the county attorneys, and the bus drivers' employer to do their jobs. Post something inside the buses that says it's a-- it's a crime already to assault a bus driver. Simple. Tell the police to follow up on leads once the bus driver reports these issues. Simple. But that's not happening. And because it's not happening, we have this bill which isn't needed. No one wants to do criminal justice reform in the state of Nebraska, but we want to increase penalties, which would probably disproportionately affect individuals that are in poverty deal with substance abuse and mental health issues. And once they're locked up because we're overcrowded, they can't get the help they need

to deal with the substance abuse issue, deal with the mental health issue. Having a felony and getting release, it's hard to get a job. So we're going to criminalize people that are living in poverty. With this penalty, they get a felony, get convicted, get out, get a \$100 check, go to apply for a job. And no, Mr. John Doe, I'm not going to hire you because you have a felony on your record. So that individual is going to potentially stay in poverty for a long time until somebody gives them a chance. And as you all should know, having a felony on your record is not marketable. It's no way-- there's no other way you can frame it. Jobs don't like hiring people with felonies. I know we're passing a bill this year to create an incentive for them to do so. But if they were already doing it, we wouldn't need to create an incentive. We focus on being so punitive that we overlook things in a society. It's already a penalty. You don't need to increase it. And we can't be blind with being so punitive and saying people are criminals and in all the other words people like to use, and then 10 years from now, there's a article in a World-Herald from Henry Cordes, LB661 passed by the Nebraska State Legislature in 2022 increased the amount of people that are serving time in our-- in our jails. And guess what? In 10 years, we'll have to build another prison because of something like this, just hypothetically it's possible, something you have to think about. You can't be blind just to be blind because you want to be punitive and help your cop friends out who don't do their jobs, who look at people in those situations as not human. This is why this bill shouldn't pass. I don't know if there's an argument that could convince me when it's already a crime to assault a bus driver. Then we'll start with bus drivers. Then it'll be Uber drivers, Lyft drivers, the trolley driver after Mutual gets done with their project. It's just going to be everybody. If Senator Morfeld's idea for a high-speed rail between Lincoln and Omaha, it's going to be them too. But are we thinking or are we being shortsighted? That's something we should think about. And there is no-- there is no willingness to pass any meaningful reforms in this state to alleviate the overcrowding crisis. So why are we trying to increase penalties, make it make sense? I don't understand. In a state that is number one or top three most overcrowded in this country, we want to keep increasing penalties to criminalize individuals that ride the bus. How does that make sense? I'm not saying bus drivers should be assaulted because they shouldn't. They should be able to do their job and not be spit on and hit. But we also have to think about things in a holistic perspective. It is already a penalty to assault a bus driver. Tell the police and the county attorneys to do their job. Tell their employer to do their job and assist with helping them. I've seen in other states they have barriers up and all other type of things. Why can't we do that? It

doesn't-- we do not need to increase a penalty because people won't do their job and then we don't even want to pass reforms and people don't even want to vote for bills that alleviate the overcrowding crisis. But the same people want to pass bills like this. Be consistent, please. Well, I guess you are being consistent. You don't want to let people out, but you want to keep people in and put more people in so I guess you are being consistent. And that's the problem. Too many people want to create the illusion that they're tough on crime and we're helping out the bus drivers and whoever else because it's a great thing to do. I'll feel good when I go to sleep at night, but they don't think about the people who potentially will get a felony that are living in poverty, dealing with mental health issues, not being able to get employment and being on the streets.

WILLIAMS: One minute.

McKINNEY: Who's going to help them? So we really have to think when, when we do things like this, and I would hope you all will vote no or red when-- if we do get to a vote on LB661 because it's not needed. Thank you.

WILLIAMS: Thank you, Senator McKinney and Senator Cavanaugh. Senator John Cavanaugh, you are recognized.

J. CAVANAUGH: Thank you, Mr. President. So if you noted I voted against the germaneness after having spoken in favor of it, and so I wanted to get up and explain. So I listened to, well, I was in the queue originally to talk on that amendment because I wanted-- I was in favor of that amendment and I wanted to speak on it, and I was happy to see that Senator McKinney had brought it and was looking forward to a discussion on that particular amendment because I feel strongly that that is something we should do. And so I wasn't quite ready for the germaneness conversation, and I looked quickly at the bill and I looked at the amendment, saw they had the same section. And so, you know, that's where I went. But then I listened to what Senator Slama said and to-- you know, I'm going to give her credit, she convinced me that she was right and I was wrong. So let it not be said that Senator Slama never convinced me of anything. And then I also listened to Senator Lathrop, and I thought, well, yeah, he had a good point of why I-- I was thinking of, you know, I wanted to debate that, that issue and have that be up there and perhaps didn't quite think of it in the light that, you know, you should objectively view things. So I appreciate that advice from Senator Lathrop as well. So that's-- I just thought people being that I voted differently than I said I was going to, I wanted to explain that to folks. So I was sitting here and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

I read the germaneness, well, rule again, and I went and looked at it. And I I do think that that was the right-- that ultimately I did vote the right way voting red on the germaneness question, though I did, I would like to debate and talk about that amendment because it is an amendment that would have if we were to adopt it, and we've had a debate about it a couple of times before. But essentially there are people who are sitting in prisons for any number of reasons. But there are people sitting in prisons who we know there is evidence out there that they are not guilty of the crime for which they are sitting in prison. And that amendment, though not germane to this bill, was-- would have created an avenue for newly discovered evidence, being evidence that was discovered after or became available after the trial, would then entitle somebody to a new trial. We already have mechanisms for that. The problem in the particular situation, as laid out and that bill is, is to address is the court has interpreted that evidence as available, so not newly discovered it was available at the time because the other person was called to testify and they exercised their Fifth Amendment, so it was technically available. It's different than finding some sort of new evidence, finding a weapon, finding an article of clothing, some sort of physical piece of evidence after the trial that then gets introduced, gets tested and finds that you've got DNA for somebody else. That, that is newly discovered evidence. This is-- this is newly discovered but available evidence at the time. So this would address that and say that is a circumstance under which the person who was tried before that evidence was actually available because it was the person refused to give that testimony, that would enable you to a new trial. And in this particular-- there is a particular case where someone is sitting in prison because a codefendant was tried after them and refused to testify at their trial. The codefendant was acquitted of a homicide under self-defense, they testified at their own trial, got acquitted on self-defense. The first person was convicted as an accessory to a homicide that was found to not have happened, to be an act of self-defense. So a person is sitting in prison as an accessory to not a crime at this point. And there is ev-- there's evidence available that was not available at the trial that should have-- should entitle them to a new trial that would--

WILLIAMS: One minute.

J. CAVANAUGH: --would be adduced, could have been adduced at a subsequent trial but they were not allowed to because of the nature of the statute here. And so that's what Senator McKinney's amendment did. It would have allowed for that particular situation and other such situations in a very narrow, narrowly constrained fashion to be

entitled to a new trial. And that's actually the thing that Senator Slama got me-- convinced me on when she said it's a very narrowly tailored amendment and that opens up a very small particular section of the law, only one section. And Senator McDonnell's just touches the other-- another section in the same chapter that is unrelated to the section that Senator McKinney opened up. And so that was where Senator Slama convinced me. So I would like-- obviously would have liked to have voted on that, would like us to adopt that amendment. And hopefully we'll find some opportunity to bring it up. And if we don't, we'll bring it as a bill again next session and we can have that debate at that time. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Cavanaugh. Senator McDonnell, you are recognized.

McDONNELL: Thank you, Mr. President. This bill originated based on people coming to me and telling me their stories about being assaulted. They're the victims. They're the victims. They're not the people committing the crimes. They are the victims. So I want you to picture coming to work every day. And as you walk through the Rotunda a couple of times a week, someone in this group will be spit on, have coffee thrown on them, will be struck. Was that OK? Now the only reason these people are being assaulted is because of their occupation. That is it. They're just driving the bus. So I think sometimes we picture the bus being empty. There's no one on the bus. So John Doe goes up and assaults the bus driver. No, there's a potential where you have a number of people that have to use the bus every day for their transportation, and now they're witnessing the bus driver being assaulted. Of course, the bus driver is going to try to stop the bus as soon as possible, because these are the stories I've heard. And as they're seat belted in, literally a sitting duck, they're being assaulted. They've got all those people there. Let's say it just makes them 10, 15 minutes late for work. Or possibly he can't, she, the bus driver can't control the bus. And now these people's lives are definitely in danger. It's because of their occupation they're being assaulted. It's not because of, just because they were walking down the street, had an argument with another citizen. So we've already recognized as a state for healthcare professionals, for first responders that if they are assaulted, then we're going to have a higher penalty for that. We talk about people that actually are assaulting those bus drivers. And I know it's been brought up and it's factual that there's X percent of them that possibly have a mental health issue and they do need help. And the bus drivers that came to me recognize that and they brought it up. And then there's just some people that are just mean and cruel. And now as, remember, as you walk

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

through the Rotunda every day at 9:00, you leave for lunch, you come back, they know where you're at, just like the bus driver. So these individuals that have assaulted them before have not been held to a higher standard know what time they start, what route they're on, when they're going to stop, and they have another chance. Now think about living with that as the employee. Every day you're going to work and you wonder, is John Doe coming back? Is that person coming back at my 3:00 p.m. stop to assault me or just scare the hell out of me? Just threaten me this time because they got away with it and they weren't held to a higher standard. Again, this is about the victims. This is about letting those people know that we show value to them based on the work they do for public transportation; that we as the Legislature value the work, respect them and want to do everything we can to make sure they are protected. Thank you, Mr. President.

WILLIAMS: Thank you, Senator McDonnell. Senator McKinney, you are recognized.

McKINNEY: Thank you, Mr. President. I still oppose LB661 and if I had to walk in the Rotunda and somebody was going to attack me, I would just slam them. But we'll leave it there. We don't need this. We really don't. Bus drivers are not the same as police. This bill elevates status protection for bus drivers to the same level of protection for police. Proponents will talk about the hazards that bus drivers face, and some of the instances described are of concern. First, those things are criminal acts currently. And if the injury is a significant one or if the assault involves a weapon, then that is a felony assault already. What the bill does do is increase-- is to increase penalties arbitrarily. It will put bus drivers on par with police officers as far as protected victims and no disrespect to bus drivers. But there is a difference in risks associated with police and Metro drivers and the obligation that we have with what law enforcement has the power to do or how we should protect them. Law enforcement officers are trained in de-escalation techniques. With respect to training, law enforcement officers must be certified with 20-plus hours of ongoing training for years. Police are trained and working with people in mental health crisis. Police are armed with lethal and nonlethal tools to address risks to themselves. Then we talk about the mentally ill and we want to give them felonies, just like we want to give people that have drug addictions felonies or will keep charging them with felonies. I don't understand that philosophy. If I'm on drugs and I'm strung, strung out, you want to give me a felony to try to punish me for being addicted to a drug. What if somebody accidentally slipped a drug into something I was drinking or eating and I become addicted and I'm a victim? You're still going to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

give me a felony. Think about that. Imagine watching one of your family members killed in front of you. And because there's a lack of, you know, trauma counseling in areas like north Omaha, you deal with those issues and you live in poverty and you got to ride the bus and one day is just not your day. I get a felony for being failed by society. That's what's going to happen here, and we're not thinking about that. We just want to be heroes today, and we want to keep raising penalties and not pass criminal justice reform. That's what we're doing in this body. That's what this bill does, raises a penalty, but we can't pass criminal justice reform because it's not OK. Well, guess what? This is not OK, either, so we could keep going. I have no problem standing up all day doing this because I'm opposed to this. I'm opposed to raising penalties, especially penalties that will disproportionately affect individuals that live in poverty, deal with mental health issues and substance abuse issues. We stand up and say we care about these people, but then we want to penalize them for dealing with these issues. Make it make sense. Please. I'm open to it. Then we keep saying the, the catch phrase victim, victim, victim, victim, victim, victim, victim, victim. Why? To try to rile people up to have some type of guilt? That's all it does. But what about the guilt of not helping somebody that witnessed her family member assaulted. Or what if they were assaulted as a kid and deal with that trauma every day and they live in poverty and just not doing well, can't afford their medication and riding a bus and just have--

WILLIAMS: One minute.

McKINNEY: --a bad day? We're going to give them a felony and say, oh, we're going to lock you up in a State Pen because we decided not to help you as a state. That's what's going to happen here. And no disrespect to the bus drivers; but tell the police, the county attorneys, and their employer to do their job. Thank you.

WILLIAMS: Thank you, Senator McKinney. Senator Friesen, you are recognized.

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

WILLIAMS: Senator McDonnell, would you yield?

McDONNELL: Yes.

FRIESEN: So, Senator McDonnell, in your bill and I was just scanning through it quickly, but it looks to me like they're like a healthcare

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

professional. They're all covered by this, a bus driver, but it's just while they're on duty. Is that correct?

McDONNELL: Yes.

FRIESEN: So if the bus driver is punched out walking to his car in the parking lot and somebody assaults him there, this doesn't apply.

McDONNELL: Yes.

FRIESEN: So I-- OK, thank you, Senator McDonnell. And this is where I'm having a little bit of problem. And I guess this is maybe, maybe I'm kind of agreeing with Senator McKinney. But I just feel that if you take even a EMT who you got volunteer fire departments out there and we're going out, I don't think I've ever supported this because you're sometimes going out in areas where you're going to be dealing with a combative patient, maybe, and you might get assaulted. Does that mean a felony now? Those are the questions, kind of, I worry about a little bit. And again, if, if, if assault is wrong, it's just as wrong when that bus driver is walking to his car as it is while he's sitting in the bus. I, I don't like people that just go around assaulting somebody for the fun of it. It's a-- whether it's in a position of their job or whether they're just walking back to their car to go home, to me, an assault is an assault and the penalty should be the same. And if it needs to be increased, then let's increase it. But to say that, you know, criminals are going to say, well, OK, I can't assault you while you're on the bus, I'll wait for you in the parking lot, and then it won't be as big a crime when I beat the crap out of you, I'm failing to see, I guess, what we're trying to accomplish here, because maybe you need to put a sign in 14 different languages on the bus saying that please don't hit the bus driver while he's on duty. Do it later. Again, let's teach people not to assault the bus driver. Let's, let's make sure there's no repeat offenders. Let's-- I'm-- we're carving out, to me, too many different professions and people for different enhanced penalties or-- and it goes against kind of what Senator Lathrop has always been trying to do here is to let's make things a little bit more uniform. Let's not send more people to prison on technicalities, whether or not they're assaulting the driver while he's in the bus or if he's going home to work. We make this a little more complicated, I think, than we need to make it. And I don't think I'm going to support LB661. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Friesen. Members, Senator Clements would like to introduce 25 fourth-grade students from Messiah Lutheran

School here in Lincoln, Nebraska. They are seated in the north balcony. If you would please rise and be recognized by your Nebraska Legislature. Returning to debate, Senator Machaela Cavanaugh, you are recognized.

M. CAVANAUGH: Thank you, Mr. President, colleagues. I apologize. I'm kind of starting to lose my voice, probably because I haven't used it enough. Just kidding. So I don't support this bill for a lot of the same reasons that Senator Friesen was just speaking about, enhancing a crime only under a specific circumstance. And that circumstance isn't being who you're committing the crime against. It does not sit well with me. The crime is the crime. The punishment is the punishment and creating special exemptions, and I know we already have them, but I wasn't here when those happened either, so I wouldn't have agreed to that at that time. I understand the desire to make sure that those who are-- who are working every day and in services to the people need protection. But penalizing mentally ill people is not how we're going to get there. No person who is either strung out on drugs or having a serious mental crisis and goes after somebody on a bus, they're not going to take into account that the crime is even-- the penalties are even bigger because the person is working as a bus driver as opposed to if they just follow them once they got off the bus and then assaulted them. There's-- that's not how that kind of situation works. The only time in which that might come into account is if somebody is planning proactively and it's not happening in the moment, which is like a whole nother level of issues. But most assaults that happen on a bus are not something that's been planned out. It is the heat of the moment, something that's happening at that moment in time, not that the person is purposely going after that specific bus driver. And so that to me, just doesn't make sense. And I am very concerned about continually criminalizing behavioral health issues. When somebody assaults a bus driver for whatever reason, they are probably in desperate need of help, whether it's they didn't have the money to get on the bus or they are on drugs, then they clearly have problems or they have a mental impairment that they need help. They-- that's-- they need help. And I would really encourage this body to, to reframe your thinking about crime and punishment. I know that there's been a lot of talk about it specifically this week, and I never really felt like people who opposed sentencing reform took the time to think about crime and punishment in any other way than this very puritanical punish, punish, punish and that's the best thing to do in these situations. And it's not. So many times we hear stories about-- these are almost always when a young woman is sexually assaulted by a young

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

man. And the judge will either lower the crime or dismiss it because they don't want to ruin the young man's life. He made a bad choice.

WILLIAMS: One minute.

M. CAVANAUGH: Now I find that as a-- as a woman, extraordinarily frustrating, but at the same time, I'm like, OK, well, then let's take that attitude and apply it equally. Look at the person in front of you and what? What are you-- what can you do to, to save them from the cycle? And things like this are not going to save anybody from the cycle, and they're not going to bring back or undo bruises and broken nose and cut lips for the bus driver. They're just going to help perpetuate the cycle more. And I don't think that's what any of us want. We certainly know it's going to cost us all a lot more money if we do that. And I hope that you all will join me in not moving this bill forward. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Cavanaugh. Senator Erdman, you are recognized.

ERDMAN: Thank you, Mr. President. You know it, it never ceases to amaze me how we talk about the perpetrator and never talk about what it means to the victim. So maybe what we need to do is have those bus drivers identify as a dog and then they won't beat on them because it's illegal to beat up a dog. We spend more time here protecting animals and talking about what we do to animals than we do people. There is no reason. Well, maybe there is. There is no reason to put a sign inside of a bus that says it is a crime to beat up the bus driver. Because what if these people getting on the bus can't read? What does that do for them? It is a crime to beat people up. You don't need a sign. You don't need to put up a sign that says, hey, by the way, it's-- it's a crime if you beat the bus driver up. Think about that. Someone would stand up and say, we need a sign that says it's a crime to beat up the bus driver. It amazes me what we stand up and say here on the floor. It's a crime to beat anybody up. Why do you need a sign? Senator McDonnell, I'm supporting LB661. But maybe you should include they should be treated just like animals, like dogs and cats, and maybe they'd get more protection and more respect. These people are there to serve the public. Whether you're poor, whether-- whatever your situation is does not give you a right to beat up somebody. I don't know where we get it in society that we can't increase the penalty here. OK. It may affect somebody's life. What about the driver? Does it affect his life, knock his teeth out or whatever? Is that-- is that appropriate? Oh, I didn't know. I didn't know it was illegal to beat the driver up. There was no sign that said it was

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

illegal. So I thought it was OK. What kind of defense is that? So, Senator McDonnell, what they've done to you with this motion here, they've effectively killed your bill. They've effectively killed your bill. So there have been numerous times that I have said this body has turned into what I call junior high student council. And when I was in junior high, we had more respect for each other than this body does. We have a few hours left. Thank God, just a few hours. I haven't written my sine die motion yet, but I very well may today. It's phenomenal what we do here. I bet people at home are watching and saying, hey, did you know it was illegal to beat somebody up and needed a sign to tell you that? No, I didn't know that. Oh, yeah, it is. Legislature just passed a law said put a sign up says it's illegal to beat up somebody. OK. I'll get it. So you go into Wal-Mart and the sign says--

WILLIAMS: One minute.

ERDMAN: --express item is 10 items. So they put up two hands, 10 for people who can't read. What is this? Senator McDonnell, I'm sorry. You should have had an opportunity to have a fair and thorough debate on your bill. It doesn't look like it's going to happen. Thank you.

WILLIAMS: Thank you, Senator Erdman. Senator Hunt, you are recognized.

HUNT: Thank you, Mr. President. It's hard to vote against this bill because I have met personally with transportation workers; and I have talked face to face more than 5 times, maybe 10 times, with different transportation service workers who talked about harassment or assault that they experienced on the job as a bus driver. I've also spoken to a lot of food service workers who have experienced a lot of harassment and assault on the job, especially during COVID, when we have the mask mandate, things like that. I've "talken" to-- "talken"-- I've talked to a lot of lawmakers who have experienced harassment and assault. And I just think in terms of criminal justice, the solution to a mean world isn't going to be turning more people into felons. This is one of those things where I can sympathize with the victims and I can sympathize absolutely with people who go through this, but it doesn't mean that we need a new law. Senator McDonnell said, you know, how would you feel if somebody came into the Capitol and assaulted you or harassed you? Well, they already do. They already do. It happens in every field, in every job, in every industry, and it's already illegal. It's already illegal and we already have recourse for those kinds of things. And just because you're a jerk and you're a criminal and you're breaking the law and you're assaulting someone, whatever it is, harassing somebody, whatever it is, it doesn't necessarily mean

that you also deserve to be a felon. That's just my view. Yeah, I think this is just one of those things where we don't need a new law. I've spoken to advocates for this bill also over the years about the sign question. I think it's a good question. I've been in buses all over the world in different cities where they do have a standard placard up that says something like, you know, under statute, blah blah code, whatever, any assault or harassment of a bus driver is punishable by x, y, z. Lots of buses have this type of thing all over the world. And while this doesn't, you know, deter every crime, I do think it does something culturally to kind of remind people that it is a crime. And I do think there's value in that. When you're sitting on a bus and, you know, what do you do when you sit on the bus, when you sit on a train? I wonder when the last time was that some of you sat on a bus or a train. I have not been on the bus in Omaha for a long time, but last weekend I was on the bus a lot in Chicago, where I went to visit a couple of friends. And you sit on the bus for a long time and you can look at your phone or you can read, you can do, you know, crossword puzzle, which I do a lot of. But another thing you do on the bus is you look around and you read things on the bus. There's advertisements, there's signs, and there is a sign in the bus that says-- in, in another city, not here-- but there's a sign in the bus that says, you know, assault of a bus driver is punishable with x, y, z. And you sit and look at it and you think, oh, I wonder if that's ever happened? I wonder how frequently that happens. I wonder if anyone in here would ever assault a bus driver. You know, your mind just goes when you're sitting in the bus and you're going through this. And do signs work? No. But also does increasing the penalty of a crime--

WILLIAMS: One minute.

HUNT: --when people didn't even know the original penalty of the crime, does that work to deter them either? No, it doesn't. It just fills up our prisons more. I also want to point out when we're talking about criminal justice, it's the same people that were opposed to LB920 and commonsense criminal justice reforms that are supporting LB661 to make more criminals. At some point, colleagues, we have to say, you know, I'm sorry that bad things happen to you. It's already a crime. Please pursue, you know, legal avenues for recourse that already exist. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Hunt. Senator McDonnell, you are recognized.

McDONNELL: Thank you, Mr. President. So back to the bus drivers that are, are being assaulted and the idea that over the years, talking about first responders and healthcare providers and why we raised the level of the penalty. And if you-- if you think about and some of this was in testimony, some was just in conversation and about the bus drivers and how they're distracted, how they're responsible for those people's lives that they're, they're transporting. Also, the idea that they-- the value that we show as a society for the work they're doing and different than an individual. An individual walking down the street and there's an argument and there's an assault between those two people, still a hundred percent wrong. But at the same time, we're looking at the people that are driving the bus that are responsible for those people trying to get them to their destination. And now they're being assaulted just because they're doing their job. And they come to us, and this is frustrating based on some of the information, the texts, and the questions I'm getting from them right now based on the idea that we asked them to do this job. They came to us and said, OK, how do we-- how can you help us? So I don't know if there's anyone in this room that hasn't met with the Transportation Workers Union 223 or a representative from there. And they go, we don't-- we don't understand that. We had 36 senators that committed to support this legislation. And there's 49 of you and cloture is 33. And now I'm trying to explain to them, it's timing. We are-- we are running out of-- we are running out of time. It's not that those senators that committed to you, I don't believe, have changed their position. Not that I've gone back and talked to every one of them, I just don't believe they have. I believe they still support these, these transportation workers and trying to make sure that they know that we are here to try to, to help them and the important, important work they, they do. You know, assault is the intentional and knowing-- knowingly causing seriously-- serious bodily injury. I just-- I just can't get over the idea that as we talked about earlier, we forget about the victim based on the bus driver. And that's what-- it's going to be very hard to continue to explain to them that we're not. But at the same time, we've talked about some mental health issues and they recognize that. That's who told me about the people that have assaulted them some. But then there's just people that are cruel and they'd like to intimidate those, those bus drivers for no apparent reason except cruelty. But it's not just the bus driver now. It's the idea of the people on the bus, the people that they're transporting, and also knowing that they have a routine. They know they're going to be at certain stops at certain times. The person that is actually assaulting them and possibly harassing them before they assault them, they know their schedule. And we have to do something. And I believe

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

all 49 of us want to do something, even though we know 36 believe this is the right step to help those bus drivers. So I want to make sure the Transportation Workers Union 223 understands that I am not giving up on helping them. I don't believe this body will give up on helping them. I believe we will continue to work towards making their occupation as safe--

HUGHES: One minute.

McDONNELL: --as possible while they, they serve the citizens of their community. Thank you, Mr. President.

HUGHES: Thank you, Senator McDonnell. Mr. Clerk for items.

CLERK: I do, Mr. President. Your Committee on Enrollment and Review reports the following bills as correctly engrossed: LB917A, 12-- or LB1024A, excuse me, and LB800, 1162 and 11-- actually LB1102, excuse me, LB1102, (also LB1102A) all of those reported correctly engrossed. Amendments: Senator Day, LB888; Senator John Cavanaugh, LB921; Senator Flood, LB709. I have resolutions: LR441 by the Health and Human Services Committee. It'll be laid over. I have LR442 and LR443-- LR442 and LR443 by Senator Erdman. And those will be laid over as well, Mr. President. That's all that I have. Mr. President, thank you.

HUGHES: Thank you, Mr. Clerk. Colleagues, pursuant to our agenda, we will now proceed to the 2:30 item, LB709. Mr. Clerk.

CLERK: LB709 is a bill offered by Senator McCollister. Its bill for an act relating to Occupational Board Reform Act; changes provisions relating to preliminary applications by individuals with a criminal conviction. Introduced on January 5 of this year, at that time referred to the Government Committee, advanced to General File. There are committee amendments, Mr. President.

HUGHES: Thank you, Mr. Clerk. Senator McCollister, you're welcome to open on LB709.

McCOLLISTER: Thank you, Mr. President. I'd like to start by thanking Senator Briese, Senator Brewer, McDonnell, and all of their staff for their help on this bill and the subsequent committee amendment. I'd also like to thank the Platte Institute and everyone in the lobby for being open to me-- with me to discuss the merits of LB709. LB709 grew out of the interim study, LR191, conducted last fall. LR191 was brought to me by a coalition of organizations, including the Justice Center of the Council of State Governments, as a part of what they refer to as their Fair Chance Licensing effort. LB709 was advanced

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

from committee on a 7-0-1 vote. Fair Chance license-- Licensing movement recognizes four main principles. First, that almost a quarter of all jobs nationwide, including Nebraska, require some sort of state license. Secondly, that many people with criminal records are excluded from occupational licensing, which seems to be merely continued punishment for sentences they have already been completed. Third, a good job and hope for a positive future may be one of the best predictors for whether a person will recidivate and contribute to prison overcrowding. And fourth, many states, including Nebraska, have major workforce shortage issues that could be helped by making it easier for people who have or wish to earn the skills for a licensed occupation to receive that license. LB709 seeks to amend the provisions found in the Occupational Board Reform Act. LB299 overwhelmingly passed by this body in 2018 into a more all-inclusive list of best practices. The bill outlines how licensing boards may handle applications for a license from an individual with a criminal record. Licensure in Nebraska today can be overly punitively focused and does not always appropriately allow for an individual freedom from mistakes that they have made years past. The bill takes a more rehabilitative approach to licensure by requiring that only past mistakes directly related to the specific license an individual's applying for are considered. It is also important to note that receiving a license does not guarantee an individual employment nor does this bill prevent a prospective employer from conducting a full background check on a licensed individual prior to extending an offer to them of employment. Another key element of the bill is removing a licensing board's ability to deny a license based on vague, subjective terms like good moral character or moral turpitude. The board's ability to nine at-- deny an application in this manner allows for abuses of a board's main power and gives them room to deny an individual with any criminal offenses on their record. Over the course of this bill's life, my office has heard concerns from several licensing boards and state agencies, including worry that some elements of this bill might put their board in conflict with several federal laws. Considering this, we included language in the committee amendment to make it clear that Occupational Board Reform Act shall not supersede federal law and accordingly, those groups are outside the scope of the bill. There's also a question raised regarding whether or not LB709 is applicable to liquor licenses. Though an individual is listed on a liquor license, it's my understanding that a liquor license is not considered an occupational license, so these licenses should also fall away from the scope of the provisions of LB709. Finally, I want to stress that the purpose of licensing is not to protect industry. The purpose of licensing is to protect the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

public. Public safety is maintained through allowing each board to designate disqualifying offenses that relate to the specific license an individual applied for. LB709 does not remove a board's ability to rescind a license for cause and is simply intending to allow an individual see-- seeking a license freedom from denial based upon insignificant or unrelated offenses, for example, a DUI from eight years prior. This bill would give qualified individuals a better opportunity to receive an occupational license in Nebraska, despite irrelevant legal issues that in no way affect their ability to perform their desired occupation. With that, I would ask Senator Brewer to open on the committee amendment. Thank you, Mr. President.

HUGHES: Thank you, Senator McCollister. As the Clerk stated, there are committee amendments from the Government, Military and Veterans Affairs Committee. Senator Brewer, as Chair of that committee, you're welcome to open on AM1936.

BREWER: Thank you, Mr. President. The Government Committee-- Government Committee had a hearing on LB709 on February 3. There were 11 testifiers. Most of them were in support. We had one in the neutral and one opposition. My staff have worked with Senator McCollister, Senator Briese, the Platte Institute, ACLU, the Institute for Justice, unions, and many others on this bill. Our committee amendments make changes to LB709 based on those conversations. The committee amendment also adds two other bills: Senator Briese's LB263, which provides standards and rules for transferring an occupational license to Nebraska, and Senator McCollister's LB1153, which changes the membership of the State Electoral Board. These packages were voted out of the Government Committee, 7 in favor, 1 present not voting. I support this bill because I believe that it gives opportunity for individuals, the opportunity for hard work. Whether it's a person moving to Nebraska or a person with a criminal record that wants to work, this bill helps them. The government bureaucracy that gets in the way is a hindrance for those individuals. We do have to protect the public safety, but this is a good balance. But we also have to make sure it's easier for people to come to Nebraska to work hard and to provide for their families. I think that the amendments in this package strike that balance. We have a lot of job listings and opportunities in Nebraska. This bill helps fill those. If we're going to grow Nebraska, we need to let folks work. I encourage a green vote on AM1936 and on LB709. Thank you, Mr. President.

HUGHES: Thank you, Senator Brewer. Senator-- Senator Lowe.

LOWE: I'd like to divide the question.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

HUGHES: There's been a request to divide the question. Senator, please describe how you would like to divide the amendment. Could I have Senator Brewer, Senator McCollister, Senator Briese, and Senator Lowe approach, please. Colleagues, the Chair rules the amendment is divisible. Mr. Clerk, would you please explain the division to the members of the body?

CLERK: Mr. President, pursuant to your order for the division, there will be two components of the committee amendments, AM2787 and AM2786. Based on Senator McCollister and Brewer's conversation, we'll discuss AM2787 which is-- so this is I think what we're characterizing as the balance of the committee amendments. Does that make sense, Senator Brewer, to you?

BREWER: But I guess the question I have is specifically on that AM, which bill is in that?

CLERK: I-- that's--

BREWER: Oh. So to answer that then, LB263 and LB1153 would be the two elements on the AM?

CLERK: I believe that's right, Senator, based on what I'm hearing from.

BREWER: All right. Why don't we begin with Senator Briese on LB263?

HUGHES: Senator Briese, you're welcome to open on AM2787.

BRIESE: Thank you, Mr. President, and thank you, Chairman Brewer. First, like to thank Senator McCollister, Chairman Brewer, and his fellow members of the Government, Military and Veterans Affairs Committee for their hard work on this concept and packaging this together to try to get some things across the finish line that could really benefit Nebraskans, that can really help us in our efforts to grow our state, expand our workforce, and move our state forward. As Senator Brewer probably indicated, most of the provisions of this amendment, AM2787, reflect what was in my LB263, and so I'm generally going to speak to the portions relative to LB263 and the concept in there. Generally, that portion of the amendment would require a licensing board in Nebraska to issue a license or certification to an applicant from another state if the applicant holds a license from the other state, which has a similar scope of practice, and if they held it for a year. And I'll talk more about the specifics later. But, you know, who are we talking about here? We're talking about a professor in another state that gets a job at UNK, comes to Nebraska or wants to

come to Nebraska. But their spouse is reluctant to jump from their home state because they'd have to spend months or even years jumping through hoops, retaking training, and getting certified all over again, just to be able to do the exact same job in Nebraska that they were doing in their home state. So that family decides not to come here. We're talking about a high income programmer for Google who's working from home and decides he wants to live someplace a little less traffic than Mountain View, California. Now you say he can work from anywhere, but in reality, he can only work from home in a state where his wife is able to work. There's very few families who consider making a move if both folks in the household are not able to find work in their home state. And that really is the intent of LB263, to facilitate those types of movement, so encourage people to come here, make their homes in Nebraska, join our workforce. We're trying to grow Nebraska, grow our workforce, grow our population and say, hey, Nebraska is open for business. We want you here. We want to be a place where someone can work almost any job without having to spend six months or a year or two years jumping through needless hoops, earning no income, and rehashing training for a job they've been doing for years. These provisions would allow someone who is credentialed to do a job in another state to do that job in Nebraska if certain conditions are met. The-- under the terms of AM2787, the occupational board will issue a license or certification to an applicant if that person holds a license or certification in another state or who holds a military occupational specialty, which has a similar scope of practice as determined by the occupational board for that occupation. And that really is the key, a similar scope of practice, as determined by our board. Person also has to have held their license or certification for at least a year; the board in the other state required them to pass an examination or meet educational training or experience standards; and if the applicant doesn't have a disqualifying criminal record and if the applicant hasn't had adverse action taken against them, like revocation of their credentials or voluntary surrender of their credentials. Not all states require licensure for all occupations, and Nebraska's licensing boards would also be able to license or grant certificates in Nebraska to those who come from a nonlicensing state if the applicant can demonstrate three years of experience practicing in a scope of practice again, that would be comparable to Nebraska's licensed occupation. This bill really acknowledges that if licensed professionals in two different states have similar scopes of practice, then it makes sense that on-the-job experience after licensing in another state probably levels out any differences in hours of training or differences in testing. And note that an occupational board can require an applicant to take a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

jurisprudential exam if the certification in Nebraska otherwise requires a person to pass such an exam. And these provisions do not prevent the state from entering into a reciprocity agreement. And it's not to conflict with other provisions of statute. And an applicant can appeal an adverse decision pursuant to the APA. And there certainly are exceptions contained in the bill. These would be occupations regulated by the Supreme Court, occupations regulated by the State Electrical Board, occupations regulated by the Nebraska Commission on Law Enforcement, credentials issued for CPAs, and many categories, if not all, of banking and insurance in the banking and insurance industry. And those in the banking insurance industry already have a system in place allowing them to come to Nebraska and practice through a series of nonresident licensing provisions. And furthermore, banking really has a significant federal component to it. This bill allows Nebraskans to recognize that those people who are building roads, seeing patients, cutting hair, running electricity in new buildings in other states are qualified to do the same thing here. So what this royal-- really boils down to, is the scope of practice similar? And again, that decision will be left up to the licensing board, and I would-- I would offer that we can trust our licensing board to make those decisions responsibly and with accuracy. And I would note that South Dakota, Iowa, Missouri, Kansas, and Colorado have enacted similar legislation. In doing so, they're saying, we want you here. And I don't think Nebraska wants to shackle itself and allow these residents to compare us to our neighboring state, saying, well, I think my spouse can get the job there without jumping through the hoops. That's where we're headed. So I think this really is legislation that can move our state forward, bring residents to our state, and grow our state's economy. And everywhere we turn, we hear we have a workforce crisis. This truly is a concept that can help us overcome that crisis. And with that, I think I'm going to yield. I believe Senator McDonnell will refer to some provisions in this amendment relative to the Electrical Board and some provisions that are going to be specific to licensures in the electrical industry. Thank you, Mr. President.

HUGHES: Senator McDonnell, 2:55.

McDONNELL: Thank you, Mr. President. Thank you, Senator Briese. I want to thank everyone that, that worked on this with Senator Briese and Senator McCollister, Senator Brewer, and all of our staffs. As Senator Briese was mentioning about the Electrical Board and the members of IBEW 22 and IBEW 265 International Brotherhood of Electrical Workers, the work they put in to try to come up with a fair compromise and just to go over the Electrical Board: will maintain seven members' replace

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

the at-large position on the board with a second journeyman electrician; require that one of the two journeymen be affiliated with a labor union; require that the electrical contractor or master electrician be affiliated with the labor union; ensure none of these changes will remove any board members and will take effect at the expiration of a current board membership. So that was-- that was some work to make sure that both management and unions were-- were represented. It was a fair, fair compromise. And again, I want to thank everyone that participated in, in working on this and show that you really, truly can come to the-- to the middle and find some, some agreeable terms and language that we could all move forward with. Thank you, Mr. President.

HUGHES: Thank you, Senator Briese and Senator McDonnell. Mr. Clerk.

CLERK: Well, Mr. President, I have amendments to this component. Senator Brewer was the first, AM2171. Senator, I understand you wish to withdraw.

BREWER: Yes, sir.

CLERK: Thank you, Senator. Senator Flood, AM2521, a similar note that you'd like to withdraw that. That's what he told me, so. Then, Mr. President, the first amendment to this component of the committee amendment, Senator Hilkemann, AM2248.

HUGHES: Senator Hilkemann, you're welcome to open on AM2248.

HILKEMANN: Thank you, Mr. President. Today I am offering amendment, think there's just been a change on that number, AM2248, which will amend this committee amendment. My amendment adds a portion of the committee amendment that contains LB263, which pertains to the uniform license recognition. My amendment will add an exemption for a license under the Uniform Credentialing Act when that licensing board already issues licenses based on reciprocity. For most health professions, if you have a license in another state, you can get a license in Nebraska based on the licensing board's power of discretion. Now, these reciprocity arrangements are deliberately negotiated and considered by the licensing board and for the health and safety of Nebraskans who rely on expertise by the Nebraska license and what it implies. This is incredibly important to the healthcare-related fields included under the Uniform Credentialing Act. My amendment, my amendment would maintain the board's involvement in evaluating what is and-- what is appropriate to grant a reciprocal license and retain the important health and safety protections included with such board's involvement.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

This amendment, I think, is in keeping with the spirit of this bill and allowing for a license by reciprocity. And I ask for your green vote. Thank you, Mr. President.

HUGHES: Thank you, Senator Hilkemann. Debate is now open on AM2248. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. That was a long wait. I was the first one up. I appreciate that. You know, dividing the question then has brought the issue as to how, how we vote on these. Seems like towards the end, we always try to push several things together that probably wouldn't have made it otherwise. So it's kind of interesting how to decide to vote. I want to tell you a story, and maybe this will help you understand how you should vote. There was a couple that was getting married and they were in front of the preacher and the preacher asked, as they normally do, said to the husband, to the future husband, do you take this woman for richer, for poorer, for better or for worse? And he hesitated and he finally said, yes, no, yes, no. And I think that's how we should vote on this bill. Maybe yes, no, yes, no. I'm not sure. I'm going to listen to the debate, but I can tell you this that the other portion and some portion of this bill has an opportunity for us to prevent employers from going back and researching someone's background to a certain number of years. And I think we need to be very careful about that. And so when we get to that portion, that amendment, whichever one that is, I'll be a no on that one. But I think the one that Senator Briese described makes sense and perhaps the one Senator Hilkemann has makes sense as well. But this happens every year. Every year towards the end, everybody is scrambling to get one of their bills attached to something. And so we wind up putting amendments on something that looks germane and I'm not challenging the germaneness. I'm just saying that's what we do. And so here we are at 2:57:30 p.m. and at 4:30, we're going to move on to the other agenda items, and this will be dead if it doesn't-- if it isn't resolved by 4:30. So that's the issue we find ourselves in. That's what happened to Senator McDonnell's bill about an hour ago. It ran out of time. And so that very well may happen here. When I seen the agenda this morning, I thought that we would make it through this agenda before we ever got to 4:30. But I forgot about all the amendments that people want to put on bills trying to resurrect a bill that they have would have been dead. So I'll continue to listen. But it looks to me like, yes, no, yes, no is a pretty good answer. Thank you.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

BRIESE: Thank you, Mr. President. I certainly appreciate Senator Hilkemann's comments, and he told me this amendment was going to be put on here, I think it's probably the same as what you had on-- had filed earlier. And Senator Hilkemann, would you yield to a couple of questions, please?

HUGHES: Senator Hilkemann, will you yield?

HILKEMANN: Yes, I will.

BRIESE: Very good. Thank you. And so your amendment would exempt out-- do I see basically the professions under the UCA, the Uniform Credentialing Act? Correct?

HILKEMANN: That's correct.

BRIESE: And that would be roughly 35 professions, give or take?

HILKEMANN: Give or take, yes.

BRIESE: OK. Do you feel that takes away substantially from the intent of this bill or the effectiveness of this bill?

HILKEMANN: Yes, I do. I think we need to protect the reciprocity.

BRIESE: Yes, and I agree with you there. I think it does take away. Thank you, Senator Hilkemann. I think I agree with you that, yes, it does take away from the intent and the effectiveness of this bill. And a couple of things that, you know, again, I respect Senator Hilkemann, and I know he's always coming from the right place. But here, some of the things that were said, you know, Senator Hilkemann suggested, well, exempting those out will help maintain the board's involvement. But under the terms of these provisions in AM2787, the board will be deeply involved in this because they're going to have to determine if that person coming from that other state, if they were involved in something that has a similar scope of practice and that board will make that determination. So the board will have substantial control and authority in how this works. And I think it was also suggested, well, this is important to health and safety. Would Senator Murman yield to a question?

HUGHES: Senator Murman, will you yield?

MURMAN: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

BRIESE: Thank you, Senator Murman. Senator Murman, last year did you introduce LB390?

MURMAN: Yes, I did.

BRIESE: Yes. And in LB390, it's my understanding that we, I shouldn't say relax, but maybe for lack of a better term, relax the licensing requirement for various healthcare occupations.

MURMAN: Yes. During the pandemic, the Governor took off some of the-- or at least allowed it easier for some health care, many health care professionals to move into the state because of the pandemic. And that worked out very well, and the bill LB390 was to continue that way for health care professionals to be more easily credentialed in Nebraska.

BRIESE: OK, and thank you, Senator Murman. And it was really in response to a need for workers in that industry, correct, Senator Murman? Sorry.

MURMAN: Yes, it was.

BRIESE: OK. Thank you. Appreciate it. And so, you know, the statement that this exception to AM2787 found in AM2248 is important to health and safety. Well, I think last year when almost all of us voted in support of LB390, I think we had the health and safety of our residents in mind then also when we made some exceptions to our licensing of health care professionals. So I think we do maintain health and safety under this, under the provisions of AM2787. And going back to LB390, we did that, Senator Murman said in response to a need for workers in the health care industry. What's my understanding, we still have a need for workers in the health care industry.

HUGHES: One minute.

BRIESE: And in fact, we have a-- thank you, Mr. President. And in fact, we have a workforce crisis in this state. Go out there and talk to folks from the Chamber. Talk to anybody, go back to your hometowns, go back to my home town where the local Subway is not even open on Sunday because they don't have workers back there. We have a workforce crisis in this state, and provisions like are found in AM2787 can help us address the workforce crisis while still maintaining, enhancing and promoting public safety for Nebraskans. Thank you, Mr. President.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

WILLIAMS: Thank you, Mr. President. And I appreciate all the work that's been done in this area. Certainly, the workforce shortage that Senator Briese is talking about is real. It's there across all sectors. Certainly the medical and the teaching professions are some that we hear about a lot here. Sitting on HHS, we have heard a lot of the concerns about the licensing issues that have come to us, and those are things that we need to work on and continue to solve. I am confused right now and I will just tell you, I am confused. I am confused by the, by LB263 and what Senator Briese has brought and what Senator Hilkemann has brought in an attempt to use the consistency of the licensing boards that are there now and how those will work in conjunction with that. And in looking at them, to me and hearing the comments before Senator Briese just talked, I thought that was maybe even a friendly amendment that would fix some things there, and I clearly see now that's not an amendment that Senator Briese is, is looking forward to seeing up there. So, Senator Briese, would you yield to a question?

HUGHES: Senator Briese, will you yield?

BRIESE: Yes.

WILLIAMS: Thank you, Senator Briese. Can you explain again that-- I'm trying to understand why having the boards involved under, under Senator Hilkemann's amendment substantially change what you're trying to accomplish in, in LB263?

BRIESE: Well, great question, but AM2248 would exempt out about 35 different professions. I shouldn't say professions, different occupations from the provisions of AM2787. And as I read the UCA 38-129.02, this section provides an additional method of issuing a credential based on reciprocity. OK, if we're basing on reciprocity, it seems to me that we have to have a reciprocity agreement with another state and we don't have reciprocity agreements with every state relative to all those professions. That, that would be the first concern there.

WILLIAMS: OK.

BRIESE: And that would be, I guess, that would be the main concern there. And as I look at the language of 38-129.02, it seems to be more restrictive than what we're dealing with here. They have the ability based on the recommendation of the board to determine the appropriate level of credential, but they're not comparing under that. They would not be comparing scope of practice to determine whether that scope of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

practice is similar and then grant a, grant a license or credential accordingly. They're saying, well, we're going to look at it and if things, basically they're giving quite a bit of discretion there in determining the appropriate level of the credential that's the language of the statute.

WILLIAMS: So your concern, would it be fair to say, you're concerned about the broadness of the ability of the, the board's involvement with that decision compared to the restrictiveness of your position?

BRIESE: Well, they, they are overly restrictive relative to what we're doing here. I think we can accomplish more with these provisions than what is found in 38-129.02 and we can do it in a way that still protects public safety. The board will have an ample amount of discretion in determining whether the scope of practice is similar enough.

WILLIAMS: OK.

BRIESE: But again, I think one of the real keys here is the reciprocity provisions that I see there. And this, as I read 38-129.02, it's based upon reciprocity--

HUGHES: One minute.

BRIESE: --and we don't have reciprocity with every state relative to these occupations.

WILLIAMS: On those agreements.

BRIESE: Yeah.

WILLIAMS: Thank you, Senator Briese. Senator Hilkemann, would you yield?

HUGHES: Senator Hilkemann, will you yield?

HILKEMANN: Yes.

WILLIAMS: Senator Hilkemann, I was a little bit surprised at your answer to the question that Senator Briese posed when, when he was on the microphone that he thought your bill did, made a substantial change to his bill. Do you look at what your amendment does as being substantial?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

HILKEMANN: Yes. But what we accomplished last-- well, what they accomplished, I wasn't. I was the one vote against that particular bill last year on it because I, I do not like weakening our credentialing processes for our professional health, professional, professions. And I basically what I see this bill that, that we're talking about today basically undoes the bill that we did last year.

HUGHES: Time, Senator.

WILLIAMS: Thank you, Mr. President.

HUGHES: Thank you, Senator Williams, Senator Briese and Senator Hilkemann. Senator Hilkemann, you're next in the queue.

HILKEMANN: Thank you, Mr. President. Yeah, I, when I look at this, last year when this bill was talked about, I asked Senator Arch the question, well, where was medicine on this? And he said, oh, they were excluded. And if you'll remember, I came up with the amendment and one of the professions that was not excluded was podiatry and that was an amendment that we added that, that my profession got us through. There were other professions that were also in that health care that we talked about, that we tried to get. And, and at either rate, that's where we were. If I look at this bill that we're looking at today, we are basically undoing what was done with that particular bill last year. I think it's very important that we not weaken our credentialing boards. Every state has, has reciprocity standards for their licensing boards. And I think the argument was, do we have one with each and every state? I think that, that every board has reciprocity standards and so, so they don't have to have that with necessarily every state. If you meet those requirements of reciprocity that, that, that's what's important as far as, if they're going to have the same standards that we have by these different licensing boards that we're, we're dealing with. I just think it's very important for the professions. It's important for the, for public health that we have standards that, that every state establishes those standards. And, and there's reasons that, that, that, that these boards exist. And if you like to listen to podcasts, sometimes you want to hear a very interesting podcast, listen to one called Dr. Death. It's the story of Christopher Duntsch, and this is an individual who has impeccable, impeccable credentials, but everywhere he practiced, he got in trouble. Eventually, he finally got put in prison because of all the damage that he had done. This is the purpose of our state licensing board just because and that's why we checked the press reciprocity. There's, there's, there's the book thing that you need to have. You need a checkmark. Yes, you went to engineering school, you went to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

podiatry school, you went, wherever you attended. That's important. But there's also the other factors about it that that's, that, that within the profession, we need to make sure that these licensing boards do not lose their ability on this whole aspect of reciprocity. And so therefore, that's why I think that, that, I don't want us to go backwards. As I say, I voted, I was the lone vote against that bill. I just don't like changing standards that have been established that have been protecting it. We like to have people come in. I couldn't agree more. Generally, these standards are not so much--

HUGHES: One minute.

HILKEMANN: They're probably similar standards in many ways, but yet each individual needs to be taken into consideration. And it's very important that we keep that, the reciprocity standard and we keep these boards intact in making those decisions. Thank you, Mr. President.

HUGHES: Thank you, Senator Hilkemann. Colleagues, Senator Flood would like to introduce four students from Lutheran High Northeast in Norfolk. They are seated in the north balcony. If they would please rise to be recognized by your Nebraska Legislature. Thank you for coming. Returning to debate, Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President, colleagues. Senator Briese, will you yield to a question or two?

HUGHES: Senator Briese, will you yield?

BRIESE: Yes.

McCOLLISTER: Is it your view, Senator Briese, that AM2248 is a friendly or an unfriendly amendment?

BRIESE: From my perspective, it's an unfriendly amendment. I think it partially or not, maybe not partially, but essentially guts the bill here.

McCOLLISTER: Senator Briese, do you think this, the AM2248 has an impact on the bill that we passed last year by 40 votes, LB390?

BRIESE: I think it could. I'd have to study that, but it seems, it seems inconsistent with that bill. Definitely not in the spirit of that bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

McCOLLISTER: Well, Senator Briese, thank you very much. We did a study on whether Senator Hilkemann's amendment would in fact impact LB390, the Uniform Credentialing Act, at the request of the Governor. The bill is an important step to our licensing reform in the spirit of creating a more unified, comprehensive statewide licensing framework during the pandemic. And so, I am also, also share the opinion that AM2248 is an unfriendly amendment, and I would, I would certainly hope you would give it the green or the, excuse me, the red light. Thank you, Mr. President.

HUGHES: Thank you, Senator McCollister. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. President. I wondered how it would take apart these guys. (LAUGHTER) I know that I've had some concerns on, on this bill when we talk about occupational and professional licensing. I think there is a distinction between occupations and professionals when we talk about professionals and some of this. I know Senator McCollister is going to have an amendment coming up that has addressed some of my concerns with the bill itself. But what I'm hearing now, and I want to talk to Senator Hilkemann here in just a couple of minutes, ask him a question or a couple of minutes. And I told him I'd be asking him a question a few minutes ago about this. So what I'm hearing right now is professionals, professionals being those who take care of our health and safety. And who are those? Those would be our doctors or nurses. Others in that profession, in the health care profession potentially. My concern is, is on architects and engineers, on construction, where in this building, make sure that it's constructed the right way, make sure that we have or we're doing the right things. We're not jeopardizing public safety. If it's a road, if it's a bridge, those type of things is what my concerns are, and I think we've addressed that and we've looked into that and we'll talk to that a little bit more on on the amendment coming up. Think Senator McCollister has, but my question really comes down to that, that the discussion we're having here between Senator Briese and Senator Hilkemann is what's the difference between what professions he's talking about and what Senator Briese is talking about. And one question I have so I can better understand this because I think we need to understand who exactly we're talking about. I wonder if Senator Hilkemann would yield to a question.

HUGHES: Senator Hilkemann, will you yield?

HILKEMANN: I will.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

BOSTELMAN: Thank you, Senator Hilkemann. And I asked you this before we get on the mike here and you said there's give or take 35 professions that we're talking about here. Could you tell me exact, give me, give me a good idea of who-- what type of professions are we talking about? What type of interaction with, with us, with patients or others? Who are we talking about when you're talking about these individuals you want to exempt out?

HILKEMANN: Well, when you look at this, when you look at the Uniform Credentialing Act, as I understand, certainly would recommend, would include all physicians. It would, chiropractic physicians, dentists, physical therapists, occupational therapists, osteopathic physicians, trying to think of all the respiratory therapists, all of those that have a board that, that checks, those would be, those would be included in the Uniform Credentialing Act. And so as far as health care professions.

BOSTELMAN: Thank you. And would these individuals we're talking about are they, are they pass and do some of them take national boards, national exams?

HILKEMANN: Yes, in, in almost every instance, in order to get your, your M.D. or your D.O., your D.P.M., you do have to pass board standards and that is, that is correct.

BOSTELMAN: And those are pretty uniform across the states, right?

HILKEMANN: Those would be uniform across the states, that's correct.

BOSTELMAN: So my question is with this and maybe Senator Briese could answer. Thank you, Senator Hilkemann. Senator Briese, would answer the question is, since we're talking about nationally testing national certification, why is this, why is this different? If Senator Briese would yield to a question, why do you feel that this, since this is a national board's, national certification, national test that they're taking, why do you think that this, this removal of them guts the bill?

BRIESE: Yeah, great question, Senator Bostelman, but I take issue with the suggestion that they're all taking a national board or national standard. You know, one of, one of the--

HUGHES: One minute.

BRIESE: --one of the categories listed in here under the UCA is massage therapy. I don't think they're taking the national standard,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

but correct me if I'm wrong. And so to the extent, to the extent some professions rely heavily on national standards and all states are utilizing those same standards, those are the ones that maybe can make a decent case for getting exempted out of here. But I think a lot of these aren't consistently utilizing a national or a standard, a national standard type test.

BOSTELMAN: So I have some of those that you're talking about that do have those national standards or tests, were those addressed last year, a previous bill, and they're not being, and they're not part of this now?

BRIESE: Yes, in last year's bill, I think we-- looks like we went, advanced practice, registered nurse.

HUGHES: Time, Senators.

BRIESE: Thank you.

HUGHES: Thank you, Senator Bostelman, Senator Hilkemann and Senator Briese. Senator Briese, you're next in the queue.

BRIESE: Thank you, Mr. President. And somebody suggested, or I think Senator Hilkemann suggested we're undoing LB390 and I don't think we're undoing it. We're really kind of expanding on it because we're bringing in more professions. We're making it easier for folks in more professions to move to Nebraska, join our workforce and help us grow our state. And I think he suggested we don't want to go backwards, but with all due respect, I don't, do not think this takes us backwards. That board, that board still is going to have plenty of discretion, plenty of control as they try to assess whether it's a similar scope of practice between what those folks are doing in a different state versus what they're doing here. And again, I think things like massage therapy, things like that, I'm pretty sure that they aren't taking a national standardized test, and I assume a lot of those folks aren't either. And again, Senator Hilkemann's amendment is based upon reciprocity, and we do not, I'm pretty confident we don't have reciprocity with all the states on all of these various professions listed under the UCA, and so I that's, I think that the AM2248 guts this bill, guts this amendment, and that is what will take us backwards. We want to move this state forward. We want to move our licensing forward. We want to encourage people to come here like our surrounding states, our neighboring states have done, and to move this state forward, I think we need to make it easier for folks to come here and work, join our workforce and help us grow our state. And

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

we're going to do it in a way that still protects public safety as these boards are still going to have to make the determination that they operated their previous job, involved a similar scope of practice, along with the training and experience. Thank you, Mr. President.

HUGHES: Thank you, Senator Briese. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. I just wanted to rise in general support of Senator Briese's section of the amendment. I appreciate the work that everyone has done on this. It sounds like it's a complicated issue, but creating a climate that's more welcoming for individuals to move to Nebraska, I think is important. And as I listened to Senator Briese set out an example of a programmer in, it was Mountain View, I think is where he said, which I think, I don't know, it's like Google or Apple or one of those companies. I'm not tech savvy in case you guys don't know that, but I think it's important that, say, a woman in California wants to move to Nebraska for a better lifestyle and she can work from anywhere like Senator Briese said, but her wife can't get a job here, can't get her transfer of her credentials to Nebraska, and we don't want the reason that they move, not don't move here to be that professional hurdle for her wife. And so I think it's important we eliminate that hurdle and that people make the determinations about moving to Nebraska based on the quality of life and not whether or not they can transfer their professional credentials here. So I'm at this point, I would say I'm supporting Senator Briese's work on this and I did ultimately was going originally got in the queue to support Senator McCollister's bill about making sure that individuals are not prevented from getting a professional license because of their previous criminal record. And I know there were some changes and some amendments on that that may, I don't know if we'll get to, so I'll just take this opportunity to express my support for Senator McCollister's work on that issue. We've had a long conversation about criminal justice in here. We've talked a lot about ways that we can reduce recidivism. And one of those is ensuring that people can get a good paying job so they can get a place to live, so they can get insurance, so they can have a productive life and, and do not have desperation and problematic situations that will lead to relapses in drug use and other returns to criminal conduct. And so making sure that they can be productive and get a job and not freezing them out just because of a previous mistake is important, but it also is a demonstration that, of growth, acceptance of people make mistakes that they go through the corrections system and by corrections, we mean corrective behavior and come back out, come out a

better person, better able tools to operate in the world. And if we continue to penalize people forever, then there is not an incentive to grow and to be better and to rehabilitate. And so we need to recognize and be accepting of that. And this is one way we do that. So it is good. It's good policy. It's a good idea to make sure that people can get professional licenses despite the fact that they've made a mistake in their past and been through the criminal justice system. So thank you, Mr. President.

HUGHES: Thank you, Senator Cavanaugh. Senator Hilkemann, you're recognized and this is your third opportunity.

HILKEMANN: Thank you, Mr. President. You know the question was asked whether this is a friendly or an unfriendly amendment. I frankly don't care whether it's a friendly or unfriendly amendment, I just want to do what's best for the safety and health of our state. I trust our licensing boards with making the decisions that people who are given a license meet the standards that are required to practice that profession within the state of Nebraska. The question was is that, that not all professions have boards. You're right. Not all professions have boards. Those different licensing boards, but they have standards for a massage therapist, for example. There's got to be, there's got to be standards that they meet for a massage therapist that may include board certification. I don't know the standards of each and every one of these. I do know that it's very important. I, for over a decade, I spent time on a credentialing committee for a large insurance company where we evaluated applications every month for people who, and yes, people have, they, they went to certain medical school or they did, they went to, not necessarily, we're using medical, but there's all of the health care professions we're evaluated if you, if you were on an insurance plan. There are things, there are things beyond just what's on that piece of paper. I'm, Senator Bostelman, are you still available? But the question I would have, oh, I'm sorry, when he gets back, I'll ask him that question. I have not been on, I was never, for example, on the Nebraska, the Podiatry Examination Board. Very capable people were on it. I always trusted that they were the people that were granted license to practice the profession of podiatry, have met the minimum requirements that were there, even if they came in from another state. And I also expected that that board would examine that person if there's, there's standards and then what's this person been doing and that's part of-- Senator Bostelman, would you take a question?

HUGHES: Senator Bostelman, will you yield?

BOSTELMAN: Yes.

HILKEMANN: Senator Bostelman, have you ever been on a, on a credentialing committee for the engineering and architecture? You'd mentioned that. Have you ever been on that credentialing board?

BOSTELMAN: I have not, no.

HILKEMANN: OK. Do you, when, when that board meets, do you think the only thing they look at as far as an applicant that comes in is simply if they check the box of having gone to X, Y, Z? Or do you think that they check further into that individual whether they should be licensed in the state of Nebraska?

BOSTELMAN: I would think that they would look beyond that, but I can't tell you for sure.

HILKEMANN: OK, thank you. Well, I haven't been on that. I'm assuming that's what my board does, and I'm assuming that's part of why we have these. If we just, if it was just a matter that you had to have box A, check box B, you wouldn't really need to have a medical, you wouldn't need to have a massage board for evaluation because they could just check whether they checked the marks. Part of it is knowing who these people are who are coming into your profession, and that's why we have professionals on these boards. And so every, I think every board--

HUGHES: One minute.

HILKEMANN: You said, one minute?

HUGHES: One minute.

HILKEMANN: OK. I think every licensing board in the state of Nebraska has professionals from that, from that, their profession, plus they have someone, a member of the public on there so that we're not, that that public member, it's very vital to make sure that we're not getting into professional (INAUDIBLE) making sure that these boards are operating properly. I just can't stress enough. This will be my last time to talk about this. This can't express the importance. Don't water down these board certifications or these licensing. It, I just think it's bad news. Thank you, Mr. President.

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

WILLIAMS: Thank you, Mr. President. And good afternoon again, colleagues. This certainly is an important issue as, as we have watched these, you know, if I look at over the time what we've tried to do to help teachers and the medical people that deal with Offutt and creating a pathway open for them. I wanted to, in your opening, Senator Briese, I'm going to get to asking you a question in just a minute. But in your opening, you talked about you used bankers and some other things there. I'd like to go back and be sure I understood what you had in that area. Senator Briese, would you yield?

HUGHES: Senator Briese, will you yield?

WILLIAMS: Senator Briese, again in your, your opening on the amendment, I believe you talked about some exemptions for certain industries. Am I, did I hear that correctly?

BRIESE: Yes.

WILLIAMS: Can--

BRIESE: To be--

WILLIAMS: Go ahead--

BRIESE: To be a little more precise here, I believe the bill without looking at the bill itself, the list I have, I think the bill exempts out CPAs, viatical settlement brokers, insurance consultants, insurance producers, managing agents, utilization review agents, surplus lines producer, reinsurance intermedia, intermediary broker, public adjuster. So when you asked about bankers, I guess maybe I don't see that in there.

WILLIAMS: OK. And Senator Clements was good enough to hand this to me, which I will take, take a look at. Was there a specific reason why these occupations were exempted?

BRIESE: Well, it was reported to me that all of the above really already have a system in place, allowing them to come to Nebraska and practice through a series of nonresidents licensing provisions. That's what was represented to me, and I think they also have a, some of them have a significant federal component.

WILLIAMS: And that, again, just continues to add to my confusion here because what I'm hearing from Senator Hilkemann on the medical side is that they have a process in place that allows them to go through a procedure to get here. But is it a fair interpretation? Well, let me

ask this as a question to you. Is it your interpretation that that procedure is too restrictive in its attempt to protect, protect public safety and under your amendment, it would be easier and we would accomplish a better result?

BRIESE: We need to remember that AM2248 would exempt out roughly 35 professions and the current provisions in place, we put in place last year with LB390, loosens the exemption on 15 or so professions, if that's what you're getting at.

WILLIAMS: OK, those that would be exempt are not exempt, excuse me, the ones that Senator Hilkemann is talking about, those medical professionals under his that are not exempt under yours, the contention that he is making is that there is a procedure in place to get those licensed. I know from sitting on HHS, we had hearings about seeing how that was done and finding out that some of those take a while, some of them are done very quickly. But under your provisions, if it were adopted without the Hilkemann amendment, would those things be done in a safe manner and would they be done in a quicker manner?

BRIESE: Well, I would suggest to you they would be done in a quicker manner and a safe manner. Senator Hilkemann himself, suggested these licensing boards. On these boards, there are professionals within, within that industry--

HUGHES: One minute.

BRIESE: --folks that belong to that industry. I think he called them professionals. They're going to sit on the boards. They're going to ensure that safety is maintained, public safety is maintained. They're going to ensure that we are talking about a similar scope of practice. I think they're going to ensure that public safety is not jeopardized and it's going to be done in a proper manner.

WILLIAMS: Thank you, Senator Briese. I'm still listening. I certainly am supportive of the concept of LB263 because of the workforce needs that we have. Thank you, Mr. President.

HUGHES: Thank you, Senator Williams and Senator Briese. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you, Mr. President. So, Nebraskans, here we go again. On the last day of the Legislature, we get to talk about the positive experiences that, from being in the Legislature. And since this is the end of my eighth year, I'm not going to, we aren't given all the time in the world to talk about it, so I am going to talk a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

little bit about the value and friendship, and I've been going through each person within the Legislature, each Senator, talk about the values of the friendships that I've made here with my legislative colleagues. So I'm going to, I'm looking for who's here. Senator Murman. Senator Murman, I admire your huge heart and your love for family. I, you have, you've done a really good job teaching us about the struggles of a family that is struggling with, as you say, a profoundly disabled child. Your love and your mission to protect and support your family and your daughter are incredibly apparent. And it's just palpable with you as you walk and as you lead each day in this Legislature. And I feel fortunate to get to learn about that from you. It's, it's very generous of you to share that experience because it's not easy, I know, and I just want to say that I admire you and your wife significantly. I've been fortunate to get to serve on Education Committee with you and get to know you better. So I want to say, Senator Murman, it's been an honor to serve the people of Nebraska with you. Thank you. OK, let's see who's here now. I think what I would like to do and I hope people will listen is, I don't think we're going to see, from what I hear, Senator Pahls back. So I, this year at least or this, for the rest of this session, maybe if we have a, if we have a Special Session. So I would like to say a few things about Senator Pahls. Senator Pahls, if you're by chance listening, we adore your great sense of humor. And, you know, and that includes every day trying to get by your chair in this row and you giving me grief about how many times I go by or whatever I'm doing. You just bring a bright spot to every part of the day in this body, and we miss you a lot. You are a precious soul. You've got a great head of hair. And I just want you to know we're all wrapping you in love and prayers. You've done so much good in this body and in this Legislature, and I know you're going to come back and continue to do that. And I just want you to know that we expect your strength and determination to overcome every struggle at any point, and you'll be back in here soon. Maybe tomorrow, I'm hoping, causing the same trouble that you do. All of our love goes to you. And we're just so proud of you and grateful for you and for your leadership in the schools and the lifelong impact you have had and that you have made on thousands of lives. So Senator Pahls, it is, it has been an incredible honor to serve the people of Nebraska with you, my friend. I hope our paths continue to cross.

HUGHES: One minute.

PANSING BROOKS: OK. Then I'll, thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

HUGHES: Thank you, Senator Pansing Brooks. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. I wasn't intending to talk again, but then I had a side conversation with Senator Hilkemann, who's been, well, this is his amendment and he's talking about a lot of things, and it hadn't even occurred to me that I am a person who transferred a professional license into Nebraska. I took the Bar in a different state and then had to admission waive into the state of Nebraska after that and had to make sure I submitted my test results from the proof that I had been, or no, I had to prove that I admitted to the Bar in another state, in good standing, that I had taken the multistate ethics exam and passed that with a high-enough score and then had to do the character and fitness and pay. I can't remember what it was the state of Nebraska, the Bar Association of Nebraska, and then they had to look into me and confirm the, you know, all of the information I had given them. I think I had to give them, you know, proof, my transcript or something showing I graduated from an accredited law school as well. And they processed all that and I sent it in and I think in May and was admitted by August or September. And that was when I decided to move back to Nebraska, got admitted, had to get into the Bar here and moved back with my wife, who also had a job here. But we moved here for the quality of life and the admission, getting admitted to the Bar in Nebraska was a hurdle, but it didn't, wasn't, I guess, prohibitive to me moving here, which I think is important because I couldn't, if I couldn't have gotten admitted to the state Nebraska, I would have had to probably take the Bar again, which would have been too cumbersome and make me think twice about moving back here. I didn't want that to be, we don't want that to be the hurdle. I now have moved back here, lived here for a decade. Have four children here, work here. My wife works here. And so the hurdle to moving back here, the reason we moved back was quality of life and, and the professional licensing situation is not the thing that didn't, didn't get in the way, but it could have if it was too cumbersome a process and then I wasn't able to get admitted. So that struck me and I, I appreciate Senator Hilkemann raising that question to me to make sure that, you know, I thought that through. But again, I'm generally supportive of making sure that individuals can move here without that burden because they see how great a state Nebraska is. They see the quality of life. They see the cost of living, the quality of the schools and the quality of our communities, and they say, I want to move there and they don't look and then say, oh, but I, my professional license won't transfer or it will be very difficult to get my professional license transferred there. I actually use the

other example. I know a friend of mine, he was a medical professional in another state, moved to Nebraska with his husband and their child, and his husband works remotely for a financial company. And he is a medical professional, had to transfer his license here. And so they moved here because the quality of life. They wanted it, that's where they wanted to raise their son. And it wasn't, they didn't, they had to work on that transfer of their professional license. So we want that not to be a hurdle for people. I appreciate the work of Senator Briese on this particular issue. And, but I would yield that whatever time I have remaining to Senator Hilkemann if he would want it.

HUGHES: Senator Hilkemann, 1:15.

HILKEMANN: Thank you, Mr. President. Thank you, Senator Cavanaugh. Would Senator Cavanaugh yield to a couple of questions?

HUGHES: Senator Cavanaugh, will you yield? One minute.

J. CAVANAUGH: Yes.

HILKEMANN: So as a professional, I think you and I had this conversation, said, for the law profession, you're actually, you are under the Supreme Court, is that correct?

J. CAVANAUGH: Yeah, the Bar Association and the, yeah, and the Supreme Court.

HILKEMANN: And so I know I have, I have three lawyers in my family as through in-laws and kids. And I know that they, they're, they're recognized into the Bar in each of their states. How is that, how is that determined that they can go from state to state?

J. CAVANAUGH: Well, so in my case, I was, I took the Bar in a different state and I waived into Nebraska, is what we call it. Every state has a different standard for a waiver and Nebraska's is, you have to basically be in a state that accepted Nebraska, I think, as a waiver state and you had to be in good standing and generally you have to have either practiced for five years--

HUGHES: Time, Senators. Thank you, Senator Cavanaugh and Senator Hilkemann. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I'm still not quite clear as to what Senator Hilkemann's, what occupations are affected by that? Would Senator Hilkemann yield to a question?

HUGHES: Senator Hilkemann, will you yield?

HILKEMANN: I will.

CLEMENTS: I see your amendment is going to exempt a credential issued by an occupational board under the Uniform Credentialing Act, which issues credentials based on reciprocity, but it doesn't really list the occupations. Do you have an example of who that is?

HILKEMANN: Yes, Senator. Yes, Senator, I do, and thank you for giving us the heads up. We got the list here and I can, and I will give some of those and then stop me when you want me to. The Advanced Practice of Registered Nursing Practice Act, the Alcohol Drug Counseling Practice Act, the athletic trainers, audiology speech, language, pathology, certified nurse, Midwife Practice Act, certified registered nurse, Anesthetists Practice, chiropractic, clinical nurse specialists, cosmetology, electrology, esthetics, the dentistry, the dialysis, emergency medical services, environmental health specialist, funeral directors, genetic counseling practice, hearing instrumentation, licensed practical nurses, massage therapy, medical nutrition therapy, medical radiology, medicine and surgery, mental health practice, nurse practice-- nurse practitioner, occupational optometrist, podiatry, psychologist, respiratory care, surgical, first assistant and veterinary medicine. Those are some of those, shortening them up.

CLEMENTS: OK. Well, that is a wide swath from the doctors and midwives to funeral directors. I thought maybe we were just talking about physicians, but athletic trainers I heard was in there. Thank you, Senator Hilkemann. I then was looking in that same section that he's amending of similar to what Senator Williams was talking about, it has certified public accounts, insurance consultants. Would Senator Briese yield to a question?

HUGHES: Senator Briese, will you yield?

BRIESE: Yes.

CLEMENTS: I see certified public accountants in there and my understanding was that they have a national exam standard that they qualify with. I'm just wondering if you knew why they would be under an exemption here?

BRIESE: Yeah. And I think that's why they are exempt here, because there is a national component to their testing and they typically have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

a standardized national, nationally standardized tests that they utilize.

CLEMENTS: I see. Well, then insurance consultants and insurance producers. I'm, I am an insurance producer in Nebraska. And, but my license or my exam was just a Nebraska exam, not a national one. And do you know why then, that's a nonnational occupation would be included?

BRIESE: Yeah, it was represented to me that they do have a system in place allowing them fairly, easy access to the labor market here or for the licensing provisions, I should say.

CLEMENTS: All right. I know that I have looked into selling in other states--

HUGHES: One minute.

CLEMENTS: --and have to be licensed as a nonresident agent in other places, but I really haven't ever tried to do that to see how that is. So that your bill would not affect me as a producer any differently than what it currently is, is that right?

BRIESE: That would be my understanding.

CLEMENTS: All right. Okay. Well, I, I think the Hilkemann amendment is more broad than I want to accept, so I'm going to be opposed to AM2248. But I am thinking I do like the rest of the AM2787 from Mr., Senator Briese. So thank you, Mr. President.

HUGHES: Thank you, Senator Clements. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you, Mr. President. So as a reminder to Nebraskans, we get on the last day to talk about our positive experiences. And it's not all the experiences in the world, or not all the time in the world to talk about it. So I want to talk about again, some of the friendships and value of the people with whom I've been fortunate to get to work. So next, seeing who's here. Senator Slama. Senator Slama, I am really grateful for your willingness to work with me on various issues, but specifically on human trafficking. And we have found consensus and ability to work together to help some of the most vulnerable people in our state. That includes young girls and boys, it includes some of our first people. And of course, people of color are more vulnerable to this as well. So I really appreciate your helping these victims, and I hope you'll continue to do some of that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

great work. And I really appreciate it. You are smart, determined. You are a really hard worker and that's evidenced by the fact that you're going to law school and working in the Legislature. I'm not sure how anybody can do all of that. Law school, for me was more than enough, so it's pretty impressive. And besides that, you always wear great shoes. So, of which, I'm pretty jealous. But anyway, I just want to thank you, Senator Slama. It has been an honor to serve the people of Nebraska with you in the Legislature. Thank you, Senator Slama. Senator Stinner. Is he back there?

STINNER: Yeah.

PANSING BROOKS: Oh, OK. (LAUGHTER) Senator Stinner, you are an amazing man with incredible successes in your life. It's, it's actually really fun to watch you from being a Husker star to a successful banker to the Appropriations Chair and really, you know, cracking the whip and getting us all to fall in line. You are an all around great guy. You are a hard worker. You have a brilliant mind. You're married to one of the fabulous women of the world. I did try to get Rita to sing one of the prayers when I was going to stand up and do the prayer in here, but that was vetoed, unfortunately. But gosh, it would have been great. We should have her singing at something or another. But Senator Stinner, you really are remarkable and what you know and what you're able to add to this body during these past eight years has been incredible. I feel fortunate to be able to call you my friend and will hope to continue to do so, you and Rita, and I just want you to know that it has been a true honor to serve the people of Nebraska with you, Senator Stinner. How much time do I have left, Mr. President?

HUGHES: 1:50.

PANSING BROOKS: 1:50, oh, OK. Some people are here and some aren't. OK, I'm going to, I'm going to, I'm going to yield my time for a minute. Thank you, Mr. President.

HUGHES: Thank you, Senator Pansing Brooks. Senator Aguilar, you're recognized

AGUILAR: Question.

HUGHES: Senator Aguilar, you are last in the queue. Seeing no one else in the queue, Senator Hilkemann, you're recognized to close on AM2248.

HILKEMANN: Thank you for the discussion today. And I really appreciated the question that Senator Clements offered, and it was good to go through that list of how many different professions are

actually in the Uniform Credentialing and every, when you go through there, there's every state has their standard for these different professions and they have a reason for those standards that they didn't have when they would not have it. So I think that it's not unreasonable that we, that people coming in, if you have a massage therapist, you understand that that massage therapist has the same basic credentials any massage therapist in the state of Nebraska and/or in the sense of funeral directors. If you're, if you were in the funeral home business and you had a funeral director that was coming in, you would expect that they would have the same credentials or the same standards, if they are coming from California that you have in Nebraska, or at least you would know what that difference was. So I think it's important that we maintain our autonomy as a state, as a state to make sure that these people meet the requirements that we have in the state of Nebraska or its equivalency. And a lot of times the boards, I know they may, they'll look at it, they'll say, well, that's equivalent. And so that's why they'll do it. They may have different board standards. This does not just involve, I certainly approach it from the medical profession aspect of it, but it's important that we look at each of these boards and, folks, I understand trying to make things easier, but I also understand if you get a bad apple in your profession, it's hard to get rid of that bad apple in your profession and that's why we have boards. Let's not, let's not water down our processes. We've served Nebraska well. We have, our boards have Nebraska's health and safety standards number one in their, in their requirements. And therefore, I ask your green vote for this amendment. And thank you very much, Mr. President.

HUGHES: Thank you, Senator Hilkemann. The question before us is, shall amendment to the committee amendment, AM2248, be adopted? All those in favor vote aye; all those opposed vote nay. Senator Hilkemann.

HILKEMANN: Can we have a call of the house?

HUGHES: 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. Have you all voted? Record, Mr Clerk.

CLERK: 18 ayes, 4 nays to place the house under call.

HUGHES: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Hilkemann.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

HILKEMANN: Could we have a roll call vote in regular order?

HUGHES: Certainly. Senators Wayne, Senator Matt Hansen, Senator Albrecht, Senator McCollister, Senator Flood, Senator Bostar, Senator Hunt. The house is under call. Colleagues, the question before us is the adoption of AM2248 to LB709. There's been a request for a roll call vote in regular order. Mr. Clerk.

CLERK: Senator Aguilar voting no. Senator Albrecht voting no. Senator Arch. Senator Blood voting no. Senator Bostar not voting. Senator Bostelman voting yes? Yes. Thank you, Senator. Senator Brandt voting yes. Senator Brewer voting no. Senator Briese voting no. Senator John Cavanaugh not voting. Senator Machaela Cavanaugh not voting. Senator Clements voting no. Senator Day. Senator DeBoer not voting. Senator Dorn voting yes. Senator Erdman. Senator Flood voting no. Senator Friesen voting no. Senator Geist. Senator Gragert. Senator Halloran voting no. Senator Ben Hansen. Senator Matt Hansen not voting. Senator Hilgers voting no. Senator Hilkemann voting yes. Senator Hughes voting no. Senator Hunt not voting. Senator Jacobson voting no. Senator Kolterman voting yes. Senator Lathrop. Senator Lindstrom voting no. Senator Linehan. Senator Lowe voting no-- I'm sorry. Not voting, thank you. Senator McCollister voting no. Senator McDonnell voting no. Senator McKinney voting no. Senator Morfeld. Senator Moser voting no. Senator Murman voting no. Senator Pahls. Senator Pansing Brooks voting no. Senator Sanders. Senator Slama voting no. Senator Stinner voting yes. Senator Vargas. Senator Walz not voting. Senator Wayne voting yes. Senator Williams voting yes. Senator Wishart. 8 ayes, 20 nays, Mr. President, on the amendment.

HUGHES: AM2248 is not adopted. Mr. Clerk, for next amendment. I raise the call.

CLERK: Mr. President, Senator McCollister, AM2707.

HUGHES: Senator McCollister, you're welcome to open on AM2707.

CLERK: I believe Senator McCollister, you want to withdraw, is that right? OK.

HUGHES: It is withdrawn.

CLERK: Senator Flood would move to amend with AM2791.

HUGHES: Senator Flood, you're welcome to open on AM2791.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

FLOOD: Thank you, Mr. President. Good afternoon, members. This is a simple amendment from, that I have agreed to with Senator McCollister, and I'll give him time here in a moment that essentially exempts the realtors and the architects and engineers. And the intent was to include also the Department of Banking and Finance. Although with the division, I'm waiting to get a look at this on my gadget. I will give the rest and balance of my time to Senator McCollister. This is something that he and I have been working on, I'd say for the better part of two weeks and I, I must admit he's put far more effort into this than anything I have and I would yield him the balance of my time.

HUGHES: Senator McCollister, 9:10.

McCOLLISTER: Yeah, thank you, Mr. President. And Senator Flood, a lot of effort without result, unfortunately. The first division that we had when we divided the bill up, senators to-- Senator Briese's LB263, related to the military portion of the bill and mine related to the, the punitive actions that would be no longer considered. And when the division occurred, that section of the bill that related to the bankers, the real estate agents, the engineers, the real estate folks, as I mentioned, that, that carried over back into LB709. So I think that's the answer to your question, Senator Flood.

HILGERS: Thank you, Senator McCollister and Senator Flood. Debate is now open on AM2791. Senator Briese, you're recognized.

BRIESE: Yes, I need to-- Senator Flood, would you yield to question?

HILGERS: Senator Flood, would you yield?

FLOOD: Yes, I will.

BRIESE: I didn't catch this. This exempts out engineers, architects and realtors, correct?

FLOOD: Engineers, architects, and it's the intent of our compromise to also exempt out members, folks who work for the Department of Banking and Finance. But I don't believe that this specific amendment does that with the division. I think it just deals with the engineers and architects and the realtors.

BRIESE: OK, very good. Thank you. I stand in support of this amendment. I agree there. Engineers, architects, they made a good case previously as to why their situation is unique. Same with realtors.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

And I do support pulling them out. So this is a friendly amendment. I'm going to support it. Thank you, Mr. President.

HILGERS: Senator Briese, are you done? Thank you, Senator Briese. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. Speaker. I do, as well, support this amendment wholeheartedly. I think it's a good amendment to have in there and let me explain a couple of reasons why. Obviously, on the architect engineer's side of things. I've talked with Senator Briese and Senator McCollister quite a bit about this and, and they explained a little more in more depth, perhaps, as to why this does fit in here. It's educational level. So the State Board of Architects Engineers do, do an extensive review on applications. Actually, majority of the licenses they do have are out-of-state licenses, so they do do a lot of reciprocity and do have worked with other states, licenses, engineers or architects out of other states. Education is a big part of it. One of the things they do look at is ensure they have education, what their degrees are in, and they do check that. They do look at their experience level. Those engineers have to have at least four years of experience that's documented, and they send this to the board and that four years is experience work underneath a licensed person, a licensed individual. They also take a national exam, which is key and important what specialist, Senator Briese is concerned about. There is a national exam that they must take, which is a part of the review process, and they also have to, in their application there's a detailed application that does come in to the board that they do take a look at, as well as references. They do have to have references. So the board does take a look at all of these things and when they look at this, so it is a, it is a national application in a sense that they do take that national exam. They do have that, have to have that education and experience level. I do believe that in the rare case that someone is not degreed in, say, a discipline within engineering, that they have to have at least 15 years of experience, experience in that field. And that, that is a look at the board does take. So they do, they do require or look at several things that all states look at with this with a national exam being part of that. I think that's a key part of what it is. I do appreciate the opportunity and the work that Senator McCollister, Senator Briese both done on this. They both looked at this pretty extensively and understand that this is something that does fit within an area that that is looked on the national level with the national exams and other things. So with that, I do appreciate the amendment. I urge you to vote green on AM2791. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

HUGHES: Thank you, Senator Bostelman. Senator Jacobson, you're recognized.

JACOBSON: Thank you, Mr. President. I guess I really believe that this, this bill is well-intended, but I think still has a lot of flaws. I do get concerned about, particularly I look at it from a banking perspective, but I look at a number of my customers who also deal with currency. When you start looking at more that's happening electronically, I do have some concerns about are we doing the right kind of vetting in order to prevent white collar crime to continue to be a problem in not just the banking industry and not just in the insurance industry, but also securities and so on. So that's where my indigestion is at on this particular bill. I certainly want to see a path forward for those who are released. I do think the current statutes do provide for a process whereby those who have gotten out and truly have performed can be exempted in the current statutes that are there today. So I do get concerned about how much further we try to move this given that there are issues that, that, that are out there and that there's a certain amount of licensing and oversight that needs to happen. This is not something that I know the Department of Banking is supportive of and that, that's why it also creates a lot of indigestion for me. So at this point, I can't really support the underlying bill, although I would be supportive of the amendments, I don't think I can get comfortable with the underlying bill even with the amendments. With that, I'd be more than happy to share my time with Patty Pansing-- Senator Brooks, Patty Pansing Brooks if she would like to continue some of her discussions. So Patty Pansing Brooks, I would yield my time to you.

HUGHES: Senator Pansing Brooks, 3:05.

PANSING BROOKS: Thank you. Thank you, Senator Jacobson. Thank you, Mr. President. So again, just to remind people, I am going through and talking about each of my colleagues because on the last day we get to talk about positive experiences. But as you can see, this has taken a lot of time and you would not have been very happy with me going through this in one moment. So anyway, onward. I would like-- Senator Walz.

WALZ: Oh, oh.

PANSING BROOKS: Oh, oh. Senator Walz is a true friend and she is trustworthy to a fault, if that's possible. You can always trust her word, no matter what happens or what she says. She has, she doesn't have a duplicitous bone in her body. Once she says something, that's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

that. And she brings joy to each of us who enters her circle. She has a heart of gold and cares about all the big issues, kids, schools, people on the margins, people in need. She's been an incredible Education Chair. I've lived through a couple and I'm so grateful that she has been the Education Chair. She's dedicated and has brought brilliant changes to our body and TEEOSA. Talk about courage to be able to take on what Senator Raikes did years ago and have the gumption and gall to say, we can change this for the better, and work on it for a year and a half and bring these brilliant changes forward that support and help all the schools around the entire state. She's an amazing woman and so strong, but unfortunately, it fell on deaf ears this year. I think it's crazy. I think it was incorrect, but anyway, this is about my darling friend, Senator Walz.

HUGHES: One minute.

PANSING BROOKS: She has all sorts, she's done all sorts of giant measures and she's done the research. And she really is a woman of what I call the three S's, the three S's. An overwhelming sense of humor or an outstanding sense of humor, a strong faith, and she has stunning kindness to all people, and I love her husband, Chris, and their beautiful kids, and Senator Walz, what a joy and honor it has been to serve the people of the state of Nebraska with you. Thank you. Thank you, Mr. President.

HUGHES: Thank you, Senator Pansing Brooks and you are next in the queue, you may continue.

PANSING BROOKS: Is Senator Sanders here? Is she-- do you see her? Nope. OK. I have to waive for a minute, thank you, Mr. President.

HUGHES: Senator Pansing Brooks waives. Seeing no one else in the queue, Senator Flood, you're welcome to close on AM2791.

FLOOD: Thank you, Mr. President and members, this is the exemption of the realtors and the engineers and architects, and I hope to get to the staff at the Department of Banking and Finance. I urge your green vote. Thank you.

HUGHES: Thank you, Senator Flood. Colleagues, the question before us is the adoption of AM2791. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of the amendment to the amendment.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

HUGHES: AM2791. Mr. Clerk.

CLERK: I have a priority motion, Mr. President. Senator Hilkemann would move to recommit LB709 to committee.

HUGHES: Senator Hilkemann, you're welcome to open on your recommit motion.

HILKEMANN: Well, thank you, Mr. President, I, and the whole conversation on this bill, we've talked, I think there's a lot of confusion on this bill. I'm not sure everybody understands. You know, we've had the what, what bills or what, what organizations are under the Uniform Credentialing Act. I think we need, we need some time to think about this bill. So that's why I brought this and I, the other day when Senator Erdman was talking about his tax bill, as you remember, I think I made the comment to him that it seemed to me that maybe that LR was not quite ready for prime time. And I know that it is very hard for me to, to talk about this bill being brought by my good friend, John McCollister. And we have had a wonderful eight years together working with this. And, but I think that there are enough questions on this bill that we read-- we need to send it back to committee. There have been so many different add ons and this bill takes this, this amendment takes care of this. This amendment takes care of this. The electricians are off over here. We've got physicians over here. So what we have is we're starting to have a hodgepodge and frankly, I'm not sure what we have here. So I think this is one of those times, just take time. You know, one of the things that I've learned and what I think, I think it's really important. When we make legislation in this state, if we, the decisions that we make, if they're a bad decision, it takes, it can take 33 people to overturn or to make that decision right again. And therefore, I, I'm sorry, I'm on, I'm sorry, I, a little. It's, that's one of the things that I talk with my, when I have my coffees in conversations, how absolutely vital it is that I think we get things right. Because the standard to change things in this body is high. We have, we've gone through this, this session, particularly. We're always, it seems, the only major votes we ever do any more, cloture votes. Do we have enough for cloture? I cannot, the first two years that I was part of this body, we had some huge issues and I might have to look at my, my good colleague said that, my classmates. I think we had maybe three cloture votes the first year. We had one on the gas tax. We had one on LB609, I think. And interesting, that I tell people one of the things that we did that first two years was to, to eliminate the death penalty. And interestingly enough, we never had a cloture vote on the first round on the death penalty vote. And so that tells you how this body has

changed. Now we have a cloture vote, talking about budgets, talking about virtually anything. And I would hope that as we move forward, this is going to be one of my probably last time's on mike. I don't know if anything else is coming up that, that I'm that passionate about. But it's important that we get it right. And I think this is, this has gotten confusing. I'm sorry, Senator Briese says he thinks that these are taken care of. These are not taking care of. I just, I think it's important that we all know what we're doing before we make the decision to advance this bill and that way, let's send it back to the committee. The committee can work on this bill. It can be revised. If it, if it doesn't get done this year, let's do it and it can be done next year. But let's make sure that the bill is done properly. And so therefore I, that's why I brought this recommit motion into it. You know, I see Senator Pansing Brooks just walked by and promise. I have loved what you have done by talking about all of the friends that we've had. And I can say that this experience, these eight years of serving in the Nebraska Legislature, have been the honor of my life. And I remember a very good friend of mine when I was considering running for this, who I'd known in my church, and I, I was actually there to try to get a donation to help with my campaign. And he knew a lot about me because we'd worked together on committees at church. He said, you know, you've had your great careers, now this will be kind of the pinnacle that you could put on your career. Well, Marshall, I remembered that when you said that. And so as I look forward to the next step, Julie and I are looking forward to spending time together. And we spent about six months in a place called the Villages in Florida last year, and we found that, you know, we're pretty doggone good friends, and that's the reason we made 50-some odd years together, 52 years together, and we're looking forward to many more years coming up. But I would hate to leave this body with not, of, of watering down the credentialing process. I bet I have fought for this from the very beginning. Any bill that deals with credentialing, that deals with standards, there's a reason that we have standards. I started off my career as a teacher, Table Rock, Nebraska. Guess what? I had to meet the standards for teaching, and they're, and they're very specific. And so you meet those particular standards. When I entered my profession of podiatry and finished up my residency program, I had to go through the board certification process, or the board process and then later on board certification. When I hired new podiatrists into my office, I wanted people that I knew that had been licensed by this state of Nebraska, that they met the standards that are required for the state of Nebraska and that they did, that they didn't get a degree somewhere else. That's important. I think any employer that works with people, whether, whether you're hiring

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

beauticians or clinicians or whatever else you want, you want to make certain that those persons are well-trained. And you know what the training is that you've had to get into the state of Nebraska and you would expect that of a new person coming into your practice that you're going to hire. And as I understand this, these, just because you call yourself a technician in Kansas doesn't mean that you meet the same standards that are required in the state of Nebraska. And therefore, I think that, that because this is so important that we get this right, that's why I think we should send this back to the committee. And I'm thinking over eight year period of time, I don't think I've ever used this motion. I don't think I've ever had a bill that I think that's, that, that no one truly understands what's being attempted here in this bill.

HUGHES: One minute.

HILKEMANN: And so I would ask that committee to go back and consider it. And again, the privilege to serve in this state. One of the things that I, when I ran, I said I was really concerned about safety, public safety, public health. As I have, I have worked hard to get seatbelts in as, as primary offenses. Texting. Those are some things that I've tried. Unfortunately, I'm leaving this body, and a lot of those have not changed. The one thing that did not, we were able to do is to keep those helmet in places on motorcycles, and I don't know how many lives down the live, years that we've saved, but those are some things that were very vital and important to me, and I would hate to think that we changed the credentialing standards such that--

HUGHES: Time, Senator.

HILKEMANN: Thank you, Mr. President.

HUGHES: Thank you, Senator Hilkemann. Seeing no one else in the queue, you're welcome to close on your recommit motion.

HILKEMANN: Thank you. In this process we certainly have times when we, we feel that we have days when we think we've done good things for this body. We've had days where we've been disappointed and I've had days when I've had, I've had bills that I've lost. I've had some bills I got just enough for cloture. And so as I look at this bill today, I think it's important that we maintain strong standards. I don't think that's just for today, it's going forward. We've seen an effort to lower the standards and I understand we've had the COVID. They're not everything that, that we've done for the COVID I think has been good. Lowering standards is not one of the things that I think we should be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

doing. And therefore, while we want to have people coming into the state, we want to make certain that those people meet the standards. When you go to see a massage therapist, you want that massage therapist to be trained. You want to have that massage therapist be, have the minimum that's required to be in the state of Nebraska. Not that they call themselves a massage therapist in some other state and came in and said, I'm a massage therapist. If you've ever worked with professionals, not all professionals are the same. And folks, we want to get the very best. We want people in the state, but we want the very, we want people that meet the minimum standards. And therefore, I urge that we send this back to committee. The committee can work on it. If we don't get it through this year, then it can be dealt with next year. You know, we, we, we send mixed messages and I'm going to bring up a bill that was just passed yesterday on education. We're lowering standard, trying to lower standards, but yet we're trying to, we put up barriers for the education people yesterday, and I tried to point that out that, that we're not going to bring in new teachers for that, we created more barriers. So where are we? Do we have, are we going to be a state that lowers standards or are we going to be one that, that, so, I want some consistency. And so I'd ask the committee to look at this and reword it, and let's see if we can move this forward. And therefore, I'm asking a green vote on this particular motion to send it back to committee. With that, I would ask that we have a call of the house.

HUGHES: Senator Hilkemann, according to the agenda, we will move on to the next bill at 4:30. Do you wish to continue with the call of the house on a vote?

HILKEMANN: If you're going to the next, if we're going to the next, I will, we can, I'll forgo the call of the house. Thank you.

HUGHES: Thank you, Senator Hilkemann. Colleagues, according to our agenda, we will move on to LB1144. Mr. Clerk.

CLERK: Mr. President, the first bill, Select File, LB1144. Senator, I have E&R amendments pending.

HUGHES: Senator Slama for a motion.

SLAMA: Mr. President, I move that the E&R amendments to LB1144 be adopted.

HUGHES: Colleagues, you've all heard the motion. All those in favor say aye. All opposed nay. The E&R amendments are adopted.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

CLERK: Mr. President, the next amendment I have to the bill, Senator Friesen, AM2679.

HUGHES: Senator Friesen, you're welcome to open on AM2679.

FRIESEN: Thank you, Mr. President. I rise today to introduce AM2679 to LB1144. This is a very simple amendment that makes sure that Nebraskans have access to cellular service. As cellular companies invest dollars in new towers and updated improved service, we need to make sure that the timelines for permitting and fees they face in doing so are reasonable. That's all we're asking here is reasonableness. This language was originally introduced as LB520, as amended here, and has been changed to comply with many of the requests from cities and counties. We have exempted Omaha and Lincoln, and the bill does not apply to public power or the universal service process that they use for permitting towers and equipment are quite easily to comply with. It does include a sunset on September 30, 2026. Without this bill in place, we have one bad actor in operating, that's operating in certain Nebraska communities, but is charging as much as 30 times the fees that other municipalities are charging. The permitting process has been dragged out for months, and we're driving cellular providers away from communities who need this the most. This bill puts into state law what is already required by federal law. Unfortunately, we have players in Nebraska who are not willing to follow the federal requirements, and we're hoping that adopting this law at the state level will make the process more usable. Thank you, Mr. President.

HUGHES: Thank you, Senator Friesen. Debate is now open on AM2679. Senator Blood, you're recognized.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand in support of LB1144, but I am opposed to AM2679. I was asked by a lobbyist to be really frank to support the bill, and I, I thought at first I was in support of it until I started researching it. And I was happy to hear Senator Friesen say that it's, it's basically codifying whatever already in federal law. But I think it's a workaround because I feel and, and to be really frank, I don't think anybody can deny that it's a workaround is that there are already laws in place. The Federal Communications Commission had a ruling on it. There is a spectrum act of 2012 that I found and then if you look at the FCC fact sheet from May of 2020, to me, it looks like reading our bill and then reading the federal information, which took a couple of hours, that we're trying to either give bias or a workaround to maybe some of the companies that are trying to move into other communities. And I am

empathetic because broadband is so important, but at the same token, I don't know if it's necessary for us to get involved in these disputes. And I'm personally going to vote no, because there is already federal law that protects our communities and sets these guidelines. And I don't think trying to tweak and work around what they've set into, into their guidelines is something that we should be doing as a state. I feel that whenever we have people that are vendors that are unhappy, we have a tendency to come here with the requests for statute, changes in statutes because we want to appease them and they're telling us, hey, if you do this, we can get things done faster. We can get things done easier. But if you look at the federal guidelines that they're not getting it done and there's, there's people who are preventing things from moving forward and we're seeing that we can force them to do it just by codifying something, I think that's malarkey. So, you know, I am empathetic. I support the underlying bill, but I do not support workarounds. And so I actually asked, I am actually going to vote no. And I think you really need to start reading federal guidelines before you vote for something like this, friends, because it starts here and where does it end. If we don't trust the federal government can do communications guidelines that we are able to support, then we need different people in federal government. And I don't think that's the issue today. The issue today is that this is a workaround. We're trying to appease, I think, one or two vendors who are trying to find a way around it to their benefit. And I don't think that that's Senator Friesen's intent, but I do think the vendors that are going through lobbyists to have this amendment that that's their intent. And that's their job and I don't fault them, but I'm voting no. Thank you, Mr. President.

HUGHES: Thank you, Senator Blood. Senator Jacobson, you're recognized.

JACOBSON: Thank you, Mr. President. I rise in support of AM2679 as I continue to look at the communities in the 42nd District and really all of the 3rd Legislative District. We've got a lot of smaller communities, but we have a lot of rural areas. Broadband is critically important. We've got to be able to streamline this process. We can't get stonewalled by certain groups that want to hold up the expansion of our broadband needs. We've got some funding that's coming to make this happen. This is in critically important in my mind to be able to clear the slate, let us get this broadband pushed out. We've fallen behind too much in the 3rd Legislative District and in our 42nd District. And I want to do everything we can to lower the barriers, continue to push forward, get broadband to everyone we-- that we can throughout the district and really throughout the western part of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

state. So I would encourage you to vote in favor of AM2679 and the underlying bill, LB1144. Thank you, Mr. President.

HUGHES: Thank you, Senator Jacobson. Senator Flood, you are recognized.

FLOOD: Thank you, members, and thank you for recognizing me there, Mr. President. I was out visiting with some of our colleagues in the Rotunda. It is, this amendment, may I ask Senator Friesen some questions?

HUGHES: Senator Friesen, will you yield?

FRIESEN: Yes, I would.

FLOOD: Senator Friesen, your amendment here, AM2679, is in response to a situation where some committee, communities in the state have passed on fees to a applicant for what kinds of services?

FRIESEN: So this is a, there's a third party consulting service that is charging these exorbitant fees.

FLOOD: And what would the applicant be applying for from the city that would pay these fees?

FRIESEN: So you might be applying for changing out the equipment from 4G to 5G. You might be wanting to change antennas, things like that. Changes, just changing boxes mounted on towers. Part of this process is also the fees for permitting towers. But we're not, I don't think we're changing much. We're trying to speed up the timeline. So this is any time you work on a tower, you're required to get a permit, I think, to make changes to a tower and so these are the permits that are required. For instance, I think its FirstNet that's out there, that has to change out some of the Chinese manufactured equipment inside the boxes and has to replace it with other equipment. They're on a strict timeline. Permits would be required to change that equipment.

FLOOD: Thank you, Mr., thank you, Senator Friesen. Members, I think we have to apply a reasonableness standard to what happens when it comes to making sure that our cities are keeping up with technology. I don't know that what Senator Friesen is proposing is the absolute answer, but I do know that technology moves quickly and communities get passed over when they become more or less difficult to work for or work with. And the public has a vested interest in making sure that radio frequencies are on par, that they are safe, that they're not emitting

radiation. We have to make sure that frequencies are coordinated so that fire and police paging and radio communications aren't interfered with. I've had several situations where we transmitted 846.5 megahertz, a special audio stream to a larger tower where it's then received through a studio transmit link decoder and our frequency can be off or a cellular system frequency can be off, and it impairs both of those. So I absolutely understand this from multiple levels. One, it's important to have a structural integrity study to make sure that the tower can accommodate the hardware that's actually hung from the tower. It's important to make sure there's a frequency coordination analysis done so that you are on the right frequency so that you don't have interference. It's important to know who the contact person is if there's a problem. These are all things that Senator Moser, actually, you may find this interesting, he understands radio frequency and he understands modulation, and he understands what's happening. But I will also say you have to balance that with the interest of making sure that consumers and citizens are getting the benefit of the best technology possible. And I think, as I understand it--

HUGHES: One minute.

FLOOD: --Senators in here, including Senator DeBoer, have been very active in trying to find a common ground. And I think that a common ground without a statute being changed is in the best interest of everyone. If a statute does have to be changed or modified or there has to be some limits, I think it's worth having that conversation, but we have to make sure that at the end of the day, our communities have a plan that they're safe, that there's frequency coordination, but that you can also make both ends work so that you can actually get new technology into a community and there's not a barrier. So I'm going to ask more questions. I'm going to work with some of the interests that are present here today and look forward to finding a solution. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Flood. Senator Matt Hansen, you are recognized.

M. HANSEN: Thank you, Mr. President, and good afternoon, colleagues. I, too, kind of been trying to get to some more information in this area, including that I was under the understanding that I have from as close as I can be as an outside observer, that there was some movement on a compromise but I don't think has come to fruition. So I guess, let me just start by getting that on the record. Would Senator Friesen yield to a question?

WILLIAMS: Senator Friesen, would you yield?

FRIESEN: Yes, I would.

M. HANSEN: Thank you, Senator Friesen. So just to clarify, this amendment is the provisions largely of LB520, is that correct?

FRIESEN: That's correct.

M. HANSEN: All right. And LB520, has it come out of committee?

FRIESEN: No, it has not.

M. HANSEN: OK. And can you give us a summary of who testified for and against that, since we don't have a committee statement.

FRIESEN: In general the League of Municipalities was opposed to it.

M. HANSEN: OK.

FRIESEN: Would pretty well summarize it.

M. HANSEN: All right. That's pretty straightforward. All right. Thank you. Thank you, Senator Friesen. Would Senator DeBoer yield to a question?

WILLIAMS: Senator DeBoer, would you yield?

DeBOER: I'd be happy to.

M. HANSEN: Thank you, Senator DeBoer. Kind of a similar question that I asked Senator Friesen. Can you give me a summary of who was kind of for and against LB520 in committee?

DeBOER: Actually, I've been working on this so long, I can't even remember who was in the committee, but I can tell you who is now.

M. HANSEN: Sure.

DeBOER: How's that?

M. HANSEN: That'd be great.

DeBOER: I think that the proponents tend to be telecoms that would like to use these, replacing permits, get them, and the people who are opposed tend to be counties, cities, that kind of thing. League of Municipalities.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

M. HANSEN: OK. And so specifically, what is the cities or what is the political subdivisions? Is it, is it a matter of local control? And if so, what's, what's at the crux of the issue?

DeBOER: So my understanding of their concerns is that it is a, a chipping away at their local control over their own right of way because it tells them the manner in which they must do the permitting for these replacement boxes or technologies. And I forgot what I was saying, so what was--

M. HANSEN: That's, I appreciate that Senator DeBoer. I'm sorry. I think that's good enough to, to at least get me up to speed. So thank you for answering that question. Colleagues, I'm going to kind of keep looking at this issue. I am hesitant to kind of wade into this issue and again, a thank-you to Senator DeBoer and Senator Friesen and for answering my questions. As I understand it, there was some attempts to get to a compromise, but I don't think we've been there. For those in the body who've remembered, we've had some of these issues come up from time to time again that I've been involved with, including the ability to access rights of ways and other things that I've been looking at. I don't want to break open old debates, but I worry that we're falling back into some of the, I believe it was the 5G small cell wireless boxes and who can touch what on what telephone pole and how fast do you have to approve what and who gets to pay who, which, even to the limited extent that I got involved in some of those debates, was levels and levels of bureaucracy and confusion and different rights of way and different things like that. So I would say going forward, looking forward, I would be hesitant to support AM2679, especially if the League of Municipalities and other cities are opposed. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Matt Hansen. Senator Blood, you are recognized.

BLOOD: Thank you, Mr. President. I still stand opposed to AM2679 and LB1144, and I would ask that Senator Jacobson yield to a question, please.

WILLIAMS: Senator Jacobson, would you yield?

JACOBSON: Yes, I would.

BLOOD: Senator Jacobson, I was writing down as you were speaking, so I had a clear understanding. One of the things you said is that you felt that this amendment would remove barriers. And I agree that it's

important to remove barriers that we can expand broadband. In fact, I think we should be ahead of what's going to happen in two or three years where we could actually get broadband from satellite in rural areas because that's going to be happening just, in our lifetime within a couple of years. And we aren't even doing that yet. But one of the things I was concerned about when you said that is, can you tell me what hurdle, what barriers this amendment removes? I'm puzzled by that.

JACOBSON: I think it's the time delays that are occurring with these studies that are very expensive, and I know we can talk about integrity of towers and all that, but that's really not the issue where in many cases, we're talking about very lightweight situations with the radio transmitters and so on. It's really somewhat a license to steal when you have some of these companies coming in and doing what they're doing. And I think that's where the concern is, it's time consuming, it's expensive, and at the end of the day it's not accomplishing much, but there's only certain companies who are out there doing it, and so it gets very, very expensive for particularly smaller communities, and it's impeding our ability to get broadband sooner. And that's where my concerns are.

BLOOD: So isn't the local jurisdiction part of the regulating process? Isn't that part of the process that the FCC put in front of us in order to put broadband?

JACOBSON: I'm not, I'm not sure about that. You probably have to ask Senator Friesen that.

BLOOD: So can you tell me how, why the 60-day shot clock that's approved for modifications and for these companies, why that creates a barrier when it's really meant to, to actually improve it? The concern that I have and the reason I had a red flag on this bill, and maybe you can walk me through it since you're a proponent of it, is that it specifically talked about the Tax Relief and Job Creation Act of 2012. And when they refer to that and they're saying we want to go before that time, to me it says they're trying to take away the 60-day shot clock, which is put into federal law. So is it that residents in rural Nebraska are seeing that as a hurdle? That's what I'm concerned, because if you look at the FCC guidelines, it's clear that they have done a lot of things to expedite it, and it's approved partially at the local levels. At the local level there's a bad job of hiring. Why are we trying to change state statute to fix that?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

JACOBSON: Well, I'm not going to get into the weeds on this because I'm, obviously you've got more detail from your staff to read off from than I have.

BLOOD: I'm sorry, my staff doesn't do my research for me, but thank you, Senator Jacobson. I do my own research. I have one staff person and have since January.

JACOBSON: OK.

BLOOD: Thank you, Senator Jacobson. I was hoping you could clarify what you said. Thank you.

JACOBSON: OK, so you don't want an answer? Thank you.

BLOOD: So friends, sometimes you can be on the mike and you can be wrong, and sometimes you can be right. It is what it is. I do my own research. I'm 61 years old. I've been reading since I was four years old. I'm capable of doing that. And if you look at the federal guidelines and there's a lot to read, those federal guidelines are very clear as to how you expedite it. And part of that is the 60-day shot clock, and it's clear that local jurisdiction does indeed improve-- indeed approve part of the regulatory process and then the applicant turns it in as part of that streamlined review in a certain window of time. And so I think that the thing that I'm most concerned about--

WILLIAMS: One minute.

BLOOD: --we're having about, when removing barriers and making it easier. But really, all this does is a workaround against the rules that have already been set. And we're taking away local power because they had a bad actor. And if they have a bad actor, part of that reason is likely because they approved that contract. Are they being taken advantage of? It sounds like so, but that is something that they need to turn in to the FCC because they're the regulatory body that oversees bad actors when it comes to broadband. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Blood. Senator DeBoer, you are recognized.

DeBOER: I'm sorry about that. Thank you, Mr. President. Good afternoon, for a few more minutes, colleagues. I wanted to explain what sort of happened with this bill over the last two years because I've been-- it's not my bill, but I've been working on it for the last

couple of years. So the, the basic parties, as we've discussed and of stakeholders, are the League of Municipalities, counties, that sort of thing. And then the telecoms generally are sort of wanting the bill, the League, etcetera, is opposed to the bill. And so we've been, I've been meeting, we've been meeting with them for, for a while and over the summer and this year. And the amendment that you see on the board reflects some of the work that we did to make the statute reflect federal law, but putting a few more things in place. There's also actually a sunset in this amendment so that it would do it for a couple of years. We see if it works, if it doesn't work, if it's making things go faster, if it's slowing them down. The procedurally what has happened is that I have been trying to work with everybody to get to an agreement. We got very close, I think, and about an hour and a half ago, we sort of ended up in impasse and I sort of said, OK, you know, it's an hour and a half away. So when that happened, we went back to the filed amendment and that is what you see here. It reflects some of the language of conciliatory nature by both sides. Not all of the language that we had gotten to. It doesn't quite reflect the, the full agreement there. And even with, where we were getting there were still some objections between the two parties. So here I will tell you is where I'm at. I would probably support something like this amendment if we had, if it were a bill that had come out of committee. But I will not support it when it is still in committee because that's basically a left-handed pull motion out of committee. And so procedurally, I have a problem with that. So the amendment itself, do I think it is perfect? No. I, in fact know some things that would make it better because we worked on them today or would make them closer to agreement anyway. But I would, I would probably be in favor of the amendment if it weren't, as I say, kind of a left-handed pull motion. So I'm sort of, you know, stuck here not knowing what to do. And the fact that didn't come out of committee, in part, was timing and a million different things and we were going to maybe try and go underneath the balcony and put something out, but it wouldn't have been able to be read across, so it wouldn't technically be out, reported out of committee. This is one of those things where time just got the better of us, and we didn't quite, quite get it done. Do I think there's a problem with a consultant in Nebraska who takes too long to get these things approved? I do. There is a pretty big issue with the rip and replace where, and maybe all the municipalities can hear me say this and say, let's, let's--

WILLIAMS: One minute.

DeBOER: --try and speed this around, along a little bit because we need to. For example, there's some technology out of China that has

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

been determined to have some national security issues. Somebody needs to go out. There's a federal money to do it, rip and replace all of those. Get rid of all of those boxes and replace them. So the process needs to go quickly in order to do that sort of thing. The issue of money is where you get to, how quickly are people going to be deploying these technologies throughout our state? Because if the cost becomes prohibitive for them to do these sort of large scale things, maybe they will be slower is the argument. So we're sort of balancing a number of different aspects. There also is the question of local control. How much local control should we be imagining that our counties, municipalities, whatever should have over their own--

WILLIAMS: Time, Senator.

DeBOER: Thank you, Mr. President.

WILLIAMS: Thank you, Senator DeBoer. Senator Moser, you are recognized.

MOSER: Thank you, Mr. President. Senator DeBoer has really been working on this issue more than she indicated in her discussion. I think she should get credit for really giving it a really good effort. She brought people together to talk about it, but in the end she couldn't get an agreement. And once in a while, things go like that. So, my recap of the, our handicap of the race here is that the cities feel like that the cell companies are demanding, and they insist the towers have to be in a certain place in order for them to get the coverage they want. And, and they claim that the FCC, you know, has rules that favor them and, and the cities want to have some control over where the towers go and what they look like and, and to protect their right, rights of way. And so there's kind of a, a battle. It's kind of like if two of your kids come in the house crying and you ask one of them which, which of you started the fight and nobody will admit it. And, and you know, in my case, given that I was in city government for 12 years, I lean toward the city's view of things. They don't know everything about this technology. This technology is terrifically complicated and they have troubles deciding what's, what the right thing to do is, so they hire a consultant to help them decide where to put the towers and what's supposed to be involved. Well, the consultant that a lot of the city's use is bogged down, has way more business than they can get done in a reasonable time, and so the cell companies are upset because they have delays. In some ways, the first guys to get their towers up, get first chance at that business and I think it's more lucrative for them if they can get more towers put up. I can still get sufficient signal strength anywhere in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

Columbus as it is. You know, and I see both sides of the issue. I, you know, technology is something that we need to embrace. But in this particular case, I, I side with the, the cities on this and I'm not going to vote for this amendment. Thank you.

WILLIAMS: Thank you, Senator Moser. Senator Friesen, you are recognized.

FRIESEN: Thank you, Mr. President. Everyone can look at the, the pages. I handed out a sheet of paper that shows some of the issues that we're dealing with. And again, it shows that there are many communities that use third party consultants and do it very responsibly. You can look at-- and the reason Lincoln and Omaha were carved out, their fees are around \$543 on average. They're not excessive. They're very reasonable. There's other communities that are using consultants. Papillion uses a consultant, \$320 was their fees. Norfolk, \$805. They use a third party consultant. But then we have consultants on here that are charging \$11,000, \$10,165, \$11,000, \$7,000. These are exorbitant fees. They make these telecommunications companies put \$10,000 into an escrow account, and they whittle it down until the escrow account is zero. That's what we're talking about here. This is using reasonable fees. It's not talking about how they site their towers. It's not talking about the structural integrity of it. We want them to use reasonable fees in a reasonable timeline. And when you look at the comparison of those fees, you can't tell me that that's reasonable. And if a couple of members want to filibuster this amendment, go ahead. But this is, we have companies out there that are required to change out equipment on the federal level. They have a timeline to work on. And what's happening is when they run into this third party consultant here that's charging these \$10,000 fees, they're going around them and going elsewhere to get their work done, but it's going to delay that process of changing out that equipment, which they were told they had to change out for national security. And it's delaying them from getting their job done. And there's a sunset on the bill. As soon as that work can be done, this bill sunsets. We go back to the regular timeframe, but we have communities and I don't think the League, if the League would have stepped up and said, look, we have a problem, let's fix this. They could have fixed it internally, but we've been dealing with this for over a year and a half and we're right. Senator DeBoer has spent a lot of time on this and the League is opposing it to this day yet, but you cannot tell me that these are reasonable fees. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Friesen. Senator Pansing Brooks, you are recognized.

PANSING BROOKS: Thank you, Mr. President. So I stand in favor of AM2679, Senator Friesen, and the underlying bill, LB1144. I want to go back to the sheet that, that Senator Friesen passed out, and I hope you all look at it carefully. I mean, if you, if you look at it, places like Sarpy, like Sarpy County and Plattsmouth. Sarpy County is paying \$7,895. Plattsmouth is paying \$11,050. And then we get to Lincoln and Lincoln's paying \$543.67 for the permitting cost. Does that make sense to any of you? That makes no sense to me. The fact that Cass County has \$11,000 average permitting cost, and Columbus has \$10,165 of average permitting cost, that makes no sense. The city of Bellevue is down at \$418. Well, you notice that the cities and the communities with the highest numbers are the ones that have third party consultants, and they have been, being taken advantage of, as they say, by a bad actor. And this is wrong, and I don't know why this hasn't been figured out sooner. I don't know exactly what the whole politics behind this was, but I, I totally agree that AM2679 needs to pass as does the underlying bill, LB1144. And with that, I will, I will give back the remainder of my time, Mr. President.

WILLIAMS: Thank you, Senator Pansing Brooks. Senator Matt Hansen, you are recognized.

M. HANSEN: Thank [RECORDER MALFUNCTION]-- honestly, the more I dig into this and the more I see it, the-- I think, the clearer I feel about it, the more opposition I have. It's not, like, I'm looking at this chart. OK, so some cities, some places signed an expensive contract with a bad consultant. That is a local issue, and that is a local issue. That is something you take to the city council, that is not something you change statewide law to do. We routinely have-- I've been in Urban Affairs for eight years. We routinely have cities who come in and go, oh, woe is me, there's nothing we can do but hire this really expensive consultant. And there's other cities who could do it in-house for next to nothing. And we see this here. We see this in this chart. What we haven't done in Urban Affairs and in other issues is banned the use of consultants and banned the use of consulting firms because ultimately, if a city wants to get into a contract and they decide it's best, that's what they get to do. I mean, that's what they get to do. You know, yes, the different cities, cards, charges from rate, different cities have different in-house counsel. Different cities have different in-house engineers, whatever they need to do to get this done. You know, Lincoln might be charging lower permit fees and paying for more out of General Funds. I mean, that's a choice the city of Lincoln has made. That's a choice that others can make. And again, colleagues, we talk about the things we do in the process or like, what is the final day, the last day of things? And to have a

bill that has opposition, has probably very strong, unified opposition from basically all of the cities that couldn't get out of committee because of that, that then is being attached on Select File. I mean, we're layering and layering and layering all of these, I think probably in their own right, process problems on it as well. I mean, this is, this is more than just trying to hitch a ride at something. This is again, as I think Senator DeBoer called it, a left-handed pull motion. We're pulling a bill that apparently couldn't get out of committee because it has opposition on Select File to put it on to a bigger package, with the hopes that maybe the bigger package will keep the amendment alive on a bill that couldn't move forward on its own right. Colleagues, I mean, if you want to call talking on the microphone a couple of times a filibuster-- I mean, at this point, I'm just trying to dig into this and I don't see why, in the scheme of all these things and the amount of other priorities that we've had to put by the wayside that we've all had to do, that all of a sudden this one gets special priority and this one gets to move forward because we really, really want it to save a couple communities or to prevent a couple of communities from doing contracts. I mean, like this is, this is, this is so interesting that it's-- if we don't believe cities when they report their costs, you know, we're going to have issues with fiscal notes, we'll have issues with all sorts of things. Again, if we're talking about un-- I'm sorry, I'm just, I'm just so flustered. This is, this is like genuinely frustrating enough to me, that we're saying that we have to do this. We have to do it over the city's objection. We haven't been able to get to a compromise. We have to do it at 5:00 on a Friday on Select File on a bill that couldn't get out of committee and attach it to another vehicle because it's so urgent, we have to get it done. As was been mentioned before, this is the bill by the committee chair, this had an ability to be the package, this has the ability to be the vehicle of the package and instead, no, we waited, waited, waited. And I'm going to keep, I'm going to hit on my line another time. I'll see what happens. I'll see if others-- I know a couple of people have raised questions and some hesitation, and we can go from there. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Matt Hansen. Senator DeBoer, you are recognized.

DeBOER: Thank you, Mr. President. I did want to thank everyone who has participated in this negotiation throughout the last couple of years. And I wanted to say like, it is amazing. The telecoms showed up whenever I wanted them to. The, the cities' municipalities showed up. They brought people along and they have been really helpful. I think that this is the kind of thing where it's great to see people coming

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

to the table and get together. I did want to say thank you to my administrative assistant, Brian Murray, who did so much work on this and wrote the draft, AM2679, in fact, that's up there. Looking at the federal regulations, dug through piles of paper, read, has spent so much time on this and I wanted to thank him because he has done a really excellent job on that. So we didn't eventually get to an agreement on that, and that, that happens sometimes. We ran out of time. I think maybe with more time we might have been able to. I will say there is now time between now and next year. And I think if the cities, you know, are opposed to legislation that does this, they know about the problem. This problem has now been announced to them. They see that the Legislature is serious about trying to fix this problem, and maybe they can find a nonlegislative solution to it before next year comes and we go through this process again with trying to find a legislative solution. So there's some time now to try and fix this, and maybe they can find that solution between now and next legislative session because just the fact that I don't even know if there's 25 people to vote for something in here at this point. So I would say that I hope that if this bill does not go forward this year, that some folks work on trying to find a solution before next year, and maybe we can find a nonlegislative solution to this problem. Thank you, Mr. President.

WILLIAMS: Thank you, Senator DeBoer. Senator Friesen, you are recognized, and this is your third opportunity.

FRIESEN: Thank you, Mr. President. Well, I do want to thank Senator DeBoer for putting a lot of time and effort into this bill. I do believe the votes are here to pass this. And what's most disheartening is the municipalities-- or the League of Municipalities defending bad actors when they know good and well, this is outrageous and they're unwilling to concede. And even those that are not impacted that are carved out by this are going to filibuster the bill and put other bills in jeopardy. So really, this bill, and it talks about public safety, and this is where the first net system is being required to change out equipment. And what it's doing is delaying them in their process, raising costs and impeding their progress so that they don't get done on time. But if we're going to jeopardize other bills, I just wanted to spend a little bit of time here talking about what this bill did. And then in the end, I will pull this amendment and the League can be rest assured that somebody maybe next year will bring it up. But I am very disappointed in the-- they're leading the charge to oppose this when all it's asking for it, the whole heart of the amendment-- I know there's a lot of definitions and everything, but it's all basically on page 5, where it authorizes the cities and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

counties to charge reasonable application fees based on actual costs. With that, thank you, Mr. President. I will withdraw the amendment.

WILLIAMS: Amendment AM2679 is withdrawn. Mr. Clerk.

CLERK: Mr. President, Senator Flood, AM2408, I have a note that you want to withdraw that, I believe. Is that right, Senator?

FLOOD: Yes, Mr. President.

WILLIAMS: Withdrawn.

CLERK: Senator Flood, AM2757.

WILLIAMS: Senator Flood, you are recognized to open on AM2757.

FLOOD: Thank you, Mr. President, members. This amendment does a couple of things. And it's fair, I would say it's noncontroversial for sure. The first thing that it does is that it says that the Public Service Commission may contract with a political subdivision, whether it's a city or a county, on the distribution of the ARPA funds that political subdivisions are getting. This allows those political subdivisions to work with the Public Service Commission if both sides agree. So what's happening right now is that counties around the state are getting a sizable amount of money that can be used for broadband deployment. This would allow, for instance, Boone County to say, well, we've set aside \$3.5 million from our ARPA funds, we want this deployed in Boone County. We can enter into an agreement with the Public Service Commission, where they, Public Service Commission will essentially award the funds to an applicant and then provide the oversight consistent with what we want to accomplish in the broadband efforts in Nebraska. Couple of benefits for the political subdivision. I think it's fair to say that county commissioners themselves and city leaders, a lot of times they don't get money to deploy broadband. This allows them to contract with the Public Service Commission and make sure, number one, we are not overbuilding. So that if Boone County says, hey, we want these funds to go towards areas around Boone, Nebraska, Cedar Rapids, Nebraska, maybe closer to Newman Grove, which is in the, the eastern edge of Boone County, they can give that direction in their agreement to the Public Service Commission. And the Public Service Commission can advertise the bids, can ask the questions, can determine what the appropriate speed will be and then go from there. Also on this amendment, it does a couple of other things. When we passed the bill last year, there is \$20 million given to the Public Service Commission. These funds were to be distributed

by grants for broadband projects in unserved and underserved areas. The Public Service Commission received over \$30 million in grant applications but were unable to award-- from providers-- but were unable to award the full \$20 million. Why? Well, why weren't these funds fully distributed? Incumbent challenges. What does this mean? It means we're a company that we already have and provide what we call broadband service. And here comes another provider in to build out the area. Well, when that other provider applies for the funds, the incumbent can issue what they call a challenge. Over \$10 million in grants were blocked by incumbent providers through the challenge process. This process allowed a current provider claiming to offer decent broadband speeds, 100 by 20, to an area to block grants. However, incumbent providers and there was one company that was the most active challenger in the first round of grants, and I think we might say that company's name is Windstream, did not submit any supporting evidence for the service they claim to offer. They instead relied solely on advertised speeds. My amendment would bring accountability back to the Broadband Bridge Program by requiring incumbent providers to prove they offer their claimed broadband speeds by submitting to speed tests. This is not asking too much. The amendment also punishes companies that block grants by committing to build a network in an area, but then failing to live up to that commitment. This allows the Public Service Commission to assess civil penalties. My recommendation, \$5,000 a day. Now that's not in the amendment, but I think that the penalties have to be severe. So who does this protect? This protects people in rural areas who go to bed at night, hoping that when the government says they're providing broadband funds, that they actually go to where they're supposed to go, that we actually get the speeds we have and that people who commit to build something have to build it or they pay the price. This is a system that is being gamed. And I told everyone last year on this bill that this situation is rife for problems. And I wanted more accountability. I wanted a public notice in the newspaper, I wanted to hold these folks that challenge this accountable. We ended up settling on something less. We're back now after we failed to be able to even hand out the \$20 million. So this amendment is common sense. I think at the end of the day, it actually provides some teeth and it expects results. And I think Senator Friesen agrees with it and we can move forward together. I will give the remainder of my open to Senator Friesen so that he can comment.

WILLIAMS: Senator Friesen, 4:50.

FRIESEN: Thank you, Mr. President, and thank you, Senator Flood. I consider this amendment a friendly amendment. I was always more

letting the PSC dictate how in depth they wanted to be in some of this enforcement. But Senator Flood wants to make it more in legislative process. I don't have a problem with that. We do want these companies to act in good faith and we want them to get things done, so I fully support the amendment. And moving forward, I think this does put some teeth into the fact that we have companies now, and this has happened at the federal level also where companies are submitting applications, they are tying up funds that are to be used to expand the broadband system and they're not getting the systems built. And then months or years later, those funds are finally released to do it again. And so we don't need companies that are out there that are saying they're going to do one thing and then not carrying through with their obligation. And we do need to make those companies when they're saying that, we're going to enforce that idea. So thank you, and I do support the amendment. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Flood and Senator Friesen. Debate is now open on the amendment. Senator Bostelman, you are recognized.

BOSTELMAN: Thank you, Mr. President. I do support the amendment. I thank Senator Flood for bringing it. I do want to-- we want to talk with Senator Friesen here in just a minute. I want to put some intent language out here for folks to look at at a later date. And I wonder if Senator Friesen would yield to some questions.

WILLIAMS: Senator Friesen, would you yield?

FRIESEN: Yes, I would.

BOSTELMAN: Thank you, Senator Friesen. As we see broadband being built out in general across the state, as we're talking about cities, towns, villages and that, I think the intent is not that that money-- that build-out is just not within those communities itself, but it's really that, the broader area. Maybe that whole exchange. But we can't just build the town, we have to build out in the country as well throughout those areas. Would you agree with that?

FRIESEN: That has been one of our biggest concerns. If we have companies that only build out the communities but leave those areas outside of the exchange area, leave those unserved, those are the hardest to serve. So our goal is always to, if you're going to overbuild a community, we would like them to really build the whole exchange at one time, so you don't leave those customers on the outside, outside the city and village limits, we don't leave them

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

unserved. And so ideally, we would do whole exchanges when we do this process.

BOSTELMAN: I would agree with that. I think the key here as we look at funds coming into the state in different areas, and as we look at different programs we have, different opportunities we have, I think that's key. And that, that buildout happens throughout a wider area and we just cannot limit that. It's not limited to those cities or villages.

FRIESEN: Yes. And I want to encourage, and that's why we have encouraged companies that-- the telecom companies, I want to encourage the cities, the counties, anyone who has access to build these private partnerships, public-private partnerships, to look at doing those whole exchanges versus just in the municipality where they pick off maybe the high-value businesses and things like that, but yet don't want to hook up the rest of the community or even areas outside the exchange. So we don't want them to cherry-pick just only the good customers. We want everyone in a municipality and that exchange served when they do these. We would really encourage that.

BOSTELMAN: I would agree. Thank you, Senator Friesen. I yield the rest of my time back to the Chair.

WILLIAMS: Thank you, Senator Bostelman and Senator Friesen. Senator Pansing Brooks, you are recognized.

PANSING BROOKS: Thank you, Mr. President. So I stand in support of AM2757 and LB1144, and I thank Senator Flood for bringing this amendment. Neither the state nor the Public Service Commission can distribute federal or state dollars to un-- unserved areas or underserved areas without determining the actual speeds of services that are being delivered by carriers. Senators Flood and Friesen are correct and that the stand-- the speed standard and the speed testing should be required as a matter of state statute. It's very important that the carriers have to comply and show-- and show what they're doing, and the Public Service Commission should be able to hel-- hold them to that standard. So I support AM2757 and LB1144. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Pansing Brooks. Seeing no one in the queue, Senator Flood, you are recognized to close on AM2757. Senator Flood waives closing. Members, the question is the adoption of AM2757. All those in favor of vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

CLERK: 29 ayes, 0 nays on the amendment.

WILLIAMS: The amendment passes.

CLERK: I have nothing further on the bill, Mr. President.

WILLIAMS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move to advance LB1144 to E&R for engrossing.

WILLIAMS: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB1144 is advanced. Next item on the agenda, Mr. Clerk, LB876.

CLERK: I have Enrollment and Review amendments, first of all.

WILLIAMS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move to adopt the E&R amendments to LB876.

WILLIAMS: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: Senator Briese, AM2276.

WILLIAMS: Senator Briese, you are recognized to open on your amendment. Senator Briese would like to withdraw that amendment. Withdrawn.

CLERK: Mr. President, Senator Geist had an amendment, but I have a note she wishes to withdraw.

WILLIAMS: Withdrawn.

CLERK: Senator Geist had AM2665. Senator Brandt, I believe, has been authorized to handle that for her.

WILLIAMS: Senator Brandt, you are recognized to open on AM2665.

BRANDT: Thank you, Mr. President. This will be about a minute and a half and then we're going to pull this. And AM2665 is based on Senator Geist's LB73, which was advanced from General Affairs Committee last session with a 6-2 vote. The amendment would designate a small amount of gambling tax revenue, 2.5 percent, to county agricultural societies located in counties with a racetrack and casino gaming facility. Passage of AM2665 would provide critical, stable funding source to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

maintain county fairground facilities, starting with those existing in five of our larger population counties. Now, many of you may be wondering what an ag society is and how they are currently funded. County ag societies are nonprofit corporations created by a vote of the people. Many have been serving the state of Nebraska since the first years of statehood over 150 years ago by building and maintaining county fairgrounds and running annual county fairs for their youth and communities. Ag societies currently receive varying levels of financial support in the communities that they operate. As a Lancaster County senator, I know the local situation. The Lancaster County Ag Society operates the Lancaster Event Center fairgrounds or LEC, which has an economic impact for the city, county and state of \$40 to \$60 million annually. Events held at LEC range from small community group events to large regional, national and international events. In a typical year, LEC welcomes almost 600,000 unique visitors and is one of the three largest attractions in Nebraska for out-of-state visitors. Despite their substantial economic contribution, the Lancaster County Ag Society receives less than \$140,000 each year in property tax revenue from the county and has not received any funding from the city of Lincoln since it relocated from the old state fairgrounds, now Innovation Campus, 20 years ago. Without sustainable, reliable funding, we could see county fairgrounds in some of our largest counties fall into disrepair or close entirely. Douglas County has already disbanded their ag society, and we don't want to see more go under. As we think about workforce development and keeping our kids in Nebraska, we should embrace opportunities to integrate future generations into Nebraska's largest economic driver, which is agriculture. Senator Geist has been working diligently with proponents and opponents of AM2665 over the last two years. I'm disappointed an agreement has not yet been reached to provide important long-term funding for county ag societies. However, I am heartened to hear the parties have agreed to continue their work over the interim, and look forward to hearing their solution next session. Mr. President, I ask that the amendment be withdrawn.

WILLIAMS: Thank you, Senator Brandt. The amendment is withdrawn. Next item, Mr. Clerk.

CLERK: Senator Blood, AM2666.

WILLIAMS: Senator Blood, you are recognized to open on your amendment.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, this is a very simple amendment that is a friendly amendment. Senator Briese and I talked about it approximately a week ago. Feel free to walk up

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

and ask him. And what it does is it just simply takes out the names of four communities. And the reason we're doing that is because it creates a protective class within the legislation which we were taught our freshman year was something we were supposed to try and avoid whenever we wrote legislation. It doesn't change the intent of the bill, it doesn't change the intent of that part of the bill, and it doesn't change the intent of the entire sentence. All it does is remove the protected class that we always try and avoid in legislation. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Blood. Debate is now open. Senator Halloran, you are recognized.

HALLORAN: Thank you, Mr. President. Good evening, colleagues. Would Senator Briese yield to a quick question, please?

WILLIAMS: Senator Briese, would you yield?

BRIESE: Yes.

HALLORAN: Thank you, Senator Briese. We've talked about this off-mike a little bit before, and I would, just for the sake of the record and clarity for everyone, a quick question. Would any of the established racetracks in the six counties that have grandfathered in racetracks, will they be required to do a study, feasibility study or socioeconomic study, to be able to move the track from one location in the, in the county to another?

BRIESE: Not under the provisions of LB876? They would not have to, no.

HALLORAN: OK. Appreciate it very much. Thank you.

WILLIAMS: Thank you, Senator Halloran and Senator Briese. Senator Briese, you are recognized.

BRIESE: Yes, Senator Blood's amendment is a friendly amendment. I appreciate her for drafting that and bringing it to us. I would urge your support. Thank you.

WILLIAMS: Thank you, Senator Briese. Senator Stinner, you are recognized.

STINNER: Thank you, Mr. President and members of the Legislature. I'm opposed to this whole thing. I think you've shut out half the state from applying for a racetrack, and I would say racetrack. If we could change it from horse to race, I would definitely be for it, because we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

could have dogs, we could have ostriches, we could have chicken races and human races. So it would open up a whole brand new breed of, of tracks. In all seriousness, they got a three-year study, shuts us out. We don't have-- we have people that are ready to go right now. We don't even have a racetrack within 300 miles of Gering, Nebraska, 300 miles. So we're going to wait for three years. We'll probably lose the folks that are there right now ready to do this and then have to wait another two years in hopes that this committee will allow racing in western Nebraska. So I'm totally opposed to this. You know, I guess I did, I did have a proposed amendment to break the state in half at the 100th meridian, which is Cozad, Nebraska. It would allow even 100 mile limits between us and North Platte, for an example, would be 100 miles. That's the two, two race-- racing venues that were proposed and casinos. Got 100 jobs, over 100 jobs in western Nebraska that we could have right away. So I'm opposed to it, and I will vote no. Thank you.

WILLIAMS: Thank you, Senator Stinner. Senator Jacobson, you are recognized.

JACOBSON: Thank you, Mr. President. I have to echo the remarks of Senator Stinner. I was on the committee. Obviously, I joined-- so I joined the group late, after all the hearings and after everything had been formed up with the committee. I did agree to follow the committee recommendation to bring it to the floor. But obviously I made my presence known and my comments known in the committee on the record that I don't think it makes sense that roughly two-thirds of the landmass of the state is being left out of this and then we're being forced to wait three years. Now there are some circumstances out there that I can appreciate. Number one, we need to recognize that the initial initiative really talked about racetracks. And so there was a lot of debate on what, what is included. Is it-- did it just include initial, the existing racetracks or additional racetracks? I also recognize that of the six established racetracks, five of them race thoroughbreds and only one of them races quarter horses. And so if we're going to put the right pieces in place, we're going to need more quarter horses. And so there's going to need to be some time to develop that. I was opposed to forcing this to go three years, and that's why we did change earlier through the committee process the idea that, that we would expedite this study so that it could get done sooner and that there would be an outside limit of three years, not a minimum of three years. I don't know that that totally fixes that. I'm still concerned that, that if we're going to have gambling in Nebraska, casino gambling, that it ought to be open to the entire state, not just limited to the eastern third. It seems like all of us on, that move on out west: North Platte, Ogallala, Gering are three in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

particular that I've expressed interest in, in being a part of this. And so it looks like our residents would have to drive to Grand Island or Hastings, which would be the closest and leave their money there and bring back any problems that would be associated with it. So I do feel like that, that we're being left out. I can tell you that next year I'd like to see us make some changes where we can be earlier involved in this process to, to make some modifications so that we can open this up to some other markets. If we're going to have it, we should have it across the state and we should have it in key markets. But I also am understanding of the concern about the quarter horse industry needing to develop. And so that's really where my concerns are at. Again, I supported the committee. I did get there late. The committee was, was, was a fairly strong vote coming out, and it was very clear that the committee did not want to make any other changes at this point in time. So I see this as something that will be a priority for me next year, as I do think that we need to look at geograp-- geographic distances and we need to open this to everyone, not just limited to the eastern third. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Jacobson. Senator Hilkemann, you are recognized.

HILKEMANN: Thank you, Mr. President. I'm wondering if Senator Stinner would take a question or two.

WILLIAMS: Senator Stinner, would you yield?

STINNER: Yes, I will.

HILKEMANN: Yeah, Senator, I, I remember when this was debated before. I was one-- it was one of those evening debates that we had and I was actually listening to it on the way home, on my-- because I had left just a little early. And I thought, this doesn't seem right that we're not, that we're not taking western-- does Wyoming have casinos and gaming?

STINNER: Not to my knowledge.

HILKEMANN: So if you had a, a casino at Gering or at Scottsbluff, you, you have a potential of drawing some of the Wyoming market?

STINNER: Yes, we do. Yes, we do. In fact, the, the folks that are looking at Gering says, that's our number one site. That's the most attractive site. They have, they're talking Front Range, they're talking Wyoming and actually some of South Dakota, as well, as a marketing area for this.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

HILKEMANN: If I, if I remember right, Senator, I think South Dakota does have the gaming. Am I right?

STINNER: You are correct, yes.

HILKEMANN: So you would have to go up probably to the Hot Springs or the, that area in order to get to the casino there?

STINNER: They have gaming. They don't have racing.

HILKEMANN: OK. All right. Thank you very much, Senator Stinner. Senator Briese, I wonder if he would yield to a question.

WILLIAMS: Senator Briese, would you yield?

BRIESE: Yes.

HILKEMANN: What would it take to advance-- to change the-- why would it take three years? I know that that's what this, we're talking about three years before this can be done. Is there any way that this process could be moved forward faster?

BRIESE: I don't know. It could take three weeks, could take three months, could take three years. I just don't know how long it would take. Problem is, there are some folks out there that would like a five-year moratorium, seven-year moratorium. So what do we tell them? So we're just trying to find common ground here. We talk about the fact that western Nebraska seems to be somewhat unique, but Bellevue is kind of unique too. They're sitting in a populated area. Douglas County has over half a million folks. I don't know what Sarpy County has, a couple hundred thousand. You know, they're sitting in a very populous area, so they have something of a unique situation. Norfolk might make the same argument. We're unique up here because of the trade area we draw from. So there's a lot of people here with different arguments, different reasons why, yes, there ought to be an exception for me. But once we open the door, we're going to be making exceptions for a lot of folks. What we landed on here was middle ground. I think it's a reasonable middle ground. There's people on each end of this thing wanting to pull in their direction, and I think we found the place to be.

HILKEMANN: Thank you, Senator Briese. If Senator Stinner would like the rest of my time, he can. Otherwise, I'll yield it back to the Chair.

WILLIAMS: Stinner, you are recognized for 1:50.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

STINNER: Thank you, Senator Hilkemann. I will tell you this, folks, that we are unique because we're several hours away from the closest track. Where Bellevue, you can drive about a half an hour to 45 minutes and get to a track. And obviously, there is a big, big difference between the eastern part of the state and the racing that goes on there, and the western part of the state. We're talking about quarter horses, I believe, but if we change it to a racetrack, just make it a racetrack instead of horse tracks, I think that opens up different venues to different parts of the state. And obviously for my part of the world, we really do need the 100 jobs, we need the casino. We need that attraction and the flow of people that will come to that and the economic benefit that's realized there.

WILLIAMS: One minute.

STINNER: So it's just hard for me to believe that the people in the western part of the state have got to wait three years, plus give everybody the-- you know, I don't even know who's going to sit on this board. Are we going to even have representation from the western part of the state to say no, we need to have racetracks in the western part of the state? We could have it 100 miles or 50 miles apart. Certainly, the application process will separate all of us. We have to prove that we have merit and have a stable person that's-- or entity that's going to come in and build this casino and stay on top of the racetrack. So for me, I'm fighting for the western part of the state and obviously there's only about four or five of us. So in any event, I'm still a no on this. Thank you.

WILLIAMS: Thank you, Senator Stinner and Senator Hilkemann. Seeing no one in the queue, Senator Blood, you are recognized to close on AM2666. Senator Blood waives closing. Members, the question is the adoption of AM2666. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? There's been a request to place a house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

CLERK: 22 ayes, 3 nays to place the house under call.

WILLIAMS: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please record your-- please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Jacobson, would you please check in? Senator Bostar, the house is under call, please return to the Chamber. All unexcused

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

members are present. Senator Blood, how would you like to proceed with the vote? A roll call vote in reverse order has been requested. Mr. Clerk.

CLERK: Senator Wishart voting yes. Senator Williams voting no. Senator Wayne voting yes. Senator Walz voting yes. Senator Vargas. Senator Stinner voting no. Senator Slama voting yes. Senator Sanders. Senator Pansing Brooks voting yes. Senator Pahls. Senator Murman voting yes. Senator Moser voting yes. Senator Morfeld. Senator McKinney voting yes. Senator McDonnell voting yes. Senator McCollister voting no. Senator Lowe voting yes. Senator Linehan. Senator Lindstrom voting no. Senator Lathrop. Senator Kolterman voting no. Senator Jacobson voting no. Senator Hunt. Senator Hughes voting no. Senator Hilkemann voting no. Senator Hilgers. Senator Matt Hansen voting yes. Senator Halloran. I'm-- Ben Hansen. Senator Halloran not voting. Thank you. Senator Gragert. Senator Geist. Senator Friesen voting no. Senator Flood voting yes. Senator Erdman. Senator Dorn voting yes. Senator DeBoer voting yes. Senator Day. Senator Clements. Senator Machaela Cavanaugh. Senator John Cavanaugh. Senator Briese voting yes. Senator Brewer voting yes. Senator Brandt voting yes. Senator Bostelman voting yes. Senator Bostar voting yes. Senator Blood voting yes. Senator Arch. Senator Albrecht voting yes. Senator Aguilar voting yes. 22 ayes, 9 nays on the amendment.

WILLIAMS: The amendment is not adopted. Moving back to the agenda. Raise the call.

CLERK: Senator Briese would move to amend with AM2764.

WILLIAMS: Senator Briese, you are recognized to open on AM2764.

BRIESE: Thank you, Mr. President, and good afternoon/evening, colleagues. The need for AM2764 was brought to our attention by the Fiscal Office, and we greatly appreciate their work. This amendment fixes the language for the incremental increase in the funding of the racing commission. It will remain at its current level. Under this amendment, that funding will remain at its current level until July 1, 2023. The commission, Racing and Gaming Commission is funded by cash funds that come from the tax paid by the racetracks to the commission from the gross sum wagered by the parimutuel method each calendar year. The amount currently in statute is 64/100 of 1 percent. And with the previous amendment under LB76 as amended previously, we reduced that to 0.5 of a percent, and that was an oversight on our part. This amendment keeps the amount at 64/100 of 1 percent until July 1, 2023. I would ask for your green vote. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

WILLIAMS: Thank you, Senator Briese. Debate is now open. Seeing no one in the queue, Senator Briese, you are recognized to close on AM2764. Senator Briese waives closing. Members, the question is the adoption of AM2764. All those in favor vote aye; those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk.

CLERK: 26 ayes, 0 nays on the adoption of the amendment.

WILLIAMS: AM2764 is adopted.

CLERK: I have nothing further on the bill, Mr. President.

WILLIAMS: Senator McKinney for a motion.

MCKINNEY: Mr. President, I move to advance LB876 to E&R for engrossing.

WILLIAMS: The motion is debatable. Senator Briese, you are recognized.

BRIESE: Thank you. Thank you, Mr. President. I would strongly urge everyone's support of this. Again, this was, this was the result of a lot of negotiations within the committee and I certainly appreciate Senator Stinner's concerns, Senator Jacobson's concerns, and that issue was brought up in committee. We discussed that. What should we do about western Nebraska? Should we do anything different for western Nebraska? And again, we start doing something different for western Nebraska, we're going to have to be thinking about doing something different for Sarpy County, we're going to be listening to Norfolk talk about their situation. We're going to have to be listening to everybody. And so we didn't close anybody off. We're going to make them wait, pending this study, feasibility analysis, economic analysis by the commission. Could take three months, but it's going to be done no later than July 1 of 2025. And so that in effect is perhaps you could call it a two-and-a-half-year de facto moratorium. Hopefully, it will be done sooner than that because the language of the bill says no later than January 1 of 2025, or as soon as possible, I believe we have in there. And this is where the committee landed after a whole lot of discussion. I had originally opposed, excuse me-- proposed having a minimum mileage distance, and still don't mind that idea, but that would be a veritable minefield on this floor. And so we did the best we could as a committee. This is where seven of us landed. It's not perfect by anyone's stretch-- anyone's opinion, I don't think. You know, again, there's people wanting to pull one way, people wanting to pull the opposite direction on this. And we landed in what I think is a reasonable place to be. We're not shutting off the market to anyone

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

out there. We're leaving the market open so that market will be accessed-- maybe not in a timely manner, but it's still going to create opportunity. And the goal here is to put in place the expansion of casino gambling in Nebraska in a reasonable, responsible, sustainable manner. You know, we're going to figure out if the horse racing industry can support additional casinos beyond these six that are probably going to be at the existing tracks. You know, it's going to take some time to get that figured out. We can't just open this up to additional tracks, in my opinion, without some analysis, some contemplation, some study of to what we have going on here. Again, we did our best as a committee. This truly was a committee project, and this is where we landed. I think we found middle ground on it. It's a reasonable place to be. And I would strongly urge everyone's support on this. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Briese. Senator Albrecht, you're recognized.

ALBRECHT: Thank you, President. And I just rise in support of LB876. I know Senator Briese and his committee have a very big, a big task. When this went to the vote of the people, it was to go where the racetracks already were. Now, all of the sudden, everybody wants to change up everything. And quite frankly, that's not what the will of the people when they voted for this to be done. And if other people would like to do other things, it's just not in the cards. That's truly not what it was all about. It's hard enough to just push a green button on gambling in the state of Nebraska, as it is. But here we are at 5:48. We have places to go, people to see, and we're going to, we're going to have a problem with this? I think you're all wrong. We need to get this done and over with. I support LB876 as written.

WILLIAMS: Thank you, Senator Albrecht. Senator Moser, you're recognized.

MOSER: Thank you, Mr. President. I'm not on the General Affairs Committee, but I do have a county that has a racetrack in it. And these operators are looking for some regulatory framework so they can move ahead with their plans. So if this doesn't move forward and we wait another year, this is going to push everybody back another year. So I think this needs to move forward now so that the tracks that already exist can at least be assured that they're going to be able to get a head start-- get it started and get their casino going. The last thing we want to do is have a dozen casinos in Nebra-- in my opinion. The last thing we want is a dozen casinos, and none of them do well and we wind up with a whole bunch of empty buildings with broken neon

signage in front of them. We want to do this in an orderly fashion and try to make sure that everybody that enters into it succeeds. And I don't think anybody has any objection to having one in western Nebraska. The question is how to work this all out with all the competing people who are asking for-- they're trying to ride along on the coattails of what the ballot question allows. And we, Senator Briese's committee and Senator Briese are going to have to work out these details. But I think we should support Senator Briese on this, move it forward, at least this much. And then we'll look at it again next year to see if we need to refine it further. Thank you.

WILLIAMS: Thank you, Senator Moser. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President, and good evening. Colleagues, I think LB876 is, is a critically important bill to our state. And just for anybody who's watching at home at 5:50 on a Friday night, God bless you, first of all, all. But just a little bit of a backstory of what's going on here, we have about 15 people checked out right now. So we're down in numbers to about 32 people. So right now, we're trying to get the support necessary to get this critically important bill across the finish line. I understand some regional concerns with this. I wholeheartedly empathize with them. I think they are better suited to be dealt with in a package next year rather than killing LB876. So I'd like to ask Senator Briese a few questions about this bill, if he would so choose.

WILLIAMS: Senator Briese, would you yield?

BRIESE: Yes.

SLAMA: So Senator Briese, can you walk me through just the basics? What does LB876 do?

BRIESE: Yes. The amended version, you know, the primary goal of LB876 is to allow for the potential expansion of additional racetrack casinos in Nebraska in an orderly fashion. And so towards that end, it provides that any new applicants beyond the existing six racetracks are going to have to wait pending a study by the Racing and Gaming Commission, a feasibility study and economic analysis-- analysis, excuse me, is to be completed no later than January 1 of 2025. That will look at the industry, the racing industry in Nebraska, the gaming industry in Nebraska to try to ensure that any placement of additional operations is consistent with having a healthy, viable and sustainable racing and gaming industry. And it also provides that racetracks in Nebraska, to have to maintain a racing license, they're going to have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

to conduct a minimum number of racing days and horse races. And that is to ensure that the racing industry is brought along here, but it's also to ensure that we don't just have a shell racetrack with one race a year just so they can have a casino. The racing industry must be brought along in this, in this endeavor. And those are really the two key parts of that in my, in my opinion. And there are also some less impactful impact-- or provisions in it. But, but those are the main points of the legislation and what is it's attempting to do.

SLAMA: Sure. So could you just lay out for me, those sound like really important regulations, and I've been supportive of LB876 and I'm grateful for your work on this bill. This hasn't been an easy lift in any case. What, what happens if LB876 doesn't pass? What happens if it comes up for a vote here in two minutes and gets 24 votes on a machine vote?

BRIESE: Well, the Racing and Gaming Commission will have no parameters in place, no guidance in place from this body to handle additional, additional applications. And they have indicated that they really would like this body to weigh in and give them some guidance, give them some parameters on how to handle those things. And so if we don't do this, we have no idea what they're going to do. They're going to be on their own. And we're only left to speculate as to what the Racing and Gaming Commission might do. I think as a legislative body, it's our responsibility and our obligation to provide some guidance here on something of this importance.

SLAMA: Absolutely. And I wholeheartedly agree with you there, Senator Briese. And I do think this is an important point to drive home, that if LB876 does not advance tonight, we're dealing with very limited numbers. We're looking down the barrel of having the Wild West when it comes to this frontier in our statewide--

WILLIAMS: One minute.

SLAMA: --policy. Thank you, Mr. President. And I see there's a few other people in the queue, so I will hop off. And I've got my light on for my next turn, and I will certainly have more questions for you, Senator Briese. Thank you.

WILLIAMS: Thank you, Senator Slama and Senator Briese. Mr. Clerk for items.

CLERK: Mr. President, Enrollment and Review reports LB852, LB902, LB902A, LB977, LB977A, LB1016, LB1068, LB1068A, LB1069 as correctly

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 08, 2022

engrossed. Amendments to be printed to LB709 and LB792. Resolutions, LR444 by Senator Walz; Senator Stinner, LR445. Those will be laid over. General Affairs confirmation report. An announcement, the Natural Resources Committee will hold an executive session Monday morning at 10:00. Name adds, Senator Matt Hansen to LB921, LB922; Bostar and Lindstrom to LR427. Mr. President, a priority motion, Senator, Speaker Hilgers would move to adjourn the body until Monday morning, April 11, at 9:00 a.m.

WILLIAMS: Members, you've heard the motion to adjourn until Monday morning at 9:00 a.m. All those in favor say aye. Those opposed say nay. We are adjourned.