

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 4, 2023

**KELLY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-second day of the One Hundred Eighth Legislature, First Session. Our chaplain today is Senator Murman. Please rise.

**MURMAN:** I'm going to give a prayer from my son-in-law, who's the southeast regional director of Christian Medical Dental Association. Lord God, creator of all things, we thank you for this privilege to speak to you as the true and living God. This morning, we confess that you are real, that you hear our prayer not because we are important, but because Jesus Christ has opened the way to God by his sacrificial death. We speak to you this morning because you can do wonderful things, which we cannot. We ask your blessing and protection on these leaders who venture out into an often hostile public square in order to help their fellow man and to defend those who can't defend themselves. We thank you for each person here who is working hard to give others a better life, a life more closely aligned with your design for us. You are the true source of light and you alone give wisdom. Left to ourselves, we are so easily confused and misguided. I ask for your courage for us to stand up for what is honorable, true and just, despite the many evil forces at work in this world. We also pray for our political enemies, for the grace to truly love them and for you to draw them to yourself, in the same mercy that we depend upon. You are the only great and awesome God and we love you and serve you. May we go forth in Jesus name, in your love and in your power. Amen.

**KELLY:** I recognize Senator Erdman for the Pledge of Allegiance.

**ERDMAN:** Please join me in the pledge. 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.

**KELLY:** Thank you. I call to order the seventy-second day of the One Hundred Eighth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

**CLERK:** I have no corrections at this time.

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**KELLY:** Are there any messages, reports or announcements?

**CLERK:** There are, Mr. President. Single amendment to be printed, Senator Raybould to LB754. That's all I have this time.

**KELLY:** Thank you, Mr. Clerk. Senator Moser would like to recognize our physician of the day, Dr. Dan Rosenquist of Columbus. Please stand and be recognized by your Nebraska Legislature. Mr. Clerk, for the first item on the agenda.

**CLERK:** Mr. President, LB818, introduced by Speaker Arch at the request of the Governor. It's a bill for an act relating to funds; amends Sections 9-1,101, 48-145, 61-305, 75-109.01 and 86-163; provides for the fund transfer; changes and eliminate provisions regarding the sources, uses and transfers of funds; harmonizes provisions; repeals the original section; outright repeals Sections 81-1278, 81-1279 and 81-1280, and sections 86-127 and 86-579; and declares an emergency. Bill was read for the first time on January 25 of this year and referred to the Appropriations Committee. That committee placed the bill on General File with committee amendments. There are additional amendments, Mr. President.

**KELLY:** Senator Clements, you're recognized to open.

**CLEMENTS:** Thank you, Mr. President. Thank you, colleagues. LB818 is another one of the budget bills. It was introduced by the Speaker at the request of the Governor. It's part of the Governor's biennial budget recommendations. This bill provides for fund transfers and changes in provisions governing the administration and use of funds. And that's the bill that came from the Governor, but has been amended by the committee. And I will close on the bill and wait for the amendment to speak.

**KELLY:** Committee amendments from the Appropriations Committee. Senator Clements, you're recognized to open.

**CLEMENTS:** Thank you, Mr. President. AM1172 is the committee proposal of our adjustments from the Governor's recommendations. It also includes LB819 as amended. LB819 is the Appropriations bill that deals with our Cash Reserve Fund. LB818 was fund transfers that we do between funds. The bill contains the emergency clause and will go into effect on July 1, 2023. The-- I wanted to, I wanted to highlight a few things regarding the cash reserve. In the green budget book on page 3, it's on the backside of the General Fund Financial Status. It shows

the transfers in and out of the Cash Reserve Fund. And I'm not going to go through every item on there, but I wanted to highlight a few things. There is the Roads Operations Cash Fund. There's a one-time \$100 million transfer from the Cash Reserve to the Roads Operation Cash Fund. That's because the IIJA federal infrastructure bill has a provision in it that if we would put in \$100 million, the federal government would add \$300 million to it. So we're going to get \$400 million worth of roads financing for a \$100 (million) expense. And the committee decided that that would be a very wise thing to do. So that's in the bill. The Nebraska Capital Construction Fund is part of this. There is a one-time \$95.8 million transfer to the Capital Construction Fund for the remaining amount of the new corrections facility. Then the detailed information on the capital construction expenditures starts on page 65 of the green budget book. Would give you more detail there. On page 5, you'll find the Economic Recovery Act regarding east Omaha. There is \$180 million reduction of ARPA funds for this act, with an increase of \$180 million of ARPA funds for Natural Resources Program 319 for a new water supply for Lincoln. There's a \$240 million Cash Reserve transfer to replace the \$180 million of ARPA funds, an additional \$60 million of new funding for the east Omaha economic recovery. There's also included a \$30 million transfer of General Funds for additional funding for an airport business park that was, that was also coming out of the Cash Reserve. There's rural workforce housing and middle-income-- middle workforce housing funds. The \$20 million transfer appropriated for rural workforce housing, \$10 million each year for rural workforce housing, continuing that program. And \$20 million for middle workforce housing, \$10 million each year for that program. The Perkins Canal project you've heard about, to preserve water in the South Platte River coming from Colorado. The initial request was \$449.5 million. The Governor asked for an amended request of \$574 million to construct a-- excuse me, construct the canal into Nebraska from the-- on the South Platte River to preserve our rights under the compact with Colorado. So other items, there are a number of other items in here that if you look on the page 3, you'll be able to look down those transfers. Those were just a few of the items I wanted to mention. The bottom line is that our Cash Reserve ends at the bottom of-- at \$989.9 million. That looks like a large amount of money, but our state spending is, is over \$450 million per month. And so the \$989 million represents about a 16 percent cushion in our budget. And a two-month, two-month cushion is, in my opinion, a wise thing. It's a target that we use to keep our Cash Reserve at at least 16 percent. And I'm glad to say that we're meeting that target with this amount. I would not want to reduce that

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much farther, although I know that there is amendment coming up that I will speak to when it arrives. And so overall, this, this is much more simple bill than what we had yesterday with the \$5 billion of general funds. This is mostly fund transfers and Cash Reserve items. And I ask for your green vote on AM1172. And I thank you, Mr. President.

**KELLY:** Thank you, Senator Clements. Mr. Clerk, for an amendment.

**CLERK:** Mr. President, Senator Moser would move to amend the committee amendments with AM1584.

**KELLY:** Senator Moser, you're recognized to open on the amendment.

**MOSER:** Thank you, Mr. President. Good morning, colleagues. So when the budget came out, there was a \$40 million transfer from the Nebraska Universal Service Fund to spend money that was in that account and use it to build up the reserve. And this motion strikes the language that gives us the permission to take that money. And it also strikes the actual amount of money for a number of reasons. The money in the Universal Service Fund is put in there from excise taxes or Universal Service Fund fees, and we can't take the principal out of that account. We have in the past taken some of the interest out of that account. Right now there's around \$125 million, \$124 million in that account. But \$120 million of it is obligated, not necessarily in the near term. Some of it will take a year or two to spend. But we can't take \$40 million out of there, in my opinion, because, well, first of all, it's not proper because it's principal. Second of all, there are commitments to spending this money on various projects. And if we're going to sweep interest out of there, the maximum interest that the Public Service Commission estimated would be about \$9 million. And even that \$9 million is included in this \$124 million, of which \$120 million is obligated. So in my opinion, we should go someplace else to try to find some funds to build up the reserve and leave this in the Universal Service Fund where I think it should be. So I would appreciate your support for AM1584. And if you have any questions, I'd be glad to answer those. Thank you.

**KELLY:** Thank you, Senator Moser. Senator Wishart, you're recognized to speak.

**WISHART:** Thank you. Thank you, Mr. President. Today I rise in support of LB818 and the Appropriations amendment and AM1584. And appreciate Senator Moser, Chairman Moser, for working with this on this specific budget bill. Colleagues, I did want to point your attention, if you're

looking at the summaries for this specific budget bill, you can start by reading about them on page 4. Actually, page 3, as well. This is mainly talking about Cash Reserve Fund transfers. And I wanted to go through and talk with you a little bit about some of the work that we're doing in terms of one-time funding. But, but first to, to back up, you know, colleagues, those of you who are new to this budget debate, I really want to encourage you to spend the time coming and talking with me and with Chairman Clements off the mic if you have any questions. We recognize that there is a lot to digest in terms of these packages. And so we're happy to answer any of your questions, as well as utilize the Fiscal Office team, who is sitting under the balcony here. They're the experts and can point you in the right direction in terms of getting an answer for your question. So in terms of the Cash Reserve, again, echoing what we discussed yesterday, you know, as an Appropriations Committee, we recognize it's very important for us to have a healthy cash reserve in-- especially building that up in times when we're prospering and in terms of revenue and, and funding, so that we can use those reserves in times when we are seeing shortfall. And so that's why we carefully prioritized what we would be transferring out of the Cash Reserve in terms of one-time investments. And I can really put it into a couple of buckets, the main being our focus this year on water infrastructure. So as you can see, when you look at some of the cash reserve investments, some of the key investments was in the Perkins County Canal. And you know, for me it is essential that when we're looking across the state, we are prioritizing water and water infrastructure, not only for drinking but also for our economy. And when I look at the Perkins County Canal, I look at that as a, as a project that is going to support our ability to continue to irrigate and produce food and agricultural-- other commodities in our state. And so it's an essential investment, and that's why I was one of the senators supporting that. We've also invested in the Sarpy County sewer project, as you can see, as well. That's a very important project for us on the eastern side of the state and, and something, again, that balances out the investments that we're making across the state. And I'll put the Lincoln water investment and the southeast water-- drinking water investment in that bucket, as well. While you're not going to see that here, because those are funds that are going to be utilizing remaining ARPA dollars, it is pretty essential that when we're looking at water investments in the state, we're not just looking at the western portion. But we're also recognizing the needs and priorities of a second water source here on the southeastern portion of the state. And then finally, I want to talk to the economic recovery funding that, that we committed

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in the budget. While it is not the entirety of LB531, which I hope will still have time to be heard on the floor and passed by this Legislature, it was important for us as a Legislature to meet the commitments that we made--

**KELLY:** One minute.

**WISHART:** --last year, in terms of historic investments in east Omaha, in particular in north and south Omaha. The hearing that we had on Senator McKinney's bill this Appropriations session was one of the most compelling I've heard in a long time. We recognize that these type of investments in this community are well overdue. And so I hope that we will at least be able to make this investment. And I hope we'll pass LB531 and, and increase the amount of investment that's going into that area for economic activity, for jobs, for housing. I know Senator Vargas will also discuss some of the work and leadership that he's provided on, on housing in our budget, as well. Thank you.

**KELLY:** Thank you, Senator Wishart. Senator Vargas, you're recognized to speak.

**VARGAS:** Thank you very, very much. Thank you, Senator Wishart for cueing me up. I want to thank everybody and, you know, that has been involved in this. Again, this is a smaller number of things, but it is helpful to provide a little education on some of these different items, some of which I've been involved in and some of which are other items that are, are other items that other senators brought bills for. So, again, the whole goal here with these cash fund transfers is that we have a healthy cash reserve to make sure that we can weather any storms. This is the healthiest cash reserve that we've had during our time. We want to keep it that way in anticipation of any future upturn, downturn-- in particular downturns. As many of you have heard, historically, we had our sort of economic downturn within the state of Nebraska back in 2017 in our first year. It was times like that that we want to make sure that we have a significant amount of funds in our cash reserve to be able to weather any, any storms. And that's the reason why we want to have that. In those times, we were looking to, to other types of funds sources, which speaking on this amendment, I'm fine and support AM1584 for moving these funds back because I think there will be a time that every single other entity that is looking at their cash funds that we will-- if we have an economic downturn, we're going to be judicious and look at anything a way that we can to balance our budget. So a couple of the items, and I know you, you know where the pages are and the, the items are, but for those individuals

that have been involved with some of these different subject matter, we've had big debates. You know, we mentioned about the east side Recovery Act program. This has been a long, long road. And the end of where we're at is, is the swapping of the funds so that we have the flexibility that's needed for the organizations that are part of the east side Recovery Act program. The federal funds presented a lot more challenges for different organizations. We've been talking about challenges for organizations, even amongst, you know, the corrections side of things for some of these grants for reentry. We realized that a lot of these small organizations or emerging organizations doing really important work in east Omaha that we think are going to lead to economic recovery through our east side economic recovery committee, need more flexibility and this is a way to do that. So by swapping those funds, we're making sure these organizations in north and south Omaha, that we can get those funds out to them and they can start beginning on this work within these next few years. Because we desperately need this investment. We need to make sure we're investing in jobs and in the economic recovery and economic development. And I think the running theme used here in these cash fund transfers is water infrastructure, economic development, obviously one-time spends. So I'm just thankful for all the members of that special committee for the Economic Recovery Act and my members of this committee for supporting the swap so we can also make sure we're doing the infrastructure side of funding. This is a critically important for our state. Both of these initiatives are very important, and I want to thank the members for supporting this. The housing side, for some people that are in different committees that have either engaged or learned about the rural workforce housing or the middle-income workforce housing, both of these programs are programs that exist within the-- under the Department of Department of Economic Development. There are some bills that are in different stages that are trying to amend and improve these programs that are already pretty successful programs. And the reason that they tend to be successful, I find, is that they are, indeed, very competitive. They're incentivizing certain projects, they're being very fiscally responsible with the type of investments they're making and they're being locally led. And so we've seen rural workforce housing and then more recently, middle-income workforce housing be very, very successful in the type of economic development we need--

**KELLY:** One minute.

**VARGAS:** --to meet the housing needs across, across our state. And my hope is that we continue to do more. A big thanks to, I know, Senator

Briese and then Senator Ibach for prioritizing that bill. I know it's in a different place right now and is going on its way to being passed for some of those updates to rural workforce housing. And Senator McKinney for the other updates on the Middle-Income Workforce Housing Act so we can make it even better and more competitive. And for the other things like Shovel-Ready, Site Development Fund, the running theme is infrastructure, economic development and jobs. When we're spending one-time spends, we want to make sure they're doing the right thing. And we know that these one-time spends are also going to ensure that we're thinking about the future of our state, not spending in too many new programs that are going to require us to increase the baseline programs, but specifically are investing in, in one-time-- what we're going to immediately see the impacts of these dollars being spent. So, colleagues, I want to thank you for supporting this. I ask for the green light, and thank the committee members for all their, their work on this. Thank you.

**KELLY:** Thank you, Senator Vargas. Senator Raybould, you're recognized to speak.

**RAYBOULD:** Thank you, Mr. President. Good morning, colleagues. Good morning, fellow Nebraskans out there watching us on TV. I guess I want to address a couple of things. First and foremost, a tremendous thank you to the Appropriations, our fiscal analysts for throwing this budget together. My second is a big concern, and I think it's been echoed by almost every state senator here. And you heard it yesterday, that's just a really very short amount of time that we have been given a budget to review. Twenty-four hours, I would like to respectfully say, is not enough time. I've had 12 years of experience in working with, with county budgets, city council budgets, and it's normal and customary to you know, we, we spend a lot of time and open the total budget up and out for public comment. And so I would respectfully request, if we have to go through this again, that we are given at least one week to review a budget of this magnitude and the tremendous expenditures involved. At least one week that hopefully involves the weekend, so we can work with our staff and come up with very thoughtful, deliberate comments and suggestions and amendments. But trying to do amendments on the fly, I don't think is either thoughtful or deliberate. And so I respectfully ask that going forward for our hardworking Appropriations Committee and the hardworking staff as they try to pull all this information together in a comprehensive form. The one-- I'm hoping, Senator Clements, if you would yield to a couple of questions.



**KELLY:** Senator Clements, would you yield to some questions?

**CLEMENTS:** Yes, I would, if Senator Wishart is able to bring me some information. I was getting some background information. But yes, go ahead.

**RAYBOULD:** The question involves the AM1584 and some of the concerns that Senator Moser made on page 41 about the transfer of the \$40 million from the Nebraska Telecommunications Universal Service Fund. Senator Moser said-- raised the concern that we are not permitted to transfer the principal out, only the interest. Could you help explain that to us?

**CLEMENTS:** Well, the reason that transfer was put in there is really-- by the way, I do support the-- Senator Moser's amendment. The, the amount of interest is-- that was in the Universal Service Fund is under discussion. It is debatable if whether it was \$40 million. I'm not sure that it is. But the purpose for that transfer was to protect the Cash Reserve amount to our target level of 16 percent. We were-- we had-- we made that before the forecasting board met. We were thinking they might take \$100 million out of the Cash Reserve, but that ended up not happening. So that was a precautionary transfer. And I have not seen the calculation of interest and I think it is questionable.

**RAYBOULD:** Thank you, Senator Clements. May I ask you another followup question?

**CLEMENTS:** Yes.

**RAYBOULD:** So should we pass AM1584 that will strike any transfer of funds from that fund?

**CLEMENTS:** That will restore the money back to the Universal Service Fund. Yes, 100 percent.

**RAYBOULD:** OK. Thank you very much. Thank you, Mr. President.

**KELLY:** Thank you, Senator Raybould and Clements. Senator Clements, you're recognized to speak.

**CLEMENTS:** All right. I, again, regarding AM1584, I do support Senator Moser's amendment. As I just explained, the transfer was made before we had the forecasting board, which sets our budget limits. And we were thinking that there was going to be a decrease and this was going

to replace money that we thought we were losing in the Cash Reserve to get back to our target level. And it turns out that we'll still meet our target. We like 16 percent, I believe this would make it 15.9 percent. And so that's acceptable. And the-- we can't take money out of the principal of the Universal Service Fund. We could take interest amount and the calculation of interest is in question. And so I believe it's prudent at this point to restore the \$40 million back to the Universal Service Fund, and I do support that amendment. Thank you, Mr. President.

**KELLY:** Thank you, Senator Clements. Senator DeKay, you're recognized to speak.

**DeKAY:** Thank you, Mr. President. I rise in support of LB818 and AM1584 and want to thank Senator Moser for this amendment. I believe it is important to retain the \$40 million in the Universal Service Fund where it is now, as opposed to transferring that sum to the Cash Reserve Fund. There is approximately \$132 million in-- NUSF dollars obligated to current and future projects. I would have concern that if we do the fund transfer, we run the risk of leaving projects underfunded and incomplete for an additional year or two, since the NUSF will be without a third of its money for committed projects. I will tell you all that there are many gaps when it comes to providing reliable cellular service and broadband to Greater Nebraska. Many communities and rural households in my area do not have access to fiber for broadband. I have been around many parts of the state officiating basketball, and I will tell you there are many areas where you simply can't get reliable cell coverage. The hills south of Verdigre, as well as around the Battle Creek area are just two of the trouble spots to get service near me. The vast majority of the NUSF funds are currently committed and allocated on a capital construction grant basis where telecommunication carriers are required to make the investment first, then seek reimbursement. Carriers and the communities that they serve rely on committed funding, both from construction and the ongoing maintenance in their budgets. This is a similar process to how road projects are done. If you pull the funding partway through the process, that project is stalled and can be more expensive to complete afterwards depending on the length of delay and price changes. The Universal, Universal Service Fund is a vital to the deployment and maintenance of broadband in rural Nebraska. Transfer of the funds could delay the deployment of broadband in Greater Nebraska. I believe the proposed transfer for \$40 million in NUSF funds places existing and future broadband construction project, as well as

committed ongoing funding at risk. I would ask that senators vote green on this amendment. Thank you, and I yield my time back.

**KELLY:** Thank you, Senator DeKay. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. Sort of support LB818, because it does have allocations for things that I love. But my issue is the transfer with the money for the prison. If you're tuned in and weren't tuned, tuned in last night, I would like to tell you that last night we found out that NSP will not be closed. Although there will be a vote to build a prison, the Nebraska State Penitentiary, which has been advertised as a facility that is in disarray, inhumane, needs to be closed, will not be closed no matter what. Because the state would like to keep its options open, because they know, like we all know, day one of the new prison opening, it will be overcrowded. So again, if you didn't know and you felt like I was being, you know, not understanding of the conditions of the prison, well, in reality, it's not going to close. The state has no plans to close the Nebraska State Penitentiary, although there will be a vote to build another prison. So if you weren't aware and weren't paying attention last night, the Nebraska State Penitentiary is not closing. It is going to stay open, although the state is going to build another prison without accounting for operation cost, program cost, not even studying programming or anything like that. So we have a huge issue. Our tax-- taxpayers, I would like you guys to know that you'll be pay-- you'll still be paying for the Nebraska State Penitentiary and a new prison once it's open. So if that's a good use of your tax dollars, I'm confused. We talk about the need for property tax relief. We talk about the need for more educational funding. We talk about the need for more funds for food insecurity and poverty and things like that. But we're going to waste money on a prison and we're going to keep one that for the past three years, everyone that has supported it-- not everyone, but a huge portion of the individuals that support it, have stated that it's in such bad shape that it needs to be closed. But we learned yesterday that is not going to happen. The Nebraska State Penitentiary is not going to close, no matter if a prison is going to be built. It's still going to be up. I would love for it to be demolished and bulldozed. And most people think I'm crazy for saying that. But if it's in such bad shape, it's inhumane, people shouldn't be living there, why can't we bulldoze it and take it to the ground? Oh, we can't, because we have to keep our options open because we still would like to use it and house people there. And that is a fact. So if you didn't know, now you know. The Nebraska State Penitentiary will not close, no matter

what. But we still need policy changes because our, our system is going to be overcrowded no matter what. We build this prison, keep that one open for I don't know, but there's plans to keep it open. They say decommission, but what does decommission mean? The language I read, it's a multi-- decommissioned multicustody-- custody level.

**KELLY:** One minute.

**McKINNEY:** But that didn't say you couldn't hold people there. It's just decommissioning it for multicustody levels. So if it's a minimum and maximum now or medium and maximum, it will just be a medium or a minimum or a maximum. So that's where your tax dollars are going. If you didn't know, the Nebraska State Penitentiary is not closing and we're still-- people are still going to vote to build a prison. Thank you.

**KELLY:** Thank you, Senator McKinney. Senator Dorn, you're recognized to speak.

**DORN:** Thank you. Thank you, Mr. President. I do stand up sup-- very much support LB818 and AM1172 and also Senator Moser's AM1584. Yesterday or this morning, former Senator Dan Watermeier, who is District 1 commissioner for Public Service Commission, sent the Appropriations Committee an email explaining some of what's going on with that service fund. Senator Moser was right. There is approximately \$129 million in there right now, and they have allocated this year \$132 million to use on different projects. And then also another program, another 20-- \$2.7 million. But Senator Watermeier included a paragraph in here. It says, prior to 2015, the service fund paid out annually was approximately the amount brought in via revenues annually. As the service fund moved to supporting buildout of broadband-capable voice networks, payments for projects was moved to a reimbursement basis as an accountability measure leading to support building up in the fund. In other words, the last several years, this fund has most likely, when it's come to Appropriations Committee and we looked at it, it's been over the \$100 million mark. And we've had discussions in the past with them about that. But that kind of explains why and how that fund has built up to that amount. He did also, I know Senator Clements talked about not knowing what some of the interest amounts were collected. He did include in there from 2015 through 2023. This next year, it's projected that that will be the highest amount at a little over \$2 million of interest. '21 and '22 were each about \$1.5 million. 2020 was about \$1.1 million. So part of that \$40 million that was going to come back into the Cash Reserve,

the verbiage or the wordage put with that was "earnings only." So I agree with Senator Clements that as you look at those numbers, it's either going to take an awful long time to get up to \$40 million or that wasn't going to happen, one or the other. I think Senator Wishart did a very good job of explaining some of our cash transfers and some of the bills and some of the, I call it, the economic activity that those bills will help some of the vital needs that we need in this state with those funds, and how they're all being used. Yes, there are some big projects, Perkins Canal and the transfer to the prison, the new facility, the prison. Senator McKinney has talked a lot about the prison and why we-- thoughts on why we need it or don't need it. When I came up here four years ago, a little over four years ago, on the first budget we worked on, I don't know if that was the time or shortly in that time period there was when the first discussion came about to build that facility. And as I remember, and I don't know if these numbers are exactly right, but as I remember, we were looking at a cost approximately of \$220-240 million to build that facility. As we went through our discussion this year and as we've had different people comment on, I call it, the increase in inflation, the increase in cost, right now in that fund, there's about-- left about \$335 million there will be in that fund to build that prison. But I've heard the cost to be up to maybe \$360 million. Somebody yesterday on the floor made the comment, by the time this prison gets done, by the time this facility gets built, we could be at a cost of over \$400 million.

**KELLY:** One minute.

**DORN:** Part of what-- thank you, Mr. President. Part of what happens when we have a project like this that we critically need because of what is all happening down at our State Penitentiary here in Lincoln and the condition of part of that facility, not all of that. I will agree 100 percent with Senator McKinney, part of that just needs to be bulldozed in. But there's some, there's one building down there that's only like three or four years old. There are buildings or part of that facility could be used as other options. But those facilities down there aren't going to get any better without considerable amount of finances put into something that long-term is not really viable. This new facility is something that whether we have an increase in inmates or not, this new facility we need for the current inmates so that they are able to continue to have a decent place when they are in jail. Thank you much.

**KELLY:** Thank you, Senator Dorn. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues. I rise in support of AM1584. I spoke about this be-- two days ago, before we started on the budget, my concerns over the Universal Service Funds being transferred, \$40 million being transferred into the general funds for budgetary purposes. Could I ask if Senator Clements would yield to a question?

**KELLY:** Senator Clements, will you yield for a question?

**CLEMENTS:** Yes.

**M. CAVANAUGH:** Thank you, Senator Clements. Could you walk me through what the thinking was about utilizing these funds in the first place?

**CLEMENTS:** The Universal Service Fund?

**M. CAVANAUGH:** Yes.

**CLEMENTS:** The thinking was that we were-- we had not had the forecasting board meet yet. And I was being told we might lose \$100 million out of our Cash Reserve after that meeting. And so \$40 million was to keep from the Cash Reserve dropping below our target level. And so that, that's really--

**M. CAVANAUGH:** OK.

**CLEMENTS:** --it's to-- yeah.

**M. CAVANAUGH:** Did you--

**CLEMENTS:** And we also thought that in the past the Universal Service Fund hadn't been utilized all that much, that it was excess dollars. Since then, I have been informed that it has been obligated much more than I thought.

**M. CAVANAUGH:** Yes. Have you, prior to putting this transfer into the budget, did you speak to anybody with the PSC or with the Transportation Committee?

**CLEMENTS:** No, I did not.

**M. CAVANAUGH:** OK. Thank you. Well, I appreciate your willingness-- I believe you support this amendment. So I appreciate that. And I do

think that this is an important piece of the budget that we need to rectify. And just want to share, so the counsel for the Transportation Committee did send an email out to our committee, kind of giving us more information on this as well. And I thought it would be important to share. So the standing committee amendment, LB818, AM1172 contains a provision of Section (35), (36) on page 41 of the amendment that directs the transfer of \$40 million from the Universal Service-- Nebraska Universal Service Fund to the Cash Reserve Fund during the upcoming biennium. And due to the way the Nebraska Universal Service Fund has been structured, interest that has been earned on the fund balance may be diverted to other general government purposes. And that has occurred in the past budgets. The Nebraska Supreme Court in 2006 in the Schumacher v. Johanns decision, responding to a challenge to the constitutionality of the Universal Service Fund, stated that the NUSF surcharge was not a tax because it did not generate revenue for general governmental purposes. Transfers of interest earned on the fund have been determined to not be the use of the fund for general government purposes. It appears that the transfer proposal in AM1172 to LB818 extends beyond a transfer of interest earned on the fund. Attached is a prepared-- a summary prepared by the Public Service Commission that the current amount of interest that would be available for the diversion to the Cash Reserve Fund is approximately \$7.3 million. Should an amount larger than that be transferred, an issue of constitutionality of the NUSF surcharge would be raised and there would be an immediate cash flow issue fall-- generated from the operation of the fund.

**KELLY:** One minute.

**M. CAVANAUGH:** Thank you. And then attached is a, a description of, of the fund and how it should be utilized. Thank you to Mike Hybl, our legal counsel, for preparing this for us. I think it is very helpful. So the Universal Service Funds are currently committed and allocated on a capital construction grant basis where telecommunication carriers are required to make this investment first and then seek reimbursement. Carriers and the communities they serve rely on the committed funding both for construction and the ongoing maintenance in their budgets. The proposed transfer of the NUSF funds places the broadband construction projects and committed ongoing funding at risk. And if anybody is interested in more information on this, I'm sure myself, Mike Hybl, Senator Moser, Chair of Transportation Committee, would be happy to share any--

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** Thank you.

**KELLY:** Thank you, Senator Cavanaugh. Senator Jacobson, you're recognized to speak.

**JACOBSON:** Thank you, Mr. President. I'll be very brief. I, I, too, rise in support of AM1584. Thank you, Senator Moser, for, for bringing the amendment. I understand the process that the Appropriations Committee went through and their thought process on this, but I'm glad that, that they are supportive of restoring this back in its original form. I also, too, want to go on record of complimenting the Appropriations Committee for all their hard work. I know that was the last committee that I would have wanted to serve on, because you do divert-- devote an incredible amount of time spent working through all of these bills, trying to figure out what dollars should be approved, where it should be allocated. They spent a lot of time that's off the floor working in committee hearings, going late at night. This is a lot of hard work. Now we're seeing the culmination of that now with these bills that are coming today. I'm hopeful that as we work through this, that we all appreciate the fact that there was a lot of time and effort that went into the budget-- budgeting process. I'm very supportive of what they're doing and I appreciate the fact that they were mindful of the fact that at the end of the day, we're spending some one-time spends on critical programs. We're doing the things we do-- need to do to support education. But at the same time, we're leaving dollars to give back to those people that we've overcharged for taxes and making sure that we provide tax relief. And that's going to be the end of this once we look at the dollars that are left for the floor. And so, again, my compliments to the Appropriations Committee. I'm in full support of AM1584, and I'm also in support of LB818. Thank you very much. I'll yield the remainder of my time.

**KELLY:** Thank you, Senator Jacobson. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Colleagues, yesterday I introduced multiple amendments to shift funding away from a different front-- fund back to the General Fund. And that's essentially what we're doing here this morning with AM1584, is we're shifting the funding away from the NUSF fund. We're taking that back. And so essentially that's General Fund dollars. It's going to decrease what we have in General Fund dollars by \$40 million. And I 100 percent support that. The problem with the budget is that we saw pots of money and we took money from those pots. And we did not do our due diligence



to explore whether that was appropriate. We did it with the Environmental Trust Fund, we did it with the TANF fund, and we're doing it with the Universal Service Fund. None of these are appropriate. None of them are appropriate. And that-- it is what it is. And putting together a massive multi-billion dollar budget is complex and arduous, but we need to be nimble about this. And when we find mistakes, we need to rectify them. And I know that that's what we're going to do this morning. Senator Moser brought the amendment, so we're going to do it. The thing is, I firmly believe if I brought this same amendment, you all wouldn't vote for it. And that is extraordinarily problematic. And that is a you problem, Senator Holdcroft. That is a you problem. Not voting for something because it's mine, and I said Senator Holdcroft because it was brought to my attention that that was very much a cornerstone of debate yesterday in Judiciary. Hugely problematic, colleagues. If it is good policy, if it is good for the budget, then it's what you should vote for and it shouldn't matter whose name is on it. But I spoke with Senator Moser about this yesterday. I spoke about it on the floor the day before. We talked through, and I very much appreciate that Senator Moser was willing to bring this amendment. But the fact that if I had brought it after I noticed this issue, and I know that if I had brought it, it would have failed. Colleagues, that is not how you should govern. It's not how you should govern. It's not appropriate. But I do appreciate when people are transparent and say those things out loud and say them publicly, because at least I know where I stand with people. Yesterday, I attempted to make a change back to general funds for \$11 million that was TANF funds, that is going to be very challenging to the people that are receiving the funds. And it failed miserably. Partially because it was mine, partially because apparently people out in the lobby were telling you all that the Governor was going to line-item veto it if you moved it back to--

**KELLY:** One minute.

**M. CAVANAUGH:** --general funds. Because the Governor was going to line-item food banks and domestic violence services. I don't believe that. I say this to challenge you, colleagues. I'm challenging you to be more thoughtful, to vote what you think is right and appropriate and disregard who's bringing it. I do that every single day. I vote for the things that I think I should vote for because I think that they're what are good for the state, not because of who has brought it. Sometimes I vote for something in favor of it just because of who brought it. But I never vote against something because of who brought

Transcript Prepared by Clerk of the Legislature Transcribers Office  
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it. Never. Not a once. And I would caution you against making that your practice, as well.

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Ballard announces guests in the north balcony, fourth graders from Malcolm Public School. Please stand and be recognized by your Nebraska Legislature. Senator Wayne, you're recognized to speak.

**WAYNE:** Thank you, Mr. President. So I'm going to explain what happened in Judiciary. I think there's some misconception. So the question was raised, will, with all the tension that's going on on the floor, things that were going on on the floor, would any, any priority bill that was designated by Senator Cavanaugh actually have votes? I don't think it was ill will at one point. If we're going to be transparent about the conversation, the bill in question, Senator Holdcroft said that he was OK with the bill. We did not vote it out yesterday because two other senators wanted to finish reading the bill and work and, and see if they had any suggestions. But overall, they were, they were OK with it. So the question was a fair question for many new senators, and I'm in no way saying that Senator Cavanaugh maybe got wrong information. I'm just giving clarity. And those who know me know that I'm transparent about when, when things happen. So it was a question. And during that conversation, Senator Holdcroft did acknowledge that he's a-- he's fine with the bill. But the question was would the body accept it? And it was actually a good conversation where we got to talk about priority designations. We run around and try to get priority designations from other people, simply because we have another priority and we're trying to get it done. And many people carry different priorities. So I don't know if it was ill intent. I think it was, maybe has come off that way. But if you were-- continue to have the conversation, Senator Holdcroft was actually in favor or, or OK, was his exact words, with LB-- I think, LB348, which is my actual bill that Senator Cavanaugh prioritized. So I think it's healthy to have those conversations. I don't think it was necessarily too crazy or out there. I didn't, I didn't get offended by it. But I think how this process works, you have to be educated on the floor and sometimes you ask questions. And in fact, I won't call out senators in Judiciary who continue to ask, I have a freshman senator question on how this will work or how that will work. And so I don't think it was-- I think there was an issue with maybe the tone, and that was

actually a discussion that was brought through. But I don't think the tone was necessarily ill-willed. So I want to put clarity on that. It wasn't that somebody was going to vote against it, it was a question on how the body would react because of how things transpired. That's a fair question. It's a fair question because my first year, there was a Republican senator who brought a game of skill bill in which Senator Chambers got up and started to filibuster and filed a motion to kill it. And that same Republican senator, the morning-- pissed off all the Republicans and his bill died within 5 seconds. It was the quickest death I ever seen of a bill. Sometimes, that's how the body reacts. And so if you were down here or if you ever watched that, I think it was a fair question. In no way am I defending the tone of how that conversation went, but I do think you need to understand how, how the whole thing played out. And Senator Holdcroft at the time, now he may be against the bill, but at the time he was OK with the bill. And so thank you, Mr. President.

**KELLY:** Thank you, Senator Wayne. Senator Machaela Cavanaugh, you're recognized to speak. And this is your third time on the amendment.

**M. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator Wayne, for those comments. You are absolutely right. Those are important conversations to have. And if the intention was clarity from a freshman, I welcome that person coming up and having that conversation with me directly to clarify that that's what they were looking for. And if it wasn't, then they probably will continue not speaking to me. But that's fine. It doesn't hurt my feelings. I was, I was hesitant to prioritize Senator Wayne's bill, because I didn't want people to be petty and have retribution against me through Senator Wayne. But I had a priority. And as we all know, I have zero bills out of any committee. So I said to Senator Wayne, you're working on some really important things this year. I'd like to give you my priority for something. So we talked about it and he said that this was the bill that he felt needed a priority. And so that's how we came to that. But I appreciate the clarity. Freshman, you should absolutely ask questions. And if it appears that you have made-- given offense to one of your colleagues in your questions, you should probably address that with them. But that's up to you. Back to the issue at hand. I am concerned with the budget. I am concerned over the, the usage of various funds without due diligence. And I understand time and capacity, but due diligence does still need to be done. And that's part of why we have three rounds of debate, so that due diligence can be done. And I believe that multiple funds, cash funds are being utilized inappropriately in the budget. And I am thankful that we have

the opportunity to fix that with AM1584 as regards to the Universal Service Fund. As I read previously, the Universal Service Fund is not a tax, it really is a fee that is assessed as part of telecommunications payments. And so as such, we shouldn't be using it as a tax. And the reality is, if we had excess universal service funds that were going underutilized, as was the perception, then we should be, instead of taking that money and putting it to our general funds, we should be reevaluating the fee itself. This is an issue that I have raised with our driver's license fees. Our driver's license fees were \$10 more than what they needed to be to cover the cost of our driver's license. And last year, Senator Geist brought a bill for the DMV that took three of that \$10 for really important operational reasons. And this year, Senator Moser brought a bill that appropriates the remaining, is it \$7, I believe? Right, Senator Moser? Yeah. And it-- for services for the DMV, a bill that I clearly am very keen on. So thank you, Senator Moser, again, for bringing that bill. But when we have fees, not taxes, but fees, fees are for the service. They are intended to cover the cost of what, what service they are. And so if we have fees that are disproportionate, we need to address that and we should lower them, not use them to offset general funds. And when Senator Geist brought the bill last year that appropriated \$3 of that \$10 of excess in fees, that is when I--

**KELLY:** One minute.

**M. CAVANAUGH:** --realized that we were charging \$10 in excess of fees per driver's license and we were putting that excess revenue into the General Fund. Which now, in reading over the memo from our legal counsel, possibly was never legal to begin with because it wasn't the interest. It was a fee for a specific thing, and we were taking it and putting it in the General Fund. It wasn't a tax. So I guess, Senator Moser, you're saving us on multiple fronts this year as far as fees go. So thank you for that. And I encourage everyone to vote green on AM1584. Thank you.

**KELLY:** Thank you, Senator Cavanaugh. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President. Good morning, colleagues. I rise in support of Senator Moser's amendment and appreciate his leadership in bringing it forward. Indeed, it's an important part of our process that once we have a little bit more information about the technical aspects and the substantive aspects of the budgetary proposal emanating from the Appropriations Committee, we can refine that

proposal to ensure that it is legally sound and then sound from a policy perspective, as well. And I think that it is critical that we adopt this amendment to address legal concerns and to raise, again, a broader point in terms of ensuring fidelity to dedicated funds or cash funds in particular. And it just goes to show that when we are using as a significant practice in this biennial budget, kind of a continual rate or a continual sweep of different cash funds, even though we don't really need to be doing that at a time of economic prosperity, number one, it, it obscures what the actual cost of the core of government might be in terms of a fiscal perspective for general funds and the revenues requisite to support that. It also really hinders our ability to move forward sound fiscal policy in a couple of additional ways that I just want to reaffirm. So everybody knows that when we have faced economic downturns, when we have been working through painful and difficult recessionary periods, the Legislature has worked creatively. I have been a part of those conversations as a member of the Appropriations Committee during deep, deep recessions in what we called "shaking the couch cushions" or looking for every penny possible in cash funds that we could sweep in for a short period, perhaps to get through, to weather an economic storm. Those were extraordinary strategies during ex-- to meet extraordinary economic pressures, the opposite of where we are in terms of our fiscal position today. Additionally, one thing that's important to know about those sweeps as we're learning through LB-- AM1584, is that some cash funds can be swept and some cannot. Some can absolutely not. It's not just a free-for-all when you see cash funds that are fee-generated or user-generated in various and sundry state agencies. So you have to be really, really, really careful about whether or not it is permissible to move those. Additionally, those sweeps, for the most part, are going to be more like a one-time utilization. They're not going to be appropriate revenue sources to, to fund and support ongoing appropriations or long-term appropriations. Some of the cash funds do replenish with user fees that are coming into the funds, but they don't perhaps replenish at the same level in terms of what the sweep might be in various and sundry examples in this year's biennial budget. So we need to have a closer and more careful examination of the sustainability of those sweeps for each of those funds if they are committed to ongoing long-term spending. The last piece I'll mention in terms of cash funds is this. If and when we face an economic downturn and there's a great deal of economic uncertainty--

**KELLY:** One minute.

**CONRAD:** --on the horizon-- thank you, Mr. President. If we utilize and sweep those cash funds today in a time of unprecedented economic prosperity, we have no place to go in the future. So when you make these decisions today, you have to also think about the future. You shouldn't be eating your seed corn, right? That's, that's a lesson that we're all familiar with in Nebraska. If you're taking these extreme measures today, you're binding the hands of future Legislatures to meet the core functions of government. And that's going to mean at a period of economic downturn sometime in the future, you have no place to go except deep cuts to education, human services and infrastructure or raising taxes. Neither of which is an attractive option. So there's no reason to do this today, and it should be done with caution when we look at cash sweeps. That's why I support Senator Moser's amendment. Thank you.

**KELLY:** Thank you, Senator Conrad. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. I was curious if Senator Conrad would answer some questions.

**KELLY:** Senator Conrad, would you yield to a question?

**CONRAD:** Any time for Senator McKinney. Absolutely.

**McKINNEY:** Senator Conrad, you've-- you're a senior member of this body. And from the time you were here to now, how long has our state been talking about the need for criminal justice reform and policy changes?

**CONRAD:** Thank you, Senator McKinney. You know, I think that the issue really came to a head probably in 2013, 2014, kind of as I was wrapping up my previous term in service. And there were a series of very tragic public safety events, including loss of life, that really sparked an increased interest in doing something with prison overcrowding and criminal justice reform. The, the case that really, I think, grabbed public attention to the severity of the crisis was in regards to Nikko Jenkins and him crying out for mental healthcare, but then being released. And then there was a horrific series of events that happened. In tracing back how that happened, a lot of signs kept pointing to a lack of programs and services in the prisons and a severe sense of overcrowding. And so that really helped to spark some of the first legislative special committees to take up the issue and dig deeper. They put forward a host of reforms. CSG came in after

that. We adopted some, but not all of their ideas. And then of course, we had the CJI work over the last year because we're just not making a dent in terms of our prison population.

**McKINNEY:** In, in your opinion, why weren't all the suggestions from CSG adopted?

**CONRAD:** Lack of political will.

**McKINNEY:** From who?

**CONRAD:** I'd say primarily, primarily previous gubernatorial administrations and conservative state senators and the County Attorney's Office-- Association. Sorry, sorry. Yeah.

**McKINNEY:** All right. Thank you. And we're here today. And last time they did the CSG thing was LB605. Everything didn't get adopted, and we're still in a crisis because of that. And it was watered down and that was-- that's the attempt this year, is to-- one, last year, we didn't take none of the suggestions from CJI. This year we have-- we still have some of those suggest-- suggestions and other suggestions to make some changes. But the same group of people who stopped the full implementation of the sug-- of suggestions from CSG are doing the same thing now. And it's preventing us to make progress. But you want to shove a prison down our throat because, up until last night, it was in disarray, it was inhumane, it was in bad shape. We need to get rid of it. People can't live there. But now, oh no, let's not tear down everything. There's some buildings that are bad, but we should-- still should keep it open. It's just real interesting how one day this is a position, another day this is another position. And then we stand up and say we want to save taxpayer dollars and all these type of things and talk about public safety and all these other things. But the priorities aren't what are being reflected from this body at all. We need policy changes. We need to figure out what we're going to do. We don't even have a classification study to even know what should be built and how much it should be built for.

**KELLY:** One minute.

**McKINNEY:** What if a classification study comes back and says, no, you don't need \$350 million-plus, you need \$500 million? What are you going to do? Come back to this body and try to justify it and still say the Nebraska State Penitentiary will not close because we want to keep our options open, and it shouldn't be bulldozed. But for three

years, people have stated that they, they supported a prison because NSP was in such bad shape that it needed to be shut down. But that has changed. Thank you.

**KELLY:** Thank you, Senator McKinney. Seeing no one else in the queue, Senator Moser, you're recognized and waive closing on AM1584. Senators, the issue is the adoption of AM1584. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 36 ayes, 0 nays, Mr. President, on adoption of the amendment.

**KELLY:** AM1584 is adopted. Mr. Clerk for items.

**CLERK:** Mr. President, amendment to be printed from Senator Ibach to LB50. Concerning the bill, Mr. President, the next amendment. Senator John Cavanaugh would move to offer AM1609.

**KELLY:** Senator John Cavanaugh, you're recognized to open.

**J. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues. So this is AM1609, it changes the amount of appropriation for the Perkins County Canal Fund from \$574,500,000 to \$449,500,000. This matches the Department of Natural Resources' initial budget request for a 500 cubic feet per second canal rather than the Governor's request for 1,000 cubic feet per second canal. I brought this amendment because I believe it's important that we commit over \$600 million-- that if we commit over \$600 million to building a canal, we have a discussion on what we're doing. I remain skeptical whether the canal is worth the cost to the state, both in terms of construction and inevitable litigation it will bring. It's not even clear whether the canal will result in any additional water or whether the benefits, given the amount of money we are investing in the canal, will outweigh the benefits. For example, building additional storage. But I want to talk specifically about the request for a 100 CFS canal rather than a 500 CFS canal, because I think it's possible that by building a canal, Nebraska will actually be in violation of the South Platte compact. The South Platte River Compact gives Nebraska the right to direct 500 cubic feet per second from the lower section of the river between October 15 and April 1. This would be a senior right after December 17, 1921. Signaling our intent as a state to build the canal to divert more than that would certainly invite a lawsuit from the state of Colorado. And I think there's plenty-- there's a pretty good chance that they would win that lawsuit. I've yet to hear any satisfactory explanation as to why the Governor's request for a 100-- 1,000 CFS



canal is in his budget. The argument for the canal is that water would not be available to us without the canal. Anything above 500 CFS would be junior to all existing rights. It's not clear that Nebraska would have the right to divert any more than 500 CFS under the compact. And I guess I'll divert from the-- my comments there. So I want to have this conversation today. I know people are going to be hesitant to make a change of this size to the budget, but those of you who have been here before, we've had this conversation about the Perkins County Canal. Last year, I know a number of you just went out and visited it, and I did that tour in the fall. This is-- it's a monumental project that has wide-ranging implications for western Nebraska. But it has broad implications for the state because of the amount of money we're talking about here. And I think it's important that we have a conversation about the canal in general, but my amendment focuses on whether or not we should build a canal that's bigger than the one that we've talked about since a year ago. The additional cost of \$125 million, although I might have to amend that because I spoke with Director Riley at DNR, who again has always been great and answered all my questions, even though I've constantly questioning what they're doing there. But there may be some increased construction costs associated with the 500 CFS canal anyway that we may need to take into account. So for the purposes of this discussion, the dollar amount is \$125. But if we actually decide to amend-- to make this change and, and limit to a 500 CFS, we might need to go with a different dollar amount. But the point is whether we build a 500 CFS or a 1,000 CFS canal, that's the limit of the conversation in terms of my, my amendment, and we'll figure out the dollar amount in a bit. The reason for this is, the reason this is an important conversation to be had is the compact allows-- the, the Platte River Compact between the state of Colorado and the state of Nebraska allows for Nebraska to have 120 CFS in the summer months, the irrigation months. And that means that entitles us to put a call or ask the state of Colorado to stop water usage in the lower Platte if we're not getting 120 CFS. So that's a right we already have. The canal is about in the nonirrigation months, between that October and April date, where we're entitled to 500 CFS, which is cubic feet per second of water, during that time, only if we build this canal. So we have to perfect that right is what we call it, which means it allow us to put a call or ask the state of Colorado to stop water usage so that if the-- if our delivery falls below 500 CFS. We build that canal, that gives us that right. That's the argument. So-- and then we can build an augmentation project in the state of Nebraska for storage, which has a lot of benefits. There's been a study, the Zangero report, which I'm sure you all have received but

probably haven't really digested. It's a little technical and complicated. But the question then is why a 1,000 CFS canal, right? And it has two problems, as I see it. One is it's built specifically for those unusual events, once-every-seven-year events where the flows get high enough that the water then-- that there would be water to divert about 500 CFS. The issue with that is in those instances, if that water is not diverted by a canal, it would go in the Platte River into the state of Nebraska, which means we would be spending this \$125 million to get an additional canal's capacity for water that we already have a right to. The compact states we can divert water that would otherwise cross the state line, would otherwise go into Nebraska in excess of 500 CFS. That's water that we already have a right to. We should not be spending millions of dollars to get water that we already have a right to. The argument for the canal is spend \$500 million to perfect our right to water. So there is a justification for that because this is water we wouldn't otherwise get. But this additional cost is for water that we would already get. And the reasoning is that we can then divert it into the storage capacity once every seven years. So that's a question of whether-- of value, whether or not that brings that value-- to spend all of that money now to get those once-in-a-while events to get access to water that we already get. So that's why I think this is an important conversation. But part two is that the compact gives us the power of eminent domain in the state of Colorado, which means we can go into Colorado and we can take people's property, buy property, operate the canal, build the canal. We have the right to do that under the compact. We have the right to do that to build a canal for the diversion of 500 cubic feet per second. I think that that is-- puts into question whether Colorado will honor that right, that claim of ours, to build a bigger canal than that. And so I think it puts in jeopardy our claim to build this canal in the state of Colorado, which we have all argued all the way along that Colorado is going to do everything they can to keep as much water in Colorado as they can and to prevent us from asserting this right. And so to put ourselves in a position for water that we're already going to get once every seven years, to put in jeopardy our claim to eminent domain, I think, is a mistake. And aside from the fact that this is we-- I know it's a-- we, we were all saying we're flush, we have money to spend or whatever it is we're doing, but we are also scraping to find money for lots of projects. To tie up \$125 million for those-- a project that has all of those issues, I think is a mistake. And that we could find other uses. I'm sure there are other people on the floor here who have uses they could think of for \$125 million for better uses in the immediate term. So that's the issues.

I'd be happy to take any questions. I'd be happy to engage in the conversation about the canal about why I think this is a problematic approach and why I think that we should go back to-- we should still-- again, I'm suspect of the canal in general for a number of reasons, and we can talk about that. But if we do it, it should be 500 CFS. It should be the original request. It shouldn't divert from the letter of the compact and we should save ourselves some money in the process. So I would ask for your green vote on AM1609, and I'd be happy to take any questions. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Brandt has guests in the north balcony, members of the Community Action of Nebraska from his district. Please stand and be recognized by your Nebraska Legislature. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. I stand in opposition to AM1609. I do-- excuse me. I want to tell you, if you're looking at what we're talking about in your budget book, it's on page 6, Perkins County Canal Projects. There's three paragraphs of description about it. The amendment would reduce by \$125 million the allocation for the canal. And the reason that I have supported the larger canal is that it is a 28 percent additional cost to get 100 percent more water capacity. And I thought the efficiency of that was well worth doubling our capacity for we're getting 100 percent more capacity for 28 percent more cost. And in years when there is extra water coming down, let's grab it and store it in the wintertime so it's available for irrigation. And regarding the concerns about the compact, I appreciate the fact that Senator John Cavanaugh is looking at the compact and concerned with the legal commitments. The Department of Natural Resources has been reading the compact over and over for several years, and they have a water attorney in the Attorney General's Office that's done years of water research. And they know the compact. And I-- Department of Natural Resources has requested this increase, and they're definitely not going to jeopardize the whole project by asking for a, a larger capacity canal just because they want it. I can't believe that they would do anything to jeopardize the canal by this request for a larger capacity. And I was mainly supportive of this increase because of the small increase in cost for a huge increase in capacity. Thank you, Mr. President-- oh, Madam President, excuse me.

**DeBOER:** Thank you, Senator Clements. Senator Fredrickson, you're recognized.

**FREDRICKSON:** Thank you, Madam President. Good morning, colleagues. Good morning, Nebraskans. I rise today, I am listening closely to this conversation about the canal and have been having a lot of conversations with various stakeholders on this issue as well this morning. So I actually had the opportunity earlier this week to go out with a few colleagues to visit the site of the Perkins County Canal and-- or the proposed Perkins County Canal, I should say. And one thing I learned, so it's interesting as an, as a senator who comes from the eastern part of the state and a more urban area, we don't always think kind of more holistically about the water infrastructure of our state and how essential this is. And part of that, that, that trip that we took was, was super educational for obviously the canal's purposes and for that. But one thing I think we as Nebraskans should be-- should frankly be pretty proud of is, you know, we have a pretty incredible water infrastructure throughout our state. We've invested over the years in this. And that's what's really enabled success, not just with our agricultural communities through irrigation methods, but also for, say, safe drinking water and, you know, water infrastructure in the more urban and eastern parts of the state, as well. So-- and when you really think about when a lot of the ways that we have diverted water in our state, how a lot of this was designed in the '30s and we didn't have the technology we have today to do that. And, and, and controlling wild water, for lack of a better phrase, is, is, is a pretty impressive feat. So I was really impressed with that trip. I learned quite a bit, and it actually kind of got me very curious and interested in, in the canal project. You know, we talk a lot about how this treaty is from, you know, like almost 100 years ago. And is it still applicable, etcetera, etcetera. Water future is, is incredibly important. I do have some concerns because this amendment in the budget, so this is on page 6 in our, in our green books that we received, it's under the Perkins, Perkins County Canal project. It does increase the funds by \$125 million. That's, that's, that's a really significant amount of, of money here. And so I'm going to listen closely to this conversation and continue to have conversations with folks about that, because, you know, if we are able to successfully achieve what we're looking to achieve with the canal with just a 500 CFS canal versus a 1,000 CFS canal, I don't see the function or purposes of spending an additional hundred \$125 million on, on doing that. You know, if I can be convinced of the necessity of doing that, I, I, I might support that. But again, I'm hesitant to do that because \$125 million is nothing to snuff at. That's a, that is a huge, huge price tag for this. I also, you know, Senator John Cavanaugh has brought up questions related to eminent domain with

this, and I also have a concern about that as well. You know, this, this, this compact certainly has underscored that we're entitled to 500 CFS of water during the nonirrigation months of the year and 120 CFS of water during the irrigation season. For those at home, CFS, I-- it was explained to me what that actually means. It's like something, a certain amount of gallons a year. I'm not going to pretend that I know at all what that looks like from a measurement perspective. But the-- but we also, my understanding from the treaty is that we can-- we are also entitled to any additional water flow that just organically occurs. So if there's a heavy snowfall year, for example, there's nothing that prevents us from achieving those or obtaining that amount of water as well so. But the eminent domain question is interesting because we are-- we will be, if we do move forward with this canal project, we will be exercising eminent domain in another state, in the state of Colorado. And so there is question as to whether or not, based on that treaty, we are entitled to the eminent domain for the use of a 500 CFS-sized canal or if we also have the ability to do that with a 1,000 CFS. I've been-- from what I understand, from some of the conversations I've been having, is that some folks are really confident that that should not be an issue.

**DeBOER:** One minute.

**FREDRICKSON:** Thank you, Madam President. But others do have concerns about that it's not. And so again, this is going to potentially be a-- it's possible this could get litigious with, with Colorado. And so I tend to sort of want to lean towards honoring the language of the treaty, to sort of be cautious with this and walk delicately with this. Because it is a delicate topic. But I am leaning toward supporting AM1609 for those reasons, and I'm going to continue to listen to those conversations and have conversations with some of the stakeholders. And I look forward to continuing to learn about this. Thank you, Madam President.

**DeBOER:** Thank you, Senator Fredrickson. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Madam President. And good morning. Let me start with this. Water runs downhill, OK? I don't think we can argue with that point. Water runs downhill. I've toured the facility where the canal is going to be built twice, once last September and then again last Friday. This is a necessity that we do this. And when Senator Cavanaugh says it could be an issue with Colorado if we build a 1,000 CFS canal or a 500. Well, let me tell you, it's going to require the

same amount of land, the same amount of easement or eminent domain whether it's 500 or 1,000. It is difficult sometimes for people who live in the eastern part of the state to understand the way that water works in the western part of the state. We are in a desert out there, basically. And any time that you can gather more water when it's flooding is an appropriate time to do that. If you don't believe me, drive out and look at Lake McConaughy today. It's hovering around 50 percent of capacity. We were there last Friday. It's down 40 feet. It's quite obvious that when the snowmelt is sufficient to have more runoff, that we should be able to gather that in and conserve it. I am totally opposed to AM1609. I think Senator Clements fairly described to you the return on investment: 28 percent increase in spending in appropriations, you get 100 percent increase in capacity. That's a tremendous return on investment. Keep in mind that about 7 percent or more of the water that comes from the South Platte winds up in Lincoln. And we have senators in this room have been lobbying for a second water source for Lincoln for years. It would just make sense to me that when you have an opportunity to gather more water in to some facility that we've built to store to release later to get to Lincoln, it would make sense that those people that live in the eastern part of the state would be supportive of that. And the comments that Senator John Cavanaugh made about the ramifications of our decision on the compact could be detrimental, that's his opinion. He's entitled to his opinion. Doesn't mean it's right. So you have to think about the fact that what Will Rogers [SIC-- Mark Twain] said once is very true. He said, Whiskey is for drinking and water is for fighting over. And that's a true statement. If you don't believe me, come out in the west where water is scarce and you'll find out that that is a true statement. So as we make the decision on whether to advance AM1609 or not, keep in mind that once the water goes over the bridge, it isn't coming back. And unless we build this canal, Colorado is not going to be required to send us the money-- the water, excuse me. But the issue is when there's excess water and Senator Cavanaugh alluded to that about every seven years that's the case, it would just make sense that we're able to capture that. Because in the case of Lake McConaughy today--

**DeBOER:** One minute.

**ERDMAN:** --being at 50 percent, if we had a requirement that the North Platte River could only put in so many CFS, we would never get Lake McConaughy full again. Fortunately enough, when the water comes out of the mountains in Wyoming, we're not restricted and we get everything that comes. That's what we need to do with the Perkins Canal. So I

encourage you to vote against AM1609, and let's continue to collect the water that we're supposed to get from Colorado. Thank you.

**DeBOER:** Thank you, Senator Erdman. Senator Raybould, you're recognized.

**RAYBOULD:** Thank you, Madam President. You know, this is a big deal. And Senator Erdman is absolutely correct. Water is absolutely worth fighting over. You know, I'm a Lincoln city state senator and I distinctly remember the, the drought in 2012. We were ready to call in our superior water rights over the Platte River and the Elkhorn River. And just imagine all the farming operations, hog operations, barn operations that would have to cease production. The NRD was already on top of this and they already cut off a lot of the irrigation that was going on. It's that important. 2019, the city of Lincoln, we-- and the eastern part of the state of Nebraska, experienced that severe flooding. It knocked out of some of our wells and pumping stations that are so desperately needed. So, yes, having a secondary water source for our state capital is essential. It is absolutely essential. And there's no going around that. You know, I looked up the Perk-- Perkins County, and right now two-thirds of Perkins County is experiencing extreme drought. The other third is in severe drought. The front range in Colorado that we're looking to work with on property acquisition is in a severe drought. And so the first question I asked when they gave a great presentation on the Perkins Canal is how much of it is actual Colorado growth for residential or commercial purposes on that front range and how much of it is actually Mother Nature intervening? And, you know, we might go to this extraordinary lengths for the Perkins Canal. And believe me, I believe fighting for Nebraska water rights is essential. But how much of it is related to Mother Nature? Because you can't, you know, you can't-- that expression, you can't squeeze blood from a turnip. Are we in that same situation? And also, Senator Cavanaugh raised some really profound legal points. And I, I will have questions of Senator Cavanaugh and maybe Senator Clements, because how long will it take for us to actually see the benefits of building the Perkins Canal? And, and I, I know some senators have had the good fortune of traveling out there in, in more fact-finding efforts. But it is a big concern. And I had talked to our budget department and got a few things clarified, but I'm not sure if Senator Cavanaugh is the right person or Senator Clements. It's a question, what is the status of the engineering drawings right now? Is that not-- that's not a Senator Cavanaugh? Senator Clements, would you yield to a question? I have a couple of

other questions for you, probably I'll, I'll require your assistance on.

**DeBOER:** Senator Clements, would you yield to a question?

**CLEMENTS:** Yes.

**RAYBOULD:** OK. The question is and I don't know if you know the answer, where are we at on this project and where is the-- if all goes well and if we're able to bypass a lot of the lawsuits and get the canal up and running, what is the projected timeline on that? So the question is, what's the status of the civil engineering drawings? And I don't know, I'm pretty sure we haven't done the, the right-of-way acquisition for that. But where are we at on that?

**CLEMENTS:** Yes. It's preliminary. They had one engineering company do a study and then that's, that company is done with their report, which, really basically is that it's a feasible project. Now they've got a second engineering company that's just started to actually do the design and locating the, locating the route. The route has--

**DeBOER:** One minute.

**CLEMENTS:** --been decided. So it's going to be-- there's no acquisition of land going on yet.

**RAYBOULD:** So the long-term construction timeline, what do you think that would--

**CLEMENTS:** Probably 10 years.

**RAYBOULD:** Ten years. And then-- so I guess the question is why are we tying up all this funding and putting it in one pot where I, I can see that we're going to have more needs of tapping into that reserve in the next four years? What is the purpose of tying it up for the next two years or four years?

**CLEMENTS:** Mainly to show Colorado that we are serious. They didn't think we'd ever do it. And this is making a statement that Nebraska is going to do this. Without allocating money, they wouldn't really believe that we're serious about it.

**RAYBOULD:** So after two years in this biennium, if there's any funds left, I believe it's \$62 million--



**DeBOER:** Time, Senators.

**RAYBOULD:** Thank you, Madam President.

**DeBOER:** Thank you, Senator Clements, Senator Raybould. Senator McKinney, you're recognized.

**McKINNEY:** Thank you, Madam President. Back up because I think it's important that we continue the conversation about the prison and criminal justice reform. Would Senator Wayne yield to a question?

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

**WAYNE:** Yes.

**McKINNEY:** Senator Wayne, how's the progress on LB50 and criminal justice reform?

**WAYNE:** Well, I just saw an amendment get dropped that made the four-hour-- or three-hour executive session yesterday worthless. So I guess it's not going very well.

**McKINNEY:** And why would someone drop an amendment on a bill that's yours without even--

**WAYNE:** Well, no, I'll give her credit. She came up and told me about it. But we were in exec yesterday. And yesterday, I instructed my staff to take the concerns and conversations that were going on yesterday about certain language and start putting together another amendment to address those concerns and have a conversation. But yesterday, I was notified that there was already another amendment being drafted, but I said we'll still try to make a good-faith effort and go through the amendment that we were actually working on. And then, I don't know, about 30 minute-- 20 minutes ago, we-- an amendment that we have not discussed was dropped.

**McKINNEY:** And what are your concerns with that?

**WAYNE:** Well, the, the issue is I've been pretty transparent from day one. We were having, I thought, good-faith negotiations and we found out that it's not good-faith and not just with people in this body, but, but other constitutional officers. And I'll, I'll get into that here in a little bit. But yeah. We're going to start a conversation today about the dishonesty that's going on, within this body and outside this body.

**McKINNEY:** What percentage of a chance do you think we'll have in-- at, at this point in today, that we'll have in getting criminal justice reform or any type of policy changes made because of what's been going on?

**WAYNE:** I don't know. I don't know the percentage. But we're going to start having a conversation with at least the senior class, and I'm gonna walk them through the entire process of how we got to where we are and how I was told my point of contact was one person and that person refused to even set up a meeting with me. And so it's hard to negotiate. Now, I kind of know what Senator Brewer was going through with his gun bill. It's hard to negotiate when you don't know who you're negotiating with, and it's hard to negotiate and come to a compromise when the people you're negotiating with are being dishonest.

**McKINNEY:** Thank you. And that gets back to what we went through last year, where you would talk to one person one week, the next week it's another person you have to talk to. This person can't say yes, another person can't say yes. Then we never got anywhere. LB920 didn't pass. And we're supposed to think that, you know, people are going to act in good faith and we're going to work together, bipartisanship, put politics to the side and get things done. But how can we do that when the process isn't genuine? An individual prioritizes a bill and we have all this behind-the-scenes things happening where you're supposed to come back with suggestions for that person that prioritized the bill to make. But instead of that, we're dropping amendments without even coming back saying, hey, we looked at the bill. Here's some suggestions. Would you be OK with this?

**WAYNE:** You know, to, to comment on that. I thought we were in a different place. I thought the leadership of this body was in a different place. I thought the Governor was in a different place. I thought the Lieutenant Governor was in a different place.

**DeBOER:** One minute.

**WAYNE:** What, what we're finding out is the fear of the one and the politics of this makes it difficult, which is interesting because conservatives have led criminal justice reform across the country. Even ALEC has its own group, its own section on criminal justice reform. And if you look at Texas, Oklahoma, Tennessee, they are some of the most conservative states who, who have led criminal justice reform. And we're still behind the times. And it's unfortunate. I

understand the fear of the one. But here's what I'm going to make a promise to. When somebody jams out and they go out and commit a crime, I'm going to be the first one to donate to the opponent's campaign, saying that happened-- that victim happened because they were against making sure nobody else jammed out. So when there's another Nikko or there's somebody else who jams out and comes out and commits a crime, that's going to be on them. And that's the kind of accountability that I'm going to start holding people accountable for.

**DeBOER:** Time, Senator.

**McKINNEY:** Thank you.

**DeBOER:** Thank you, Senator McKinney, Senator Wayne. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Madam President. Good morning, Nebraska. Good morning, colleagues. I want to speak a little bit to AM1609, which I would be opposed to. I do support LB818. I want to talk about three things. I think Senator John Cavanaugh's discussion is, is worthy and we've talked about this before. I think three main points we need to talk about, but [INAUDIBLE] I get to there. When you look at the compact, one thing we have to be careful of, and we have to ensure we do, is we need to make sure we read the entire compact. So we can't take one article and apply one article. And I think certain John Cavanaugh would, would also agree, we, we take the entire compact and look at the entire compact. We don't pull a piece out of it, but we have-- it builds upon itself and it will-- all blends together. So there's three, three, three things I guess we want to talk about on this. One is-- important thing is drought mediation. Two is storage for needs. And three is the entitlement that we have to full and un-- uninterrupted or unintruded [PHONETIC] use and benefit of the water in this-- at this location. So first is, is we are entitled to sole unrestricted use of water at the tributary. What we're talking about is any-- as Senator John Cavanaugh said, any overflows or others, whether we build a 500 or 1,000, the compact itself does not specifically state we build a certain size, but that we can build it. I believe we can agree on that. And what it does provide for us is to be able to utilize that surplus flow whenever it may happen. 2011, there was flooding, surplus flow. 2013, there was surplus flow. Over the last-- beyond that, the last 13 years, there was probably three or four other times there was flooding, so flood mitigation is part of it, as well. If we remember, we think what's going on right now is California, there's a lot of snowpack and a lot of water going down

and they don't have the storage capacity to hold that water. That's part of what we're looking at here is with the, with the canal and with the storage facility is when we have those excess waters, we're then able to store that and hold that for times in drought, for times when we really need it, to be able to utilize that water. So we want to make sure as we're building the canal that it is able to handle those flows so that we can meet that need of, of being able to store that water, rather than I think, as Senator Erdman said, once it goes underneath the bridge, it's gone. Once it goes down the river, it's gone. We want to capture that water and hold that water where it's at so we can use-- utilize at a later date. Storage is important for many reasons, as I said, including mitigation of drought-- the drought mitigation portion of it. Article III of the compact entitles Nebraska to full and unmolested use of all water. That's all water in the tributary that's accessed on the Colorado side. This benefits both Nebraska and Colorado, especially when talking about flooding and irrigation. It does benefit both sides of the state line. So when we build this or as this is being built, the importance is to ensure and understand we're talking about those surplus waters and we build it to a point, we build it to a canal size, which is not determined in the compact, but we build it to a size which will, will ensure that we capture those waters at those times. And we've already seen over the last years that there are more than once in seven years that we see excess water, excess flooding. We've seen flooding happen in additional years. Just a couple of years ago when we had the flooding in Nebraska--

**DeBOER:** One minute.

**BOSTELMAN:** --that was out west, as well. Could we have captured a lot of that water. We had no place to store it at the time. It gives us that opportunity to store that water and gives us the opportunity to utilize that water at a later date. And that's the thing that's, that's very important with what we're doing today is, is with the canal, is making sure we're able to capture that water then, then normally now flows down the river. It's excess, but we're able to hold that water and, and keep that water and store that water for future use. So I appreciate the conversation that Senator John Cavanaugh has with this amendment. I do not believe that we should reduce funding for it. The benefit we get from the, from the amount that we spend, if you will, to construct it is far outmatched from the gain. So if we spend originally, if you look at the feasibility study--

**DeBOER:** Time, Senator.

**BOSTELMAN:** Is that time? Thank you.

**DeBOER:** Thank you, Senator Bostelman. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Madam President. And I appreciate, of course, Senator Bostelman's comments. And he did kind of hone in on what this conversation is about. But first off, I want to say, Senator Bostelman, never tell me the odds. That, that's just an inside joke with me and Senator Bostelman and about 12 million other people. So the conversation here is about the value in spending more money, whatever that dollar amount is. In my amendment, amendment, it's \$125 million to get back down to the department's original request. That dollar amount, as Senator Bostelman correctly pointed out, is to capture additional water in those high-flow years. But the, the value question here is should we be spending that amount of money to divert water into the reservoir that we would already get. Because the, the water above 500 CFS, if we divert it into the canal, that water-- the only way we can do that is if that water was already coming across the state line into Nebraska. So this is our water. And as Senator Clements pointed out to-- in his questions from Senator Raybould, why are we appropriating this money right now, Senator Raybould? It's to show Colorado that we're serious and that we're going to build this canal to perfect our right. We don't need to build a 1,000 CFS canal to perfect our right. So this is in excess of that goal. Should we be spending more money, hundreds of millions, tens of millions of dollars to achieve something that is not our original goal, does not serve the purpose of perfecting that right, does not get us that opportunity to call out those junior rights? What it does do in those high-water years, as Senator Bostelman talked about, give us the opportunity to put more water into the reservoir. And I will tell you, anyone will tell you that this reservoir does have great amount of value for western Nebraska. I-- the reservoir will increase the water tables out there, will increase recharge rates, will increase ability to discharge or to just-- to use the water when we need it. So it does bring value. The question is whether this increased size of the canal at this increased cost for those rare occurrences-- the right thing to do at this point in time. Because as Senator Raybould pointed out, we're allocating this money now for a project that may not be finished for decades, really. And we have other purposes. I know everybody here has some amount of money they were hoping to spend this year that didn't get spent. Not everybody got-- nobody got everything they wanted. Right? Everybody wants more money. Our opportunity here is to say \$449 million for this canal plus what we've already allocated for

it gets us the perfection of our right to call out Colorado. It gets us this reservoir, it gets us 500 CFS, it gets all the things that we've talked about before. But is that added value worth spending that money today? That's the conversation that we need to engage in here today and have this-- talk about. Because we're spending-- this is an allocation of \$575 million. That's serious money, friends. People need to have this conversation. You need to, you need to listen, you need to think about whether you think we should spend \$575 to build a 1,000 CFS canal that gets used once every seven years or should we spend \$449 to build a 500 CFS canal that gets used every year, right? So the difference being \$125 million for once every seven years to fill up the reservoir more in those years and Senator Bostelman said he sees the value in that.

**DeBOER:** One minute.

**J. CAVANAUGH:** Thank you, Madam President. And there's not-- there's nothing wrong with seeing the value in that, right? You just need to understand that's what the decision you're making right now is. You're deciding to spend \$125 million for that-- those unusual circumstances to fill up the reservoir a little faster, sometimes. So and Senator Erdman is right, the reservoir is going to allow us to alleviate some of those constraints on McConaughy, that it's going to, to aid a lot out in that part of the state. I'm not arguing against the reservoir. I'm not arguing against the canal at the moment. I'm arguing against building the canal too big. And to the legal questions, I guess I'll push my light and get back in and talk again about it, but I'm just ask-- flagging these questions for you so you know that those are out there when you're making this decision. You all have to make your own decision. I'm one person, I have my opinion, and I'm reading it one way and I-- and the DNR is reading it a different way, perhaps.

**DeBOER:** Time, Senator.

**J. CAVANAUGH:** Thank you, Madam President.

**DeBOER:** Thank you, Senator John Cavanaugh. Senator Moser, you're recognized.

**MOSER:** Thank you, Madam President. Good morning, colleagues. The increase in the size of the canal, I think, is a good idea. Five hundred cubic feet per second doesn't take a terrifically large canal to conduct that amount of water. If you want to get a frame of reference, Google the Loup Power Canal in Columbus, just north of

Columbus. It goes from Lake North and Lake Babcock around and goes to the hydro electric plant just north and east of Columbus. Luckily, between Genoa where the water comes out of the Loup River and where it goes back into the river is, I think, about 75 feet in drop so you have a substantial amount of energy there to generate electricity. I don't think in western Nebraska we're going to be generating electricity. But the Loup Canal is about 3,000 cubic feet per second, and so you could look at that online if you want. I've got it queued up on Google Earth if you want to see it on my iPad or I've got a picture on the wall in my office. I can show you a, a photo of the Loup Canal and of the hydro plant so you can get an idea of the scope of it. So I support the additional capacity for the canal. This authorization doesn't-- it, it allows the canal to be built larger. But they can only spend so much money a year and if it turns out that there is not the benefit to enlarging the canal, they can reclaim that money from the budget and spend it on something else. But at this point I support the budget as the Appropriations Committee has brought forward on the size of the canal. I think it's important to Nebraska. This morning when I drove in from home, I drove across the Platte River. And two or three months ago, it was water bank to bank and, of course, the Platte River is pretty flat so that's still not a lot of water. But when I drove by this morning it was probably 10 or 15 percent flowing and the rest were sandbars and, and cattails and things. So we haven't even gotten into the irrigation season and already the Platte River has dropped considerably. Thank you.

**DeBOER:** Thank you, Senator Moser. Senator Raybould, you're recognized.

**RAYBOULD:** Thank you very much. I, I do have some additional questions if Senator Clements, would you be available to answer them?

**DeBOER:** Senator Clements, will you yield?

**CLEMENTS:** Yes.

**RAYBOULD:** OK. Thank you so much. So this, this goes towards some of the concerns that Senator Cavanaugh has, has raised. So could you walk us through the process? So if we allocate this huge amount, and from my understanding only \$62,800,000 can be spent every year. Correct?

**CLEMENTS:** Correct.

**RAYBOULD:** OK. So, so what happens for the next biennium?

**CLEMENTS:** The, the money is set aside. We did the similar thing with the prison. The, the department is not able to spend more than \$62.8 million. It, it will-- the money we're setting aside will earn interest. And then as the project goes along, we'll see if they're needing more money as they progress, doing more work.

**RAYBOULD:** And then does this funding also include the legal fees or is this something the Attorney General's Office has the capacity to handle?

**CLEMENTS:** I haven't been told how that will work. The Attorney General does have a water attorney expert, which probably would be in the Attorney General's budget.

**RAYBOULD:** OK. Thank you, Senator, very much. I appreciate that. Thank you, Madam President.

**DeBOER:** Thank you, Senators Clements and Raybould. Senator McKinney, you're recognized.

**McKINNEY:** Thank you, Madam President. Continue the conversation about criminal justice and the prison. As you all know, if you just tuned in, NSP will not be closing because the state would like to keep its options open while also building another prison. But also for the second year in a row, well, actually three, because my first year we held off on doing any type of policy changes related to criminal justice reform because we went through the whole CJI process. And in that first meeting for the task force, I asked to Governor Ricketts, Scott Frakes, and everyone else in that room, are we just meeting to meet or are we actually meeting to do some things, some real things? Everybody in that meeting looked at me and said, yes, we're meeting to do some real things and we're going to make some changes in the state. So then you fast forward to January of 2022, the final report is released. Well, actually, it's delayed because through that process of us drafting the final report to the release of the final report, people were like, oh, no, we have to make changes. We can't-- it can't say recommendations no more. It has to say options. Then some people were like, oh, we don't want this language in there after we met and everybody agreed. So then eventually the report is released and there are 17 consensus items. But the real reality was there were never 17 consensus items, there were about 14 or 13 because the county attorney associations got a hold of the report and people started to pull off of what was deemed consensus from the whole task force, then Senator Lathrop introduces LB920. We go through the process of debating it and



it fails. And it fails because there isn't political will to do the right thing and stay true to what you say and that's the fact. So then after we finish the session, we go through the interim and there's some discussions about reform, what's going to happen, who's going to bring the bills? And we get into this session and we're like, OK, we might have some progress. Now, I don't know if there is any progress because the same organizations and entities and individuals that were holding up any type of changes are doing the same thing this year. So people will vote to build a prison this year and for really, the third year in a row, there will-- there won't be any substantive criminal justice related policy changes passed through the Legislature unless hopefully over this next month things change, which is sad. And it should be sad for everybody because next year is 2024 and we know what 2024 is and I don't see a lot of will to do anything because people are going to be, people are going to be running and a lot of people probably are going to be wanting to be viewed or perceived as tough on crime and public safety and holding people accountable. So this is the year. We don't have time to wait. We've been waiting far too long. The state has been waiting far too long. The families of individuals inside and outside have been waiting far too long for change. We need change, but it has to happen in good faith with genuine negotiations, genuine conversations, and not running around--

**DeBOER:** One minute.

**McKINNEY:** --senators and proposing hostile amendments without coming back with suggestions to the proposed amendment. That's all you have to do is go back and say, hey, these are some suggestions that we think should be made, not drop an amendment on, on it without coming back, like you said, with the suggestions. Are we senators or are we just going to do whatever people outside the window tell us what to do? Be a leader. Step up and be leaders. You were elected to be a leader, not told what to do. Thank you.

**DeBOER:** Thank you, Senator McKinney. Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr. President. So what's interesting about the power of the body is you can filibuster, you can do things. I don't know. My colleagues in my class would have, probably would have already started back two or three years ago but maybe I'm a little wiser or a little tired. I don't know. But where I am at is I do know I have a, a vote and I know in his body I've been the 33rd a long time and so I'm going to spend time in my office doing work, catching up on work. I'm not going to be on the floor doing whatever. But right now, I'm off, I'm

off of every bill that people think that I maybe been on and I shouldn't have been. Don't worry, I'm, I'm off of everything and I'm saying that publicly. I don't mind, I don't mind people being against bills, I don't mind people being against provisions in a bill. That's what's healthy about a healthy debate. I think that's important. Yesterday, I was solving a PTSD bill. Last night I was emailing service providers and emailing people, saying I got to get a budget to, to this senator of how do you think this is going to work. I got to get information and details back on this. All that was done in the committee, but I recognized we put in appropriations and there were a lot of people on Appropriations who didn't have the same knowledge as, as the committee. And how it typically works is you get up and you say, hey, here goes my bill. The committee Chair gets up and has an amendment, and they tell why this bill was important. You can look at the vote count and you can go through some history with people on the committee. That kind of played out yesterday with Senator Erdman and Senator Hardin, but the fact that it went to Appropriations, it was just a weird process what we did on appropriation bill. So I'm going back through all my emails and I'm going to get that to all the information-- all the information that those senators requested like I said I would and we're going to tighten up the language. That's how a typical process typically works. In each committee, what typically works is you sit down and you have negotiations, you have conversations, and you keep, you keep going. But see, what happened here is a political game. So I'm just going to tell you right now, I think what we've been doing all year is wrong. I've told many senators this, but they try to hop the line by throwing their amendment in. Read the rule. The rule is the introducer's bill, the committee amendment, then the introducer's amendment. So even though that bill, that amendment went up, I'm going to challenge the Chair and I'm going to see if people are actually going to read the rule and stick to it and make sure my amendment comes up. That is the rule. What had happened was when Senator Chambers used to file motions, if you recall from my class who watched it, Patrick would always-- the Clerk, Patrick, would always walk down and say, hey, can I put this amendment up first and do yours second? And Chambers would always say yes. So there was a practice that nobody ever saw unless you were sitting where I was right in front of Senator Chambers and heard those conversations. I heard those conversations, and I'm pretty sure our current Clerk can confirm those conversations. So by hopping the line, by trying to put an amendment on, it's not going to work because we're going to go to the bare rule that my bill, my amendment goes first after the committee amendment. If you don't want to believe me, read

the rule. So we can keep playing games, that's fine. But I told a lot of people who I was supporting their bill this session that I'm off. I'm off because I, I got lied to. It was disingenuous. It wasn't an honest negotiation. And I just wasted three hours yesterday having a conversation about a bill that has an amendment that people aren't going to move on anyway. So I thought it was just, you know, the personalities last year, but now I know it maybe just isn't the personalities.

**DeBOER:** One minute.

**WAYNE:** I understand why criminal justice won't move here and it's a, it's a sad thing and it isn't even about people committing crimes. If you look at what we're trying to do, at least in this package, it's about trying to make sure those who after they have been sentenced come back into society that is productive. That's not Senator Wayne's crazy idea. Our new director spoke about that in the hearing, saying the guy is doing 10 to 20 years, you have to have some type of transition and that transition has to be meaningful. And what you find out in the data is you got to really have about two or three relationships. And one of those relationships is with a business and a company in employment. One of them is with new family members or new people so you don't go back to the same people that you were just involved with. And if we can just get two out of-- and I won't even mention the third, because some of it's religious and some people believe it's religion, some people it's a higher calling or connection to a bigger, better world, but if we can just get two out of the three.

**DeBOER:** Time, Senator.

**WAYNE:** Thank you. Mr. President-- Mrs.-- Madam.

**DeBOER:** Thank you, Senator Wayne. Senator Bostelman, you're recognized. Senator Conrad, you're recognized.

**BOSTELMAN:** Yep, thank you. Thank you, Madam President. A couple of things to talk about. We talk about what's cost benefit analysis. Basically, if we're looking at that 1,000 CFS canal, it's \$802 to \$986 million is the benefit that we see out of that. So there is a, there is a good-- if-- fiscally, if you're looking at it, the, the benefit is there, significant benefit with this in dollars and cents as it is, that's \$802 to \$986 million which is 1.28 to 1.57 benefit on cost ratio. Again, we're talking about storage. We're talking about making

sure we, we retain that water. We're able to capture all the water that potentially could be coming down the river at that time to store it for future use. Lincoln and Omaha, that's water that comes down the Platte River for future use, especially in drought situations. We're talking about surplus water and having access to all means is the size that it's not limited if you look at the compact. So again, I, I am opposed to AM1609. I know Senator John Cavanaugh, I've had discussions and others on the floor have had discussions, I think we've also had discussions with the director, we'll continue to have those discussions. I think it's important to have the, the talk we're having today, but I do believe the benefit that we're seeing out of the canal far outweighs anything else. And building it to the size that they-- at-- now, the feasibility says to, to build it to ensure we're capturing that water, to ensure we're restoring that water. It does happen more than every seven years, like I said. In the last 20 years or less, there's been at least six major events of flooding that would both benefit flood mitigation, but then store water in the future for drought mitigation, which Nebraska has seen. And this year especially, we're seeing a low drought or high drought changes across the state. And I think southwest Nebraska and western Nebraska is an area that needs that additional water as well to use, recharge the aquifer, but also put those-- put the water back into the Platte River at times when the Platte River is low for what we've talked about before for those environmental times ensuring that South Platte continues to flow as it needs to flow, but capturing that water so in future years, future days, future years, if you will, ensuring we have water flow into the Platte River for all the needs, both for wildlife, environmental, but also for human consumption and agricultural use. Again, the cost benefit or, or the, the analysis, the benefit of it is \$802-986 million, which is 1.28 to 1.57 cost ratio-- benefit to cost ratio, ensuring that we're looking at the entire compact and not just pieces out of the-- parts of the contract [SIC], one article or the other, but we look at the entire compact and our right to any surplus waters of the river which may flow down. And that's the important part of what we're doing, important part of the canal. We're, we're debating, I think, or talking today a little bit more about the cost and where to save the money. I do believe the, the additional money that the funds that we do have in right now are needed to ensure that we construct a project for-- construct a canal system and construct a, a reservoir system, if you will, in the future that will ensure we're capturing as much as we can and preserving that water for future use. Thank you, Madam President.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 4, 2023

**DeBOER:** Thank you, Senator Bostelman. Senator Murman would like to announce 18 eighth graders from St. Patrick Elementary in McCook. Please stand to be recognized by your Nebraska Legislature. Senator Conrad, you're recognized.

**CONRAD:** Thank you, Mr. President. Good morning, colleagues. Just wanted to weigh in with a, a little bit of my thinking in regards to the amendment that's proposed and the underlying measure. And I appreciate Senator John Cavanaugh for bringing this forward. I also really appreciate truly the smart debate that's been happening this morning in regards to our water challenges and issues kind of writ large, and in particular how this transfer bill and the canal project kind of relate to those, to those shared public interest kind of goals and challenges. And I just wanted to add a, a couple of kind of global comments and then would be happy to share time with Senator John Cavanaugh if he needs it. But let's be clear, we didn't ignite this project to, to restart a 100-year water battle with our neighbors in Colorado until a year or two ago, just a couple of years ago, as put forward by the Ricketts administration. I know people, different stakeholders have been talking about this for some time, but it didn't really have this serious weight and energy in terms of appropriation until the tail end of the Ricketts administration. And the Appropriations Committee at that time rightly pumped the brakes and said this is too expensive, this is too risky, this is not well thought out. And they provided some money for a more comprehensive study so that we could have a clearer picture about where we're headed here. And when that report came back, I believe it was about December 2022, just a couple of months ago, then Chairman Stinner rightly expressed skepticism about what we learned from that report and still expressed significant reservations about whether or not this was too expensive, whether or not the plans had gelled, whether or not we had absorbed litigation concerns, whether or not we would have a return on our investment in terms of the outlay of public appropriations in this regard. And those questions really haven't been answered sufficiently from my perspective. I am very skeptical of this canal, as are my constituents. When I was out knocking doors, people said what the heck are they doing in the Legislature? The COVID money that came here was supposed to help the people that were hit the hardest. They weren't supposed to be utilized for pet projects like a canal and a water battle with Colorado or a big lake that benefits private developers and that's what we're continuing to see. Those dollars which are propping up this budget are supposed to go to the folks that were most impacted, not pet projects that carry a significant price tag. I

really also have serious concerns about eminent domain. Any time we enter into a public project like this, we have to proceed very, very carefully when we think about the heavy hand of government taking over people's private property. And we have to ensure that the appropriate safeguards are in place in that regard. We know that construction will take years. We know that litigation will come to bear. And this is not time sensitive. At the very least, we should modify the project or dole out the dollars in a more measured way until certain safeguards and certain metrics are met. And this isn't just my opinion. There are very, very talented water law experts in Nebraska who've been sounding the alarm on this project. But people aren't listening to the second house, they're listening to political rhetoric about this particular proposal. We should slow--

**DeBOER:** One minute.

**CONRAD:** --down, we should modify this proposal. We should probably reject it because there is smarter, better, more cost-effective ways to meet our shared goals to ensure that Nebraska is getting every drop of water we should have. No one disputes that. There's no policy disagreement there. We all have the same goal. This conversation is about the means to the end and I do not think this is the right means. Thank you, Mr. President-- Madam President.

**DeBOER:** Time, Senator. Senator John Cavanaugh, you're recognized and this is your last opportunity before your close.

**J. CAVANAUGH:** Thank you, Madam President. Again, colleagues, I appreciate the conversation that everybody's having here and I do want again to impress upon you the significance of this conversation because of the size of it. And this is an extremely complicated issue. There's a lot of technical aspects to it. And, you know, like usual, I fall back into the conversation about the legal analysis of the compact and talk about that. But there are a lot of technical, legal-- or technical scientific analysis that has gone on as it pertains to whether we should build this canal or what the benefit will be of that. But I will take this opportunity and I may try and get some more time, if I can, to talk about some of these other things. I want to take this opportunity to, to at least circle back to the legal conversation. As Senator Bostelman said, the Department of Natural Resources believes that they're within the confines of the compact to build a bigger canal. And I don't have, I guess I don't have a specific argument to counter that. But again, I wanted to say last time when I ran out of time, I wanted to flag this issue for everyone.

So the, the important thing to look at is if you look at the, the Platte Compact, Article IV is the-- or I'm sorry, Article VI is the article we're talking about. This is the one that where it makes the provision for Nebraska being able to build this canal and to use eminent domain: Colorado consents that Nebraska and its citizens may hereafter construct, maintain, and operate such canal and thereby divert water from the South Platte within Colorado for use in Nebraska, in the manner and at the time that this article provided, and grants Nebraska and its citizens the right to acquire by purchase, prescription, or the exercise of eminent domain, such rights of way, easements and lands as may be necessary for the construction, maintenance, and operation of said canal; subject, however, to reservations and limitations upon the conditions expressed in this article which are and shall be limitations upon and reservations and conditions running with the rights, privileges hereby granted, and which shall be expressed in all permits issued by Nebraska with respect to the canal. So essentially, they're saying it is not a blank check for Nebraska to engage in eminent domain. It is subject to limitations. So this section then goes on in subsection (2)(b): Subject at all times to the reservations made by paragraph (a), which is above here that this article, proposed canal shall be entitled to divert 500 cubic feet of water per second at the time from the flow of the river in the Lower Section, as a priority appropriation of the date. So they give us a propo-- that our seniority date is December 17, '21, and only between the 15th day of October and the 1st day of April. So then the, the later part is that Senator Bostelman talked about within the compact: Any surplus water of the river, which otherwise would flow past the Interstate Station during such period of any year after supplying all present and future diversions by Colorado, may be diverted by such, by such a canal, subject to other provisions of this article. So what it is saying is in there, we have the power of eminent domain, subject to other conditions, to build a canal that can convey 500 cubic feet per second during that period of time. We can use that canal to divert other water that is available at the state line gauge. So the Julesburg gauge which is right before the, the water crosses into Nebraska, if there's still water there, we can divert that water into our canal, and that will not be a violation of this compact. So they're just saying if you were already going to get this water, Nebraska, you can put it in your canal without violating, violating the compact. My problem with us spending an additional--

**DeBOER:** One minute.

**J. CAVANAUGH:** --thank you-- \$125 million or whatever the amount is for that difference is it is to capture water we will already get. So we will already-- this water is already ours. It's already crossing into Nebraska. So the question is should we spend this money to get that water in those instances where we would already be getting it? And of course, as Senator Bostelman pointed out, it's for storage. It would be putting it into the storage facility. So the question is should we spend the extra money to in those instances with the high flow to get our own water into our storage facility from this canal or should we spend a little less money and not capture that water in those years and let it flow down the Platte River, down all of this other-- there's, there are diversion canals on the other side right when you cross over, I'm sure the folks who just did the tour saw those canals.

**DeBOER:** Time, Senator.

**J. CAVANAUGH:** Thank you, Madam President.

**DeBOER:** Thank you, Senator John Cavanaugh. Senator Murman, you're recognized.

**MURMAN:** Thank you, Madam President. I guess the debate here is whether to build a 500 CFS canal or a 1,000 CFS canal, and we need to build the bigger canal, as Senator Clements talked about earlier. We get a lot better return on investment with the bigger canal, 28 percent more expense and 100 percent more or 50 percent more water flow. And water, of course, is the lifeblood of our state, the lifeblood of agriculture, lifeblood of economic development of the state. We are going to store as much of that water as we can, as much as we can divert, as much as we're entitled to with the compact we will store, whether it is in the surface water storage or underground storage. Underground storage, of course, has a lot of benefits with increased irrigation potential, also urban potential also for building an industry that can use that water. So in our past history of the state has shown us the value that we have using as much of the water that flows through the state and storing it here or keeping it here, using it here, rather than letting it flow down the river and down into the Missouri and Mississippi and then the Gulf of Mexico. And as it's mentioned, the South Platte provides 7 percent of the water that Lincoln uses. And Lincoln has, has had water shortages and is continuing to develop its water infrastructure so that they can-- the city of Lincoln can always be supplied with the water it needs. So it does have benefit even further downstream, all the way to Lincoln and to keep as much water as we can in Nebraska. And we need to get it



done now. If we delay longer, it always-- it just increases the potential that urban development in Colorado will use, use that water before we can actually use it by building the canal here in Nebraska. I have talked to interests and about eminent domain and there will be-- there already is a grievance on eminent domain. There's-- actually, for such a large project, there's a limited amount of eminent domain that will have to be used, especially that hasn't been already agreed to. So it's important to the state and I just want to emphasize again-- by the way, I, I do represent the Republican Valley, District 38 has a large part of the Republican Valley in, in the district and those that live-- the people that live in the Republican Valley realize even in a, in a bigger way how important water is to the state and to agriculture. And there's the-- that's the limiting factor actually, in the Republican Valley, as to more agricultural development or even development for other uses so just wanted to--

**DeBOER:** One minute.

**MURMAN:** --to emphasize how important it is to, to do this development while we can and, and keep as much water in the state of Nebraska and in the western-- especially in the western part of the state, where we have more potential for agriculture development if we can keep as much water there as possible. And I will yield the rest of my time back to the Chair. Thank you.

**DeBOER:** Thank you, Senator Murman. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Madam President. I would yield my time to Senator John Cavanaugh if he would like it. I would yield my time to Senator John Cavanaugh.

**DeBOER:** Senator John Cavanaugh, you're reco-- you're yielded 4:44 seconds.

**J. CAVANAUGH:** Thank you, Madam President. Thank you, Senator Machaela Cavanaugh. So I did talk a little bit about the eminent domain in the, in the compact. And before I move on to other things, I just want to put a point on that. There are specifics in this compact that talk about what, you know, the uses for this water and the premise we're granting by even allocating \$500 million here, going to build the, the canal in the first place was that Colorado is going to hold us to a high standard to assert our rights. And so the reason I raised the question about building a bigger canal is it doesn't adhere to the

specific letter of the compact. I think there is-- you could argue a lot of things around the edges and say it doesn't violate it and so Colorado maybe wouldn't have an argument. But again, do we want to find out? Right? And especially when it comes to the eminent domain. So if the eminent domain argument is that we are granted eminent domain to build a canal to convey 500 CFS, it implicitly is that we're not granted eminent domain to build a canal to convey 1,000 CFS. And the concern would be that Colorado will throw up roadblocks to prevent our exercise of eminent domain to begin the construction of this canal, delaying construction and delaying the finishing of this canal. So in the interest of that, it seems like we should build the 500 CFS canal. But ultimately, like I said, my biggest issue here is we shouldn't be spending millions, tens of millions of dollars to get water we're going to get anyway. But I did want to move on a little bit, there's been a lot of conversation about the return on investment, and I do think people in some respects have been engaging in that a bit rhetorically. But we did pay a consultant and have an analysis done to make an actual determination about return on investment of this project. It's called the Zanjero Report. You should have gotten it, I think, on December 29, and it reviews the costs and all of the associated benefits that we will derive from increased access to water in that part of the state. So they go through and describe, let's see, a few benefits like-- I'm trying to find it here, but ultimately, I guess I will maybe come back to that when I have another chance. But the Zanjero Report estimates a return on investment of something like 1.33, which essentially is saying that it does have a net benefit over the lifetime or the first, I think it's 50 years or so of the project. So our-- I asked our Legislative Research Office to give me some analysis of that. They tried to recreate the analysis of the Zanjero Report and couldn't recreate the numbers, doing it in a rational way. So they went through and tried to recreate how Zanjero came to that benefit analysis, which became, became to saying there was a return on-- a, a positive return on investment. And what they found was, the Zanjero Report, only way to get to the number of return on investment that Zanjero found was to say that we were deriving the benefit of this canal from the day we started building it, which is to say-- obviously, the benefit of this canal we're saying is storage of water, extra water that we're going to have available to us that we wouldn't otherwise. That's the benefit. We can all agree, I think everybody here, we don't all agree on a lot of things, but we're not going to get the benefit--

**DeBOER:** One minute.

**J. CAVANAUGH:** --of the reservoir until it's built and filled. And so the return on investment analysis by our consultant is clearly inflating that return on investment. Now that's a question that we should be having about the whole value of this project. Right? Right now, we're just talking about whether we should build it even bigger and spend money to get water we should-- we're already going to get. But there are fundamental questions about the overall value of this project and at what point we will derive the benefit of this \$575 million. And so that's why I think you all need to pay attention, to think about this, to look at these issues and make a determination about whether we should spend even more money than is going to be needed to be spent for the 500 CFS benefit? So-- and I will take anybody else's time. I can keep talking about that when I get a chance. Thank you, Madam President.

**DeBOER:** Thank you, Senators Cavanaugh. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Madam President. Again, I stand opposed to AM1609. I appreciate the conversations we're having. Couple of things I want to comment on. There were no and there are no ARPA funds being utilized for this project whatsoever. Second, is we talked about the compact itself and how it ties and blends together. Want to read a couple of things, especially for the record on this so that it may clarify a few comments that have been made. Here, I want to read on-- it's on the first page, Senator Cavanaugh. You can look at it, too. It's South Platte River Compact between the states of Colorado and Nebraska. It states specifically: The state of Colorado and the state of Nebraska, desiring to remove all causes of present and future controversy between said states, and between citizens of one against citizens of the other, with respect to waters of the South Platte River, and being moved by considerations of interstate comity, have resolved to conclude a compact for these purposes, and, through their respective Governors, have named as their Commissioners-- and then it states the commissioners. Then I want to come to Article IV, Article IV says: Nebraska shall be permitted to divert, under the subject to the provisions and conditions of Article VI, any surplus waters which otherwise would flow past the Interstate Station. And when we go with what Senator John Cavanaugh already read before, but I will reiterate it again in Article VI where we're talking about, it talks about: Any surplus waters of the river, which otherwise would flow pass the Interstate Station during such period of, of any year after supplying all present and future diversions by Colorado, may be diverted by such a canal. That's again making sure that a canal that is built, is built

to the point to where we are able to capture those flows, making sure we're able to preserve those flows and store those flows for future use. And why is that important? Well, let's look at what's happened in Colorado. Colorado has, has no storage. What we saw, they had the, the significant snow and the significant snow melt. The federal government nearly-- Colorado nearly had the federal government step in to adjudicate rights under their compact. The federal government nearly stepped in and say, you need to store your water. California now has instructed appropriate departments to work on getting storage reservoirs to avoid future crisis conditions. We're debate-- we're discussing cost and the size of a canal ensuring we can capture the, the excessive, excessive flows, surplus flows in the future, and then storing those so we'll have those abilities to use those in the future for flood mitigation or for, for mitigation. But also, the canal would be beneficial flood mitigation as well, but drought mitigation. That water flows through the Platte River and it comes right down here. So there's a lot of benefit all the way across the state for this. We need, as I feel, to provide the opportunity to, to construct a canal that the feasibility say the experts, the water folks, the people who are, who are looking at this, what is needed to be built because the compact does not specify a size? But those experts, what they say is the best size, the best requirement for a canal, and then for storage for us for use in the future. This is important to remember, I think it's important for us to have. And with that, I urge a red vote on AM1609 and, and a, a green vote on LB818. Thank you, Madam President.

**DeBOER:** Thank you, Senator Bostelman. Senator Brandt, you're recognized.

**BRANDT:** Thank you, Madam President. Thank you once again to the Appropriations Committee for, for their hard work on this. So the theme this morning appears to be water. I do stand in support of LB818 and the first amendment. I am opposed to the second amendment. On page 6 of your book for the Perkins County Canal, they appropriated \$574 million. And the discussion just seems to be centered around a canal in western Nebraska and why do we need to spend the money in western Nebraska? But if you go back to page 5, under the Economic Recovery Act, we are using \$179 million of ARPA funds to help the city of Lincoln construct a water facility from the Missouri River to Lincoln. And in the end, that project is going to cost \$2.4 billion. It's not irrigation water, it's drinking water. I would expect that they're going to come back and ask the state of Nebraska for more money after this first \$179 million of ARPA funds. And it remains to be seen if we're going to have the same discussion, you know, about is that money

necessary? A number of years ago, we had problems with the Republican River Compact, and it kind of is a mirror image of what's happening today. What happened is Nebraska was not meeting the requirements of X cubic feet per second to the state of Colorado-- or excuse me, the state of Kansas. It was a crisis. And I believe Senator Aguilar and Senator Conrad were both around at that time. It was very contentious and the end result was N-CORPE. And what N-CORPE was in western Nebraska, NRDs out there purchased about 20,000 acres with irrigation rights, and they opened up the irrigation wells to feed the river so that we had enough cubic feet per second going to the state of Kansas. Problem solved. So I, I want everybody in the state to realize that this project is not just for Perkins and Grant County out there, this benefits everybody in the state. When we look at water, water and Nebraska are the same thing. I was taught in school the word Nebraska means flat water. So it's, it's right there in the name of the state. Would Senator Bostar be available for a question?

**DeBOER:** Senator Bostar, will you yield?

**BOSTAR:** Yes.

**BRANDT:** Thank you, Senator Bostar. Could you give us a thumbnail sketch of how big the Lincoln water project is going to be and how long it's going to take to develop?

**BOSTAR:** Well, as far as size, I can give you that in rough dollars. So right now we're looking at about \$1.3 billion. And as far as development timeline, I think the estimates currently are that it will take at least a decade to fully develop.

**BRANDT:** So the scope of the project basically is to take Missouri River water, treat it, and then--

**DeBOER:** One minute.

**BRANDT:** --move it toward Lincoln?

**BOSTAR:** Yes. So we would-- the, the recommendation was that we would use not surface water from the Missouri but, but groundwater so sink wells, the Missouri River, treat it there at the Missouri and then pipe potable water to Lincoln which accomplishes a few things. By, by treating it there at the source, we would then be able to supply communities in southeast Nebraska with clean water, because if it was-- if we were pumping raw water from the Missouri and then, say, pumping it to Lincoln or pumping it to Ashland, where our water

treatment facility is now, anyone that wanted to interconnect with that to acquire more water or to solve some--

**DeBOER:** Time, Senators.

**BOSTAR:** water--

**BRANDT:** Thank you.

**DeBOER:** Thank you, Senators Brandt and Bostar. Senator Conrad, you're recognized.

**CONRAD:** Thank you, Miss-- Madam President, and good morning again, colleagues. I just wanted to, you know, add a little bit more information in regards to some of the recent history in regards to our efforts to ensure fairness and equity and standing up for Nebraska's rights to get every drop of water that we are entitled to because we should absolutely do that. That's not really up for debate. But I just wanted to remind the body, of course, that when we were having similar challenges and issues back in the '90s and the early part of the 2000s, our neighbors in Kansas filed the lawsuit in 1998 that extended about a decade. It utilized millions and millions of dollars in legal fees, and we ended up paying our neighbors in Kansas, I think, something like \$5 or \$6 million in terms of our issues in utilizing too much, too much water under the previous agreements. Now, that was seen at the time as a win because our neighbors in Kansas had sought, I think, something around \$80 million worth of damages for the issues that were subject to that litigation. But that being said, it just goes to show you and I believe that the, the proposal that's put forward in this measure is actually much more complex and has a lot more unanswered questions and uncertainties. And I just think that we need to proceed cautiously to ensure that those issues are addressed appropriately instead of just shoveling a lot of money out in one direction with the hope and the prayer that we might be able to get a little bit more water when we know for a fact our neighbors in Colorado have already signaled it, when we move in this direction we're going to spark additional litigation. Typically, when you have litigation between the states that may even trigger original jurisdiction before the Supreme Court of the United States, which has, you know, some benefits and detriments from a litigation strategy perspective. But just, just keep that in mind because of the scarcity of water, because of the importance of these water issues, of course, to Nebraska and to every state, we, we just need to proceed cautiously in recognizing that we're in a very risky position in terms of

litigation, in terms of diversion of taxpayer dollars away from projects that can find more consensus to advance our water and conservation goals without triggering this kind of scrutiny and/or litigation. I just wanted to inject that into the record, and I'm happy to yield additional time to Senator John Cavanaugh if he so desires.

**DeBOER:** Senator John Cavanaugh, you're yielded 1:40.

**J. CAVANAUGH:** Thank you, Senator Conrad, and I appreciate the history lesson and, you know, sometimes what do they say, past is prologue or something like that? History repeats itself, etcetera. So I did find the projected benefits for the Perkins County Canal 500 CFS. So the analysis said the agricultural benefit would be about \$12.7 million annually; municipal and industrial, \$3.6 million annually; environmental, 7.2 annual; recreation, 4.7; hydropower, .1, I guess, so it that \$100,000; water quality, \$.03 million.

**DeBOER:** One minute.

**J. CAVANAUGH:** Thank you, Madam President. So for a total of over 50 years, total benefit would be \$754 million. So that's how they calculated the return on investment was our outlay and then the benefit over that time. But the problem with the Zanjero Report was that they started that 50-year clock basically now, and I think we can all agree that there's not going to be any of those types of benefits until the project is completed. And we don't know, as Senator Conrad just talked about, all the legal hurdles that may prevent the project from going into effect as a result of potential litigation so we're "outlaying" this money right now and we're not going to start deriving that benefit. So if we want to have a conversation about cost benefit analysis, return on investment, that has to be part of it and that is part of what we should talk about when we're talking about this project. I think that there is good evidence that the reservoir certainly is going to derive a benefit for the state that is worth the investment. But the question is right now--

**DeBOER:** Time, Senator.

**J. CAVANAUGH:** Thank you, Madam President.

**DeBOER:** Thank you, Senators Cavanaugh and Conrad. Senator Arch would like to recognize 60 fourth-grade students from Patriot Elementary in Papillion that are located in the north balcony. Please stand students

and be recognized by your Nebraska Legislature. Mr. Clerk, for a motion.

**CLERK:** Madam President, Senator Fredrickson would move to recess the body until 1:00 p.m.

**DeBOER:** Members, you've heard the motion. All those in favor say aye. All those opposed say nay. We are in recess.

[RECESS]

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

**CLERK:** There's a quorum present, Madam President.

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

**CLERK:** I have no items at this time.

**DeBOER:** Thank you, Mr. Clerk. We'll proceed to the first item on this afternoon's agenda. Mr. Clerk.

**CLERK:** Madam President, when the Legislature left for recess, LB818, pending were an approp-- was an Appropriations Committee amendment, as well as an amendment to that amendment-- to that committee amendment from Senator John Cavanaugh, AM1609.

**DeBOER:** Thank you, Mr. Clerk. Senator Raybould, you are recognized and this is your third opportunity.

**RAYBOULD:** Thank you, Madam President. I'm looking to-- I still have a few more questions on AM1609 and I don't know if Senator Cavanaugh-- John Cavanaugh, would you yield to some questions? I don't know if you're, you're the expert on this or not.

**DeBOER:** Senator John Cavanaugh, will you yield?

**J. CAVANAUGH:** I would love to.

**RAYBOULD:** So it seems like you're the legal authority on quite a few of the sections. And, and in the compact on-- in Article IV, they talk about Nebraska to supply the needs of present perfected rights to the



use of the water from the river. So doesn't Nebraska currently have perfected rights?

**J. CAVANAUGH:** So Section 4 [SIC] is about the irrigation months. So between, I think, it's April 1 and October 15 and we are entitled to 120 cubic feet per second, CFS, during those months. And that is a perfected right. We don't have to do anything to--

**RAYBOULD:** OK.

**J. CAVANAUGH:** --perfect that right. So we get that water, we can call out junior water rights to that 120 CFS already.

**RAYBOULD:** OK, So we, we have rights to have that access. And later on in that same Article IV, it talks about if that supply is so reduced to demand and receive equivalent amounts of water, have we, to the best of your knowledge, made demands on the deficiencies of water?

**J. CAVANAUGH:** That is a great question, Senator Raybould. One that I would like to have answered, myself. So if you recall last summer, the Platte River was essentially dry at some points. And I actually, myself, visited the Julesburg Gauge and saw that there was basically no water coming across the Julesburg Gauge at that point, which is where we measure this 120 CFS and have asked and not received an answer as to why we didn't call out junior water users in Colorado at that point in time, to get us to 120 CFS. I have heard some people and maybe somebody can correct me on this, that Colorado maintained they were in compliance at that point, but I don't have documentation and I haven't seen anything to substantiate that claim.

**RAYBOULD:** And to the best of your knowledge, do you know, don't they do the annual measurements of the capacity of the flow, at certain points in time?

**J. CAVANAUGH:** Well, you can--

**RAYBOULD:** At least on an annual basis.

**J. CAVANAUGH:** You can check the flow at the Julesburg Gauge online, right now, if you want to. You can check, I think, real time measurements of what's going on. And I can try and find that. I know Director Reilly has sent that to me before. So we could, theoretically, go and see how much water is coming across at the moment. But-- and, and the measurement, for the purpose of the compact, it should be-- I think, maybe, what you're getting at is if

it falls below 120 and they give 140 at another time, does that rectify or correct that mistake or that, that misallocation?

**RAYBOULD:** Well, they, they address variances that are bound to happen, but I would think that we would be tracking this in order to make a demand. And then, the question to you that I've asked from some of the experts is, they said that we cannot make a demand for damages or for them to remedy the loss of water, until we have perfected the compact of building the Perkins Canal.

**J. CAVANAUGH:** Correct. And so, that's the distinction between the 120 CFS in the irrigation months-- that right is already perfected. So we have the ability to call out junior rights on those. This conversation is about the nonirrigation months, which is October 15--

**DeBOER:** One minute.

**J. CAVANAUGH:** --October 15 to April 1. And so to-- the argument is we need to build the 500 CFS canal to perfect that right, which then allows us to call out or, or to tell those junior water rights holders to stop using the water to get us to 500.

**RAYBOULD:** OK. The last question is, does it have to be a canal specific or does it have to be the 30-foot canal or 30-mile canal or can it be any type of canal that can divert, for storage, for our purposes and that we can--

**J. CAVANAUGH:** I think there are some wiggle room in there. I think it does need to be a canal and it does say some specific locations and things along those lines. And I can talk about it more. I think we are going to run out of time, but I don't think it necessarily could be like a pipeline or something along those lines. And I think it, it does have to be on the Colorado side. So there's probably some wiggle room, but it does have to meet certain standards, which is why we apparently have to build the canal to perfect the right.

**RAYBOULD:** All right.

**DeBOER:** Time, Senators.

**RAYBOULD:** Thank you very much. Thank you, Senator.

**DeBOER:** Thank you, Senators Raybould and John Cavanaugh. Senator DeKay, you're recognized.

**DeKAY:** Thank you, Madam President, I rise in support of LB818 and opposition to AM1609. The ongoing drought is catastrophic on water levels in the state. As pointed out earlier today, Lake McConaughey is down 50 percent in capacity and we need to capture and store water when there is an opportunity to do so. The Perkins Canal gives us more tools in the toolbox to achieve this. The Perkins Canal would provide us more opportunity for agriculture, human consumption and electricity generation. In central Nebraska, you just need to look at the various different canal systems and their impact on the region for irrigation and power generation. My concern with this amendment is the impact on Gerald Gentleman Station in Sutherland. Gerald Gentleman, having water on hand for cooling is essential. Gerald Gentleman draws water in from the Platte for cooling, and then it is released downstream to be used as it flows east across the entire state. If there is no water, Gerald Gentleman would have to limit its operations or shut down entirely, thereby leaving Nebraska without its largest power generating asset. The Perkins Canal project would lessen the need to build more electric generation facilities regardless of what type it might be, rather it be existing, like Gerald Gentleman or another type, such as small nuclear modules. Both facilities require water for cooling. And as I said earlier, the water used for cooling is released downstream and allow flow-- the flow to go east to benefit the rest of the state. Water is a critical resource for Nebraska in many different ways and I feel it is important to point out just how vital this resource is to keep the electricity flowing in the state. I would say that this, this is anything but a pet project. By building this, we increase the ability of Nebraska to store water for hard times that could better control the rate in which this resource travels across the state. By doing this, we have the opportunity to better secure Nebraska's water supply and ensures every available drop is used to the fullest. I agree with Senator Cavanaugh, John Cavanaugh. We will be getting our fair share of the water, but this project helps us utilize every drop and bring Nebraska, as we should and do, and do realize how precious every drop of water is, which is our state's biggest natural resource. I will yield the rest of my time. Thank you.

**DeBOER:** Thank you, Senator DeKay. Senator Hunt, you're recognized. Senator Dungan, you're recognized.

**DUNGAN:** Thank you, Madam President. Colleagues, I do rise today in support of AM1609. I'll admit that when I first got to the Legislature, there was a lot of conversations about water and particularly, the canal. And I am far from an expert in the subject. And so, I will out myself as sort of new to this entire issue. That

being said, I've tried to dive into it as much as possible. And what's interesting is I think there's just a lot of complicated nuance to this problem, that if you don't dig deep into it, it's very easy to miss the specific issues that have cropped up thus far. And so I appreciate the, the statements we've heard on the mic from a number of folks in here today. And I appreciate Senator John Cavanaugh kind of digging into this issue, because in a budget that's this big, I think it would be easy to miss something as substantial as this. I think \$125 million shouldn't be considered a small amount of money. And so I think this is a really important conversation we're having and I hope my colleagues are listening. I'm going to yield my time here, in a minute, to Senator John Cavanaugh. So I'll say that out loud, so he has a little bit of preparation time. But before I get to that, I just want to state my general concern, I think, about the canal, is one of money. And that sounds basic, I know, on its face, but we're in this time where we keep hearing we have this unprecedented surplus of, of money. But yet, as we talked about yesterday, we're kind of acting like we don't have any. And whenever I raise concerns regarding the structural security of our finances moving forward, one thing I'm told time and time again is not to worry, because our Cash Reserve Fund is so robust. But if you look at the green sheet that's passed out every day, we can see that moving between fiscal year 2022 now, all the way out to the out years, for '26-27, there's essentially a structural reduction in that cash reserve, dropping almost down to \$889 million. And so, I want to be very careful as we tap into the cash reserve and that we not use it for too many projects, because it is intended to be something that's there in the event of economic downturn or emergency. And so, my understanding is these canal funds are coming out of that cash reserve. So I want to be very cautious as we are building this canal and I think being fiscally responsible with that cash reserve is important. So with that, I would yield the remainder of my time to Senator John Cavanaugh.

**DeBOER:** Senator John Cavanaugh, you're yielded 2:44.

**J. CAVANAUGH:** Thank you, Madam President. Just to go back-- thank you, Senator Dungan-- go back to Senator Raybould's point. It's Article VI. It's basically the first paragraph, says Nebraska may build a canal. And it says, the canal may commence on the south bank of said river at the point southwesterly from the town of Ovid, Colorado, and may run thence easterly through Colorado along or near the line of surveyed of the formerly proposed Perkins County Canal, sometimes known as the South Divide Canal and into Nebraska. And that said project shall be permitted to divert waters of the river, as hereinafter provided with

respect to proposed canal. And it says that the water can be used by Nebraska for irrigation. So those are things that are in the compact. I, I would imagine that we could have a little bit of wiggle room. But of course, the whole premise of the idea here is that we have to be rigidly adherent to the compact, to the point where we have to build this canal to perfect this right. So the question is, how much rigidity is there to that? And so, just what-- how much, how much can we divert from the, the letter of the compact and how much can we get away with and still perfect our right, as we were talking about, Senator Raybould. I appreciate Senator DeKay's comments, of course, about the value of the springs and the concern about Gerald Gentleman. I visited Gerald Gentleman, have seen the use of the water there, the concerns of Lake McConaughey and-- which is one of the reasons why I am only talking about going from five-- the 1,000 back down to 500, because there is a pretty good case for the canal, for the reservoir, for the use and the value this will bring to western Nebraska.

**DeBOER:** One minute.

**J. CAVANAUGH:** Thank you. But the, the conversation AM1609 is about, is not about whether we should build the canal and the reservoir. The question is whether we should build the Cadillac or we should build the economy. Right. Whether we should build the one that gets the job done or we build the one that gets us, you know, the special features that are not always going to be needed, but you, you know, they're nice to have, right, the "nice to haves". As Senator Dungan said, this is-- it's about money, right? It's what-- is this the highest, best use for these dollars, for the state of Nebraska at this point in time? Because it's a long project. It's going to be out in the future. We're not going to derive all those benefits that we-- we're talking about until it's done and we've had it in place, but we've got to lay out this money now. So should we lay out this money to build this "nice to have" one or should we build the one that gets the job done for the people of Nebraska and use this other money for other projects that we can use them for? So this is the fiscally conservative approach.

**DeBOER:** Time, Senator.

**J. CAVANAUGH:** Thank you, Madam President.

**DeBOER:** Thanks, Senator Dungan and Senator John Cavanaugh. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Madam President. Good afternoon, colleagues. I would yield my time to Senator John Cavanaugh, if he would like to have it.

**DeBOER:** Senator John Cavanaugh, you're yielded 4:50.

**J. CAVANAUGH:** Thank you, Madam President. And I appreciate-- Senator DeKay was going to come over and talk to me. But I just love talking about this subject. And I, and I do appreciate-- I actually didn't get to say thank you to Senator Dungan for pointing out, you know, the complexity of this issue. And I want to be frank and clear with everybody. I'm by no means an expert on this, right. I'm just a person who sat-- sits on the committee that had oversight of this, kind of just started digging into it a little bit because we had testimony in our hearing. We had some presentations about it. I've had the opportunity to visit the, the sites, had opportunities to discuss it with Director Riley and others at DNR. I've had an opportunity to discuss it with affected agencies like NPPD, Central Irrigation, Dawson Public Power, the Western Irrigation, in western Nebraska, and folks who are out there. So I had a lot of opportunity to kind of dig into those things, I have had an opportunity to talk with some other experts in this field, just to get, kind of, an idea of what this is. And, and I'm saying all of this to tell you that, of course, this is my interpretation and my concerns that I'm raising for all of you. And just to kind of flag for you that it's-- this is a tough, complicated subject, but it is a large amount of money that we're being asked to spend and so, it requires just a little bit more of a conversation about it. And to that point, I was talking, before lunch, about the Zanjero Report, which is the analysis that we paid for. And I was talking about their return on investment was a little questionable, because they started the calculation of the derived benefits in year one, when really, we all logically know we won't derive benefits until that project is done. And that-- the project finish date is, of course, uncertain, due to a number of reasons, engineering reasons, but also legal ones that may arise. But the other part about that analysis was questions about just how much water is really going to be available, which was originally my concern when I started kind of digging into this issue when this was presented to us. Because there's-- water is fluid, of course. It flows and it's not consistent. So when you are trying to determine how much water there is, we measure in acre feet, we measure in cubic feet per second, but that cubic feet per second flow is not always-- it's not always going to be 500 cubic feet per second. It's not always going to be 120 cubic feet per second. And as Senator Raybould talked about before, sometimes it

might be 90. And then, you know, you've got to make up for it, right, to get to you-- to your-- that's a flow rate, cubic feet per second. And then you have a volumetric rate, which is acre feet, so that's like how much fills a swimming pool or a lake or something like that. So to determine the value of this project, we've had some analysis of junior and senior water rights, which our senior water rights are ones that we won't be able to call out, meaning we can't stop from use. So if there's less than 500 CFS, we can't tell senior water rights to stop using. We can tell junior water rights to stop using. We call that "calling out." Right. And so, analysis of how many junior water rights there are, so how much water we can call out, what the average flows are over a certain number of years, what are the potential other types of consumptions in other sections of the river that Colorado has an absolute right to, what other potential diversions there might be; a lot of this sort of analysis in the context of different types of years. And so one of the criticisms that I've read of the Zanjero report was that they took a measurement of sort of like an average of the water flow, which would give you, you know, when you have zero water flowing and you have 2,000 CFS and you average that, you get to 1,000 CFS. So now you say, well, the average flow of the river is 1,000 CFS. That does not mean you're going to capture 1,000 CFS all the time. Right.

**DeBOER:** One minute.

**J. CAVANAUGH:** If you have 1,000 CFS pipe or 1,000 CFS canal, you're going to be able to capture 1,000 when it's 2,000. But when it's zero, you're only going to be-- you're not gonna be able to capture 1,000. Right. So the average is not a helpful indicator. You need to do more of a sort of analysis. And I'm not a mathematician or anything like that. I just flagged for you the fact that some of our assumptions that we're basing the return on investment on and why we should be-- whether or not we should be doing this, have questions that remain unanswered and that if we're going to spend \$575 million, we should have a handle, at least, on what exactly we're talking about and what that-- the potential return on investment is going to be. So I'm not suggesting that you all become experts on this. I still am, like I said, I'm not an expert on this, but I'm trying to learn what I can for this conversation and trying to be as instructive as I can here. But again, I'm taking the conservative approach, by trying not to spend money that we don't need to spend to get water that we already are entitled to and that we will get--

**DeBOER:** Time, Senator.

**J. CAVANAUGH:** --thank you, Madam President.

**DeBOER:** Thank you, Senators Cavanaugh. And now, Senator DeKay would like to recognize 24 fourth graders and 4 teachers from St. Mary's School in O'Neill. Please stand and be recognized by your Nebraska Legislature. Senator Slama, you're recognized.

**SLAMA:** Good afternoon, colleagues. I rise in support of the mainline budget bill, the first amendment, but like every other rural senator who's gotten up and spoken, I am wholeheartedly opposed to Senator Cavanaugh's amendment. And it's because of the unique position that Nebraska is in when it comes to water and access to it and our future access to it. Nebraska has more miles of moving waterways between rivers, creeks and streams than any other state in the country. Now, that puts us in a very unique position, because we're wholly dependent on water flowing through our state from other states for irrigation, for consumption, the whole list of things that we need water for, we're getting it from a different source than a lot of states do. We have-- we don't have the natural reservoirs, we don't have the natural lakes that a lot of states have, besides the Ogallala Aquifer, which I think we can all agree we need to protect and preserve for as long as humanly possible. And our state depends on water for the biggest driver of its economy: Agriculture drives the economy in the state of Nebraska. I understand and I appreciate rural senators raising questions about spending a large chunk of money on a canal to ensure water access for irrigators. However, we're not just talking about water access for irrigators in western Nebraska. However, even if we were, that would be reason enough for me to be on board with this. And of course, I support Senator Cavanaugh's concept that we need more studies and to better understand ROI. And I'm fine with that. But I don't support wholehearted changes to this plan as we're already halfway through. This canal is necessary. The expanded, as opponents have put this, Cadillac version of this canal is necessary. We're not just talking about a 10-year project or a 20-year project or a 30-year project. It's going to be a while before we see long-term benefits of this project, but when we do, it's going to pay dividends. Water is the gold of the future and if you go west of Lincoln, it's the gold of right now. I'd recommend going out. There was a USDA disaster declaration declared by the federal government in 13 Nebraska counties yesterday, based on the current drought conditions. Go out and meet with some of those ag producers and ask them what securing our water rights from Colorado, whether it be through a 1923 compact or any other compact, which-- I'm going to back up here for a second. Like, there are lawyers and there are lawyers who specialize in water law.



No one on this floor specializes in water law. So when we're getting up and we're trying to interpret a 1923 compact, there are going to be, be people far more better suited than us arguing this before the Supreme Court, than anybody else on the floor. And if we're acting like we're afraid of litigation-- we, we were in litigation with Kansas for years and years about water. And now, we have a situation where Colorado is taking far more than their share of water that we depend on to keep our ag producers going, to give Lincoln drinking water, and we have to express our rights. I don't care if it's under a 1923 compact or any other iteration of the law. We have this compact. We are depending on it. I'm grateful to whatever expert found it, because it could save our hides in the future. And we need to invest this money on the front end now, in a strong canal system. Otherwise, we will be paying for it in the future. Thank you, Madam President.

**DeBOER:** Thank you, Senator Slama. Senator Dungan, you're recognized.

**DUNGAN:** Thank you, Madam President. Colleagues, I still rise in support of AM1609 and I, I do appreciate the comments, again, with regard to those who have actually seen the canal. I know Senator Fredrickson spoke earlier today about having the chance to go out and see the canal recently. I myself have not had a chance to do that yet. I unfortunately couldn't make that trip, but I do look forward to getting out there and seeing where this will all take place and get a better sense of what this canal actually looks like. You know, when you're, when you're not aware of what the canal structurally is, I think it can be a little bit confusing. For example, I'm unaware as to whether or not we're talking a, a large canal, something, say, the size of the trench that was in the middle of the Death Star that Luke Skywalker had to fly down in order to destroy it or if we're talking about something that's more narrow, such as the thermal exhaust port at the end of that trench where he had to fire the proton torpedo to destroy the Death Star. So given that I'm unaware of that, I would defer to others who know more than me. So I'd yield the remainder of my time to Senator John Cavanaugh.

**DeBOER:** Senator John Cavanaugh, you're yielded 4:00.

**J. CAVANAUGH:** Thank you, Senator Dungan. You know, I think if you had a T-86, you could probably bullseye that. That's a deep cut, probably. I appreciate the time and you know, I-- the-- I appreciate Senator Slama's comments. The, the part I don't appreciate is that whenever Senator Slama opposes my amendments is that she always does it with her whole heart. I don't understand why you don't-- why she doesn't do

it with, maybe, like, some hesitation or trepidation or reservation. You could do it-- you know, you don't have to wholeheartedly oppose. You could say, you know, it's just-- I, I regret to oppose Senator Cavanaugh's amendment, because I agree, in principle, that we should be as conservative fiscally as we possibly can. And I appreciate Senator DeKay coming over and talking to me about, you know, his reasons for voting for this. And as I said, Senator DeKay's reasons and Senator Bostelman's reasons, Senator Slama's reasons for supporting this, I think, are valid reasons. I think that this is a good conversation that we're having about whether-- what the value of this marginal change is. Right. I think I-- you know, we have reservations and as I said, we can read these reports and-- about the just overall value of the project-- of the canal reservoir project. But as Senator Slama pointed out, the unique hydrological factors in Nebraska and-- do mean that this project is uniquely valuable, the, the reservoir in particular. But also, as we get to a point where we're drier and drier in the future, we're having more dry years and potentially, more of those aberrational wet years, right, those high years, it's important to make sure that we have legally secured our access to water. And that's what the purpose of this canal is about. And Senator Slama is correct. I'm not a water law expert and I'm trying to be clear about telling folks that, take what I'm saying with a grain of salt. But again, I'm one of the people here making this decision. And this is my impression and the basis upon which I'm basing my decision. And I'm trying to help inform all of you the benefit of my experience, though limited it may be. But that's-- this is a conversation about spending a huge amount of money for a project that's going to last for generations. The return on investment analysis in Zanjero is a 50-year return on investment. So yes, we're talking about a huge amount of money spent out over a long period of time. And it's important. We owe it to the people of the state of Nebraska, not just the people in the region that are going to be specifically affected by this, but they will-- and they will gladly tell you that the water, I think it's-- Lincoln derives 10 percent of its municipal water supply from the Platte River. They get all of it-- I think your water source is all Platte River Valley, but most of that comes in from the Loup or from the Elkhorn or something along those lines. But this water that we're talking about coming through, affects Lincoln. It affects--

**DeBOER:** One minute.

**J. CAVANAUGH:** --Gerald Gentleman, which is electric generation. It's going to affect McConaughy. It's going to affect the water table out

in that part of the state. So this is-- has a broad implication, not just for those-- the part of the state where it's immediately affected, but the cost is, of course, one that we all have to reckon with. And this conversation is specifically about the marginal benefit we're deriving from building the bigger canal and not about the, the overall value of the project. And as Senator DeKay was telling me, the-- one of the reasons he wants the bigger canal is we want the opportunity to capture that extra water in that reservoir in those years. And my question is, is that opportunity worth \$125 million? For those years when the flows are higher, is the opportunity worth \$125 million to capture it once every seven years, once every five years, as Senator Bostelman's saying, which is up to interpretation. So that's the question.

**DeBOER:** Time, Senator.

**J. CAVANAUGH:** Thank you, Madam President.

**DeBOER:** Thank you, Senator Dungan and Senator John Cavanaugh. Senator Machaela Cavanaugh, you're recognized and this is your third opportunity.

**M. CAVANAUGH:** Thank you, Madam President. I think, perhaps, Senator John Cavanaugh, you just bring out people's passion on issues and that's why it's whole-hearted. If you would like, I would yield to you the remainder of my time.

**DeBOER:** Senator John Cavanaugh, you're yielded 4:42.

**J. CAVANAUGH:** Thank you, Madam President. Thank you, Senator Machaela Cavanaugh. I'm sure people are probably getting ready to have a vote on this. I, I would appreciate-- if anybody has any questions. I know there has been some confusion about exactly what this is, because there has, in the past, been a conversation about just the value of building this project at all. So just so we're clear, AM1609 still builds the canal, still builds the reservoir if we're-- if that's what they decide to do, for DNR. It still allows us to get access to our-- perfect our right to 500 CFS. It does all of those things. We still get all of those benefits that have been laid out, that have been proposed. It just doesn't go the next step and get the one that's built for-- a canal that's built for those extraordinary circumstances. And the downside of that, be honest with you, downside of not building a bigger canal is, in those off years, the reservoir will not fill up as much as fast and we won't necessarily capture it.

However, we still will get that water. It'll still come across the border into Nebraska, flow in the Platte River, it will flow past North Platte, it will flow into the, the Platte River-- the confluence of the Platte River there and go past Gerald Gentlemen-- would still be potentially usable. Well, I think the Gerald Gentlemen water actually comes from McConaughy, if I'm right. Is that right, Senator DeKay? Yeah. Yeah. I think they have a canal that goes to Gerald Gentleman from McConaughy. But, essentially, it'll allow McConaughy to-- not have to release as much water out of McConaughy for irrigation and downriver uses. But it'll be-- the difference is, under AM1609, we will not have that water in the reservoir and it'll be in the Platte River and will come down and, and potentially be for other uses. And potentially, some of it would be passed all the way through, down past Lincoln's 10 percent use, down past Plattsmouth and into the Missouri River. So that's, that's the risk of adopting AM1609. The reward, of course, of adopting AM1609, is we save \$125 million today. All of that risk that I'm talking about, all of that water flowing past all those places and not being consumed by us, losing that future potential benefit of that water, whatever that amount is, that is not going to happen for probably 20 years. And then, it'll only happen once every 5 or 7 years after that. So that's the question I'm, I'm posing to everybody here, is should we spend \$125 million now, to make sure that we derive maximum benefit in those small circumstances, 20 years down the road? I think that's the crux of this conversation and I've appreciated everyone who's engaged in this and indulged this talk about water law and hydrology and return flows in those-- in these studies. And I would ask for your green vote on AM1609. I think I will probably get to close again, as well. But thank you, Madam President.

**DeBOER:** Thank you, Senators Cavanaugh. Senator Kauth, you're recognized.

**KAUTH:** Thank you, Madam President. I'd like to say thank you to Senator George "Lucas" Dungan for his very, very inspired speech. I will not be supporting AM1609, but I appreciate the opportunity to talk about it. We've had some really good discussion, had some interesting conversations with the water people. I also got to go with Senator Fredrickson and Senator Hughes and Senator Bosn down to-- oh, I think Senator Murman was there, too-- down to see the, the Perkins Canal project. And first of all, it is absolutely amazing what our water management people do and what they are tasked with doing, to make sure that we have enough water for our agriculture, for our people to live. Drought is one of the worst natural phenomena that can happen. We could devastate our entire economy if we don't have enough

water, and I think planning ahead is absolutely critical. We've had 100 years to put this in place and we are now looking at a lot of development in Colorado that could task that water supply. I think we really need to make sure that we are prepared. And if we can do more for a little bit less because if we build double the size, it's only going to cost 28 percent more, I think we owe it to ourselves to plan for the future, to plan for those future farmers, those future Nebraskan citizens. And I would like to say that I support the original bill. Thank you so much. I yield my time.

**DeBOER:** Thank you, Senator Kauth. Seeing no one else in the queue, Senator John Cavanaugh, you're welcome to close on your amendment.

**J. CAVANAUGH:** Thank you, Madam President. And I will just reiterate. We're getting to a vote here on this. So-- and I appreciate, you know, Senator Kauth's comments, as well, about this is looking towards the future. So, colleagues, I appreciate the conversation. I do appreciate people taking a serious look at this. This is a big project. This is a very forward-looking project that is attempting to, you know-- could change the nature of this section of the state of Nebraska. We build a big reservoir, one of the, you know, funding sources is recreation potential, you know, lake with a tourist spot, things like that. We will have more water, more stability out there, we'll have more water available for things like Gerald Gentleman. That's the argument for the canal. The question is, again, \$125 million to build a bigger canal. And I will just try to quickly summarize my concerns. One, the compact allows us to use eminent domain in the state of Colorado. Our, our, our purpose in building the 500-CFS canal originally was to perfect our right to that water, meaning that we could call out junior water rights in Colorado when the flow gets below 500 in those nonirrigation months. So our argument is that this is a literal interpretation. We need to be adherent to the letter of this compact. And so I-- I'm concerned that if we take that approach, that if we try to build a bigger canal, one issue is Colorado will object to our use of eminent domain for whatever extra amount of space that may be required for a 1,000-CFS canal, whether that's one inch, one foot, ten feet. They may potentially say, no, you don't have the right to build that bigger canal. Therefore, you have to be limited to the exact size that a 500-CFS would be, which would make this a moot point, really. But the other one is that they would obstruct and throw up legal hurdles and say, can't build at all, right, and that delays the implementation of this project even further. So while we're talking about it's going to take us 10, 20 years to build this thing as is, now we're talking 15, 25 years. Right. So that's a concern there. But

the other concern is that this, specifically, is about capturing additional water in unique circumstances, where there's water that's available and that water is only available if it is already our water. It has already gotten to the border between Nebraska and Colorado and is about to cross. So we are just building a canal to capture our own water, so it does not serve the original intent of perfecting our right to get access to water. It just will be an additional vehicle for water that we're already going to get, so it doesn't serve the original intention. So the question is for those two purposes and reasons, is this worth this additional cost? Is getting something we were going to get anyway and creating a legal hazard for ourselves worth the additional cost and that-- just so we can fill up the reservoir faster, once a decade or once every, you know, twice a decade or something like that. So that's my reason for this amendment. I appreciate your consideration and your conversation on this. I would encourage your green vote on AM1609. And with that, Madam President, I guess I would call of the house. I don't know how many people are here. We'll say call of the house.

**DeBOER:** 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; and all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 18 ayes, 5 nays to place the house under call.

**DeBOER:** 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 Moser, the house is under call. Please return to the Chamber. The house is under call. All unexcused senators have now returned to the Chamber. Senator Erdman, I understand you requested a roll call vote. Mr. Clerk, please call the roll.

**CLERK:** Senator Aguilar voting no. Senator Albrecht voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard voting no. Senator Blood. Senator Bosn voting no. Senator Bostar. Senator Bostelmen voting no. Senator Brandt voting no. Senator Brewer voting no. Senator Briese. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Conrad vote-- voting yes. Senator Day voting yes. Senator DeBoer not voting. Senator DeKay voting no. Senator Dorn voting no. Senator Dover voting no. Senator Dungan voting yes. Senator Erdman voting yes. Senator Fredrickson voting yes. Senator Halloran voting no. Senator

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Hansen voting no. Senator Hardin voting no. Senator Holdcroft voting no. Senator Hughes voting no. Senator Hunt voting yes. Senator Ibach voting no. Senator Jacobson. Senator Kauth voting no. Senator Linehan voting no. Senator Lippincott voting no. Senator Lowe voting no. Senator McDonnell voting no. Senator McKinney voting yes. Senator Moser voting no. Senator Murman voting no. Senator Raybould voting yes. Senator Riepe. Senator Sanders voting no. Senator Slama voting no. Senator Vargas voting no. Senator von Gillern voting no. Senator Walz voting yes. Senator Wayne voting yes. Senator Wishart voting no. Senator Erdman voting no. Vote is 11 ayes, 32 nays, Madam President, on adoption of the amendment.

**DeBOER:** The amendment is not adopted. Mr. Clerk, for items. I raise the call.

**CLERK:** Madam President, next amendment, from Senator Wayne. Senator Wayne would move to amend with AM1608.

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

**WAYNE:** This is the amendment to match yesterday, on the PTSD. As you'll recall, I'm working on this, from General to Select. We are getting data and budget, that some people asked for some more information. We are getting them that. They'll have that by the end of the week. But this is just to make sure that we track both and we don't have inconsistencies in the budget. So I would ask for a green on AM1608 Thank you.

**DeBOER:** Thank you, Senator Wayne. Senator Wishart, you're recognized.

**WISHART:** Thank you, Mr. President. I rise in support of AM1608. This is the sister amendment to the piece of legislation that we passed last-- yesterday. Seems like so much longer ago. So yesterday, we appropriated the funds and this needs to transfer the funds out of the Health Care Cash Fund. So I encourage you to vote yes, since we passed the amendment yesterday. Thank you.

**DeBOER:** Thank you, Senator Wishart. Seeing no one else in the queue, Senator Wayne, you're recognized to close on your motion-- amendment.

**WAYNE:** Thank you, Madam President. Again, this is just to be consistent on both the budget bill and the transfer bill. And then, we'll-- if the body decides to remove it, we will remove both of these on the Select, but you don't want it to be inconsistent as we move forward, on both the budget and the transfers of the funds in the

budget. Thank you, Mr.-- Madam President. I ask you to vote green on AM1608. Thank you.

**DeBOER:** Thank you, Senator Wayne. Members, the question is the adoption of the amendment to the committee amendments. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

**CLERK:** 28-- 28 ayes, 9 nays, Madam President, on the adoption of the amendment.

**DeBOER:** The amendment is adopted. Mr. Clerk, for the next item.

**CLERK:** Next amendment. Senator McKinney would move to amend with AM1613.

**DeBOER:** Senator McKinney, you're welcome to open on your amendment.

**McKINNEY:** Thank you, Madam President. AM1613 amends LB818. And the reason for this amendment is because we don't have a classification study for the prison. There is a bunch of other things that are needed. And in LB-- well, AM1613, it says-- line 15 on page 1, says, and any money transferred from the Cash Reserve Fund to the Prison Overcrowding Contingency Fund shall be transferred to the Nebraska Capital Construction Fund contingent on (a) the Department of Correctional Services, in conjunction with the Department of Administrative Services, demolishing the Nebraska state prison, (b) complete-- completion of a study of programming fidelity, including but not limited to what is working, what is not working and the reasons for such failure, and what needs to be done to improve programming regarding correctional facilities in the state, (c) completion of a study of staff needs in correctional facilities and mental health services in correctional facilities in the state, and (d) the passage of LB348, the Community Work Release and Treatment Center Act. I think this is, this is-- this should be a no brainer. We cannot build a prison or vote to build a prison without even knowing what we need to build. We need the classification study. And it's two years overdue and we still don't have it as a body. A lot of times, when people-- and even I, at times, have brought bills, people are like, what's your plan? Do you have a study? Have you done this? Have you done that? How do you know it's going to work? That was even a conversation yesterday, in talks about the PTS-- PTSD bill. We should slow down the process, transfer the money to the Prison Contingency Fund and wait for the department to do what they should have done two years ago and complete a classification study. I don't see how anyone



could have a problem with that. We also should be studying the fidelity of the programming. We need to look at our system to see what is working and what is not working and how can we improve programming, since the argument for the new prison is partly because of programming. How are we going to build something and say this is going to make programming better, but we're not studying programming to see what's working and not working? The next, it's a completion of a study of staff needs in correction-- of correctional staff and mental health needs in these facilities. We should be studying these things before we take a vote to build a prison. Just set it aside. I'm not telling you not to vote for the prison. Just set it aside. Let's ensure that the classification study is completed. We study our programming. We study our staff needs and our mental health needs. And also, for the last three years, the argument has been NSP is in such disarray that it needs to be shut down. It's inhumane. But the past two days, people have stood up and said, hold up, wait, we shouldn't demolish the whole prison. There's good things there. It, it can be saved. But the argument and the premise behind your justification for the prison has been that NSP is in horrible shape. And we should also commit to community work release and treatment, to make sure that people aren't going back into the system. So if you're going to stand up today, on this amendment and say you're against it, I promise you and I promise you, I'm getting on the mic the next time I click my button. And I'm going to ask you why we don't need to do a classification study, why we shouldn't study programming, why the narrative has shifted on closing down NSP to saving it and why we shouldn't commit to community work release and treatment. I promise you, if you stand up against this, I'm going to ask you a bunch of questions, so be ready. I also have a lot of data, since I was on the CJI task force and I pulled some data from the subgroups and some key findings that we should talk about, as well. So let's have fun today. And honestly, this is a genuine amendment. I'm not telling you not to vote for the prison. I'm just saying if you're going to vote for the prison, commit to requiring the department to do a classification study and complete it. Commit to studying programming and staff needs and mental health needs. And also, demolish the prison, since it's been in such disarray for three years up until the last two days. And we also need to commit to community work release and treatment so people aren't going back, and we're treating individuals while we have them in our care. Thank you.

**DeBOER:** Thank you, Senator McKinney. Senator Slama would recognize 23 3rd-5th graders from Skyview Learning Academy in Douglas, Nebraska.

Students, please stand and be recognized by your Nebraska's Legislature. Senator Dungan, you're recognized.

**DUNGAN:** Thank you, Madam President. Colleagues, I do rise in support of AM1613 and I think this is a really, again, good conversation to be having. And when I look at this amendment and hearing Senator McKinney open on it, I think it's actually a very smart, fiscally responsible and measured approach to the implementation of something that a number of my colleagues have already said they're committed to doing. So one of the things that I've noticed in the Legislature is that when we appropriate money to something, there's oftentimes a lot of questions about wanting data or wanting feedback to make sure that money's being utilized in the appropriate way. And we see this attached to new programs that are started. We see this attached to new developments that occur that are being incentivised. We even see it in regards to some revenue reductions, is there's these concerns or questions of are we doing this in the right way and let's get some metrics back in order to determine if we've done the right thing. And then if, you know, we, we see that the numbers are actually adding up, then we can move forward with it. And so, my reading of AM1613 is not this guts any provision of what's been proposed in the budget and it's not that something's being stricken or taken out entirely. My understanding is that the money that's being transferred into the Prison Overcrowding Contingency Fund is only transferred contingent upon and it lists a set of criteria. And the set of criteria that were listed there, exactly what Senator McKinney just spoke about. And I think each and every one of those are things that we, as a Legislature, can get together and agree are good policy. One of the things in here that, that I-- specifically jumped out at me that Senator McKinney spoke about, is a completion of a study of programming fidelity, including but not limited to what's working, what's not working, and the reasons for such failure. It goes on to then say we need to look at what needs to be done in order to improve programming regarding the correction facilities in the state. The main argument that's been made to me when I talk to folks who are in support of building a new prison, is that the new prison can facilitate and better accommodate programming that's going to, hypothetically, help rehabilitate folks who are incarcerated there. It doesn't make sense to me that we're going to spend this much money to build a new structure in order to facilitate programming if we haven't done a study with experts that we can bring in, maybe even third party experts, to come and analyze this, to determine what actually has worked and what has not worked throughout the time that we've been implementing programming at DCS. I can't

think of any other system where we would dissuade or not want to have people come in and analyze whether or not what we're doing is working. I talked about this on the mic a little bit yesterday, and it's possible we'll get into it more later on today. But one of the things that we have to make sure we're doing as a state, is if we are incarcerating people, there has to be something done while they're in there to work on rehabilitation or else we're actually harming not just those people, but we're harming the rest of the state of Nebraska. And we're creating this cycle of recidivism and trauma and pain that everyone is harmed by. And so, the programming that we see in DCS, the intention behind that, is to work on things like vocational skills. It's to work on things like helping treat issues that individuals have had, that maybe led to them being incarcerated, whether it's substance use disorder, behavioral health problems. But if what we're doing in those prisons isn't working, then it's just a fool's errand to build an entire new structure and assume that if we keep implementing the same process and procedure, we're going to get a different result. And so the idea of analyzing the actual programming fidelity, I think, is an incredibly smart idea. I think compounded with that is the completion of a study of staff needs. When I would talk to folks who worked in DCS-- I mean, everybody here has heard about the staffing crisis that's been happening there for years now. And we're seeing-- I, I, I--

**DORN:** One minute.

**DUNGAN:** --thank you, Mr. President-- I think the staffing has increased a little bit, but that's only because of massive bonuses they've done. We've had a huge staffing problem. And the staffing problem is not just for things like COs or guards. The staffing problem is for people who are actually implementing the programming. And so, there's people right now, in custody, who should be getting programming that's going to help rehabilitate them, who are not getting it because there's not the staff in place to do it. There are literally prisons and, and, and facilities here in Nebraska, right now, that are lacking mental health professionals to actually help the people that they're there to serve. And so we do have a staffing crisis still. I know it's getting better. I know a lot of people have worked hard on that, but a study analyzing whether or not there is continued need to address mental health services in the correctional facilities, I think, is going to be incredibly important. So I think this is a really important conversation. I'll probably hop back on the mic one more time to talk a little bit more about it, but I would urge

my colleagues to seriously consider supporting AM1613 Thank you, Mr. President.

**DORN:** Thank you, Senator Dungan. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President. Good afternoon, colleagues. I rise in support of Senator McKinney's amendment. And for a variety of reasons, I want to lift up, kind of, two threads. One, how important it is to ensure that we have appropriate legislative oversight over these significant big ticket items that are in the budget. Whether you support them or don't support them, these are such major appropriations that we really, really need to make sure that we're all doing our due diligence. Of course, a lot of that can happen off of the floor, as well. But there's some recent analysis from OpenSky that I just wanted to lift out in regards to this, because it's relevant to where we are at this point in the debate. Two projects, the Perkins County Canal and the new prison, account for, I believe, about more than half of the spending from the cash reserves. And just those two projects alone, are about 13 percent of overall budgetary expenditures. So that helps to provide a little bit of information, in terms of the scope and the gravity of these projects, just, just in terms of sheer dollars and cents, just in sure-- in terms of taxpayer burden. So I, I wanted to lift that up. The other piece that I wanted to lift up is, perhaps, a bit more specific to AM1613. And I'm grateful to Senator McKinney for his continued leadership on these issues. And I appreciate Senator Dungan's comments, as well. And colleagues, I, I hope people are looking at this carefully, because this is a very thoughtful approach. Senator McKinney, myself and others tried to make our case yesterday that we shouldn't advance additional funding to build a massive new prison against the will of the voters, out of step with how our sister states and the federal government are handling smart criminal justice reform, and without a plan in place. Those arguments did not carry the day, I contend, for political reasons. Nevertheless, we have a new director and we have a host of information that we need to get more well-established before we commit ourselves to this full course of action with this significant sum of money. So simply asking for an-- thoughtful analysis about what kind of beds we need to build: is it max, is it medium, is it lower level, and more work release and more mental health beds and all of those kinds of really important questions to understand if we're going to commit this amount of money, and particularly, without a plan for criminal justice reform, we at least should build it right. And unfortunately, we have a pattern in

practice from this crisis-riddled Department of Corrections, where they treat state law like a suggestion rather than the state law that it is. We've asked Department of Corrections to put forward strategic plans periodically to show us what they're doing to address mass incarceration and the issues in their department. Sometimes they follow it, sometimes they don't. We've asked them to put forward a classification plan in order to have this very analysis for this very important decision. Still not back. Still nothing done. Finally, we were able to get an updated master plan, Dewberry Report, after the last Legislature pushed and pushed and pushed to get that critical information in play. And we're just sorting through it, since it came back to us very late last year. And as to Senator Dungan's point in regards to an analysis of the programming that is available within the Department of Corrections, we did see--

**DORN:** One minute.

**CONRAD:** at least-- thank you, Mr. President-- a first iteration, from UNO, that was meant to start to dig into the programming available within the Department of Corrections. But if you go and you look at that report, colleagues, and I've had a chance to review it, it is, at best, a very initial inventory of what kind of program is offered-- programming is offered at the Department of Corrections. It really has yet to delve into the efficacy of those programs, the capacity for those programs. And what we know we hear time and time again. One reason we have, one, among many, one reason that we have a prison overcrowding challenge is because once people are incarcerated, they can't access the programs and services they need to successfully move through the process and to break those cycles of recidivism, which, of course, make all of us less safe. So, at a very, very least, we should have a contingency or delay so that we're not writing a blank check, but we're right-sizing--

**DORN:** Time.

**CONRAD:** --the appropriation for the need. Thank you, Mr. President.

**DORN:** Thank you, Senator Conrad. And we have a correction to make. Senator Machaela Cavanaugh wishes to recognize 35 fourth graders from Swanson Elementary in Omaha, Nebraska. Please stand and recognize-- be recognized by your Nebraska State Legislature. Senator Wayne, you're recognized to speak.

**WAYNE:** Thank you, Mr. President. Colleagues, I know many people aren't really listening or paying attention to this debate and that's kind of unfortunate. But the reality is this and I don't-- I'm not jumping on anybody. Here's the reality: I would support this amendment and anything similar to this for one simple reason. How many times are we going to allow another branch of government not to do what we say they should do and the information that we want? We heard in Appropriations this year that we set aside money last year for provider rates and well, they just decided to do a pilot program with that money that had nothing to do with provider rates. How many times have we asked agencies and we-- not just asked. We said, here is the law you have to follow. And they just said no. And maybe that doesn't matter to anybody. But here's why it's important in this sense. We have a new Governor. We have many new senators. If you start now, you can't go back. It's too hard to go back when you set precedence of saying, OK, you don't have to do what's in the law. We put in the-- we gave them \$200,000 to do this study for us, as a body, to have a conversation around a prison and what is actually needed, so we can get the full picture. If I were to ask people right now, how many people are in prison, most people wouldn't even know. If I were to say that there are 800-- over 800 people in community-- classified as community corrections, you wouldn't know that to be sure. You can go ask. I'm not making anything up. But the fact that we don't have that complete picture and we are appropriating over \$300 million to this project, is unbelievable. You look at what we did for the canal. We had private briefings with individual committees to get information, some of it attorney-client privilege, some of it not, where you learned about the canal. That's why so many people can get up and talk eloquently about the canal, even if you're for or against-- I mean, we're talking about Cavanaugh go into how big the canal is now, because we were educated on everything when it came to the canal. My question to you is how educated are you are on the prisons? And if you're not that educated as you are on the canal, then I would support this amendment saying, let me get some more information. How many of you have read the master plan for the prison? The master plan actually calls for one prison to be built, with the additional capacity to have two. Why is that? Why do-- has anybody asked those questions? You don't have to be a fair-- a for or against the prison on this particular amendment. This is about we set aside money in our budget and said, we need this information before we can move forward. And for two years, the other branch has said, no, we're not getting you this information. I know, for my class, how many fights have we had about things not being done that's in law? Hell, we had a bill in education to say, school

districts, you are not doing what you're supposed to do around dyslexia. So now we've got to come back with a bill to make sure you do it. At what point are we going to stand up and say, enough's enough? When we pass a law, we expect it to be implemented fully and faithfully. And this is a compromise on my part-- on, on Senator McKinney's part. I wouldn't even have went this far. He's saying you can automatically transfer the money back and continue to build the prison--

**DORN:** One minute.

**WAYNE:** --but at least, just get the information, so you can make an educated guess so we can have an educated discussion next year, on whether we're going to continue to appropriate more dollars, whether the future body, in two years, wants to appropriate the other \$174 million. That's the part I think is getting lost in this whole conversation. We're OK with the administration-- the previous administration, and now this one is saying we don't need that data. And when you start going down that path, it continues to boil over into everything, because we played nice our first year, too. And now we have an education bill saying, no, we really meant what we said around dyslexia this time. Don't make the same mistake. Don't let history repeat itself. Get the information so we can all have an eloquent conversation, like we just had about the canal. Thank you, Mr. President.

**DORN:** Thank you, Senator Wayne. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. Again, I am-- this is actually me being-- I was genuine yesterday when I brought two amendments. I'm being genuine today. A lot of times when I've proposed bills or other people have proposed bills, you get a bunch of people that walk up to you and say, how do you know this is going to work, what studies do you have, what information do you have; all these other things and just asking for, maybe, \$1 million here? They're literally asking for \$300-plus million dollars and they won't even do the bare minimum of following the law and doing a classification study. That should sound every alarm to everybody in here. And then yesterday or whatever day it was, in a briefing, the justification was-- for the prison, was for programming. There's nothing in the current language that even requires them to put money into programming, study programming, understand what's needed and not needed, how can you improve it, none of that. But you're going to blindly vote for a prison without even a

bare minimum of information. And if that happens today, I promise you, going forward, if I introduce a bill with even a dollar and you vote for this and you come up to me and ask me those same questions about how do you know it's going to work, I'm going to walk away from you and say, get out my face. Be consistent here. And that's the problem. People have problems being consistent and genuine in their positions. And we're letting people outside of the glass control the Legislature. Where is the separation of powers? Where is the leadership to say, no, let's do the right thing for the state of Nebraska? We're going to vote the bill-- one of the massive, probably number one most massive project outside of the canal, in the state's history and the Department of "Punitive" Services can't even do the bare minimum of doing a classification study to understand what's needed. They're not going to study what programming needs are needed so we can improve our system and make sure that people aren't sitting inside of our prisons two years beyond their release date. Study it, so we can get people that are qualified in correct-- qualified for community, into community. There's people sitting in Tecumseh that should be in community, but because the department is so horrible, they can't get to community. And we're OK with that. I don't understand it. And you stand up and say, oh, let's do the right thing and don't mess with the budget. And if you're on the Appropriations Committee, I strongly invite you to stand up and explain to me why you voted this going forward, without the department not doing a classification study, without programming study, without studying staff needs and mental health needs. Why the tone shifted yesterday, from the prison needs to be shut down because it's inhumane and now, we want to save it to keep our options open. If you're a leader and you're going to vote for this, stand on it and stand up and tell me why. And justify it. I'm waiting. And, and, and we could keep going, but it's, it's just-- you're going to hide behind not getting on the mic and just vote for this and not, and not say anything, just because somebody told you to do it. You were voted to be a senator, to represent your community, not represent the interests of interest groups.

**DORN:** One minute.

**McKINNEY:** You can't stand up and scream about saving taxpayer dollars when this is a massive hit to taxpayers and we're not even going to require the bare minimum. That is my issue. I'm not even telling you not to vote for the prison and I strongly oppose it. I'm just saying, make sure you understand what you're building and the needs are. And y'all don't even want to do that. So if I ever bring another bill with any type of dollars and you vote against this, don't even ask me those



questions, because you're not willing to ask a department that is not following the law to do their job. You're justified your support for this prison based on programming and you're not even studying programming. How does that sound? Literally, think about it. Your justification is the prison is, is inhumane, but you don't want to demolish it. You justify it based on programming and you don't want to--

**DORN:** Time.

**McKINNEY:** Thank you.

**DORN:** Thank you, Senator McKinney. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. Colleagues, I rise, again, in support of AM1613. What I think is interesting about the prison project is in the entire time that I've heard about it prior to being in the Legislature and then also here now, it's treated as an inevitability and it's treated as something that, oh, we just have to do that. And the questions that Senator McKinney and Senator Wayne were talking about never really get addressed. This was never clearer to me than when I first was doing orientation for the Legislature and we had an entire training session about the canal. And it was incredibly helpful. I learned a lot about a canal project that, up until that point, I hadn't really dug into. And so, I, I do appreciate that information, but never once, to the point that others have made, have we heard details about not just how this prison is going to be built or where exactly it's going to be built, but what kind of programming and what kind of classification we're going to see at this prison. And to me, that's a symptom of a larger problem, not just in here, but across our state in general and in our nation, in general. And it's that when we start talking about incarcerated people or when we start talking about those who are involved in the justice system, there is a lack of empathy and there is a lack of acknowledgment that we need to be as thoughtful about it as we, we can be. And I'm not saying everybody feels this way, but I think that genuinely, there is this perspective that, oh, yeah, well, the people that are in there are bad people, so we'll get to them when we have to. Or, oh, you know, the conditions at NSP, the state pen, are not great, but the people that are in there are bad people so, you know, we'll worry about that later. But right now we got to focus on something else. And that's incredibly problematic to me because I, as well as a lot of others in this body, have met people, known people, worked with

people, interacted with people, spent time with people who have been incarcerated. And what I think we oftentimes forget is that we're talking about real people, real human beings with real stories. And so when we discuss the building of a prison and refuse to do this study, do this analysis and hold a department accountable for how the programming is working, for how the building is being staffed, for what kind of reentry programs we're looking at, we're doing a disservice to those folks who have to be the ones who bear the brunt of that problem. You know, I've looked a lot at the actual numbers from DCS. This is not outside analysis. DCS projects exponential growth of its prison population between now and 2030. As of right now or as of the study that I'm looking at here, which is from DCS's own website, the, the observed population was at about, I'm estimating 5,700 and they're seeing it go up to 7,500 in the next less than ten years. So the people that are, that are in the DCS program, themselves, are estimating exponential growth. And so that's why it's incredibly important that we take a step back and analyze. Are we doing this the right way, in a way that actually is going to rehabilitate folks and put them back in the community? One of the most integral things when it comes to rehabilitation is reentry. And one thing I appreciate about Senator McKinney's amendment here, that I would, again, encourage my colleagues to go read, is it focuses at great length on one of those criteria that has to be met for the transference of funds on enacting reforms or modifications when it comes to work release and, and reentry. As we've been having this debate, I've received an email and other comments from people who know first hand how the reentry programs are currently working with DCS. And I'm not going to get into the details of that, but they've highlighted a number of the problems that they've seen--

**DORN:** One minute.

**DUNGAN:** --thank you, Mr. President-- they've seen with the reentry programs. And imagine getting released after serving your time and not having the adequate assistance to find housing, to get a job, to reintegrate into society, to have the treatment that you need with regards to behavioral health or mental issues-- mental health issues, you're being set up to fail. And so we can do everything we possibly can to build the prettiest, nicest new facility, in terms of esthetics and in terms of how it looks to the folks from the outside looking in, but if we're not actually helping the people on the inside rehabilitate and working on their reentry, then we're doing a disservice to them and we're just putting a Band-Aid on a bigger problem. So again, I would encourage my colleagues to support AM1613.

It's measured, it's appropriate, it's fiscally conservative by making sure we're using our money in a way that is actually working. Thank you, Mr. President.

**DORN:** Thank you, Senator Dungan. Senator DeBoer, you're recognized to speak.

**DeBOER:** Thank you, Mr. President. When we were talking about this prison before, we asked the department, not like you send an invitation to a garden party, please come, but we asked, in law, a request in law, for a classification study. So what is that and what do we get? A classification study does a in-depth look at what is available in terms of our space in the department for various classifications of inmates. Classifications-- this is like your maximum-- they do it a little differently. But for purposes of our discussion: maximum, medium, minimum. They just call it different things-- levels of security. Some folks don't need the maximum. They can be in a big dorm-like structure. Some folks need much more security. They cannot be in a big dorm-like structure. So you can see why it's relevant, because the very basic structure of what we build depends on what kind of building, what kind of security, we need. It's not surprising, I'm sure, to you all, that it is much more expensive to build maximum-security beds than it is to build minimum-security beds. It's also more expensive to staff maximum than minimum. So that's what we asked for, an in-depth look at what we have and what we will need in the future, because we can look at these things and we can get the, the sense of what we're going to need. We wanted a study that asked those questions. What we got instead, was a master plan document. It's part of another request. And that document had a very cursory description of classification study-- capabilities in current facilities. We have not gotten anything like a classification study. We also asked for a description of programming. Why does that matter? We asked for a programming study because that helps us to assess the needs for spaces for programming: what's available, what's not, what kind of things are going to be needed in the future, what kinds of programming. Different kinds of programming take different kinds of spaces. If you're building a house, you probably need to know how many bedrooms you need to have. If you're building a prison, you probably need to know what kind of security levels you need and what kind of programming spaces you need. We asked for these things because we are a responsible body that says, let's not just put up some walls, throw some spaghetti at the wall and see what sticks. We wanted to know what we were supposed to be making. You know, this body decided to build the Tecumseh Prison. The story is that it was sort of late at night--

you all know how we get late at night-- when they made the final decision. They were deciding between Omaha and McCook, so, of course, they compromised with Tecumseh. And we all know how well that turned out. Unfortunately, we're unable to staff that prison very easily because of its distance from a major population center. In the not too distant future, over half of our inmates are going to be in prison for three years or less. They don't need maximum security.

**DORN:** One minute.

**DeBOER:** We need to have a classification study so that we can answer the most basic questions about what we're building and how much it will cost to build it, because it's going to cost a heck of a lot more to build all maximum beds than all minimum beds. So we don't have the information that we need to do what we're attempting to do here. We don't know what kind of programming space, we don't know what kind of classification space, we are literally just throwing things at the wall and hoping they'll stick. We need more information. It is not unreasonable to ask for what we have already asked for in order to be responsible about building this prison. I think Senator McKinney's well-intentioned, good idea here, to say, hey, please give us our classification study--

**DORN:** Time.

**DeBOER:** --which we asked for. Thank you, Mr. President.

**DORN:** Thank you, Senator DeBoer. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President. Good afternoon again, colleagues. Just wanted to continue the dialogue about the need to continue smart justice reform. And I wanted to additionally draw attention to the handout that Senator McKinney has provided to the body and is easily accessible for you all. But I know we all get inundated with papers and emails and things to add to our, our light reading file, but literally, there's a, a 14-page incredibly digestible executive summary of the CJI effort and an overview of Nebraska's criminal justice system that's about 12 or 13 pages. It is incredibly well done. It is full of facts that are key and that are relevant to this discussion. And, you know, at the very least, if you can't make it through the entirety of the master plans or the mental health reports or-- I know we're not supposed to use props, these are just the materials that I have in my reading pile in regards to smart justice

reform. Just please, please take a look at the 12- or 13-page executive summary from CJI, which really does a great job of encapsulating a lot of complex information. And their conclusions are clear, colleagues. They state-- the first sentence: Nebraska's corrections system is in crisis. Our prison population is outpacing the state population nearly three-fold. According to the most recent data, Nebraska has the most acute prison overcrowding in the country. Corrections expenditures are over a quarter of a billion dollars, not including this massive appropriation for a new prison and the increased expenditures for maintenance and operation. We know that, overall, about well over 90 percent of those that are incarcerated will return to our communities at some point in time. And if they return without access to programs and services, they're more likely to re-offend. And that hurts our shared public safety goals. We also know that about a third of individuals who are incarcerated in Nebraska will return to our communities in three years or less: a very, very, very short prison stay. And we need to think about that. Because what that tells us, colleagues, is these aren't really, really long sentences for the most significant public safety threats that are out there. But these are folks that have intersected with the criminal justice system because of property crimes or because of behavioral health issues related to drug crimes, things of that nature. So don't let anybody confuse you about what we're talking about in this debate. If we rightsize our prison system, particularly with a prison system that, yes, is in crisis and overcrowded but is relatively small compared to our sister states, if we can rightsize the system and engage in smart justice reforms, we can reserve the existing beds in the system for those that pose the greatest threats to public safety. Right. Nobody's talking about a massive jailbreak here. That's not what we're talking about. That's not what the federal government has done. That's not what our sister states have done, including those with similar challenges and similar political identities as we share, here in Nebraska. Deep red states are closing prisons. Nebraska is moving in the other direction. So keep in mind that, as we commit to this historic, massive earmark, we also have yet to see even modest criminal justice reform move forward. And let me ask you this, colleagues. Why is the Judiciary Committee still struggling even to move forward the--

**DORN:** One minute.

**CONRAD:** --the matters that were consensus items from CJI? I know those won't move the needle as much as we need to move the needle, but those should pretty much be noncontroversial and should be adopted

immediately. And those need to get out. That's a first step. That's a first important step to make sure that we're doing everything that we possibly can, where there's no disagreement from a policy perspective to utilize that data and that information. And then let's have a great debate about whether or not we should look at sentencing reform. And if not, why not? And look at the other key drivers that would save us a significant amount of money and prevent a perpetual crisis of building and building and building in perpetuity, because we're not doing what our sister states and the federal government have done, to enact modern updates to our criminal justice policy. We need to look at reserving mandatory min--

**DORN:** Time.

**CONRAD:** Thank you, Mr. President.

**DORN:** Thank you, Senator Conrad. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. Good afternoon, colleagues. Appreciate the conversation. I rise in support of Senator McKinney's amendment, AM1613. And I do appreciate the conversation. I liked Senator Wayne's comments earlier, about the opportunity to educate people and the opportunity for all of us to educate ourselves on these issues. And that was a bit of my approach on that last amendment, was to give a crash course in those issues. And I do think we've-- for some of us, this feels repetitive, but there's new, new folks here and so we all have the opportunity to continue to educate and to educate ourselves on these issues. And so, I just wanted to join the conversation to talk about some of the things that, particularly, stick out to me as important issues, as we consider building a new prison. And so I, I again, appreciate Senator McKinney's approach here, to be data driven, based on studies and understanding of what we would like to see in our new prison. And so, take a bit of a different tack on this one and say, this-- if we're going to build a new prison, let's approach it like an opportunity. You know, let's build it the best way, with the most, you know, fact-based, intelligent approaches to smart reform and understanding of how we can get people who are in our carceral system to be in a position when they come out that they're not going to offend again. Because, as Senator Conrad just stated, 90 percent of these folks are going to be back in society. They're going to return. And this is one of the stats I was looking at. This is, again, I've mentioned a few times, you can find this on the Department of Corrections website-- Quarterly Population,

Population Summary, October to December, 2022. Reentry and discharge type. So they have folks released to post-release supervision. So post-release supervision is if you are convicted of a Class III, Class IIIA and a Class IV felony, you have a, what we call, a determinate sentence. So you get a sentence of one year or two years. And then you have post-release supervision, which is basically parole, that's part of your sentence, automatically. And it was part of the last-- LB605, data-driven analysis, that said people are less likely to reoffend if they have, after a period of incarceration, have community-based supervision, so that's-- we created post-release supervision for those lower offenses. That was a growing pains iterative process that's changed since that original introduction, but that's what that means. OK. So then, we released 43 people to that in October, 46 in November, 46 in December. So the next one is deceased, which means people got out of prison by dying: one person in October, three people in November, three people in December. So out of about 5,629 people in the Department of Corrections, about three of them die a month, according to that average. So that really tells you that it's going to be a lot of people are ultimately going to be released at some point. Released to parole: 65 in October, 39 in November, 80-- or 61 in December. Released to other jurisdictions was zero in all those jurisdictions. And then we have flat sentence. So these are the folks who got a 20 to 20 on, say, a IIA. OK. And they got 46 people in in October, 28 in November, 42 in December. So those are folks who have no step down. They just went from prison to society. And they were probably there for a number of years, because if they were on a shorter sentence, they would have been on post-release supervision. And then mandatorily discharged: that's another one where these are folks who were there for a specific sentence. They had parole eligibility, but they were never paroled, meaning they never got a step down in custody.

**DORN:** One minute.

**J. CAVANAUGH:** Thank you, Mr. President. But the point of this is most, most of these folks that are in there are going to be released. And we need to find a way to be smart about this. And one of the smart ways we do it is a step down in custody. So I'll push my light to talk about this some more. But one of them is people can go from medium security to community corrections. And then, they will stay in custody for part of that. And they can then get a job and get out on work release and things like that and they get a little bit of exposure back to society. That's part of why you want one of these studies that Senator McKinney is asking for and-- or that we've already asked for,

but then, Senator McKinney is requiring before we build a new prison. So AM1613 allows us to be smart about how we're going to approach this, without releasing people out who don't need to be released. We're just taking the people we already have, the structures we already have, and making sure that we're going to be smart about those. So I'll push my light and I'll talk some more on my next time. Thank you, Mr. President.

**DORN:** Thank you, Senator John Cavanaugh. Senator Wayne, you're recognized to speak.

**WAYNE:** Thank you, Mr. President. Colleagues, I just want to-- well, first, I'm going to try to clear up the confusion on this amendment. And then there's another amendment, I think, being proposed. And I want-- I mean-- so if people are serious about maybe doing something, I would tell you to wait for the next amendment to come down. But you're reading this bill that there's a \$70 million transfer. That does not cost the state \$70 million. Let me repeat: that does not cost the state \$70 million, nor is the study cost 7-- \$70 million. So for those who have a hard time reading amendments, raise your hand. It's me. I'm one of them. Because you get this amendment and it's just a section and you're trying to figure out how it works with the rest of the bill. And it really-- I wish all amendments were white copy so we can just understand, but it's not. This-- how this works is the first year in our current budget, in our current transfer, we are transferring 6-- \$95 million for cash-- of cash into the capital construction. So there's \$95 million already going. This amendment is going to take \$70 million of that. And instead of transferring it to the Capital Construction Fund, it's going to the Prison Overcrowding Fund. That's the \$70 million. It isn't new money. It isn't money going to cost the state. But you don't see that part, because the amendment, it's in a different part. It's just the way it works. That's why I don't like amendments. So you got to understand the complexity, especially of the budget. So the \$70 million is just going to the contingency fund and the contingency fund, we actually created two years ago, a part of this whole conversation. We set money in the contingency fund and we set it aside. We did not allow the administration to build a new prison. We gave them some money and we said, in addition to this, some money, we're going to set aside \$200,000, a little bit more, to do this study. I passed out that information yesterday. That study has not been done. We said in order to move this money-- this was what we as a body said two years ago. Now, I understand we can't commit in a future Legislature. So if we decide to just leave things the way we are, we're saying to the old



Legislature, you didn't bind us and we're moving forward. But some of you who are in, at least, my class and Senator Arch's class, was here two years ago and we-- Speaker Arch's class-- and we said, hey, we're gonna give you a little bit of money to do planning, but we're going to do \$200,000 for you to complete this classification study. Then at that point, when we see that data, we're going to transfer everything over and you guys can build. But we think as a Legislature, we should, you know, before we spend \$300 million, kind of know what we're spending it on. That's what we said as a body. And I believe, maybe, three or four of us voted no in the budget, two years ago. So that means 40-plus agreed with this idea of making sure we had information before we transferred. That's not me talking. You can look it up in the historical record. And if you need to correct the Journal, it's too late, because at the end of the year, we do that. And so, just a little Journal joke but nobody laughed. OK. So that's what the \$70 million transfer is for. Now, there is some heartburn in some of the language. And my understanding, from talking to Senator McKinney, he's willing to take out the NSP-- demolishing NSP and just talk about the two studies. [INAUDIBLE] I mean, the studies done. We've already paid for the studies, so there's no expenditure, Senator, Senator Clements, on the Appropriations part of having to put more money out. There's no additional expense. We're moving the \$70 million from one account to another account. That is the transfer. So it's zero dollars, but it still allows us to have information before the prison is built. Now again, I think Senator McKinney is being too nice by saying you can go ahead and do it. I would prefer to do a, a budget next year-- amendment to our budget next year, after we saw this data, but Senator McKinney went forward with this. This has been his issue, so I'm going to take the lead on it--

**DORN:** One minute.

**WAYNE:** let-- I'm going to follow his lead on this. So he's saying, once you complete these other things, it automatically transfers back over. Again, zero cost to the state, but make sure that the Legislature is at least keeping up our end of the bargain, saying we need this data before it's done. I think that's a fair compromise. Again, there's another amendment coming down. We're moving to demolish the NSP. I understand some of those concerns, but on principle, we've already spoke on this issue. And many of you already voted on this issue, because it was an amendment to the budget and you voted yes, we need this data. And now, two years later, we're saying we don't need the data. We'll just go ahead and build. So I don't know what happened in two years when you voted on this saying, yes, we need the data and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
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we'll put money in a contingency fund versus now, because many of you are the same people who didn't run for office and are still here, and some of you won the elections and are still here. So--

**DORN:** Time.

**WAYNE:** Thank you, Mr. President.

**DORN:** Thank you, Senator Wayne. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM1613. I recall the conversation that Senator Wayne was just discussing, when we did the set aside in the budget in the last biennium. I don't recall if I voted for the budget or not. I'm sure that-- I'm certain that I voted for the set aside. I think that this is a thoughtful approach. And it's the approach that the Legislature took in the last biennium, when it comes to the prison. No one is arguing against the need for a prison-- a new prison. As Senator McKinney has stated numerous times today and yesterday, we have heard story after story about how NSP is in complete inhumane disrepair. And as such, we need to build a new prison. Of course, now there is that conflict of if we need to build a new prison, why do we not need to tear down NSP? But that's a conversation for, I suppose-- I didn't know there was another amendment coming, but for that amendment, I do think that it is reasonable and thoughtful to continue to set aside the money for the prison until specific benchmarks are made-- met. This is a large project. This is a large endeavor and we still don't have the answers that we were seeking when we did this previously. When we did the set aside previously, we did that set aside because we knew that we needed to build a new prison, but we didn't have the information as to what that is, what that should look like at that time. So, I think it's really important that we continue to push for a more thoughtful approach to building a new prison. I think it's important that we continue to push for a data-driven solution. And I think that Senator McKinney's amendment allows for us to plan for the prison financially, while also pushing for doing it in a way that is logical and thoughtful. And so, for those reasons, I'm going to be supporting AM1613. Mr. President, how much time do I have left? Mr. President, how much time do I have left?

**DORN:** 2:24.

**M. CAVANAUGH:** Thank you. Would Senator McKinney like my time? Yes. I'll yield my time to Senator McKinney.

**DORN:** Senator McKinney, you're yielded 2:15.

**McKINNEY:** OK. Thank you, Mr. President. So great discussion today. And I'm willing to, you know, act in good faith and try to reach a compromise on this issue. Because I do believe that if you guys are going to vote to build the prison, we should be studying the classification and we should be studying programming. I do think you should demolish NSP, but I'm not the one that is going to have to talk to my constituents and say that I voted for it. So if you guys don't want to demolish it, I will take that language out. I'll bring another amendment-- I'll pull this amendment, bring another amendment later and then, we can have a discussion on that amendment. And I'm acting in good faith. So if you are in the queue, you could turn off your light on this. We're going to pull this amendment and I'm going to, I'm going to bring another amendment back and address, specifically, the classification study and the programming and staffing studies. Thank you.

**DORN:** Thank you, Senator McKinney and Senator Machaela Cavanaugh. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. I am standing in opposition to AM1613. And I've just been looking at that amendment, AM1613, and it talks about any money being transferred will be contingent on several things. And one is demolishing the Nebraska State Penitentiary. And I think we need funds for a new facility before we can destroy the old one. And I don't know how you, I don't know how you destroy your old property before you can-- before you have money to build a new one. Then, the second one is a study of staff needs. I think-- I know that Senator Wayne was talking about the study that we're supposed to be doing. And the \$200,000 is still appropriated and the University of Nebraska has the authority to do that and I'm urging them to do that. The third item was talking about staff-- the study of staff needs and mental health services. You know, I'm not really opposed to that. I hope they do that. The fourth item is requiring passage of LB348. And I think it's unwise to link the passage of one bill with the passage of another. And then, the other item is item seven, transferring \$70 million from the cash reserve. And the cash reserve is already at the target level of 16 percent and I don't want to reduce it any further. Those are my reasons for opposing AM1613. Thank you, Mr. President.

**DORN:** Thank you, Senator Clements. Senator Conrad, you're recognized to speak. And this is your third time.

**CONRAD:** Very good. That's probably a good thing. Thank you, Mr. President. I just wanted to continue the dialogue. And I don't think we're probably going to come to any resolution today about these really critical issues, but we have to figure out how to keep talking about them and keep focused together, on how to enact some sort of smart justice reform this year and work as hard as we possibly can over the interim, and come back with as strong and meaningful plan as we can to continue the work in the 2024 session. Because I want to just note a couple of points and people of goodwill can have a legitimately different point of view on these issues, in terms of strategy or substance. But let's be clear about a couple of things. Even though we have made some strides to address staffing crisis, which again, has been under emergency-- an emergency declaration. An emergency declaration, friends. Think of the gravity of that. We still have and if you look at the OIG reports, we still have a significant crisis, when it comes to mental health providers and staff in the criminal justice system. We know, from a shocking report, just recently, that when you don't have appropriate staff in place that's appropriately trained, you can see excessive force being utilized against somebody with a severe mental illness, which probably equates, if not to a constitutional violation, to a human rights violation. We shouldn't isolate these reports and this data from this reality. And even if you somehow believed that we needed to do something in regards to capacity with bricks and mortar, how can you answer the questions without knowing the location? Where will this be at? How will we staff it? Who will we staff it with, if we already have a crisis in mental health staff? Is it going to be in Lincoln? Is it going to be in Omaha? Is it someplace in greater Nebraska? We don't even know those basic questions and we're writing a check for hundreds of millions of dollars. That's fiscally irresponsible and it's a dereliction of duty, in terms of our policy duties and obligations in this Legislature. We absolutely need to be willing to ask hard questions. We need to be able to unmoor ourselves from the tired rhetoric about being tough on crime or waging a war on drugs, because we know that that doesn't work. We know it costs the taxpayers, we know it does not improve outcomes and it does not advance our shared public safety goals. If you haven't read the data, if you haven't dug into the issues, if you haven't answered any of these critical questions, that's your prerogative, in terms of what resonates with your head and your heart when you decide how to cast your vote. But let me just ask you one

simple question. When every other state is closing prisons, why is Nebraska the only state moving in the different direction to open one, if not two, massive new prisons? That's all you need to ask yourself.

**DORN:** One minute.

**CONRAD:** And the answer is evident. We are out of alignment with modern thinking in regards to criminal justice policy, to our own detriment and not just from a political perspective. The lack of political will on these issues, every dollar eats into your ability to fund schools, to fund roads, to fund economic development, to fund higher education. When will it be enough? When is it enough? What does the budget line have to hit? If any other budget rose in the fast, sharp pace that corrections did, there would be massive hearings. There would be outcry. And here you sit, silent. Funding a massive new prison is not the way to go. And we need to address it, we need to have some thoughtful safeguards in place and we must continue the conversation, in regards to smart justice reform that saves dollars and--

**DORN:** Time.

**CONRAD:** --has better outcomes. Thank you, Mr. President.

**DORN:** Thank you, Senator Conrad. Senator Vargas, you're recognized to speak.

**VARGAS:** Thank you very much. I will yield the remainder of my time to Senator McKinney.

**DORN:** Senator McKinney, you're yielded 4:47.

**McKINNEY:** Thank you, Mr. President. I would like to pull this amendment.

**DORN:** So ordered. Mr. Clerk, for announcements.

**CLERK:** Mr. President, an amendment to be printed, Senator Wayne to be LB705. Next Amendment, AM1616 offered by Senator McDonnell, Mr. President.

**DORN:** Senator McDonnell, you're welcome to open on your amendment.

**McDONNELL:** Thank you, Mr. President. Good afternoon, colleagues. I rise today to offer AM1616. This amendment includes a small portion of my bill, LB644, which is also Senator Jacobson's personal priority

bill. The amendment has no fiscal impact and would simply place into statutory authority language for the state's existing Site and Building Development Fund. The language would allow broader usage of the fund to develop larger commercial and industrial sites. Specifically, it would allow the DED to use the fund for additional purposes, such as, such as identifying, evaluating, and developing a site. This amendment is also supported by the Governor's Office. Our goal with LB644 was to provide funding to create both a large multi-metro mega site and provide additional funding to the Site and Building Development Fund, which is currently housed in DED, for additional site work at smaller locations across our state. While the legislation-- while the Legislature will not be funding these sites this year, we wanted to broaden the use of the fund to allow any current available funding to be utilized in preparation for a, a longer study of the feasibility and of the need for additional sites across the state. We expect to collaborate with the administration and the new director of DED to evaluate both the importance of-- and, and the readiness of sites and the funding requirements they need to be successful. We can accomplish this with today's amendment because LB818 already opens up the section of the statute. We know that the, the, the success of any economic development project across the state first starts with the proper site and the necessary infrastructure with great access to transportation. Look at the Sustainable Beef project in North Platte or the Industrial Park in Grand Island or the new Port Authority in Fremont. All of these projects must have the right site in order to make it successful. The scale and scope of the site work necessitates state support and coordination, and these sites can truly be viewed as Nebraska sites. Nebraska must be ready to compete when these opportunities for major employment and investments come along. Being competitive in today's market means having the resources in place, the site controlled, the planning completed, infrastructure updated, and sites, sites and for-- and construction ready. We know that Nebraska is, is under invested and with sites we can take the first step today in improving our site across the, the state with an adoption of AM1616. I thank you for your consideration and please support AM1616. Thank you, Mr. President.

**DORN:** Thank you, Senator McDonnell. Senator Slama, you're recognized to speak.

**SLAMA:** Good afternoon, colleagues. I rise in support of Senator McDonnell's amendment. This represents a compromise that's been months in the making between Senator McDonnell and Senator Jacobson and I. It's a fantastic idea and it thinks big for the long term on super

site development. So I'm proud to stand in wholehearted support of this amendment and would encourage you all to vote yes.

**DORN:** Thank you, Senator Slama. Senator Arch, you're recognized to speak.

**ARCH:** Thank you, Mr. President. I just wanted to rise in support of this amendment. Last year, I actually brought a bill to committee that, that would fund this, this super site, this, this mega site. I think it's, I think it's very important. We know the history of this has been where we have missed some opportunities, where some large employers wanted to come but we weren't ready. Other states were ready. So this isn't, this isn't funding that mega site, it is simply, it is simply allowing for that in language and so I think it gives some flexibility. The dollars are there. It can be used for that. For that, I stand in support of AM1616.

**DORN:** Thank you, Senator Arch. Seeing no one else in the queue, Senator McDonnell, you're welcome to close. Senator McDonnell waives closing. The question before the body is the adoption of the amendment to the committee amendment to LB818. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, record.

**CLERK:** 27 ayes, 0 nays, Mr. President, on adoption of Senator McDonnell's amendment.

**DORN:** The, the amendment is adopted. Mr. Clerk, for more announcements.

**CLERK:** Mr. President, Senator Machaela Cavanaugh would move to amend with FA86, strike Section 1 on AM1172.

**DORN:** Senator, Senator Machaela Cavanaugh, you're recognized to open.

**M. CAVANAUGH:** Thank you, Mr. President. OK. Well, colleagues, a couple of things. First of all, I put up floor amendments this morning to have for when we get through all of the amendments and while we are waiting for Senator McKinney's amendments to come down from Bill Drafters we're going to have my floor amendments until that time happens. So that means I only have two times to speak and one-- and then my closing. So if people want to yield me time, that would be great. So there you go. In the meantime, since I have-- I always am trying to stay on topic as much as possible. I know people are dying to know what my favorite salad recipe is this week, but we have the budget so we'll talk about the budget. OK. So in the budget book, if

you go to page 74 of the Martian green budget book, Martian green, it's the '22-23 adjustments in all funds. So I'm just going to start there. There was a total of \$32.1 million of reduced General Fund appropriations included in the deficit adjustments. The recommendation also includes \$182 million of cash fund appropriations, \$6 million of federal fund appropriations, and \$4 million of revolving fund appropriations, which includes three capital construction projects for the Nebraska Educational Telecommunications Commission appropriated from the Nebraska Capital Construction Fund. And let's see here.

TEEOSA Aid, Revised Insurance Premium Tax: TEEOSA certified aid is paid first using the insurance premium tax earmarked for schools and then general funds for the remainder. When the budget is originally enacted, only an estimate of, an estimate of insurance premium tax is available. This adjustment reconciles the General Fund amounts based on the actual insurance tax amounts. In FY '22-23 insurance premium tax amounts were higher, allowing for \$4.1 million reduction in the General Fund amount.

Homestead Exemption: Total certificates for FY '22-23 reimbursements are \$119.5 million, which is lower than the current appropriation of \$121.3 million, requiring a reduction of \$1.8 million in appropriation in FY '22-23. Great, I guess.

DHHS Administration Costs: The committee included \$11,021,795 in general funds to support an updated contract with CyncHealth for the state's Health Information Exchange, HIE. It used to be NeHIE, like Nebraska Health Information Exchange. But anyways-- federal funding has decreased from 90 percent match to 75 percent match as work on the HIE has shifted from development to maintenance and operations. In addition to \$6,287,287 in general funds and \$698,587 in federal funds are needed in FY '23 for updated computers. This funding will replace 3,596 laptops. An additional agency issue for the upcoming biennium, technology hardware refresh, will fund renewal of 3,500 computers over the biennium. The source of funding for both the deficit request and the biennium issue is, is a corresponding decrease in appropriations from Program 347 Program [SIC] Assistance, which has a surplus of appropriated funds based on utilization trends. This transfer would result in the request having a net zero effect on the overall budget.

Also related to technology costs is \$10 million was requested to fund IT costs incurred during the biennium above initial projections for FY '23. This is attributed to increase in IT costs for both personnel and equipment as the pandemic has shifted operations to a more mobile workforce. The committee voted to appropriate \$1 million in general funds towards this purpose, the source of which is a \$1 million decrease in general funds from Program 347 Public Assistance. The committee recognizes that DHHS was appropriated-- that DHHS was



appropriated \$5 million in federal funds, ARPA, for FY '23 through the Military Department for the purpose of increased technology costs and voted to increase these appropriations by an, an additional \$4 million in federal funds, ARPA State Coronavirus [SIC] Fiscal Recovery Funds, which were not requested by the Department of Agriculture for-- pursuant to LB805, 2022, for a total of \$9 million federal funds through the Military Department, Agency 31 in FY '22-23. Finally, the committee has included \$5.5 million in general funds for the Wipro state claim to be paid by DHHS through Program 33, Administration, and offset the costs through a general fund reduction from Program 38, Behavioral Health Aid. Interesting, \$5.5 million in general funds for the Wipro state claim and it is offset by a general fund reduction to behavioral health aid. Curious what that's about. Maybe we should dig into that. If anybody is interested in educating me on what the Wipro \$5.5 million general funds state claim was and why it is offset by behavioral health aid, I would love to learn more. I am not sure who to ask, so I'm just putting it out there to the full Legislature. Wipro state claim to be paid by DHHS from Program 33 for \$5.5 million, offset the costs through general funds reduction in Program 38 Behavioral Health Aid. I am assuming that it has something to do with behavioral health, hence the offset in behavioral health aid, but I'd love to know more. Department of Correctional Services: The committee included funding for increased costs for the Department of Correctional Services for inmate per diem costs and salary expenses. Funding includes 12.8, I'm not sure, 12.8 what, \$12.8 million? It just says 12.8. \$12.80. Funding includes \$12-- oh, I think it's \$12.80 for inmate per diem costs, which have increased due to the rising costs of providing food and services to incarcerated individuals, including the costs of food, health services, electronic monitoring, and other expenses. In addition, the committee included \$12.1 million for costs related to salaries of employees, which is related to salary increases negotiated in 2021 for certain state employees at 24/7 facilities. Funding was provided in the 2022 mid-biennium adjustments based on occupied positions at the time, but as more positions within the agency have been filled, vacancy savings utilized by the department to pay employees higher wages are no longer available and additional funding is required to continue paying the higher bargained wages, so. State Colleges: The adjustments include three deficit items for the following general fund operating expenses: (1) adjunct pay for \$423,515--

**DORN:** One minute.

**M. CAVANAUGH:** --thank you, Mr. President-- (2) insurance for \$176,078; and (3) general inflation for \$735,604. During the 2022-23 academic year, the state colleges instituted a pay raise for adjunct faculty, whom are relied on heavily to meet course scheduling requirements in cost-efficient ways. The raises were needed to retain quality adjunct staffing by bringing their pay more in line with that of peer institutions. From FY '22-23, the insurance premium increase was \$383-- \$383,122 or 33 percent increase. Of this amount, an estimated \$89,658 was related to the auxiliary system making the FY '23 deficit request--

**DORN:** Time.

**M. CAVANAUGH:** Thank you.

**DORN:** And you're next in the queue, so you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. And I will get back in the queue and I know that this next time that I'm in the queue will be my last time so, again, if anybody wants to yield me time I will happily take it. OK, here we go. I was on State Colleges and adjunct professor pay. Of this amount, an estimated \$89,658 was related to the auxiliary system, making the FY '23 deficit request a net \$293,464. The agency's request to address the impact of inflation on the operating expenses represents a 5 percent increase to operating expenses other than salaries, benefits, health, DAS billings, and insurance. The committee approved funding of 60 percent of the deficit requests for insurance and general inflationary increases. I might have said inflammatory last time. If I did, I apologize, it was inflationary. I have noticed it's a little bit quieter in here right now. So in reading this, it, it reminded me there was a couple of years ago an article about adjunct professors and the overreliance on adjunct professors in our higher education institutions. And by overreliance, I mean that it-- instead of hiring somebody on as a professor, they were being hired on as an adjunct professor instead of, like, hiring somebody who maybe works full time. Let's say, for example, Senator Conrad, who's an attorney, might also-- and a state senator, might also be hired on to be an adjunct professor in some capacity, not looking to do it as a full-time gig because Senator Conrad is an attorney and a state senator. So just doing it as an adjunct professor, that's an appropriate use of an adjunct professor. What we were seeing and probably are still seeing is a heavily reliance on what would normally be a full-time professor being hired on as an adjunct professor to save money. I just recall that from a couple of years ago and that

there was a move to, to decrease adjunct professor employment and increase full professor employment. So just a side note. When you read the budget, sometimes things just pop out at you. I did have somebody ask me, I had lots of people ask me, actually, like, when you're talking on the microphone, how do you come up with things to talk about? I said, well, I try to stick to the topic at hand as much as possible. So the budget, I'm reading the budget, but also this is probably somebody can do some sort of psychoanalysis of, of me in that I oftentimes just go on a, a journey of free association conversation. So I read something about an adjunct professor, I start talking about a thought I had on adjunct professors, and that's just kind of how it goes some days. If I don't have anything specific to say, it's just going to be a journey into how my mind works. All right. Affordable Housing Trust Fund: Ooh, I think there's a lot to say on this, but I am not the most well versed on the Affordable Housing Trust Fund and affordable housing issues. I know that we have a housing crisis in Nebraska. And what do I mean by housing crisis? A couple of things. One, we have a lack of affordable housing. Two, we have a lack of housing. We do not have enough housing and we do not have enough affordable housing. So it is more than just one of those issues. Even if you could afford the housing, we don't have enough housing and we definitely don't have housing that people can afford.

**DORN:** One minute.

**M. CAVANAUGH:** So that all plays into-- thank you, Mr. President-- that it all plays into workforce issues. There you go. So the Affordable Housing Trust Fund: An increase of \$10 million in cash funds for the remainder of the fiscal year to award additional contracts through the state's Affordable Housing Trust Fund program. The Affordable Housing Trust Fund was created in 1996 with it resembling, resembling-- I don't know why that was a hard word for me-- with it resembling its current form through LB864 in 1997. It receives 95 cents for each \$1,000 value or fraction thereof on grantors executing deeds, referred to as the documentary stamp tax. Due to a higher than anticipated increase in real estate activity, the fund balance has exceeded forecasts. In order to issue more housing contracts--

**DORN:** Time.

**M. CAVANAUGH:** Thank you.

**DORN:** Thank you, Senator Machaela Cavanaugh. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. I yield the time-- my time to Senator Machaela Cavanaugh.

**DORN:** Senator Cavanaugh, you're yielded 4:54.

**M. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator McKinney. It feels like a symbiotic relationship today on yielding time. So affordable housing, due to the higher than anticipated increase in real estate activity, the fund balance has exceeded forecasts. In order to issue more housing contracts, the Appropriations Committee approved the department's deficit request to expend an additional \$10 million of its cash fund balance. All right. And the Appropriations Committee approved the department's deficit request to expend-- what does that mean, to expend? An increase of \$10,000-- or \$10 million in cash funds for the remainder of the fiscal year was awarded-- was to award additional contracts through the state's-- OK. I think I figured it out. All right, moving on. Site and Building Development Fund: The Department of Economic Development requested \$4 million in additional cash fund authority for the Site and Building Development-- Economic-- Development Fund in order to fully expend the balance and enter contracts for more projects. The Site and Development Fund was established in 2011 to finance loans, grants, subsidies, credit enhancement, and other financial assistance for industrial site and building development and for expenses of the department as appropriated by the Legislature. Money for the, for the fund comes from loan repayments and transfers from the Legislature. Universal Service Fund: What? I love this one. Let's talk about this. USF, USF. OK, \$10 million of additional aid funding is included to address greater demand from the Universal Service-- Services [SIC] Fund. In addition to-- in addition, the PSC, or Public Service Commission, has updated the parameters for aid distribution. Projects must be completed within two years in order to receive aid. This shift in timeline will result in more aid being distributed sooner. Interesting, sort of, I guess, grammatical style thing. So reading the budget, no surprise, you read a lot of numbers. A lot of numbers. And I had previously, when talking about affordable housing, read an increase of \$10 million. OK. And it is written out as \$10,000,000. Here, Universal Service Fund starts with \$10 million. It is written out t-e-n m-i-l-l-i-o-n. Why? Because when a number starts a sentence, you don't put the actual number, you write out the number. Oh, I can stop talking? Is that what I'm getting signaled? Colleagues, if you are in the queue, perhaps get out of the queue. I have another time on the-- I have another time so I'll just talk until I see-- about grammar. We could go back to the serial comma. I have so much to say

about the serial comma/Oxford comma, aka Oxford comma. But when you have a-- when you have a sentence starting with a number, you do not put the actual number, you write out the word. So on page 75, we have an example of this under Affordable Housing Trust Fund, we have \$10,000,000 as the actual number written out--

**DORN:** One minute.

**M. CAVANAUGH:** --then we have ten million as the words written out. Just an interesting little tidbit there for you. I think I've talked about this before. Well, you know what? I'm going to yield my time and go to my next time.

**DORN:** Thank you, Senator Machaela Cavanaugh, and you are next in the queue to speak.

**M. CAVANAUGH:** Thank you, Mr. President. OK. I wanted to go to my next time because I keep forgetting to say this, colleagues: May the 4th be with you. Happy May 4, everybody. And happy birthday to my family member, not my spouse, a different member, Nick. Happy birthday to Nick, and May the 4th be with you. OK, so there was something else about May 4 that I was going to say and I totally forgot what it is. Great thing about that is, though, I have like four more hours to talk about it. So I know, right? So I'll come back to it. I think later this evening we're going to see something from one of our colleagues who is an avid Star Wars fan. I do think it's actually appropriate that we are debating the budget on May 4 because we do have the STAR WARS in the budget, the water project. So, May the 4th be with you. I am curious if we are prepared to move on to the next item. Yes, we are. OK. Well, with that, colleagues, I am going to withdraw FA86. Thank you so much.

**DORN:** The amendment is withdrawn. Mr. Clerk, for items.

**CLERK:** Mr. President, next amendment concerning LB818, Senator McKinney would move to amend with AM1633.

**DORN:** Senator McKinney, you're recognized to open.

**McKINNEY:** Thank you, Mr. President. AM633 [SIC--AM1633] is an amendment which took the language, some language that was in AM613 [SIC--AM1613] out so in AM633 [SIC--AM1633] it states, "any money transferred from the Cash Reserve Fund to the Prison Overcrowding Contingency Fund shall be transferred to the Nebraska Capital Construction Fund contingent on (a) completion of a classification

study regarding correctional facilities in the state, (b) completion of a study of programming fidelity, including, but not limited to, what is working, what is not working and the reasons for such failure, and what needs to be done to improve programming regarding correctional facilities in the state, and (c) completion of a study of staff needs in correctional facilities and mental health services in correctional facilities in the state." And then once this is all completed, the state shall transfer \$70 million from the Cash Reserve right now to the-- from the Cash Reserve to the Prison Overcrowding Contingency Fund on or after July 1, 2023. And that's it. And I brought this and I'm trying my best to act in good faith and understand when to hold and fold and try to, you know, be a good steward within the body and try to reach compromises when you can't reach a compromise. And I think this was a compromise that took out the language that would say demolish the Nebraska State Penitentiary. I personally do believe that if we're going to build another prison it should be demolished. And people might disagree with me, but we don't have to argue about that because I'm going to tell my constituents I didn't support building a new prison and I thought the Nebraska State Penitentiary should have been demolished. And we'll leave it there. But it's important that, you know, we at least get studies and things done, but also that we hold agencies accountable for what we tell them to do. Agencies do not make the law. Agencies, agencies should follow the law. They should do things that we tell them to do, but it's been a prevalent problem since I've been in this body. And it's not just ND-- NDCS, it's not just one entity, it's, it's others as well. But if we stop holding agencies accountable and allow them not to do what we tell them to do, it could be a snowball effect. And they'll just, you know, say, oh, Senator Holdcroft passed a law to tell NDEE to do something, but NDEE doesn't want to do it. Senator Lowe passes a law to tell Game and Parks to do something, but they choose not to do it. That's what can happen if we set a precedence of allowing them not to do what we told them to do, which is why I think everybody should vote for this amendment and ensure that we hold agencies accountable now and going forward to ensure that they listen to the Legislature and follow the law and do the things we tell them to do, especially when they come to the body and request \$300-plus million to build a prison because they argued that the old one needed to be closed but now we're going to leave it open. But anyway, that's why I think this is important and I really, truly believe everyone should vote green on this. This is not a hostile amendment. This is an amendment about accountability and doing the right thing if we're going to spend that much money on a prison. Thank you.

**DORN:** Thank you, Senator McKinney. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President. I'd yield my time to Senator McKinney if he so desires.

**DORN:** Senator McKinney, you're yielded 4:55.

**McKINNEY:** Oh, thank you, Senator Conrad. And thank you, Mr. President. When I was up earlier, I was talking about I had data on what was being discussed in the subgroups with, you know, the CJI task force, which is very interesting. Nebraska key data findings for property offenses, 58 percent of prison admissions for property crimes had no previous NDCS history. More than one-third of property offenses are Class IVs. Burglary is the leading property offense by admission and a note, the penalty for burglary was increased from a Class III felony to a Class IIA felony by LB605 in 2015. While the felony theft threshold in Nebraska is set at \$1,500, nearly 30 percent of prison admissions for theft in 2020 were for felony shoplifting with no minimal amount. Drug offenses. Time served for possession with intent to distribute is up 42 percent. The punishment for possession with intent to distribute without a threshold was increased by LB605 in 2015, 62 percent of prison admissions for drug crimes had no previous NDCS history. More than half of drug offenses resulting in prison sentences are Class IVs, 90 percent of possession with intent to deliver cases had no accompanying weapon charges. In 2020, the median time served for drug possession was nine months. Some more data-- hold on. Sorry. Some other key findings, and this is based on parole and things like that. Nebraska's medical parole allows for individuals determined to be terminally ill or permanently incap-- incap-- incap-- I'm getting this messed up-- incapacitated [SIC] for parole, except for those serving a sentence of death or life in prison. Individuals are identified as eligible for medical parole by NDCS based upon their medical records. The Board of Parole is responsible for medical parole decisions. In 2015, Nebraska spent an average of \$8,582 per incarcerated individual on prison healthcare, a 13 percent increase from 2010. In 2015, 10 percent of Nebraska's population was people 55 or more years old and an increase of 63.5 percent from 2010. And our prisons are only going to keep aging because we've overincarcerated people, which means a lot of people are serving lengthy sentences. So we're going to be spending a lot of money on taking care of an old prison population. FYI. But Nebraska does-- but Nebraska does not currently have a geriatric parole option. And actually, in the, in the task force and in discussions, geriatric parole has been somewhat and

conceptually agreed with by everybody that, yeah, we should probably have a geriatric parole mechanism. Who would qualify, who doesn't qualify is kind of what we've been going back and forth on but generally, everybody understands that--

**DORN:** One minute.

**McKINNEY:** --we should have a form of geriatric parole in the state of Nebraska. People differ on, differ on what age that individual should be or shouldn't be, how long had they served prior to being eligible, and those type of things. But those are things we could work out if we had real discussions and substantive, substantive debates and good faith conversations around what is being proposed. But if you only listen to the fearmongering, you'll think we're just trying to go down to NSP and Tecumseh and everywhere else and just open the doors and say everybody is let out. That's never been discussed. So I encourage you to-- if you want this information, I'll bring it to you and give it to you, I'll print it out. Thank you.

**DORN:** Thank you, Senator McKinney. Senator Hansen, you're recognized to speak.

**HANSEN:** Thank you, Mr. President. I'm listening to debate on AM1633, appreciate Senator McKinney's passion for this subject. I don't blame him for talking about it and doing everything he can. Senator Machaela Cavanaugh brought up it's May 4 and it has to do with Star Wars. And I was having a good discussion with my friend Senator Bostelman about this and I know him and I both agree, I think, our favorite character in there is the guy with the pointy ears, Mr. Spock. And so we're-- he's very passionate about Star Wars and so just thought I would put that out there and I appreciate everybody, hope everybody has a happy May 4. And so with that, I will yield the rest of my time to Senator Machaela Cavanaugh.

**DORN:** Senator Machaela Cavanaugh, you're yielded 4:13.

**M. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator Hansen. Would you yield to a question, Senator Hansen?

**DORN:** Senator Hansen, would you yield to a question?

**HANSEN:** Yes.

**M. CAVANAUGH:** I'm sorry. I missed what you said. Why did you yield me the time? You wanted more grammar lessons?



**HANSEN:** No, we were talking about-- you were talking about May the 4th and I was agreeing with you about, about the subject and we were having some discussions off the side about, about Star Wars.

**M. CAVANAUGH:** Yeah.

**HANSEN:** And, yeah, it was, it was pretty good.

**M. CAVANAUGH:** Can I ask you a followup question?

**HANSEN:** Sure.

**M. CAVANAUGH:** Do you watch The Mandalorian?

**HANSEN:** No, I'm not a big Disney fan, so I don't watch anything Disney.

**M. CAVANAUGH:** Whoa, you just blew my mind.

**HANSEN:** Yep.

**M. CAVANAUGH:** Wow. I, I think we may have stirred up a controversy with that answer.

**HANSEN:** Yeah.

**M. CAVANAUGH:** I get it. I get it. I get, I get the Disney stance but you maybe want to-- might want to reconsider for The Mandalorian.

**HANSEN:** Yep. And I think Star Wars, another good character that I like, I think he's one of Luke Skywalker's friends, Hagrid. I think he's in there and I think him and eventually Mr. Spock become friends and-- but I can't remember for sure.

**M. CAVANAUGH:** I think you're going to need an escort to your car tonight.

**HANSEN:** It's not the first time this year, Senator Cavanaugh.

**M. CAVANAUGH:** But it might be the most dangerous time this time. You've really stirred a pot there with those cross-references, even I know that, and I say "sportsballs."

**HANSEN:** Yep.

**M. CAVANAUGH:** Well, thank you for the time, Senator Hansen. I, I did mention that one of our colleagues might be bringing up something Star Wars related later, and I think you're about to go right sit by them. So I didn't-- I wanted to ask earlier about what socks that Senator Bostelman might be wearing today, but hopefully he'll, he'll illuminate that for us later. I know that he has-- or maybe I'm getting Senator-- no, I'm getting you confused with Senator Lindstrom always had Star Wars socks. That is right, Senator Lindstrom. I'm sure former Senator Lindstrom is, is watching this budget debate with, you know, all the interest he possibly could have as a former member. So if you are watching, Senator Lindstrom, May the 4th be with you. I hope you are enjoying your Star Wars socks. And thank you, Senator Hansen, for the time, if not for the controversy of the cross-pollination of Star Wars and Star Trek, a, a major, major faux pas in pop culture. But, you know, that's where we're at, I guess. I, I do have more to say about Senator McKinney's amendment, but I think I will, I will conclude this time on the microphone with this delightful conversation about Star Wars and Star Trek, and I will talk about Senator McKinney's amendment the next time I have time. So thank you.

**DORN:** Thank you, Senator Machaela Cavanaugh and Senator Hansen. Senator Wishart, you're recognized to speak. Senator McKinney, you are next in the queue and recognized to speak.

**McKINNEY:** Me? Oh, sorry. Oh, that happened-- I thought somebody else was up, but all right, keep going on information. So some other key findings from the reentry planning subgroup. In Nebraska, 31 percent of individuals released from prison in 2017 returned to prison within three years, up from 26 percent of those released in 2008. While there have been large shifts in release types with parole and PRS that come from a majority of releases, 27 percent of individuals leaving, leaving prison are released at expiration of sentence. And let me be clear what that means: 27 percent of individuals leaving prison are jamming out. And let's provide some context. So if by 2030 nothing changes and it stays at about 27 percent, there will be almost 7,000 people in our prisons. But of that 7, 7-- 7,000 people, 2,100 of those individuals would just jam out. Do you all want that to happen? That means jam out with no programming. Nothing. That is what I'm trying to get you all to understand. And by the people who are opposing LB50, if we don't do changes, potentially 2,100 people are just going to walk out of prison with no programming, no parole, and no probation. I need you all to understand that. That's what we're trying to address. That's why you can't just be a no. That's why you can't just listen to

people outside the glass. We have to dig into these numbers and put clarity into it. That's what we've been trying to tell you all. We're not just talking about these changes because we had wild ideas when we went to sleep at night. This stuff has been studied. Somebody stand up and tell me by 2030 if we have 7,000 people in prison that you want 2,100 people to just jam out. No parole, no probation, no programming. Just think about that when you keep telling us no and we can't budge and we can't listen to you because the county attorney said so. You're, you're, you're-- that's what I'm just trying to get you all to understand. The Nebraska statute requires reentry, reentry specialists from NDCS to develop a reentry plan for individuals in NDCS custody who will be released. Criteria for reentry plan are outlined in NDCS policy. NDCS staff submit the reentry plan to the parole administration, where the plan is investigated and accepted or denied. The reentry plan is supposed to be focused on securing housing, behavioral medical health, education and employment, family and social support, and hobbies and transportation. But if you go talk to individuals who have talked to reentry specialists, some met the reentry specialists two weeks before they were released. That is a problem. How are they going to find housing, transportation, meet medical needs, and all those type of things in two weeks? Dig into the data. The suggestions aren't far-fetched and they need to be addressed. But if you don't dig into the data--

**DORN:** One minute.

**McKINNEY:** --and only listen to people telling you what to do, we're not going to make sound decisions. Thank you.

**DORN:** Thank you, Senator McKinney. Senator Wayne, you're recognized to speak.

**WAYNE:** Thank you, Mr. President. OK, colleagues, we're going to back up a little bit, and I'm going to talk a little bit about criminal justice and what jamming out means, because maybe people don't know. So and LB605 was passed in 2015 or so, we have different classes of felonies. We have Class I, which is typically what you'll hear for murder. But then we have IBs, IAs, and a couple other things. Then we have Class IIs, we have Class IIIs and Class IVs. Class IVs, there is a presumption of probation. So, yes, you can be convicted of a felony and actually never serve a day in prison or in jail. So what we said in Class IIs-- or Class IIIs and IVs, initially we said in order for you to transition out you have to have what's called post-supervised release. Well, then we found out people who were being denied going to

jail on Class IVs, they were getting one day in jail and put on post-supervised release immediately because they weren't really a candidate for jail, but the judge didn't want them to have two days-- two years probation plus 18 months post-supervised release. They felt it was too long. So you literally had people who were booked for one day, they would do a day in jail and then they would have post-supervised release. While really-- again, nobody's really paying attention so they will have to read this one day on the transcript, but what we're seeing now are the people who are jamming out. What that means is if you serve, let's say you get a sentence of ten years, we'll keep it simple, you do good time, you get five years-- you'll get out in five years. So you have a sentence of ten, you, you jam out in five. What that means is that is the last day that you are done with your sentence. They, they wake you up in the morning and you call your friends or whoever to come get you and you, you actually leave. No programming, nothing, you jam out. Well, what we're finding out now is the people who are jamming out are Class IIs-- really, mainly Class IIs, but a couple Class Is. So you put that in perspective, the people who are not transitioning out are our most violent and arguably more dangerous individuals because they got charged with a higher felony. They usually involve guns, significant drugs, and actually-- and this might catch people to look at me who are, who are maybe not listening, people who commit sexual assault are jamming out. No transition. That's just the fact. And last year we had 800 people jam out, 300 in Douglas County. And maybe what I'll start doing is naming out counties and calling the senator for a question and say, do you know that there's this many people who jammed out last year who are back in your county that had no services when they got out, no transition? They were just told to get out. Then I'm going to ask you, so I'm giving everybody a forewarning, I'm going to do this, then I'm going to ask you if you think that's the best thing for that individual and if it is a good safety thing for your community to just release somebody with no protections, no-- nobody making sure they're, they're getting-- they have a job, nobody making sure they're staying off of drugs, we just let them back out? And I'm going to ask you, in your district, when I say there were 12 people who went back to Kearney, Senator Lowe, do you think that's a good thing for Kearney to just have people jam out and go back to your community with no supervision? And we're going to do that for each county because there's 96 of them. So we're going to do that because pretty much every county last year had somebody jam out. We got till, I think, 7:00 today so I think I can get through everybody with that number and ask you if you think it's a good thing? So if you don't think it's a good thing, then what

are we doing to solve that problem? What are we going to do to make sure that they're either on parole or there is some kind of supervision at the end to make sure that the last couple of years of their sentences they are in some kind of--

**DORN:** One minute.

**WAYNE:** --transition home, they are somewhere, have a job that they're having services. And I'll ask Senator Halloran to tell his story about serving on the Bristol Station board, which is a transitional housing for transition for at the federal level. Bristol Station is one of our diamonds that we, we look at to how to do transitional living and reentry. So don't tell me that this is some liberal conspiracy or we can't do it because Senator Halloran, who's one of the most conservative people in this body, served on the board for years and can speak praises and sings praises of why that is such a good program. But, yet, we don't have that in the state of Nebraska. So I guess we'll spend some time talking about that and why we need to not just build a prison, but we need to talk about both things. And I'll get back on the mic and talk specifically about this amendment here and why \$70 million is not an actual expenditure. And I'll explain it again why it's not an expenditure and it doesn't hit our budget at all and I'm going to ask Senator Clements if he's around to answer the question that I just asked isn't an expenditure.

**DORN:** Time.

**WAYNE:** Thank you, Mr. President.

**DORN:** Thank you, Senator Wayne. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. Well, Senator Wayne, I'll save you asking me. I think that we do need to put more effort into transitional services and I would support doing that. And I think people who have spent a long time in prison, who have committed serious offenses, need to have a step down in custody and then a transition back into regular life to increase the likelihood of their success and to decrease the likelihood of their "reoffense" for the safety of our communities. So that's my position. I rise in support of Senator McKinney's amendment, AM1633. I was reading the part that Senator Wayne just alluded to, which is the \$70 million transfer of funds for the prison overcrowding program. And I just pulled up on the Department of Corrections website trying to figure out what they've

been doing with it. So we appropriated \$15 million, \$5 million a year in 2021, and they have a request for proposals for-- out for transitional housing services and associate-- transitional housing and associated services. And so we have, you know, I read the numbers earlier of people being released, released to parole, about 65 in the last October; people who came out on flat sentences, 46 last October; mandatorily discharged, 31 last October; who were released to post-release supervision, 43. So you add all those up, you have basically 170 folks getting out every month that need a place to go. As Senator Wayne just said, people wake up in the morning and by the end of the day they're out of the Penitentiary and they don't have a job. They don't have necessarily stable housing. And if they did have a place to go it may be back to living with people who, you know, were in their previous lifestyle of either drugs and other types of crime and so transitional housing is a really important part of that. It's about-- if you, if you view the prison system in-- as a rehabilitation, which we should, especially when people are getting released, that we need to build on the progress of the programming in the prison and get people into transitional housing when they come out so that they still have the opportunity to build on whatever skills they learned in their classes and their programming and to have an opportunity to step down into a, you know, more stable situation so to get those benefits. Again, I would support Senator McKinney's amendment. Additionally, on the other point, which is that we need the classification study before we go forward. So I can continue my conversation about what I was talking about on the last time I was on the mic which is the-- I went through all those lists of folks and when they, they-- the ones who were being released and that, of course, 90 percent of people are going to return to society. And one of the things aside from transitional housing when people get out is community-based corrections. So we have a couple of community-based corrections facilities. We have one in Omaha, we have one in Lincoln that our people can go there. They live. Let's see, we have Community Corrections-Omaha, Community Corrections-Lincoln. And then I think there's the other, and maybe NCCW, maybe the women's correctional facility. But those people who are at that facility, some of them are on work release. They leave the facility and go to a job in the community. Some people, they get passes, weekend passes, they can either get passes to go to the movies or get passes to go to an AA or an NA meeting off campus, they can get passes to go to church with their family on the weekend. So they get to get some part of that sort of stability back in their life that transitions them slowly from being locked up and separated from the world. And they get to ease

into that so when they are ultimately released, they don't just-- it's not just one day you're in a, a locked room, small room, and the next day you're back out in society. You've had months where you were deprived of your freedom for times and that--then you were able to, through good behavior and program-- accomplishing programming and doing all the things we're asking people to do, you get privileges, which are those passes and getting to go to work. And if you show-- demonstrate success, you build on that success and then you get to keep going and become--

**DORN:** Time.

**J. CAVANAUGH:** Thank you, Mr. President. I didn't get my minute. Thank you, Mr. President.

**DORN:** Thank you, Senator John Cavanaugh. Senator Ibach, you're recognized to speak.

**IBACH:** Thank you very much, Mr. President. I would just speak to Senator McKinney's comments earlier when he was mentioning some of the different lingo that we use in Judiciary, programming, jamming out, transitional housing. Those are all issues that as a freshman senator, I-- and a new, a new face on Judiciary, was not familiar with a lot of these terms. And so Senator McKinney, Senator Wayne, Senator DeBoer, they have a lot of, of thoughtful processes that they go through to try and help the freshmen on this committee work through some of the processes and learn some of these wordages that we use and I just would say thank you and I appreciate your assistance and your patience in getting through some of those initial experiences. Anyway, I was looking at the amendment and I noticed on the second page it says: The State Treasurer shall transfer \$70 million from the Cash Reserve Fund to the Prison Overcrowding Contingency Fund this year. And I would just note because of that language in the amendment that those funds have not been allocated to transfer over to that. And so as much as I would appreciate the, the study on this, I won't be supporting it just because I know those funds have not been transferred. But anyway with that, I will yield my time back. Thank you.

**KELLY:** Thank you, Senator Ibach. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. Colleagues, I do rise again in support of this amendment, AM1633. I really appreciate the conversation that we've been able to have here, both with Senator

McKinney's amendment previously as well as the one that's before us right now. Specifically, I also think it's important that we take a step back, as Senator Wayne did, and kind of talk a little bit about what exactly we're talking about here with regards to the process and procedure. And I think it's important that we start to define some of the terms that we're talking about. I know that a lot of times, and Senator Ibach just kind of referred to this, people who are involved in these conversations, I think, can sometimes use some confusing terms, acronyms. We talk about things like probation, parole, post-release supervision, and we start to kind of conflate those. But I, I do think it's important that we kind of define what it is we're talking about. And so when we're talking about these reentry services, you know, what we're actually discussing, and I think others have highlighted this but I just want to make sure it's as clear as possible, we're talking about the services that folks who have the opportunity to be released while they're serving a sentence can benefit from. And what I mean by that is exactly as we were discussing earlier with parole. So sentencing calculations can get confusing. But basically, if you were sentenced to five to ten years, that's the way that your sentence is articulated. So you go before a judge and they say your sentence is five to ten years. And what that means is that at half of that first number, so half of five years, you are parole eligible. So starting then at two and a half years, essentially, assuming you don't lose good time or anything like that, you're parole eligible. And then half of your top number, that ten is when you jam out and that's exactly what Senator Wayne was talking about. And so sentences need to be crafted in such a way that permit people to actually benefit from these kind of services in the first place. And that was one of the findings, I believe, of the CJI study that was done was that we need to make sure that we're not crafting sentences in a way that deprive people the opportunity to actually benefit from reentry services. One of the other points that I wanted to make as well is that when we, when we put people back in the community we need to be as a state, I think, focusing on actual rehabilitation and ways that we can benefit those folks instead of treating that supervision as punitive. One thing that you've probably heard us talk about quite a bit here is post-release supervision. I'm not going to go into all the history of that, but post-release supervision is exactly what Senator Wayne was describing, where it's a part of your sentence. Right? So if you're sentenced, let's say, in a Class IV felony and you receive, you know, let's say you get a year on that Class IV felony, they can also sentence you up to 12 months of post-release supervision. So let's say, let's say you get 12 months of post-release



supervision. So when you're done serving your sentence, you then have a period of time that you are supervised in the community on post-release supervision. I believe that this Legislature truly did intend post-release supervision to be a service that helped people reintegrate into society. From speaking with folks who were here when that was passed, my understanding is it was data driven and they looked at the notion of integration. What we've seen in practice, however, at least in my personal experience, is that post-release supervision becomes more punitive in nature than it does focused on integration and actual reentry into society. And what I mean by that is there's less of a focus, it feels like, on helping the person who's on post-release supervision sometimes as opposed to maybe holding them to account and making them jump through hoops that ultimately then results in them being placed back into custody. Now the reason I bring this up is not to bash post-release supervision necessarily, I know we have a number of really well-intentioned folks who are working really hard on PRS or post-release supervision to make it the best it can be, but it's that we have to look at the data and look at whether or not things are working--

**KELLY:** One minute.

**DUNGAN:** --thank you, Mr. President-- look at things are-- how things are working and then maybe reassess our situation moving forward. And what I think is so thoughtful about Senator McKinney's amendment here is it's attempting to correct a course or at least make a course based on data and information. And so, you know, no matter how well-intentioned something is, if we look at the numbers and if we look at the data and, for example, the fidelity to programming or the benefit of that programming, and we determine that what we're doing is not benefiting our state and it's not economically viable and it's not making us a safer community, then I think we need to deviate from that plan and do something different. So I really appreciate the adherence to, to the data. I really appreciate the adherence here or the attempt to adhere to the facts. And I really hope that my colleagues will look at this and understand that what we're trying to do here is make decisions based on what is actually working and what's not. It's not intended to be obstructionist. It's intended to help us as a state. Thank you, Mr. President.

**KELLY:** Thank you, Senator Dungan. Senator Dover has some guests in the north balcony, 31 fourth graders from Battle Creek Elementary. Please stand and be recognized by your Nebraska Legislature. Senator Conrad, you're recognized to speak.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate May 4, 2023

**CONRAD:** Thank you, Mr. President, and I'd be happy to yield my time to Senator Wayne if he so desires.

**KELLY:** Senator Wayne, you have 4:50.

**WAYNE:** Thank you, Mr. President. Will Senator Clements yield to a question?

**KELLY:** Senator Clements, would you yield to a question?

**CLEMENTS:** Yes.

**WAYNE:** This is kind of like Ebony and Ivory, we're going to go back and forth here. Just go like this. So I don't-- if people are against this amendment, I'm OK with it, but I at least one has to be against the amendment based off of facts. So we just got done talking to Fiscal and, and, and Senator Clements was there. The \$70 million, is the \$70 million a new expenditure?

**CLEMENTS:** No.

**WAYNE:** We're taking the \$95 million that's originally being transferred from cash to the Capital Construction Fund for the prison, we're reducing that by \$70 million, putting that \$70 million into a contingency fund, and upon the conditions of the things laid out it will automatically be transferred to the Capital Construction Fund. But it's not new money, I just want to make sure people understand that.

**CLEMENTS:** It does transfer part of the \$95 million to a contingency fund. It does not automatically transfer it back. We would have to do that in the future.

**WAYNE:** Thank you. Thank you for this duet. For those who are just going to read the transcript, you will not understand the funny thing that just took place on Ebony and Ivory. So I apologize you didn't get to see this. So thank you, Senator Clements. I just wanted people, like, when we talk about, again, amendments on the budget, let's just back up, are very complicated, so complicated that sometimes you actually leave off money you have to come back and fix it. That's how complicated it is, because you're dealing with three different budgets, three different bills, and they all got to be connected together and they all do something else. And so when you read this little bitty amendment, you see \$70 million and you think that's \$70 new million coming out of cash. It's not. It's \$70 new million-- it's

\$70 same million that was going into one fund. And instead of going into the construction of a new prison, Senator McKinney is saying, wait, Legislature, we've already did this before. We said let's not do this until these studies are done. So we'll put it in a contingency fund. And then once those studies are done, it's going to automatically be transferred over or it will be transferred over once we see it. That's what it does. It's not new money. So you can be against the idea and say, hey, we got to go ahead and build this prison. But if it's, if it's the money part that you're against it for, it's not new money. So you can be against it but I hope, I hope one thing you learned is that even as my seventh year, I walked in today and I said I forgot how to read the green paper. And so I had to go back over and say walk me through the green. It's OK. If, if you've got a question on an amendment or a bill that's why all of them are sitting over here, because when it comes to the budget you're talking about, one, it's our, I think, it's our moral document, two, it's constitutionally required. And it is the most complicated piece of legislation because it's more than just one bill. It's a combination of many times three bills for sure, sometimes four or five. So our A bills get complicated. It's really hard. So that's how this bill works. And you just heard it from Appropriations Chair, it's not new money, it's just moving the money and saying, no, we need this information before we move the Final. Now, last thing I'm going to say about this, there's already enough money in this fund to start the construction acquisition and, and planning. This is only the last \$70 million of the biennium. So we're saying you can still start, this is why I said McKinney's being nicer than I would be, he's saying you can already start doing what you're doing because there's already money in there, we transferred it before, this is the last \$95 million transfer and it's not even \$90 he's only moving \$70.

**KELLY:** One minute.

**WAYNE:** This isn't going to slow the construction down, but I think it's important as they design and plan, we have some kind of say in this process. That's what we do. That is our job. That's why we said before you turn dirt, before you do this, do the study. Didn't happen. Now Senator McKinney is saying, well, ball is kind of already rolling, at least get us this information before you complete the dang prison. I don't think that's unheard of. I think that's reasonable. I would ask for you to support AM1633. Thank you. Thank you, Senator Conrad. Thank you, Senator Clements. And thank you, Lieutenant Governor.

**KELLY:** Thank you, Senator Wayne. Senator Wishart, you're recognized to speak.

**WISHART:** Thank you, Mr. President. I have been working on this amendment behind the scenes and didn't want to miss another opportunity to speak on this. Look, I completely understand where Senator McKinney and Senator Wayne and other members of this body get their frustration from because of the years of inability to pass smart on crime approaches to criminal justice reform. And we're sitting here with the clock ticking this session and we have an opportunity to pass a piece of legislation that is the product of years of work of not only this Nebraska Legislature, but national research institutes that are specialized in helping states figure out ways to reduce their incarceration rates in a safe way that actually makes their communities even safer. And I wish some of you had been here last year when we had the debate on criminal justice reform and we saw the CJI study and we looked, for example, at a state that I would consider pretty similar to Nebraska, in Utah. They were facing the need to build a new replacement to their aging facility and they had CJI come in and they worked on smart on crime approaches and a criminal justice package and they saved their state \$500 million by not having to spend additional dollars on a, on a larger facility. I mean, colleagues, that's what we could be doing here. Look, I, I'm in a fairly unique situation in the sense that I have held off for years as a member of Appropriations Committee on funding a replacement to NSP. But I am one of the senators that recognizes, wearing my Appropriations hat, that there comes to a point where we either need to spend \$220 million rehabilitating NSP, which is a choice by the way, colleagues, that we could all make or we need to completely decommission NSP after we have built a replacement facility. And I am a senator that expects that this replacement facility, paired with criminal justice reform will mean the entire closure of NSP. I expect that so much so that I requested that language being written into the prison appropriation that talked about the decommissioning plan for that facility. With that said, I have spoken with Senator McKinney and Senator Wayne. I'm willing to work with them on amendments, but I'm willing to do it on the Select File Appropriations bill. Personally, I think that's where this requirement should go. I do think that it is critical that we have the completion of a classification study. I think I was the senator that brought that funding request of \$200,000, and I am disappointed to see that it has not been completed but I do hear it will be done this September. I do think it's important for us to get the--

**KELLY:** One minute

**WISHART:** -programming fidelity study complete, and I'd like to work on the timeline for when we'd like to see that done. And then, obviously, we need to have a staffing study done, as well. So I'll work on this with the senators. But colleagues, this is, this is the reality that we're in. If we do not do anything on criminal justice reform this year, then we will be staring at the face of building another correctional facility after we finish this replacement facility. We will be spending more and more money investing in buildings to incarcerate people, money that could otherwise go to be invested in economic development, in water infrastructure and roads and healthcare and all of the other things that make this state great. And so I do hope that we're able to come to some commonsense compromise in which we are supporting the ability for us to have the type--

**KELLY:** That's your time, Senator.

**WISHART:** Thank you.

**KELLY:** Thank you, Senator Wishart. Senator McKinney, you're recognized to speak. This is your last time before your close.

**McKINNEY:** Thank you, Mr. President. Enjoy the conversation and the conversation around this amendment. I think it's just good policy to ensure that an agency does what we tell them to do before we give them millions of dollars to build a prison. That's all I'm asking, do your job. And if people want to vote for a prison, vote for the prison. But we should, at minimum, require them to do their job. That's all I'm asking. And if there's concerns about the transfer and somebody potentially touching it, I'm kind of lost because last I knew Governor Pillen supports building a prison. So why would he go into a fund and take away the money for the prison that he supports? Somebody is going to have to do a lot of explaining to me to wrap that around my head, just like a lot of other things. But onto more data, Nebraska is increasingly relying on probation as a prison alternative. From 2011 to 2020, probation admissions went up 70 percent. In 2020, 81 percent of district probation terminations were nonnegative and 77 percent of PRS terminations were nonnegative. What does nonnegative mean? That means-- that's like a-- that's a technical violation, that's not a new crime. That means I could have not answered the phone, got home late, didn't get a job, those type of things and I got sent back to prison. We should talk about that, technical violations, there's bills to address technical violations. But when we don't have substantive

conversations, we can't even discuss technical violations. I know Senator Cavanaugh is in favor of addressing technical violations because we're sending people back that might have only not answered the phone in a timely manner, showed up to work late, didn't get a job on time, couldn't pay parole and probation fees, and we're sending them back into prison and spending thousands of dollars on it because somebody made a, a, a technical violation. A nonnegative thing is not a new crime, just to be clear. The most common type of revocation for district probation and PRS in 2020 was a technical violation. And for both district probation and PRS, the most common revocation outcome is incarceration in prison and county jail. Overall, probation sentence lengths have decreased over time. In 2020, the minimum probation sentence was 18 months, 24 for district probation, and 12 for PRS. Based on discharge years, time served on district probation and PRS has been increasing since 2018. In 2020, the median time served on probation was 17 months, 20 for district probation, 12 for PRS. That's just averaged out with the 17. Common barriers to successful probation and PRS outcomes, limited transitional housing options, which is why we shouldn't require providers to reimburse us. Lack of behavioral health resources and providers in western Nebraska, which is why we should be investing in mental health and behavioral health so the people that we don't want to go back can get the services that they need so they don't go back--

**KELLY:** One minute.

**McKINNEY:** --and get revoked. High caseloads for officers with high-risk clients, you know what was in LB920 last year? Money to address the issue of high caseloads. But because we got lost in polarized political conversations, we couldn't address that issue. This is why you have to take-- you have to actually dig into the data and be willing to listen and do the right thing and not listen to people outside of the glass that are telling you just to say no. Thank you.

**KELLY:** Thank you, Senator McKinney. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. Senator McKinney is correct that I do want to address technical violations. And you all know that I represented a number of people who have been on parole and probation, post-release supervision, and I've seen just those sorts of technical violations causing people to who have served their sentence and are on supervision and trying to get their life straight who have

been "reincarcerated" as a result of technical violations. And Senator McKinney is correct, that those technical violations can be things as small as missing appointments and phone calls or not doing what you're supposed to be doing, which we ask people to get a job or sometimes to get housing that is not with the people who have a criminal record, which can be very hard for some people. And so we've asked people to do certain things that are data driven, things that say these are going to put you on the path to success. And sometimes we are too quick to "reincarcerate" people when they haven't achieved those small steps along the way and we're, we're not forgiving enough. And I was listening to Senator McKinney listing off those numbers and I would just say the re-- looking at the reentry and discharge data, which I've looked at before, talks about people who are reentry into the Department of Corrections by quarter. So October of 2022, we had 36 revocations, 23 of them were technical, 13 were new law violations; November of 2022, we had 44 revocations, 24 technical, 20 new law violations. And I would just point out, you know, similar data across the way there in terms of the, the breakdown. But I would point out that new law violations, of course, your mind goes to new theft offense, new drug offense, but they can be-- a new law violation can include, you know, driving offenses, tickets for speeding, stop sign violation, things like that, so, again, things that maybe we are not particularly interested in "reincarcerating" people for. And this, you know, you can frame it how you want when you say this is charitable, being, you know, kind to people. But you can also say, let's look at it just from a purely self-motivated perspective, self-motivated being the state of Nebraska wanting to achieve an outcome. And we know that the way to achieve the outcome we want, which is decreasing crime, decreasing costs, is to make sure that people who have served their time in the-- incarcerated in the State Penitentiary and are back in the community, we want to get them in a position where they're not going to "reoffend" and not be "reincarcerated." And we do that by making sure that we are supporting them, giving them the tools necessary through the programming in custody, but also giving them opportunities at stabilized housing, giving opportunities at jobs. You know, we talked about banning the box last week or maybe it was earlier this week, but things like that are also part of this, right, which is embracing people, supporting them, giving them those opportunities to reintegrate to society and giving them a chance, maybe when they have a slip up or a small, you know, relapse or, or backtrack, that we don't immediately "reincarcerate" them, but we find ways to help them through that problem and get them to the next step and, and stabilized--

**KELLY:** One minute.

**J. CAVANAUGH:** --thank you, Mr. President-- and get them, you know, get them a stable house, get them a job, get them continued with their drug treatment. One of my bills last year, LB921, which made sure that when anybody comes out of custody, they-- if they are eligible for Medicaid, they will have-- they will be signed up for Medicaid when they walk out the door of our penitentiaries and our county jails. That means folks will be able to get their meds and be able to continue on with their treatment programs that they started when they're in custody. That is a consequential step thing that will actually help people be successful once they complete their term of incarceration, help them be successful on post-release or community-based supervision and hopefully will decrease these numbers we are seeing of people with technical and new law, law violations getting "reincarcerated." So there are ways to solve this that are out there that are not sentencing reform and we need to be looking at those things but we also need to be looking at sentencing reform. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Ibach, you're recognized to speak.

**IBACH:** Don't think so.

**VARGAS:** Senator Vargas, you're recognized to speak.

**VARGAS:** Thank you very much. I just wanted to reiterate a couple things. One, I know Senator Wishart mentioned this as well, committed to working on something that, that ensures that these studies are completed and that there is, I don't like saying like a trigger that if studies are completed, that then construction can begin. You know, I've been one of the committee members in the past that has really pushed to ensure that we are not building a prison and primarily focusing on the reform efforts first because I was not convinced that we need to do that right now. We can actually do more in terms of reform. I still believe that there's a lot more reform that needs to be done and I hope and I am really looking to the Judiciary Committee and all of its members to find the consensus that is needed to do more. Otherwise, we're going to end up just building more and more prisons from here on in. But for the purpose of this it's clear we need a plan or waiting for the actual details of the programmatic and the operations and the site studies that, that come from these plans. So in collaboration with other members of the Appropriations Committee



we'll work on this language. I'm not yet in the place that we would be moving it to a different fund, largely because of just the structural issues with moving it to a different fund. And then our responsibility as a committee is still to move it later on from that existing fund to where it would be headed. And we can only do that during, during the legislative days when we're actually working on bills, so we'd have to focus on this a year, a year from now. But nevertheless, I just want to make it clear I'm committed to doing something in collaboration with other members on the Appropriations Committee and have been somebody that wants to see these reforms. We're not doing reforms within the Appropriations Committee, but we are responsible to doing our part to make sure that these studies are actually coming to us and the entire body at large and we're being responsible stewards of these dollars. Thank you.

**KELLY:** Thank you, Senator Vargas. Senator Clements, you are recognized to speak.

**CLEMENTS:** Thank you, Mr. President. This amendment is an improvement over the previous one. It did remove the destruction of the current facility and it removed the requiring that we pass another bill. But the transfer of \$70 million from one fund to another fund, that's, that is not new transfer. I do agree to that, that it's taking part of the \$95 million and putting it in the over-- Prison Overcrowding Contingency Fund. But then we'd have to then move it back from that fund back to the Capital Construction Fund. And I would, I would not support that provision in here. The studies are fine with me, but I would like to see another amendment come back on Select that's a little bit more clear. And I don't see a purpose for transferring money to the Overcrowding Contingency Fund if, if all the-- they're going to be blocking the, the money anyway before we can spend any of it for the prison. So this is more acceptable to me, but I was not quite ready to be able to vote yes, I'm still no at this point on this language. Thank you, Mr. President.

**KELLY:** Thank you, Senator Clements. Senator Wayne, you're recognized to speak.

**WAYNE:** Thank you, Mr. President. So what I, what I heard there is we don't, we don't want to make it-- we don't have to make votes on, on moving, moving the money again if it's from over there. And I, you know, respectfully say that's, that's our job. What happened to Senator Halloran? We just had this conversation. All righty, we'll wait till later for me and Halloran to have a-- Halloran and I to have

a conversation. So, again, I think this is a simple amendment. I think it's a good amendment. I think this amendment requires Appropriations to do its job. The requirement of not-- or just having intent language, here's my fundamental problem with just having intent language: they didn't do it already when we had intent language. We had intent language for them to com-- complete a study two years ago. So if you don't withhold some dollars, Senator Moser, Senator Lippincott, Senator Holdcroft, just seeing if you guys are still awake because, you know, sometimes I fall asleep, asleep here, but if they don't have-- I'm just giving you guys a-- they are awake for those who are not on camera. They're, they're looking at me-- for those who just want intent language we did that in 2021 and here we are in 2023 talking about they didn't get-- they didn't do it. They didn't follow through. So you got to withhold some dollars and say, hey, do the study, we'll give you the rest. This is not complicated. This is what we should do. We have like-- really, really, we have, like, one major job as a legislative body and that's appropriate dollars and to make sure those dollars are being used correctly. We appropriated \$200,000 and we're waiting for the results. That doesn't seem unreasonable to me. And so with that, I'll yield the rest of my time to Senator Riepe.

**KELLY:** Senator Riepe, you have 2:44, and waive. Senator Machaela Cavanaugh, you are recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Sorry. I am in support of AM1633. So I believe it's important that we have individual responsibility and accountability, but I also believe that we must have a fair and just criminal justice system that doesn't bankrupt our state. And the reality is that Nebraska has one of the highest incarceration rates in the country, and the cost of maintaining our prison system is not sustainable. We spend hundreds of millions of dollars annually and it doesn't even include the costs of healthcare, education, and other services that we provide to, to those that are incarcerated. It's not sustainable, colleagues, and we cannot continue to spend such a large portion of our state budget on incarceration, especially when we have more cost-effective ways to reduce crime and keep our community safe. One way to address this issue is, of course, through sentencing reform. We can focus on rehabilitation and reducing recidivism rather than just punishment, provide education and job training to help those who have served time to reintegrate into society and become productive members of our communities, but we also need to address the root causes of crime such as poverty, drug addiction, mental illness. We need to invest in programs that tackle these issues and can prevent crime from happening in the first place.

And studies have shown that education and job training programs reduce, reduce recidivism rates by as much as 40 percent. This not only reduces the number of people returning to prison, but it also saves taxpayers millions of dollars each year. We need to address the racial disparities in our criminal justice system. The fact that people of color are disproportionately represented in our prisons is unacceptable, and we need to take action to ensure that our justice system treats everyone fairly and equally. By enacting sentencing reform, we can reduce the number of people of color who are incarcerated and help to ensure that our justice system is truly just. There are some that may argue that reducing sentences or providing education and job training programs to those that are incarcerated is soft on crime. This is not about being soft on crime. This is about being smart on crime. By investing in rehabilitation and education programs, we can reduce the number of people who return to prison and save the taxpayers millions of dollars in the process. We can also ensure that those who serve time are better prepared to reenter into society and become productive members of our communities. It's not only the right thing to do, it's the fiscally responsible thing to do. I urge you, colleagues, to support criminal justice reform in Nebraska. It's a matter of justice and fiscal responsibility, and we can work together to create a system that is fair, effective, truly serves the best interests of the citizens of our state. AM1633 is a step in this direction of ensuring that criminal justice reform remains a priority. If we don't enact AM1633, I believe that we are just continuing to kick the can down the road of building another prison. Until we enact criminal justice reform, until we enact sentencing reform, until we make investments in economic justice, we are going to continue to throw money at an endless problem that has solutions that are being ignored.

**KELLY:** One minute.

**M. CAVANAUGH:** Thank you, Mr. President. I'm grateful to Senator McKinney for his continued willingness over the last several days to work on this issue as it comes to our pocketbook, the budget. His willingness to continue to listen to the, the criticisms and the feedback and the roadblocks that are being put up on the floor debate, withdraw his amendments and introduce additional amendments. I'm grateful to Senator McKinney for his heart and dedication on this issue and I hope that this body will take seriously what he has put forth in front of us with AM1633. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. Yet again, I rise in favor of AM1633. And I was just having a conversation with Senator McKinney a little bit and I, I think part of my frustration surrounding the conversation about this amendment, as well as just criminal justice reform as a whole, as we've had these conversations in this session, as well as ones that I've been sort of on the outside looking in on other sessions, is it feels like there's often accommodations made and there's an attempt of good faith effort to negotiate or come to some commonsense solutions. But then occasionally the goalposts seem to get moved. And again, I wasn't here when some of these studies have been done in the past, but it feels like to me there's these conversations that happen where we have these objective nonpartisan third-party entities come in and make suggestions and then, ultimately, when it comes to criminal justice issues they're not listened to. And I think we have in this a microcosm of that where Senator McKinney brings this amendment and there are some concerns that were raised about it. And you know, I, I talked to Senator Wishart about some of those concerns and the logistics contained in this amendment and I understood where she was coming from. And so in good faith, Senator McKinney pulled his amendment, went-- tried to rework it, removed from the amendment two of the major things that were roadblocks, we'll call them, for some folks with regard to supporting it, and still having then brought it back, it doesn't feel like there's been much of a shift with regards to support for that. Now, again, I've said it before, I'll say it now, minds can disagree about what is the best way to go about doing something, but we cannot continue down the path that we've been continuing in in Nebraska without analyzing how we got here and what's going to be effective moving forward. And all that this amendment seems to do to me is make a good faith effort to analyze whether or not what we've been doing works. And if it doesn't work, figure out how we can do it better. I think the one thing we all agree on here, no matter what, is we all want safer communities and we all want Nebraska to be a thriving place for everyone. And that's exactly what we attempt to do with better reentry programs, with programming in DCS facilities that actually seeks to rehabilitate rather than just incarcerate. And what this amendment is asking us to do is hold some of that money and essentially use it once we know that we're using that money in the right way. I don't see the problem with that, colleagues. We're not asking for too much. I think all we're asking for is some analysis. And it's frustrating because it does seem like

Senator McKinney has been working in really good faith about this and it doesn't feel like people are always taking it seriously. And so I just-- I want people to pay attention to this. I want people to understand this is a serious conversation. And I, I really do appreciate a lot of the conversation we've had here today. Sitting on my desk right, right now is a, a letter from somebody who's incarcerated in DCS. I happened to get this today. And in reading that letter, I'm not going to go into the details of the case at all, but in reading that letter, it's essentially a plea for help from somebody who is, to put it simply, stuck between a rock and a hard place because of the way the law is written. And I happen to know his attorneys that he had on his underlying case and so I reached out to them. And as I understand it from the conversation that I've been having with them today, they've done everything they possibly can do to help this gentleman and he is simply stuck in a situation where he is in a pretty bad place because of the way the law just happens to be written. It wasn't malicious. It's not as though the judges or anybody did anything but our laws don't address the problem that he has adequately. And the job that we have here is to make sure that people like that don't fall between the cracks and to make sure--

**KELLY:** One minute.

**DUNGAN:** --thank you, Mr. President-- to make sure that people who have entrusted us with the power to make a difference are the ones whose voices we're lifting up. And so the people who are in DCS custody who would benefit from this study deserve that help. And they deserve to have our consideration and they deserve to have an analysis to see whether or not the programming that they're being given is, is working. And so I really, really applaud Senator McKinney for bringing this amendment. I, I don't think that it's a poison pill. I don't think it's trying to tank anything. Clearly by him pulling it and rewriting it and bringing it back, it's a good faith effort to really analyze what we're doing. And so I would urge my colleagues to vote green on AM1633 and I would yield the remainder of my time. Thank you, Mr. President.

**KELLY:** Thank you, Senator Dungan. Senator John Cavanaugh, you're recognized to speak and this is your third time on the amendment.

**J. CAVANAUGH:** Thank you, Mr. President. So I, again, support Senator McKinney's amendment. I think it's a smart approach to get this data before we proceed with another big investment and to talk about criminal justice reform. We've talked about it for a long time and

tried to make reforms in my three years here now. And, you know, we're at the point where it's do or do not, there is no try. Thank you. But seriously, looking through the, the CGI-- or I'm sorry, CJI report, I was looking at the policy recommendations for enhanced reentry support for people-- justice-involved people. And one of the things they say is Nebraska's recidivism rate has increased over time, with 30 percent of those released in 2018 returning to NDCS custody, up 4 percentage points from 2008. Improving basic services for people exiting prison is critical to reducing recidivism. And then they have policy recommendations. So requiring-- required tracking of the use of the NDCS and Department of Health and Human Services program that enrolls individuals released from prison in Medicaid. So actually, that was a program we just start-- we haven't actually started it yet. That program will start this July. It's a bill that we passed last year. So hopefully, that program will have that intended consequence of making sure that we are supporting people when they get out and maybe will help us bend that curve. Ensuring responsivity factors are considered in the parole planning process to help address reentry barriers. See both of these things, we're talking about, we've gone through these numbers, we're talking about prison overcrowding, we're talking down the number of people returning to custody for either revocations, technical, or new law violations and trying to-- these are suggestions that are, I guess you call it low-hanging fruit, right, these are the types of things that we can do, reforms we can make that are productive, will help us bend that curve of growing population. They don't cost a lot and they have demonstrated benefits. But as Senator McKinney's frustration has expressed and, and Senator Wayne earlier and Senator Dungan and others have talked about that we've had these conversations about how to make reforms in our criminal justice system and it does keep-- the goalpost does keep getting moved and that we need to be making some progress all the time on this because we are in a unique position in the state of Nebraska where we are seeing our incarceration rates going up. We're building new prisons when other states are closing prisons. States like Texas is a great example of a state that's closed prisons, and we are seeing more people being-- reentering the Department of Corrections than used to. And what is that telling you? Right? It's not that people have changed so dramatically between 2008 and 2018, it's that we are doing something different from a policywise and we're not, we're not meeting the moment. We're not matching it. Right? So we have an opportunity, we had an opportunity last year, we have an opportunity this year. We have an opportunity every year to take a fresh look, take a smart approach, and to do the right thing to make these sorts of reforms

that are going to have an effect on our population, our prison population, that are going to save us money, but are also going to have a positive effect on the lives of Nebraskans. Because these folks that we're talking about, as this refers to justice-involved people, these justice--

**KELLY:** One minute.

**J. CAVANAUGH:** --thank you, Mr. President-- these justice-involved people are people. They're Nebraskans. They're members of our community. And when we think of them as such, as people with stories, with lives, with family, we begin to understand that the things we do here affect them and it affects their families and that we need to be making positive strides in reform so that we are not incarcerating people we don't need to incarcerate, for so many reasons that we've talked about. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Just continue to be in support of Senator McKinney's amendment. I, I know we've, we've been doing a lot of work over the last couple of days. The budget is a big project. It's a very big project. And it's a, it's a big undertaking. It's a big endeavor and it should not be the expectation that it is perfect and when it comes to the floor and that's why we have this robust debate and that's why we've seen other amendments come forth and be adopted on the floor. And what I've seen from Senator McKinney over the last couple of days is a singular dedication to ensuring that we are not wasting taxpayer dollars while also prioritizing criminal justice reform, sentencing reform. And I've seen a great deal of thoughtfulness and listening to the concerns of committee members from Appropriations and the members of this body and members of the Judiciary Committee and I'm grateful for his thoughtfulness in all of that. And so I'm looking forward to the opportunity to vote for this. And I hope to see many, ideally 25, vote for this as well because this is how thoughtful legislation and policy is created and so I will not belabor this any longer. I will yield the remainder of my time. Thank you.

**KELLY:** Thank you, Senator Cavanaugh. Senator Riepe, you're recognized to speak.

**RIEPE:** Thank you, Mr. President. Recently, my friend Senator Wayne yielded me some time. I think he's my friend. I fumbled the ball, but in the process I was reading some other unrelated information and so I was not prepared to speech. I didn't want to share a little story that I think relates to this, this particular issue. And a Catholic priest one time told me the one that lives the longest sees the most. And having been in the hospital industry for a number of years, I recall that in the 1970s we made a decision, this is a Nebraska story, we made a decision that we were going to close all of the state hospitals, mental hospitals, those that were at here in Lincoln, Hastings, and Norfolk with the promise that we were going to develop community mental health centers. Well, we were very efficient in terms of the state hospitals, but we failed to come forward with the community mental health centers. And so those individuals that would have normally been served by a community mental health center all of a sudden ended up in our prisons, ended up in our jails, ended up in the streets, and ended up in very bad situations. The analogy that I see here is, well, I do support the construction of a new prison because I feel the one that we have is crumbling, but I think that they go hand in hand just as the closing of the state hospitals goes with creating community mental health centers. We had to have an ambulatory response. We failed. And I think that we have to some way connect the hospital or the-- not only that, the prisons with also with providing services for jamming out, for anger management, and for all of those things. And I think like raising a window, they all have to go up at the very same time. Thank you, Mr. President. I yield back any time.

**KELLY:** Thank you, Senator Riepe. Seeing no one else in the queue, Senator McKinney, you're recognized to close on AM1633.

**McKINNEY:** Thank you, Mr. President. So I am asking for everyone's green vote for AM633 [SIC--AM1633]. Can I get a call of the house?

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

**CLERK:** 17 ayes, 2 nays to place the house under call.

**KELLY:** 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, you may continue with your close.



**McKINNEY:** Thank you. And I ask for your green vote because I think it's a smart policy decision to hold an agency accountable, get a study on classification, study our issues with programming and reentry, our staffing issues and mental health capacity staff issues as well. And I brought this amendment honestly in good faith. I pulled the amendment earlier. I think it was AM1613, acting in good faith. And if this amendment doesn't get attached, it is a picture into the window of somebody trying to make justice reform changes in the state of Nebraska. You bring something and the other side says, hey, we really don't like what you put in there, could you take this away? You take that away, and then they come back and say, oh, we can't agree to that either. Then it's like, oh, can't agree to that either. And it's just a cycle, a cycle, a cycle. And that is what's been happening since I've been here around the prison and criminal justice reform. You give an inch and people want a mile. And that is a problem to me. I was asked to pull my amendment because no one wants to demolish the Nebraska State Penitentiary and they didn't want the language contingent on another bill passing. And I was, like, all right, you all can vote for building a prison. I don't support it. But if you all that out, cool, and we could get this attached. I did that. And then we get the questions about, oh, we don't want to do the budget transfer because somebody might take it. Last I checked, the Governor supports building a prison. Why would he take the money? Then we had discussions yesterday and I had conversations with people about what are you doing, maybe you need to adjust your strategies? What's your plan? What's the reports? All these type of things, but the same energy isn't being kept for a \$340-plus million project to construct a prison. That is a problem I have. And honestly, I believe the Appropriations Committee-- I shouldn't even have to bring this language-- because I think the Appropriations Committee should have required that the classification study was in and completed before they voted to approve money for the prison. Before they voted to approve it, they should have made sure there were studies done on programming. But if I bring something, I've got to have all these elaborate studies. I've got to have consultants do reports and elaborate studies, meet with a lot of people. But when, but when an agency comes and asks for \$340-plus million, we don't even ask for the bare minimum. And that's all I'm asking. Let's vote green, everybody, and require them to do their job.

**KELLY:** One minute.

**McKINNEY:** Let's be smart about this. That's all I'm asking. And if it doesn't go forward, I got a lot of time and I'm going through the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
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budget bills and I'm looking at every agency and I'm putting amendments on anything I don't agree with. Thank you.

**KELLY:** Thank you, Senator McKinney. Senators Armendariz, Dover, and Wayne, please return to the Chamber and record your presence, the house is under call. Senator Dover, please return to the Chamber and record your presence. The house is under call. All unexcused members are present. Request for a roll call vote, reverse order, on the adoption of AM1633. Mr. Clerk.

**CLERK:** Senator Wishart not voting. Senator Wayne voting yes. Senator Walz voting yes. Senator von Gillern voting no. Senator Vargas not voting. Senator Slama. Senator Sanders voting no. Senator Riepe not voting. Senator Raybould voting yes. Senator Murman voting no. Senator Moser voting no. Senator McKinney voting yes. Senator McDonnell. Senator Lowe voting no. Senator Lippincott voting no. Senator Linehan voting yes. Senator Kauth voting no. Senator Jacobson voting no. Senator Ibach voting no. Senator Hunt voting yes. Senator Hughes not voting. Senator Holdcroft voting no. Senator Hardin voting no. Sander Hansen not voting. Senator Halloran. Senator Fredrickson voting yes. Senator Erdman voting no. Senator Dungan voting yes. Senator Dover not voting. Senator Dorn not voting. Senator DeKay voting no. Senator DeBoer voting yes. Senator Day voting yes. Senator Conrad voting yes. Senator Clements voting no. Senator Machaela Cavanaugh voting yes. Senator John Cavanaugh voting yes. Senator Briese. Senator Brewer. Senator Brandt voting yes. Senator Bostelman not voting. Senator Bostar. Senator Bosn. Senator Blood. Senator Ballard voting no. Senator Armendariz voting yes. Senator Arch not voting. Senator Albrecht voting no. Senator Aguilar voting yes. The vote is 16 ayes, 16 nays, Mr. President, on adoption of the amendment.

**KELLY:** The amendment is not adopted. Mr. Clerk, for items. Raise the call.

**CLERK:** Mr. President, next amendment from Senator Wayne, AM1614.

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

**WAYNE:** You going to stay for this? Thank you, Mr. President. Yeah, this is a-- this is one of the greatest amendments that I've seen in a long time. The original bill had over 40 sponsors so I don't think this will be hard to pass. So because I know it won't be very hard to pass and to make sure that we keep moving along, we'll pass this on Monday on the Education bill so I withdraw this amendment. Thank you.

**KELLY:** So ordered. Mr. Clerk.

**CLERK:** Mr. President, next amendment. Senator Machaela Cavanaugh would move to offer FA87, strike Section 2 of AM1172.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to open.

**M. CAVANAUGH:** Great. Well, Senator Wayne, you were welcome to take more time on the greatest amendment that ever existed. So, you know, I was disappointed. I'm sure not as disappointed as Senator McKinney, but I was disappointed in that last vote. And the quick math I, I saw was that if everyone who was present, not voting had voted for the amendment it actually would have been adopted. And now normally I-- talk-- I've talked before about present, not voting and how that can be like a gentle no, but when it comes to the budget usually present, not voting is a little bit different. It's like you don't want to rock the boat, no. You, you want to vote for something, but you don't feel like you should because it's the budget and the budget is sacred sort of thing, so. But you-- we've got at least two hours left on this. We could always continue to attempt to amend. I honestly don't know so I'm just going to say this out loud and then hope that it doesn't make the Clerk's staff's head explode, but can you refile an amendment that was filed, started debate, and you withdrew?

**WAYNE:** Yes.

**M. CAVANAUGH:** Yes? No?

**WAYNE:** Yes.

**M. CAVANAUGH:** Yes. Senator Wayne says yes. Like, Senator-- so Senator McKinney had previous amendments that he had filed and then throughout the debate he withdrew them so that we could do the-- yes. So we could refile those, so we could-- you could go back to your original iterations and we could refile them. I am-- if people are wondering what I'm doing right now-- I'm trying to get to what FA87 does, which is strike Section 2. So OK, strike Section 2 is an AM-- oh, wait, this is LB818 and I am actually looking at the original bill, not the AM, so I could be looking at the wrong thing to strike. OK. AM-- no, it's the same. Section 2 is the same in the amendment and the original. Section 2, if we were to adopt FA87, it would be to strike the following language. "The State Treasurer shall transfer an amount as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to subsections (2) and

(3) of section 82-331, not to exceed \$1,000,000." And as I previously stated, it is the number 1,000,000, not the word one million, because it doesn't start the sentence. And for clarification, if there was a need when I was talking about the numbers as written out on page, I think it was 75 of the green-- Martian green book, I was pointing out that it was correct, grammatically correct, to have the number written out and not the actual number. So thank you to, once again, to our Fiscal Office for their amazing and-- work, but also for being great stewards of grammar. So there we go. OK, so 1,000,000 number, the number \$1,000,000 from General Funds to the Nebraska Cultural Preservation Endowment Fund on December 1-- 31, 2024, or as soon thereafter as administratively possible. Don't vote for this, friends. I am a big supporter of the Nebraska Cultural Preservation Endowment Fund. I do not want to strike \$1 million from the fund-- from-- the cash transfer to the fund. I just started writing floor amendments this morning and I knew that there was at least a Section 1, 2 and 3 so I started there. So please, whatever you do, don't vote for FA87 today. I know, I know it's really in danger of getting 25 votes, but please don't. OK. So something that I find really fascinating is how I've talked about this a lot, the Oxford comma. And I have had so many total strangers come up to me and give me their take on the Oxford comma. It really is satisfying in a lot of ways, but also slightly disturbing. A lot of people really watch the Legislature and really paying attention to the Oxford comma conversation. I had previously promised to get back to the Oxford comma conversation. I was talking last week about the APA style guide, and they're sort of hard-line, mostly against the Oxford comma. It allows for it, but it's very specific usage. But I want to get into the Chicago style on, on, on the Oxford comma and what their take is on it. But I'm not going to do that today because I do still have the Martian green book to go through. And so as long as I have the Martian green book to go to, the Oxford comma conversation will have to wait for another day. So all you Oxford comma fans out there or Oxford comma opponents, but enjoy the conversation nonetheless, you're going to have to wait for another day because today, today is the budget. And as long as I have budget items to talk about, I'm going to talk about them. All right. So I was on page 75 and I read about the Universal Services Fund. That's where the ten million start of the sentence written out. Next is the Department of Transportation IIJA funding. OK. I know that I was once told what IIJA funding stands for because I was in committee, the Transportation Committee, and the director, Director Kramer, was testifying and she kept saying IIJA and I was like, I got to stop you. I don't know what that is. And so then she told me, and I knew what it

was. I have since forgotten what it is. So anyways, but I do appreciate Director Kramer for telling me that on that-- at that day I just didn't retain the information to today. It's probably somewhere in the recesses of my mind. OK. So the Department of Transportation IIJA Funding: The adjustments include an appropriation of \$150 million cash funds in FY '22-23 to the Department of Transportation based on anticipated federal funding pursuant to the Infrastructure Investment-- here we go-- Infrastructure Investment and Jobs Act, IIJA, Infrastructure Investment Jobs Act. In FY '22-23, FY '23-24 and FY '24-25, the committee included appropriation of \$505 million of cash funds to the department and a one-time transfer from the Cash Reserve Fund to the Roads Operation Cash Fund. The transfer of state funds serves as matching funds for the federal funds, which are required as a 25 percent match of total funding. OK. I'm going to pause there for a minute and talk about roads and the gas tax. So we have a gas tax and that tax, a part of that tax goes into the Highway Trust Fund. And that--

**KELLY:** One minute.

**M. CAVANAUGH:** Thank you. And that helps to pay for our roads because it's sort of based on your mileage. You're driving on the roads and so you're buying gas. And the tax of buying gas helps pay for the maintenance of the roads, basically the usage. It's kind of a usage tax. It's a road usage tax in a lot of ways. So one year, I think it was actually my freshman year, I was on Health and-- I've always been on-- I've always been on Health and Human Services Committee and I've always been on Transportation and Telecommunications Committee. And my freshman year during the interim, I introduced an interim study to have an interim study on the Health Care Cash Fund. And, and so that was for HHS. And the Chair of the committee at that time, Senator Howard, had asked me to introduce the interim for the Health Care Cash Fund so that we would have the hearing and that she could preside over the hearing. And so that's what we did. But I thought, oh, well, I know we have this other cash fund.

**KELLY:** That's your time, Senator, and you're next in the queue.

**M. CAVANAUGH:** Thank you, Mr. President. I'll get back in the queue in just a moment. Yeah. And if anybody would like to yield me time, I'm happy to take it. So the Health Care Cash Fund, yes. So I introduced this interim study. We had a briefing, hearing, whatever you want to call it. I don't know what it was called. It was either a briefing or it was a hearing on the Health Care Cash Fund. And I thought, well, I

know we have a Highway Cash Fund, and so let's do an interim on that. So I introduced an interim study to take a look at the Highway Cash Fund. And little did I know this sent the folks outside there on the other side of the glass into a lather or a tizzy, whatever term you want to use. They got worked up. They were very concerned about what I was doing, which I suppose says a little something about that maybe if I-- I've had this reputation since day one that I'm always causing mischief. But they were very concerned that I had some ulterior motive in wanting to look at the Highway Cash Fund. I did not. I've said this before. I'm a learner. I was just interested. I wanted to learn more about it. It's a cash fund. I'm on the committee. Let's have a hearing. Let's learn about it. And that's what we did. And what did we learn? Honestly, I started this conversation with myself here about five minutes ago, and I don't have total recall over what we learned. So I'm going to have to dig that up and come back to that conversation another day. But I do recall that I did it. I just don't recall exactly what we learned. I know there is like there's the gas tax and a portion of it goes here and a portion of it goes there and a portion of it goes there. And, and then it's utilized different ways and-- but I don't remember the details. So I apologize for starting the conversation with myself on the gas tax and the Highway Cash Fund. I will have to come back to it at another time to actually have a more in-depth conversation with myself on the Highway Cash Fund. The Health Care Cash Fund, you will see in here, a fair amount. OK. Unemployment Insurance Modernization: "Federal funds from the Reed Act and the Reed Act UI Modernization are being utilized to pay for annual software renewal costs associated with the Neworks System." So something about the unemployment insurance fund. It is paid-- there's an unemployment insurance tax, payroll tax that is paid and that pays into the unemployment insurance fund. And then when, when people qualify for unemployment and they draw out of that fund, that's where it comes from. And it is adjusted. The amount of pay-- the payroll tax fluctuates based on the utilization of the fund. But there is a-- there is a penalization for the employer if the fund is utilized-- I think if it's overutilized or there's some formula if a specific employer's employees are utilizing it more disproportionately, which was something that I learned a little bit more about. At the start of the pandemic when everything shut down and people were applying for unemployment, there was a waiver that it wouldn't count against employers for you to get unemployment in like the summer of 20-- 2020. Anyways, that was-- feels like a million years ago. Man, we've covered a lot of issues. A lot of things--

**KELLY:** One minute.

**M. CAVANAUGH:** --thank you-- a lot of things have happened in my first four years in the Legislature. We have had a pandemic and a global pandemic, here in the state. We started my first year out, 2019, with a crisis with the juvenile, regional juvenile youth detention centers. And then we had the pandemic. Then we had a crisis with child welfare. We had redistricting. Never boring. Government may seem boring, but there's always a lot going on. And then, of course, with corrections, which we've talked about, we've had a lot of crisis with corrections and the prison, NSP, and I can't even honestly and I am sorry to the people who reside there because I should have a better handle and grasp on this timeline. But I-- we have had significant issues at NSP with water, with utilities, with sanitation.

**KELLY:** Your time's up, Senator.

**M. CAVANAUGH:** Thank you.

**KELLY:** This is your last time before your close. You're next in the queue.

**M. CAVANAUGH:** Thank you, Mr. President. And I'm happy to take anyone's time if they are interested and willing to give it to me. OK. So, yes, so we have had a lot of crises happen out at NSP just in the time that I've been here. And, and part of that, you know, there's a lot of factors that play into it. It's old. People talk about how old those buildings are. They're 100 years old. Well, there are buildings within the NSP campus that are that old, but there are also buildings that are not that old. And there was for a long time a intentional direction to not utilize funds that were appropriated for the maintenance and care of the buildings so that the buildings would start to fail. And I don't know why. I say it was intentional because it happened with intent. It was clear: money was appropriated, they were directed to use it, it wasn't used, things fell apart, bad things happened. That is intent. But I don't know what the motivation is behind the intent. I don't know why the intent happened or what was, what was making it happen. I don't know at-- when that all started. I don't know if when it started, the intention was some day we want to build another prison, genuinely not an answer that I have. OK. Page 76, FY-- Table 32, FY22-23 Adjustments: All Fund Sources. Oh, boy. This is a lot of numbers and I am going to skip over-- oh, wait a second. Holdup. School Breakfast Program, oh, \$52,291. I'm wondering if this is-- is this millions? It's in the millions. So \$52,291,000.

Just looking in the general direct-- looking in your general direction. For people that are watching, whose general direction is she looking at? There's, there's this wonderful team of fiscal analysts sitting over here, I'm sure, hanging on my ever-- every pondering questions. I'm on page 76 and there's the Table 32 and it has a bunch of numbers in it. But I ask the question because the numbers seem small. And so I'm like, are they in the millions or are they-- is it \$52,000? Maybe it's \$52,000. Yeah, it's \$52,000-- \$52,000. OK. It's not in the millions. Because sometimes you'll see in charts that it's like abbreviated, that it's millions, but it looks like it's thousands because it's abbreviated for space, not what's going on here. Oh, huh-huh. That's how much it's going up. I was like, these numbers seem really small. OK, so it's \$52,000 is the increase. Got it. Thank you to the Fiscal Office. All right, so if anybody is interested in the Martian green book, it's probably not Martian green. If it's available online, it's probably just a word document or a PDF. But page 76 of the budget bill is what I was looking at. OK, so here we go, Bills Included in Appropriations Committee Budget Proposal. And I had a total stranger, total stranger, somebody I've never seen before in my entire life, in this building say, hey, you should take a look at the bills included in the Appropriations Committee--

**KELLY:** One minute.

**M. CAVANAUGH:** --Budget Proposal, because it's always-- thank you, Mr. President-- it's always there in the budget book. And it tells you whose bills and what the bill numbers are that are included in the budget proposal. So for those that are interested to know what, what is actually in the budget bill, it starts on page 80. The budget can be a very complex thing to try and figure out and it's more than just-- there's multiple ways. And I think I talked about this early on. Again, I think I'm almost out of time. So if anybody would like to yield me time, I'm happy to take time from anyone. I know we're going to go to dinner in a few minutes and I guess maybe we'll just get to a vote on this floor amendment before we go to dinner, which is totally cool, too. I'll-- just give me a couple of minutes to write additional floor amendments striking sections.

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Hunt, you're recognized to speak.



**HUNT:** Thank you, Mr. President. Colleagues, I'm going to take all my time. I'm going to take 15 minutes here to, to get into something that's in the news today. I have been quiet for the last day for this week and sort of ongoing because I've been really sort of trying to be measured about my comments on the floor here. And today, a group of 113 local businesses in Nebraska released a letter addressed to us and to Governor Jim Pillen. And I'd like to read it into the record, and I'll also make sure that we distribute a copy of this, as well. In this letter addressed to the Governor and to the Legislature from 113 local businesses in Nebraska. It says, LB574 and LB575 are not good for business. To the Honorable Jim Pillen, Governor of Nebraska, and the members of the One Hundred Eighth Nebraska State Legislature: As business leaders in Nebraska, we are grateful for the leadership and support shown from the Legislature to the business community. An issue we have a high degree of interest in is improving Nebraska's ability to retrain-- retain and attract talent to meet business needs. According to the Nebraska Chamber of Commerce, there are currently 32 available workers per 100 open jobs, meaning there are nearly three jobs available per worker in Nebraska. The challenges we face in filling the approximately 80,000 open positions we have available in the state is hurting our businesses' ability to compete and meet client expectations. It is also impacting our current employees who may be overly burdened with assuming the workload and responsibilities from the jobs left unfulfilled. Due to our limited talented pool-- talent pool, many of our businesses are being forced to create jobs in other states that we would prefer to grow in Nebraska. For those businesses who are unable to hire outside the state, they simply need to try to find a way to continue without adequate workforce. Some have given up and closed. Others continue to work hard to figure it out. We fully understand our role as business owners and leaders to solve this issue. However, the state can and should help, as well. We commend you for the work you have done related to tax policy that is helpful for talent attraction and retention. However, the current social legislation being considered is equally important regarding the impact on talent. How we handle and vote on the current legislation being considered could either help or hurt us. The image and message of some of the current legislative policies, for example, LB574 and LB575 sends a message to the marginalized communities that live here and for those of us who love and care for all Nebraskans is nothing short of discouraging and disappointing. The image this casts outside of our state is equally discouraging and disappointing. Nebraska can avoid major competitive risks and win investment, business, and talent by sending a clear and consistent signal that all are welcome here and

Nebraska is open for business. This message matters to large and small businesses, to tourism and to travel bookers and to talented workers. When recruiting top talent, a welcoming stance toward all people matters, not just for marginalized workers.

**KELLY:** One minute.

**HUNT:** Thank you, Mr. President. The next generation of workers, millennials and Generation Z aren't just wanting inclusive environments. They are demanding it. According to Pew Research, by the year 2025, 75 percent of the global workforce is expected to be made up of millennials. Therefore, this is something Nebraska must be ready for in order to be a great place to do business in the future. Businesses are watching state legislatures. They are investing in states with laws that foster diversity, equity, inclusion, and a robust workforce. And states that sanction discrimination simply cannot compete. Nondiscrimination protections are an investment in stronger communities and a stronger economy. Nebraska does not experience much net positive migration as it is. This type of legislation makes it even more difficult for those of us who are working hard to improve migration performance.

**KELLY:** That's your time, Senator. Senator Hunt, you're next in the queue.

**HUNT:** Thank you. I'll continue and finish this letter. We ask you to support Nebraska businesses by improving our ability to retain and attract talent for our workforces by voting against harmful social legislation like LB574 and LB575. This is a letter, colleagues, signed by 113 businesses in Nebraska, including American National Bank, Bailey Lauerman, Kutak Rock, Bellevue University. I mean, there's 113 businesses on here I could go down and continue to read. And this is about the anti trans legislation that we have before us in this body. It's literally only about that. It's only about that. And to Senator Machaela Cavanaugh and to me, this session is all about that. And therefore, this session is all about that for you, too. Every day that we are in-- you know, the reason we're going to be in here till 9 p.m. today, the reason Arch is bringing in dinner every day for everybody is because of your votes on LB574. Literally, that's it. And what I'm understanding now through the grapevine, you know, the only way we get any information, is that that bill doesn't have the votes now. People have fallen off of it. They've seen how unwilling Senator Kathleen Kauth is to negotiate. They've seen how unwilling she is to keep her promise that she made on the final round of debate when Senator Arch

put his thumb on the scale of this body by breaking us for 45 minutes so he could go strategize with her alone to make her bill pass. And she came back after that ridiculous time out, said, we're going to have an amendment. So please, please, please let it pass for my poor little ego. It did. And here we are and she doesn't have the votes. Senator Arch, please schedule that bill so we can kill it and get on with the rest of this session. You think Senator Kathleen Kauth is negotiating in good faith? Let's hear her own words. Just today, Thursday, May 4, in the Omaha World-Herald, released minutes ago, Kauth said Thursday that the businesses signing the letter that I just read are entitled to their opinion. But she said lawmakers who support her bill should pay attention to which businesses signed up as opponents when they decide where to spend their money. So this is Kathleen Kauth basically saying, hey, lawmakers and Nebraskans, look at these businesses in Nebraska that are supporting trans rights and think about that when you want to spend your money. She's saying that she's not going to support them. It goes on. She described the notion that her bills will hurt Nebraska's economy as a fearmongering tactic that lacks evidence. Nebraska has more conservatives than liberals, she said. So failing to pass conservative policies might actually deter potential workers and make the labor shortage worse. She thinks if we don't pass a ban on trans healthcare, if we don't pass this hatred into law, that she actually is, like, completely clueless about and knows nothing about, as for all of you who are voting for it. Learned everything she knows about it from Tucker Carlson, I think. She thinks that if we don't pass this, that's going to lead to a workforce shortage because people won't want to come to Nebraska because it's not conservative enough. Get real. I have been so restrained over this past six, eight weeks. I cannot wait to be unleashed after this bill is dead. I have been unwell. I've been having panic attacks four or five times a week. I have to pull over on my drive here. I'm late because I can't bear to sit between these two people who are voting to discriminate against my family every day. I can't bear it. I can't bear it.

**KELLY:** One minute.

**HUNT:** But I got to be here for the kids that can't be here, for the kids who do want to have a future in Nebraska, not for people like Senator Kathleen Kauth and her supporters who say if we can't discriminate against trans people, maybe Nebraska isn't the place for you. She openly says this on the record, on her microphone all the time. And I am indebted to Machaela Cavanaugh, who has carried the session on her back because I am broken. I'm indebted to Senator

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George Dungan and John Cavanaugh and John Fredrickson, these wonderful men who have carried these negotiations on their back that Senator Kauth went to the newspaper and said was nothing more than a listening session to her, nothing more than a performance. And I'm indebted to Senator Danielle Conrad, who's been able to keep communication open with colleagues who I can't even bear to look at. Let's put this to bed. Let's move on with the session. Thank you, Mr. President.

**KELLY:** Thank you, Senator Hunt. Senators, we will stand at ease until 6:00.

[EASE]

**KELLY:** The Legislature is preparing to reconvene and the next person in the queue is Senator Hunt. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. On my last-- before we broke for dinner, I read the text of this letter that was sent to the Legislature and to Governor Jim Pillen today, which included the signatures of 113 local businesses, sharing their concerns with the Legislature about Senator Kathleen Kauth's bills, LB574 and LB575. This is from-- sorry. I'm like, a little bit out of breath. I was like, rushing back up here. In the Omaha World-Herald today, they just released a story about it, less than an hour ago, that says the primary critique in the letter is that the bills could increase Nebraska's already significant labor shortage, deterring out-of-state prospective employees from moving in. By the way, this is what the Omaha Chamber already said, as well, about the same exact bills. They said that they've already had two events decline to come to Omaha, Nebraska, because of LB574. Earlier today, Senator Kathleen Kauth was talking about the canal, saying, we've got to get this water, because it's going to be bad for our economic prosperity if we don't have the water. She was talking about how we needed the ditch to save our economy. But she's ignoring all of these letters from 113-plus local businesses from the Omaha Chamber of Commerce, who is saying, Senator, we already have had two conferences, two events reject Omaha because of your bill. So they're telling us directly what it is that's harming the economy and it's her. It's her and it's all of you that are-- continue to go along with her. Quote, businesses are watching state legislatures, the letter said. They are investing in states with laws that foster diversity, equity, inclusion and a robust workforce and states that sanction discrimination simply cannot compete. Nebraskans, whether they're conservative or Republican or, or liberal or whatever

it is, regular people are creeped out by how much politicians are obsessed with genitals and reproductive systems. Look what happened to former Senator Geist last week; lost resoundingly, by more than Cindy Lamm lost in the last mayoral election. I believe that vote came down to abortion. It came down to that issue. You guys lost your big abortion fight last week. I'm not gloating about that. There's nothing to talk about there. But all of these things are signifying what you all need to understand and accept, which is that (a) culture war issues are not where Nebraskans want us to be going; and (b) voters don't like it either. It's creepy. The article continues, nationally, the Human Rights Campaign is collecting signatures from businesses for a letter that takes issue with similar bills proposed in state legislatures across the country. As of Thursday, 319 businesses have signed on, including massive companies like Apple, Google, Pepsi and many others. Quote, America's business community has consistently communicated to lawmakers at every level, that such laws have a negative effect on our employees, our customers, our competitiveness and our state and national economies, the letter reads. The letter from Nebraska businesses includes signatures from a range of Nebraska companies, from smaller ones, like A Novel Idea bookstore, to larger ones like Omaha Steaks. It was drafted by Mike Hornacek--

**KELLY:** One minute.

**HUNT:** --CEO of the nonprofit, Together Omaha. The parent of a transgender teenager, Hornacek has said that if LB574 passes, his family will leave Nebraska. And once again, to uplift the enlightening quote from our colleague, Senator Kauth, in this article, she said, the businesses signing the letter are entitled to their opinion, but lawmakers who support her bill should pay attention to which businesses signed on as opponents when they decide where to spend their money. She described the notion that her bills will hurt Nebraska's economy as a fearmongering tactic that lacks evidence. Nebraska has more conservatives than liberals, she said, so failing to pass conservative policies might actually deter potential workers and make the labor shortage worse. Her quote is basically the exact opposite of what Speaker Arch said on the record, which is embarrassing for the conservative group of people who are trying to pass laws like this. And you guys need to get yourselves in order. Put LB574 back on the agenda. Let's kill it and--

**KELLY:** That's--

**HUNT:** --and move on. Thank you, Mr. President.

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**KELLY:** Thank you, Senator Hunt. Senator Machaela Cavanaugh, you are recognized to close on FA87.

**M. CAVANAUGH:** Thank you, Mr. President. Please don't vote for this, colleagues. And I'd like a call of the house.

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

**CLERK:** 8 ayes, 2 nays, to place the house under call.

**KELLY:** The house is under call. Senators, please return to your-- please record your presence. All 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.

**M. CAVANAUGH:** Can I finish my opening? How, how much time?

**KELLY:** Yes. Yes, Senator Cavanaugh, and you have 4:41.

**M. CAVANAUGH:** OK. Thank you. OK, colleagues, so FA87 is the floor amendment to strike Section 2. Striking Section 2 would be striking a \$1,000,000 cash transfer to the Nebraska Cultural Endowment, so let's not do that. That's my, that's my suggestion on this, is to not strike Section 2. This might be one of those times where I vote against my own floor amendment, but we'll see. I haven't decided yet. Yeah. So once people check back in, we'll go to a vote. And we're getting close on time for the evening. I think-- do we have any other amendments pending? OK, then I-- Mr. President, I'm going to withdraw my motion. Thank you-- my amendment. Thank you.

**KELLY:** Senators Raybould, Jacobson, Linehan, DeBoer, Dover and Wayne, please return to the Chamber and record your presence. The house is under call. Senator Wayne, please return to the Chamber and record your presence. The house is under call. Senator Cavanaugh, we are lacking Senator Wayne. May we proceed?

**M. CAVANAUGH:** Yes.

**KELLY:** Thank you, Senator. Mr. Clerk.

**CLERK:** Mr. President, Senator Cavanaugh would withdraw FA87. Senator Clements would offer AM1635.

**KELLY:** I raise the call. Senator Clements, to open.

**CLEMENTS:** Thank you, Mr. President. I have a technical correction in an inadvertent word that we have in this bill. It's on page 24. The amendment says, on page 24, line 15, strike the word first and insert the word second. And that paragraph is regarding proposed uses for the Site and Building Development Fund under Department of Economic Development. That paragraph reads, public and private sector initiatives that will improve the value of cities of the first class-- now, we're changing that to second class-- value of the cities of the second class that have partnered with the United States Department of Defense or its contractors, on upgrades to ground-based nuclear deterrence. Such improvements include the construction of the electrical drinking water and clean water infrastructure. We have a city of the second class in western Nebraska, that I'm aware of a project involving the Department of Defense and federal government that may need some financing for infrastructure if a major project is started by the federal government. And that is a second-class city. We had written the bill thinking they were a first-class city-- list, which that-- the city would not qualify, so that is correcting that. So the city that we had in mind would qualify for this funding if it's needed. And so, that's all there is to it, just changing the word first to the word second, page 24 of AM1172. It's an amendment-- yeah. Yes. Let's see, an amendment to LB818, excuse me. And I ask for your green vote on AM1635. Thank you, Mr. President.

**KELLY:** Thank you, Senator Clements. Next in the queue, Senator Clements. And waive that. No one else in the queue, waiving your closing. Question is the adoption of AM1635. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 40 ayes, no nays on adoption of the amendment. Mr. President.

**KELLY:** Mr. Clerk, for items.

**CLERK:** Mr. President, a couple items, quickly. LR-- new LRs, LR127, LR128, from Senator DeBoer. Interim-- those will be-- both be referred to the Executive Board. Additionally, new LR from Senator DeKay, LR129. That will be referred to the Executive Board, as well. Concerning LB818, Mr. President, Senator Conrad would move to amend with AM1564.

**KELLY:** Senator Conrad, you are recognized to open.

**CONRAD:** Thank you, Mr. President. Good evening, colleagues. Just wanted to telegraph very clearly what the intent is with this floor amendment or with this actual amendment, I guess. It's not an FA. But you may remember the discussion and the dialogue that we had yesterday, in regards to the mainline budgets bill-- budget bill, about the transfers and utilization touching upon the Nebraska Environmental Trust. We had a very thoughtful, robust debate about policy issues, legal issues, practical issues with the Appropriations Committee proposal, in regards to making changes and utilizing funds out of the Nebraska Environmental Trust. I don't think that we need to belabor or repeat the entirety of those deliberations tonight, but for consistency purposes, I do want to ensure that we have a clear record in regards to the same section in the transfer bill. So I do just want to reaffirm, very quickly, that the Environmental Trust was created at the behest of Nebraska voters, by a vote of Nebraska voters. And the Nebraska Legislature should tread very, very cautiously, in terms of making any changes or adjustments to the structures meant to carry out the will of the voters in regards to that important component. I think it's also important, just to reiterate and to note that the Nebraska Environmental Trust has been supported by Nebraskans across the state, in urban Nebraska, in greater Nebraska, by Nebraskans across the political spectrum: progressives, independents, conservatives. Taking care of our land and our water and our air and our natural resources, those are values and strategies that do not belong to any one political party. These are public resources that should be protected to advance the public good. And that's exactly what the Environmental Trust seeks to do in terms of its overall intent and goals. So perhaps the Appropriations Committee has found a creative way to advance similar goals through their budget machinations. But we really should learn our lesson carefully as we learned together, earlier today, in this transfer bill, when we saw a sweep, when we saw a grab, when we saw a change into the Universal Service Fund, we quickly had to backpedal on that because of legal and policy concerns. We should really heed that lesson when it comes to the Environmental Trust. We are at a point of fiscal-- unprecedented fiscal health and we should not be raiding, altering or amending the structures of the Environmental Trust and the resources that it stewards to patch holes in budget or to fund agency appropriation requests. So with that, I'm happy to answer any questions. I don't plan to engage in a lengthy dialogue in this regard, but I do want to ensure that the record is clear and we have a clear vote. Thank you, Mr. President.



**KELLY:** Thank you, Senator Conrad. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. I just wanted to rise in support of Senator Conrad's amendment. And again, I, I don't need to belabor the point. We had like a robust conversation about this issue yesterday, but just wanted to lend my support to this amendment and to echo Senator Conrad's comments that it is always inappropriate to take the money from the Environmental Trust in this fashion, that the constitution is clear on this subject. It says that the-- in the Constitution of the state of Nebraska, adopted by the voters, on the ballot in the year 2004, the money from the Nebraska lottery is apportioned 44.5 percent, is to go to the Environmental Trust to be disposed of in compliance with the Environmental Trust Act and that this circumvents that process. We had a conversation yesterday, where we talked about other times when that process has been circumvented. A number of those were prior to the constitutional change that enshrined this provision in the constitution. One of those changes was for an environmental cleanup and another change was one in which this Legislature directed the Water Resources Cash Fund to apply-- the Department of Natural Resources, for the Water Resources Cash Fund, to apply for grants through the department or through the Environmental Trust and instructed the Environmental Trust to grant points to the water resources application, ahead of every other application. But the distinction there is that that was through the, the grant application process, that they still had to fill out an application and still had to go through the process, still had to be awarded additional points, because 50 points is not enough to win a grant. And they were still subjected to the oversight and supervision of the Environmental Trust for administering those grants. So this is-- I agree with striking this and I agree, obviously, with striking the appropriation itself. And I disagree with the idea of raiding the Environmental Trust for funding another agency's funds, especially when we have this-- so much money available that we are spending an extra \$125 million to build a bigger canal than the one we need, to perfect our rights in Colorado. So I would encourage your green vote to-- on AM1564. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. I rise in opposition to AM15-- is that 64? Yeah. And I have LB818 open here, Section 34. It starts out by saying, the Nebraska Environmental Trust Fund is created. Striking

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this section, I'm thinking, might, might remove the whole Environmental Trust Fund. And I don't want to do that. But I think the purpose is lines 11-14. That is the new language in the bill. It says, transfers may be made from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund at the direction of the Legislature and any money so transferred shall be expended in accordance with Section 81-15, 168. And this is-- goes along with the discussion we had yesterday. This is authorizing transfers for the Water Resources Cash Fund that-- under the Department of Natural Resources. But we did add on the end of that, in accordance with Section 81-15, 168, which would require the Department of Natural Resources to follow the restrictions of the uses of the Environmental Trust Fund. And so, we're-- they are still going to be required to use it as if they were awarded a grant by the trust fund. This is a direct appropriation. I'll admit that. And I agree that it's proper, as we discussed yesterday. I believe this language should stay in and that the transfer that we're making is allowed, as long as it's going to be in accordance with the section under the Environmental Trust restrictions. So I ask for your red vote on AM1564. Thank you, Mr. President.

**KELLY:** Thank you, Senator Clements. Senator Aguilar, you're wel-- recognized to speak.

**AGUILAR:** Thank you, Mr. President. I just want to follow up a little bit on what Senator Conrad and Senator John Cavanaugh had to say. I think we should do everything in our power to protect that Environmental Trust Fund. There's agencies out there, nonprofit agencies, one in Grand Island, one in Lincoln and one in Omaha, that strictly deal with hazardous waste-- waste and household waste. They take care of that. They're doing all that with whatever they can operate with. And many times, it's a grant from the Environmental Trust every year. Last year, it got raided. They did not get a grant, so some of them almost had to close their doors. And I wish you'd give it a lot of thought to this and vote green on this amendment.

**KELLY:** Thank you, Senator Aguilar. Senator Erdman, you're recognized to speak.

**ERDMAN:** Thank you, Mr. President. We had a, a lengthy discussion in Appropriations about this transfer. And if my memory serves me correct, they had like \$67 million in their cash fund and we're taking \$14, I believe. And we've had a discussion about that before we made the decision. I don't believe, Senator Aguilar, that we're going to affect anything they do about cleanups and about environmental issues.

I think they have plenty of funds to do those things. But I'm kind of concerned, as well as Senator Clements was, when you strike Section 34 and you may be striking the trust fund, that could be a problem. I think that amendment would have been far more appropriate if it was written, strike the new language in Section 34. But it is what it is. So be aware that if you vote for this amendment, you very well could be removing the Environmental Trust Fund that was created. I'm not sure that's what the introducer thought or had intended to do, but that's a concern you should be aware of before you vote. So I'm opposed to AM1570-- AM1564 and I ask you to vote red, as I will. Thank you.

**KELLY:** Thank you, Senator Erdman. Seeing no one else in the queue, Senator Conrad, you're recognized.

**CONRAD:** Thank you so much, Mr. President. I appreciate the helpful technical feedback from my friends, Senator Erdman and Senator Clements. And indeed, perhaps our amendment did cut a bit too broadly, in terms of the stricken language proposed. So I am probably going to end up pulling this motion before-- or this amendment, before we get to an actual vote on it and we'll either refile it before we have cloture this evening or on Select File. But before I do that, I do want to acknowledge Senator Clements' concession that this is a direct appropriation outside of the Environmental Trust. And I do want to thank my friend, Senator Aguilar, for speaking in support of protecting the will of the people. I'll withdraw the amendment and thank you, Mr. President.

**KELLY:** It is withdrawn. Mr. Clerk, for items.

**CLERK:** Mr. President, Senator Machaela Cavanaugh would offer FA88, strike Section 3.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to open.

**M. CAVANAUGH:** Thank you, Mr. President. All right. Colleagues, cloture is at 6:59-- eight, 6:58. That is in 29 minutes. 29 glorious minutes. And we are striking Section 3. Well, let's see what that is, shall we? Sorry. This binder is all of the bill, so it's a little, a little cumbersome. OK. Section 3, AM1172 of LB818. So FA88 seeks to strike the following: The State Treasurer shall transfer \$5 million from the Prison Overcrowding Contingency Fund to the Vocational and Life Skills Programming Fund on and-- or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget

administrator of the budget division of the Department of Administrative Services. So, please don't vote for it. Seems like a cash transfer we should just go ahead and do. Vocational services and life skills, yeah, let's stick with that, shall we? I think we shall. OK. I-- before we broke for dinner, I was looking at the-- table 32, on page 76 of the green Martian book and I had commented on the school breakfast program and the general funds, \$52,291-- and our wonderful Fiscal Office gave me that was the increase. That's the increase. So it was 39-- \$392,032, but it is now \$444,323. So thank you. You took the time to write the note, I felt I needed to read the note. And I appreciate it, much like the IIJA, IIJA, IIJA, IIJA. I'm going to just keep saying it until I get it right, until I get a thumbs up that I've said it correctly. IIJA, which is the Investment-- Infrastructure Investment and Jobs Act. So thank you to our Fiscal Office for all of their hard work. I very much appreciate it. I also talked about, on page 74, of the-- oh, I gotta get in the queue. OK. On page 74, I talked about, the committee included \$5.5 million in general funds for the Wipro state claim to be paid by DHHS through Program 33 Administration, and offset the costs through the general fund reduction from Program 38 Behavioral Health Aid. And so, my wonderful staff, Margaret, did the research and brought me the Wipro, District Court of Lancaster County. Wipro Limited, LLC is the plaintiff, versus the state of Nebraska. The case was filed in 2019. It's now in mediation. So the matter became before the court-- on the parties joint motion to extend case progression deadlines. All right. OK. So this is the Wipro claim: State of Nebraska cancels contract after spending \$6 million, company sues for another \$15.5 million. This is from the Lincoln Journal Star. On March 6, 2019, Chris Dunker. Nebraska officials canceled a \$84 million medical eligibility and enrollment system upgrade in December after about \$6 million in state tax dollars had been spent on the project. On Monday, the company hired to build the new system, India-based Wipro Limited, which has a U.S. headquarters in New Jersey, sued the state, saying Nebraska failed to pay \$15.5 million for work done before the project was halted in September. In the lawsuit, filed in Lancaster County District Court, Wipro is also seeking \$3 million in lost revenue from the state, as well as \$11.9 million in damages done to its reputation. Last year, the Nebraska Department of Health and Human Services said it ordered a review of the project that began in 2014, to bring the state in line with the Affordable Care Act standards, after a manager on the project retired. In September, DHHS issued a cease and desist letter to Wipro, ordering it to stop work on the upgrade to the state's Medicaid enrollment system and to vacate its state offices.

Wipro said it-- in its complaint, the order to pause work came just a few weeks after the project was determined to be on budget and on schedule by First Data, an Omaha Company retained by the state to evaluate the \$84 million contract, which was to be paid primarily through federal funds. The project also received a green rating from the Nebraska Information Technology Commission in August 2018, leading it to implement a major milestone on the project as it hurtled toward a state expedited, expedited end date of February 2019, the complaint states. DHHS' cease and desist letter did not include, quote, a factual basis for suspension, Wipro said. And the state agency also indicated it would pay invoices filed by Wipro for ongoing services, through December 31, 2018, as agreed in the contract. About a week after receiving the letter, Wipro said it was notified that the suspension had come, based upon an early brief written by the-- by First Data on August 23, 16 days after First Data had given Wipro a favorable review, the lawsuit states. That brief was not initially shared with Wipro, the company said. Wipro later received a final draft of the brief, dated August 27. Wipro sent to the, the state three invoices on October 5th for \$15.5 million in work completed through September 7 and responded to questions by the state about the invoices on November 5. The state terminated the contract December 12. Despite repeated requests from Wipro, the state has failed to timely pay the Wipro invoices, which remain due and payable by the state, together with unpaid interest, the complaint reads. Wipro is also seeking attorney fees plus additional general and special damages to be proven at trial. State officials reached Tuesday declined to comment. OK. So then, there is the-- I guess this is the case. I am not a lawyer, so I don't actually know what the name of this document is. I'm like, is this the affidavit? No, this is not an affidavit. This is filed in Lancaster Court. E-filed, case number, transaction and then it has parties, jurisdiction and venue, factual allegations, first cause of action, second cause of action, third cause of action. I'm like, looking around. The only attorney I see sitting is Senator Bosn. Would Senator Bosn yield to a question? It's an easy one, I think, for you. I just want to know what, what this actual document is called.

**KELLY:** Senator Bosn, would you yield to a question?

**BOSN:** Sure.

**M. CAVANAUGH:** Thank you, Senator Bosn. As a lawyer, what is this document called, that has all of these-- I-- you may-- let me say what

it was again. It has the first cause of action and second cause of action, stated in it, parties, jurisdiction and venue.

**BOSN:** Is it a complaint?

**M. CAVANAUGH:** That's probably what it is. It says defendant's answer and counterclaim.

**BOSN:** So its defendants answer and counterclaim to the plaintiff's complaint.

**M. CAVANAUGH:** Thank you, Senator Bosn.

**BOSN:** Sure.

**M. CAVANAUGH:** Thank you for yielding to the question. Sorry to put you on the spot. Senator Slama, if you had been sitting closer to your desk, you were going to be my first, my first pick. But I didn't want to make you just jet across to answer a question that I knew Senator Bosn could clearly answer for me. So thank you. I always say, like, I phone a friend.

**KELLY:** One minute.

**M. CAVANAUGH:** Today, I'm phoning a friend who's also an attorney. And we have lots of expertise in here, in this building, in this Chamber, on different areas. We've got legal expertise, we have banking expertise, we have social services expertise, all kinds of expertise. Hospital administrative expertise, we're doubled up on that one. OK. One minute. Thank you, Mr. President. So that is, I guess, sort of answers my, sort of answers my Wipro question, but doesn't fully answer it, because now I understand what the Wipro claim generally was about. But what I don't understand and this is most likely a question for a member of the Appropriations Committee, is why are we transferring funds out of Program 38 Behavioral Health Aid to pay the damages or whatever is-- whatever the term is, the, the amount of money owed to Wipro? So.

**KELLY:** That's your time, Senator. And you're next--

**M. CAVANAUGH:** Thank you, Mr. President.

**KELLY:** --and you're next in the queue.

**M. CAVANAUGH:** Thank you, Mr. President. So I-- would Senator Clements yield to a question?

**KELLY:** Senator Clements, would you yield to a question?

**CLEMENTS:** Yes.

**M. CAVANAUGH:** Thank you, Senator Clements. So as I was saying, there's this lawsuit that we had, that Wipro-- with Wipro. And it's from 2018. And on page 74, in the adjustments, it states that we are paying \$5.5 million in general funds, but it is coming from Program 38 Behavioral Health Aid. And I just was curious and obviously, you might not know this off the top of your head, but if you do, why specifically from that program?

**CLEMENTS:** The way I read-- if you're looking-- are you looking at the Mars green book?

**M. CAVANAUGH:** I am looking at the Martian-- Mars, Martian green book. Yes.

**CLEMENTS:** OK.

**M. CAVANAUGH:** Page 74.

**CLEMENTS:** The way I read that, it says Program 33 Administration in my book, not 38.

**M. CAVANAUGH:** OK. But it says offsets the costs through general fund reduction from Program 38.

**CLEMENTS:** Through a reduction from-- oh, I see. Uh, dear. I think behavioral health aid had unspent funds is what that would be--

**M. CAVANAUGH:** OK.

**CLEMENTS:** --that were not being appropriated. And I'm going to have to ask the Fiscal Office to make sure that's right, but I believe there were funds there that carried over and had not been spent.

**M. CAVANAUGH:** OK. I did put you on the spot a bit. That's kind of a--

**CLEMENTS:** That's OK.

**M. CAVANAUGH:** --it's kind of a deep cut question. Page 74 of this Martian green book, there's a sentence at the end so-- but maybe

we'll, we'll find an answer. I have found that the, the fiscal analysts over here are really on the spot with getting answers. They, they keep passing me notes to my random questions.

**CLEMENTS:** Excuse me. I'm in the queue next, but I'll check on that before I get on the mic.

**M. CAVANAUGH:** OK. Thank you, Senator Clements. OK. Well, so it's just some of the fun things you find when you read through the budget, is things like we have a lawsuit with Wipro. And I feel like I probably knew about this at some point in time, but also, in-- this was all happening in 2018, which-- I had a few things going on at the end of 2018, I was running to be in the Legislature, but I also had a newborn. So, you know, news stories about lawsuits might have, even if they caught my attention at the time, I might not have retained them. There was some sleep deprivation happening, as does happen sometimes when there is a newborn around. So-- and that newborn, gosh, he is almost five. He's going to be five in July. So just growing up real fast. So I can always, like, I can count my time here by my son's age. Yeah. OK. How much time do I have left, Mr. President?

**KELLY:** 1:57.

**M. CAVANAUGH:** Thank you, Mr. President. I think that basically catches up on the things that I was discussing prior to adjourning for the dinner break. So I will-- I want to carry on. There's some other things to read through in this budget, starting on page 83, but I will come to that my next time in the queue. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. And fortunately, after hearing Senator Cavanaugh speak about Wipro, I had already turned to page 74 and was reading it myself. I have checked on that with others. And there-- it's true that there is a transfer from the Program 38 behavioral health in Department of Health and Human Services, because they had unspent, unobligated funds available, of \$5.5 million. I've been on Appropriations since 2017 and I do recall discussions with Health and Human Services directors, regarding this problem. They had hired this Wipro company to do computer software and it wasn't getting done. And they kept-- the agency extended the deadline for the software to be completed. But then they would say, well, we needed \$3 million more dollars or I don't remember how far we got. The number



\$11 million comes to mind. But they finally-- the department decided they, they needed to go a different direction with software that this Wipro was working on, that it wasn't ever going to be finished or not timely enough. So the department did cancel the contract with Wipro, as I recall. And then Wipro said, oh, well, you had a contract for so many dollars and you've broken your contract. And we want a payment. So I hadn't heard about that for three or four years, probably and now, here it came up. They must have finally settled that dispute and did have to pay all or a portion of the contract to terminate the Wipro company from developing the software. And the-- HHS has gone a different direction, and I think that's with the Health Information Exchange and CyncHealth. The other thing I will discuss, I wanted to discuss the FA88, which strikes Section 3. I'd like to read: the State Treasurer shall transfer \$5 million from the Prison Overcrowding Contingency Fund to the Vocational and Life Skills Programming Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator at the budget division of the Department of Administrative Services. And we've been talking about programming with Senator McKinney and I really do support programming. And this floor amendment would cancel \$5 million of programming for vocational and life skills. So I am in opposition of FA88 and hoping that we can keep this \$5 million transfer to continue doing programming. And I-- the committee, Appropriations Committee, had much support for programming. In fact, with the voting on the approval of additional money to complete the-- a new corrections facility, the committee did emphasize that we want to make sure that space for programming is part of the new facility. And if--

**KELLY:** One minute.

**CLEMENTS:** --thank you-- if expenses run over, that we wouldn't just cut programming and just have cell space that we build. We want to build programming even if we're going to have, have to make decisions down the road when the money-- the expenses are higher or money is tight. So I-- for that reason, want to preserve this Section 3. And I also appreciate the opportunity to explain something that will be in the next bill, LB813 is where the Wipro payment will be and I was planning to discuss that at that time. And we'll, we'll probably review it one more time. Thank you, Mr. President.

**KELLY:** Thank you, Senator Clements. Senator Arch, you're recognized to speak.

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**ARCH:** Thank you. I-- I've got a question for Senator Machaela Cavanaugh, if she would yield to a question.

**KELLY:** Senator Machaela Cavanaugh, will you yield to a question?

**M. CAVANAUGH:** I'd be delighted.

**ARCH:** You and I served together on that LR29 committee.

**M. CAVANAUGH:** Yes.

**ARCH:** Yeah. We, we can remember that. Was this not one of those examples, this particular software developer, that we were looking at and the procurement system where, where we-- the state paid in and, and the feds paid in? Are we talking about the same example on that?

**M. CAVANAUGH:** I don't know if that was this one. I mean, with the LR29, there was the one, the Wymark.

**ARCH:** Yep. Yeah, there were, there were several of these, of these examples, where--

**M. CAVANAUGH:** But this might have been.

**ARCH:** --where they, they, they produced or I should say, they were paid but did not produce.

**M. CAVANAUGH:** Produce. Right. Yeah.

**ARCH:** You know this, this pattern that we saw with the LR29-- thank you, Senator Cavanaugh. The pattern that we saw with the LR29 committee of, of, of contracting and then getting into it and not receiving what we want and then, and then pay more and then we end up canceling. And so, yeah. So LB631, I believe, was the bill that I introduced this year-- prioritized. It won't be heard on the floor this year, but this was the result of that because we do have issues with our procurement system. And hopefully, we can pick that up next year. But, but that would be my intent, that we could fix some of these things and give them the tools that they need to make sure that we don't get back into this situation again. So. Thank you, Mr. President.

**KELLY:** Thank you, Senator Arch. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President. I just wanted to rise to note this most recent example of, I think, again, a rather troubling trend or pattern in practice emanating from the Department of Health and Human Services. And to be clear, they do incredibly important work and they have a lot of dedicated public servants there. They're also a huge agency, so they manage a lot of different programs and a lot of different funds. But I do want to note for the record that again, we have another example of unutilized funds in the Department of Health and Human Services. And if these funds are unutilized or are underutilized and they do have broader opportunities for utilization, it is helpful to know about that. But just this week, we heard the good news from the Arc of Nebraska, working with Governor Pillen, that they were able to move out existing appropriations to assist for developmental disability services. That is wonderful good news. And I'm very grateful that the Governor utilized his power and leadership to make sure that that happens. But again, those were already appropriated and should have been flowing to their intended purposes. So, I do just want to know that. We've heard a little bit about how we might be able to utilize-- unutilize-- underutilized or unspent ARPA funds. We may have lost some ARPA funds that were underutilized or unspent by the Department of Health and Human Services. We saw that come into play with Senator Day's SNAP bill. We saw that come into play with the PTSD resources and appropriations. And it's good when we can find existing resources to carry out those important public policy considerations. But I, I do think it's concerning, and I think we need to have a stronger or better audit or legislative performance audit or some sort of clear and consistent understanding about what funds exist and don't exist at the Department of Health and Human Services, so that we don't have redundancy or duplication and we can utilize those funds to their best and highest purposes. I also want to make sure when we think and we talk about this, that we're doing everything that we can, from a sound budgetary and sound fiscal perspective, to draw down federal funds when they are available. Make no mistake, colleagues and some of those come, come with strings that we are uncomfortable with, but many of them do not. And, you know, Nebraska remains one of the only states, if not the only state, that has not drawn down and fully utilized our funds for rental assistance to assist with people accessing safe and affordable housing or staying in their home. I think that the proposal that we heard before the Government Committee was particularly directed to greater Nebraska. I think Senator Aguilar and Senator John Cavanaugh had worked on that measure and it's still pending in our committee, and I know discussions are happening at the Governor's Office, as well. So it is

important as we think through some of these issues that we are maximizing and leveraging federal funds where appropriate, that we are getting a full and fair accounting of appropriations that have been made that are not being pushed out or directed to their intended purposes so that we can have a better understanding about how to meet the state's needs.

**KELLY:** One minute.

**CONRAD:** Thank you, Mr. President. The last piece that I would just note, kind of, in regards to this specific idea and I'd pose to Senator Clements or Senator Riepe or others that might be involved in this, is I thought I heard and was trying to look in my budget book for a little bit more detail that this transfer may be in regards to a settlement. And if that's the case, I was just hoping that somebody could provide more information or clarity about why it's happening in this regard instead of the state claims bill. Thank you, Mr. President.

**KELLY:** Thank you, Senator Conrad. Senator Machaela Cavanaugh, you're recognized to speak and this is your last time before your closing.

**M. CAVANAUGH:** Thank you, Mr. President. I don't think I'll get a closing because I think we have 4 minutes left. So that probably is about it. I was just discussing-- now, I don't want to make Senator Riepe envious over here, but I was having a dessert conversation with someone other than Senator Riepe, with Scott from the Fiscal Office. We were talking about cheesecake. So I had to, I had to pull myself away from a cheesecake conversation to come back here to talk about the budget. And that might have been one of the hardest things I did today was to stop talking about cheesecake, so difficult that I'm still talking about cheesecake. So that's where we are at. OK. So-- oh, OK. I'm going to withdraw my motion-- my amendment. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Mr. Clerk, for items.

**CLERK:** Mr. President, Senator Conrad would offer FA89.

**KELLY:** Senator Conrad, you're recognized to open.

**CONRAD:** Thank you, Mr. President. And this is a new version of the previous filed amendment in regards to striking the new language in Section 34, regarding what I believe to be a misappropriation of funds from the Nebraska Environmental Trust. And just again, I don't plan to

belabor the point. I know we're getting close to cloture, but I did want to provide the body with an opportunity to have a clean vote on that, if they were confused by the comments from my friends, Senator Clements and Senator Erdman. They were a little bit worried that the previous amendment had painted with too broad a brush and because that caused them some confusion, being a good, a good teammate, I wanted to withdraw that and provide a clean vote for them and for other members to take this up. Of course, it goes without saying, from a legal perspective, that that amendment did not abolish the Nebraska Environmental Trust or any of the legal framework that helps to support it, starting in Chapter 81 and moving throughout. I think it's really important, even if we have a different point of view, that we don't make unfounded claims in regards to the legality of proposed amendments in regards to the budget bill and how that impacts the underlying agency. So if Senator Clements and Senator Erdman were a bit confused about that, I, I wanted to be a good sport, take it up, provide a clean amendment and provide clarity for the body. Thank you, Mr. President.

**KELLY:** Thank you, Senator Conrad. Senator Erdman, you're recognized to speak.

**ERDMAN:** Thank you, Mr. President. I think I'll be last before you do the gavel and the cloture motion. I wasn't confused. Neither was Senator Clements. And I'm still in opposition of removing the language-- the new language. And I stick by what I said earlier. I should have kept my mouth shut and we should have voted on that. And then, come to Select, they would have had to put it back. So nothing's changed here. All right. We've talked about this in Appropriations. We made the decision we think is appropriate and correct. I stand by that. They have plenty of money to do whatever they need to do. So vote red on FA89. Thank you.

**KELLY:** Thank you, Senator Erdman. Mr. Clerk, you have a motion on your desk?

**CLERK:** I do, Mr. President. Speaker Arch would move to invoke cloture on LB818, pursuant to Rule 7, Section 10.

**KELLY:** Senator Arch, for what purpose do you rise?

**ARCH:** A call of the house and machine vote.

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

**CLERK:** 23 ayes, 3 nays, to place the house under call.

**KELLY:** 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 Day, please return to the Chamber and record your presence. The house is under call. All unexcused members are now present. Members, the first vote is the motion to invoke cloture. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 36 ayes, 2 nays, to invoke cloture, Mr. President.

**KELLY:** The motion to invoke cloture is adopted. Members, the next vote is on the adoption of FA89. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 8 ayes, 30 nays, on the adoption of FA89.

**KELLY:** The amendment is not adopted. Members, the next question is the adoption of AM1172. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 39 ayes, 0 nays, on adoption of the committee amendments, Mr. President.

**KELLY:** It is adopted. The next question is the adopt-- is, is the advancement to E&R Initial of LB818. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

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

**KELLY:** It is advanced. I raise the call. Mr. Clerk, for items.

**CLERK:** Mr. President, next item on the agenda, LB813, introduced by Speaker Arch at the request of the Governor. It's a bill for an act relating to Appropriations; amends Section 57, 68 and 83; Section 25, Sections 56, 187, 190; LB1014, Sections 34, 49; defines terms, provides changes and eliminates appropriations for operation of state government; repeals the original section; and declares an emergency. The bill was read for the first time on January 25 of this year and

referred to the Appropriations Committee. That committee placed the bill on General File with committee amendments. There are other amendments, Mr. President.

**KELLY:** Senator Clements, you're recognized to open.

**CLEMENTS:** Thank you, Mr. President and colleagues. LB813 is the third and final budget bill that we need to pass. We did-- there were two others that we did previously. In this series, it's the third one introduced by the Speaker at the request of the Governor, it's part of the Governor's biennial budget recommendations. This bill makes adjustments to funding for state operations, aid and construction programs in the current fiscal year, ending June 30, 2023. The appropriations will be used in programs where the forecasted cost has risen or decreased due to circumstances that were unforeseen when appropriation bills were passed two years ago and subsequently amended by the Legislature in 2022. Since we do a budget with projected revenues and expenses, it's understandable that some revenues increased, expenses increased or sometimes we have refunds and that's what we're doing here, adjusting for that with different agencies. The committee amendment, I will go to and-- I'll, I'll close on the bill and wait for the committee amendment.

**KELLY:** Thank you, Senator Clements. You are recognized to open on the Appropriations Committee amendment, AM1169.

**CLEMENTS:** Thank you, Mr. President. The committee amendment, AM1169, becomes the bill. The amendment reflects the Appropriations Committee recommendations for funding adjustments in the current fiscal year, '22-23, ending June 30 of this year. The amendment contains the emergency clause. Deficit appropriations are listed in the Martian green budget book, on pages 74-78. The General Fund increases total \$32.1 million. And some of them, larger ones, I'll describe as follows: Department of Health and Human Services needed \$11 million to support the state's health information exchange. In addition, \$6.3 million are needed for updated computers. And the same agency, \$10 million more for inter-- IT costs, due to remote access for employees, during the pandemic and since then. And then, we've already discussed a settlement with the Wipro company of \$5.5 million, of a software company contract that was terminated. Corrections Department divisions needed \$24.8 million for additional employee salaries and per diems and the addition of several hundred more employees. Chadron, Peru and state-- other-- and Wayne State College, needed \$1.3 million for additional professor pay, insurance costs and inflation costs. There

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are also adjustments in agency cash funds and federal funds you can find in the green budget book. And in the green budget book, they start on page 74, with descriptions and then there is a table starting on page 76, which shows the agency, what type of fund it is, whether it's a general fund adjustment, cash fund, federal funds, revolving funds, which is between agencies or PSL, which is per-- personal service limit, which is salary limit for an agency. And so the, the Appropriations, Appropriations Committee received a packet of all of these requests and we went through and approved the ones that we agreed with. It may not have been 100 percent, but the, the ones that were necessary to keep agency functions going, we did approve. And the general funds portion is about \$32 million. With that, I will close and ask for your green vote on AM1169 and LB813. Thank you, Mr. President.

**ARCH:** Thank you, Senator Clements. Mr. Clerk, next item.

**CLERK:** Mr. President, Senator Clements would move to amend the committee amendments with AM1591.

**ARCH:** Senator Clements, you are welcome to open on your AM1591.

**CLEMENTS:** Thank you, Mr. President. After the budget book was printed, we had-- we found out that Game and Parks-- well, maybe I shouldn't say that. It was already-- anyway, after we approved the first packet of deficits, Nebraska Game and Parks came to us with a request. They are needing funding for temporary salaries and operating expenses for state parks. They have the cash, but they're exceed-- they're up against the limit of their authorization to spend it. And so this would increase their authority by \$2.5 million for this current year ending June 30. And the \$2.5 million would be also increasing their salary limit by \$600,000. And so, this additional amendment is-- was just a later deficit that we became aware of. And it's cash funds out of the Game and Parks, that they have the funds, just needing authority to spend it. And I ask for your green vote on AM1591. Thank you, Mr. President.

**ARCH:** Seeing no one in the queue, Senator Clements, you are welcome to close on AM1591. Senator Clements waives close. Senators, the question before the body is the adoption of AM1591 to AM1169. All those in favor vote aye; all those opposed vote nay. Mr. Clerk.

**CLERK:** 31 ayes, 0 nays, on adoption of the amendment, Mr. President.



**ARCH:** AM1591 is adopted. Mr. Clerk, next item.

**CLERK:** Mr. President, Senator Machaela Cavanaugh would move to amend with AM1625.

**ARCH:** Senator Cavanaugh, you are welcome to open on AM1625.

**M. CAVANAUGH:** Thank you, Mr. President. I've asked a lot of questions on the mic and off the mic in the last well, all of the time. Who am I kidding? All of the time. But I was just-- someone from the Governor's Office was answering some of my questions, so thank you for that. And so, I apologize that I was delayed. AM1625. OK. I have these readily available somewhere near me. OK. AM1632-- that's not right. AM1631, AM1630, AM1629, AM1628, AM1627, AM1626-- it's at the bottom.

**HUNT:** It strikes Section 18.

**M. CAVANAUGH:** Oh, it strikes Section 18. Well, well, well. Look at that. Thank you, Senator Hunt. Now-- sorry, Senator Fredrickson. I'm now taking over your side of the podium. I'm just encroaching here. I've, I've crossed the barrier. The podium is the barrier between everyone's desk space. And I have now just encroached on Senator Fredrickson territory. Our districts do align-- or so you know, sometimes-- yes. My, my parents live in your district, so I frequent your district often. It's a good, it's a good district. Yeah. I grew up in it. I grew up in Senator Fredrickson district. OK. Strikes Section 18 of AM1169. So, OK. Again, Margaret in my office was wonderful and diligent and, and put these together for me, these amendments. And this one feels a little ironic, but strikes DHHS's Program number 33, which is Administration. Colleagues, not that we're really in danger of everyone voting for this, but please do not vote for AM1625. That would not be good. That would result in some pretty serious government functioning problems. However, it would save us \$23 million. But still, please don't. Do not, do not vote for AM1625. We-- I think, I think, I think we want government to function at least to some degree, like, you know, people showing up to work. I know there's computers in the administration's budget, so we want to have those, too, I guess. I don't know. So that's the thing about the budget. My little tutorial on the budget and I'm going to probably, like, butcher how somebody should approach the budget. And then, I-- I've got-- I have this-- the, like, expertise are just sitting off to my right. And I'm sure they're like journaling their criticisms that-- of how I explain the budget. They're like, you do not know how to explain the budget. OK. So we've got the budget and we've got the budget bills,

LB813, LB818, LB814, LB815, etcetera, etcetera, etcetera. Those are the actual legislation. And then the amendments that come out, the Appropriations Committee amendments is just like every other bill that has amended bills into it, it's an amendment of amended bills. But because it's the budget, it's quite complex, much more so than some of our other amended bills, although we have had some doozies this year of amended committee amendments. But it is very complex. And so, got the binder-- I've got this binder here, it's the bills, it's the amendments to the bills and then, got my Martian green book and then I've got my Legislative Fiscal Office program directory, so-- to cross-reference. So I was actually about to do this on the last time, go around, because I was looking at and I was talking with Senator Clements about the Wipro, the state claims, the Program 33, 33, which this amendment would strike. So don't do that-- and offset the costs, the costs through the General Fund reduction, Program 38. So I was, prior to this, my amendment coming up, going to look up Program 38, which is Behavioral Health Aid. And I wanted to look at it and see what all is in there or what it says about the program, not what's in there. The, the Legislative Fiscal Office book about agencies and programs just tells you about the program. OK. So Program 38, if you have this book, it is on page 263, Program 38, Agency 25, which is DHHS. And here we go. Purpose-- program purpose: the department is responsible for distributing behavioral health state aid for community, mental health and substance abuse services. The Division of Behavioral Health Services is responsible for planning, determining the allocation of resources and the administration of aid to communities. The division provides leadership for state's mental health and substance abuse program. The division administers the aid through contracts with the six regional governing boards and direct contracts with providers. Contracts are managed through utilization review, quality of care review, program fidelity, audits and consumer input. Contracts include both fee-for-service and non-fee-for-service payments. Service provisions falls into four levels of care based on intensity of service: 1) emergency, 2) assessment evaluation, 3) nonresidential and 4) residential. The majority of federal funds received for behavioral health services are from SAMSHA's Mental Health Service Block Grant and Substance Abuse Service Block Grant. OK. So, program expenditures. This is 2018-2019. General funds were 20-- 6-- 20-- sorry. General funds were \$69,303,761. Cash funds were \$13,178,243. Federal funds were \$15,148,704, with total state aid, \$97,630,708. That was in 2018-2019. OK. So then, we go up to-- all right. 2019. OK. We're gonna go to total, total state aid. So total state aid has decreased to behavioral health aid over the last

biennium. So in 2018-19, it was \$97,600,000. In 2019-2020, it was \$102 million. In 2020-2021, it was \$87 million. That's a drop of nine-- three-- \$15 million. Yes-- 10-- \$15 million. In 2022-- '21-22, it was \$72 million. So we went up to \$102 million and now we're down to \$72 million. Now, this doesn't tell you the reason behind any of that. That's-- this is, this is just an explanation of the program. And then it gives you the program expenditures over the two previous biennium. So-- but that is interesting. I would like to know more about why we're investing less money in behavioral health aid, because that's clearly a decision.

**ARCH:** One minute.

**M. CAVANAUGH:** Thank you, Mr. President. But I can't dig into that in that particular book at this particular moment. So I will move on. OK. I was looking then, back in the green Martian book, green Martian-- if anybody-- I have found that there are many versions of legislative bingo. I think that there's probably one completely dedicated to grammatical conversations. But I hope during this budget debate, there is a bingo card that has Martian green or some variation of Martian green. And every time I say Martian green, somebody is getting a bingo on their bingo card. Martian green. It's Martian green, the green of Martians. The color of Mars; Martian green. OK. So I think I'm almost out of time, so I am going to get into the queue and come back to talk about Agency 25, HHS systems. Thank you, Mr. President.

**ARCH:** Senator Erdman, you are recognized to speak.

**ERDMAN:** Thank you, Mr. President. I had intended on calling the question, but I thought I would hold off on that. But this is a rare day in the Legislature. I would have voted for Senator Conrad's bill earlier, the one that struck the trust fund. And I would guarantee I'll vote for this one. So when it comes up, AM1625, put up a green and let's see what that does to HHS. So please vote green. I know it's a rarity that I would vote with Senator Machaela Cavanaugh, but this is a rare occasion and I would be more than glad to vote green. Thank you.

**ARCH:** Thank you, Senator Erdman. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Well, Senator Erdman, I appreciate that vote of confidence in my amendment. I, personally, don't mind a little chaos, so I guess if AM1625 were to, to pass, we

would see what chaos ensues. But I do think that, probably, at the end of the day, considering that it would do a significant amount of damage to the actual budget and function of the government, that clearer heads will prevail. And I don't think that AM1625 will have the 25 votes it needs to be adopted. OK. So, page 136, HHS, Agency 25. OK. This is just sort of their overview of the budget. We've got operating, we've got aid, we've got total here. And then under a-- under each of them, there's general, cash, federal, revolving, total. So we'll skip down to the categories-- to the current year, total and then, the Governor's-- I'm guessing it's the Governor's '23-24 proposal, the Governor's-- oh, not guessing. It says that at the top of the page. Governor's '23-24 proposal, '24-25 proposal and then, the committee proposal and-- for '23-24, '24-25. So current year is \$5 billion, with a b, \$5,228,870,154. Then the Governor's proposal for this-- '23-24 is \$5,408,586,999. And then the Governor's '24-25 is \$5,263,614,254. Interesting. There's a decrease from the first year in the biennium of the Governor's budget to the second year biennium of the Governor's budget. I'm curious to learn where that decrease is. OK. And then, we get to the committee's proposal for '23-24, is \$5,500,479,777. And then, for '24-25, for the committee, it is \$5,405,000,111-- 119,141(\$5,405,119,141). So there's a decrease, also, in the committee's proposal, interestingly. I'm sure it's somewhere in here and we can discover it together. OK, so we've got salaries, health insurance increase. LB539, the Juul settlement, intervention for minors, for FY '24-25-- and 25 only. This funding is associated with Nebraska-- with what Nebraska is expected to receive from the Juul settlement in FY '24 and FY '25. The funding is designated to the Tobacco Prevention and Control Program for utilization for programs targeting youth. OK. Agency service area renovation. DHHS plans to utilize this funding in 14 statewide offesto [PHONETIC]-- officesesto [PHONETIC]--

**ARCH:** One minute.

**M. CAVANAUGH:** --increase workplace efficiency and security, with state-tailored improvements, including sound masking and secure, secure entry. OK. Annualization of LB108, SNAP eligibility. This bill specifies that increased eligibility for SNAP will end September 30, 2023, thereby reducing the need for continued funding that was included in FY '23 appropriations. This issue would reduce eight total FTEs, six social service workers and one CFS specialist and social service supervisor. Fear not, FTEs, we have amended the eligibility extension into the HHS Committee priority bill, LB227. And when that passes, then this part of the budget decrease--

**KELLY:** That's your time, Senator. And you're recognized to close on AM1265-- 12-- AM1625, AM1625.

**M. CAVANAUGH:** --OK. Thank you. I think I forgot to push my button for my second time in the queue, but c'est la vie. OK. Annualization of LB1173: the appropriation for training, contracted services and NFocus modifications will no longer be needed in the FY '23-24 biennium. This issue is an overall reduction due to decreases in contractual services, but adds one FTE child/family services specialist, in FY '25. Ooh la la. I want, I want to know more here-- and focused modifications will no longer be needed. My goodness. Ever since I've been here, my first two years definitely, pretty much every bill that came to HHS had a fiscal note for like, \$20 million for a new computer system. And I was like, maybe we could spend that-- spread that \$20 million out over multiple bills. So, curious about that. OK. Annualization of LB376-- what? That's my bill. That's, that's my bill, DD waiver. Yes. All right. This is exciting. LB376, signed into law in 2022 Legislative session-- yes-- requires the implementation of a new DD waiver. DD is developmental disabilities waiver-- that requests-- this requests, this requests-- request-- reflects the funding distribution in order to align with the intent of LB376. Oh my goodness. This was very exciting. And this, LB376, is an amazing example of how hard we all can work together to achieve great things. LB376 never would have happened without Senator Ben Hansen and Speaker Arch working very diligently, diligently with me, over two years, two years to get this done. So, just excited to see that in there. OK. Annualization of LB485, administration child care. This bill specifies, specifies administration costs funded by the federal Child Care Dependent Block Grant [SIC], which were encouraged to make eligibility changes; are to be provided up until September 30, 2023. Although eligibility reverts to previous levels, the agency left the aid request flat, which is fully funded through federal funds. The administration-- administrative reduction in this issue is composed of seven FTEs, six social service lead workers and one social service supervisor. I'm going to mark that page. I'm a little curious about that one. The Child Care Development Block Grant-- incurred-- to make eligibility changes-- just like SNAP, with Senator Day's reinstatement or extension of eligibility. This, I believe, was Senator DeBoer's bill. I could be wrong, but I think this was Senator DeBoer's bill, which we also passed an extension of the eligibility. So both the SNAP eligibility and the childcare eligibility in-- on page 137, these things might go away when we pass the bills-- well, I think they're

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both 22-- in LB227. When we pass LB227, I believe these items in the budget might no longer be of consequence, shall we say. OK.

**KELLY:** One minute.

**M. CAVANAUGH:** One minute. OK. Next is the annualization of LB741, child maternal death review. Again, we've got the child-- the maternal death review. Well, it's morbidity-- the morbidity bill out of DHHS. This is Senator Vargas's bill. I am becoming a little concerned about how much I know the attachment of bills and who is bringing them, but I can't recall my own interim study on the Highway Trust Fund. But here we are. OK. So the child maternal death review, one FTE DHHS nurse consultant is needed beginning in FY '25 to complete the new responsibility of stillbirth review, as specified in LB741. Now, this is something I will dig in on my next amendment, because I'd love to talk about the maternal death review a little bit more, but I can't do it in the seconds that I have remaining. So, Mr. President, I would like a call of the house and a machine vote. Thank you.

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

**CLERK:** 8 ayes, 4 nays, to place the house under call.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Dorn, Raybould, Day, Albrecht, Wishart, Jacobson, Armendariz, Linehan, Slama, Dover, Bostar, Bostelman, Hughes, Moser and Hansen, please return to the Chamber and record your presence. The house is under call. All unexcused members are now present. The question is the adoption of AM1625. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 6 ayes, 25 nays, on the adoption of the amendment, Mr. President.

**KELLY:** The amendment is not adopted. Mr. Clerk, for items. I raise the call.

**CLERK:** Mr. President, next amendment, Senator Machaela Cavanaugh would offer AM1626.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to open.

**M. CAVANAUGH:** Thank you, Mr. President. Colleagues, six of you are chaos agents. What? You just voted to remove the funding for the administration of DHHS. Walking on the wild side, I tell you. All right. AM1625-- but I do appreciate it. I do appreciate those six votes for my amendment. AM1626, I think. OK. Strike Section 19. All right. Now, before you all get up and walk away, let's just find out what it is so you know when you come back if you're going to be a chaos agent or not. Strike Section 19. I'm going to go ahead and guess that-- probably don't want to. But that's-- oh, my goodness. It's like, it's just my committee's. All right, Transportation folks. Section 19, Agency number 27, Program 569, Construction-- what? \$159 million. Do not vote for this or the people out there are going to lose their minds, I tell you. They are going to lose their minds-- or do. It's kind of fun. But, but this would strike the \$159 million from Construction, which actually might not even be Construction. This might be, this might be shovel-ready or something like that. Would that be under Transportation? No. Program 569. All right. Back to our handy book here and Agency 27 is Transportation. HHS is 25, Transportation is 27. Easy for me, because I'm on those two committees, so I like that they are chronologically near each other. Agency 27, Program 569-- 568, 569. OK. The pur-- program purpose. OK. This program provides for the replacement or improvement of those state highways that have completed their normal life cycle or have experienced increased traffic demands. The primary goal and emphasis of the Construction Program is preservation and restoration of the State Highway System. Gosh. Colleagues, do not vote for this. Resurfacing and rehabilitation is the keystone in the Department of Transportation's strategy to protect these state assets. In order to accomplish the department's goal, many tools are used. One of the tools that the department uses in determining the optimum time and type of maintenance and improvement to be done to our highway systems is a transportation asset management system. Through this system, the roadway is monitored, providing data that allows the department to systematically and consistently program maintenance activities and resurfacing and reconstruction actions, so as to safeguard the state's highway investment in the lowest possible cost. The Highway Safety Office implements the federal highway safety program in Nebraska, which helps state agencies, counties and communities develop traffic safety programs. Examples of projects include programs that-- to reduce drunk driving, enforce the speed limit, reduce road hazards and safety belt promotion and education. The projects are outlined in the

annual Nebraska Performance Based Strategic Traffic Safety Plan. Funds are allocated on a project basis. The division staff assists with the auditing and oversight of the agency-approved driver training schools, driver safety courses and public education and information. They used the serial comma, by the way. All right. Again, I mean, six of you were clearly chaos agents on that last vote, so maybe you will vote for this. I don't recommend it myself. I won't be voting for it, but there you go. It's \$159 million from the Construction Program for the Department of Transportation. We all have to drive home, at least, tomorrow, for the weekend. Let's keep those roads safe, shall we? OK. Back to the green Martian book or just the green Martian. OK. I was on page 137 and I was talking about the child maternal death review. So this bill was brought last year or maybe last biennium. It might not have been last year, it might have been the year before. No, it's LB741. So typically, that high of a number of a bill would be the second year. This year we had a lot of bills. So high number of bills are in the first biennium. But LB741 was brought, I believe, by Senator Vargas last year and it was to, essentially, fix something that was done in a previous session with the Maternal Health Review Board statute, that there was language taking-- taken out that made it-- it implied, we'll say. It was not clear. This, this bill provided much needed clarity that the maternal-- the Child Maternal Death Review Board could actually review stillbirths for newborns. So that was part of it. The other part was adding one FTE for DHHS nurse consultant, because they need it-- so the review board is really a voluntary board. There's-- they aren't paid. They meet, I think, quarterly and they go through maternal-- child and maternal deaths. And they review them to make recommendations, to study, to see what is causing the deaths and what-- how we can improve outcomes in, in healthcare in this specific area in the future. So excluding, first of all, stillbirths, problematic if we want to get a fuller picture of what is happening when we have stillbirths and if there's a way for us to prevent that. But also, not having a staff person to help pull all of this information for their quarterly meetings and put it together, together was making it very inefficient and really, we weren't maximizing the existence of the review board. So we passed a bill, we created an FTE to help with the review board. This year, we have moved forward a bill out of HHS that expands this to include not just maternal, maternal mortality, but also morbidity. Morbidity is very important. Morbidity is more about the long-term health outcomes in maternal health. So expanding the scope of the review board is hopefully going to result in an improved outcomes in maternal health writ large in Nebraska-- a very good thing. OK. Annualization of LB752



Staff for Advisory Council: one FTE DHHS Program specialist is needed, beginning in FY '24 to provide support for the Alzheimer's Disease and other Dementia's Advisory Council. Partial funding was included in FY '23. And thus, the base, but needed to be increased to account for the costs incurred during a full fiscal year. OK, CFSS New Worker and In-Service Training: This issue is needed to assure training in best practices for Children and Family Protection and Safety staff, specific-- specifically in the Eastern Service Area-- that's Douglas, Sarpy and maybe even Cass County. I think Cass County is included in that.

**KELLY:** One minute.

**M. CAVANAUGH:** Thank you, Mr. President-- therefore not included in the previous years budgets. The therefore, I will explain what the therefore is. It is specifically in the Eastern Service Area, therefore not included in previous years budgets is because in previous years budgets, the Eastern Service Area was privatized and that was a contract, so that was funded in a different way. And now that it is not privatized, as Senator-- Speaker Arch mentioned, LR29, the Special Investigative Oversight Committee into St. Francis Ministries contract, contract of the Eastern Service Areas to help child welfare program. That ended. And now we have-- we are responsible for it. So we needed to have an allocation for it. There we go. Training will be encompassed, will encompass the practice-- thank you.

**KELLY:** That's your time, Senator. And you're next in the queue.

**M. CAVANAUGH:** Thank you-- will encompass the practice model design based on the requirements set out in 11-- LB1173. That might, that might have been my bill. I'm not sure. I had the bill that ended the privatization of child welfare that we passed. I don't recall the bill number. It seems like that might have been it. That would make sense. OK. Carrying on. Page 138, DAS Assessment Rate Increases. These adjustments account for changes in fees charged to DHHS so that current resources will be available to support the mission of the agency. I better get back in the queue. One moment. OK. DD Case Management Contract. The department-- or the Division of Developmental Disabilities, DDD, is currently utilizing, utilizing case management services provided by Therpa, Therpa [SIC], whose contract ends in March 2024. DDD will need to procure a contract from another vendor to provide case management services to participate for a seamless transition to the new case management system, once Therpa's contract

expires. Interesting. I wonder why they're not renewing the contract or are they going to renew the contract? DDD will provide a procurement contract from another vendor-- will need a procurement from another vendor. Do they definitely need it from another vendor or could it be the same vendor, they just need to put the procurement bid out? In another, in another year, in another time, when I'm not standing here talking for hours on end, this is one of the things that I would be digging into more is our procurement problem-- process. Because we have a problem and the problem is not exclusive to St. Francis Ministries, as even Speaker Arch was talking about, with the Wipro and the lawsuit there. But we also have a lawsuit pending or starting now, it's not pending, it's like, just starting. There's an injunction on our managed care organizations in the state. And managed care organizations are the companies that we contract with that manage our Medicaid program. And we have three and they were up for-- the, the contracts were expiring. They needed to rebid them. They did the procurement process and they renewed two of the three contracts, but not one of them. And they went with a whole new contractor. And the contract that didn't get renewed appealed. Our appeals process is not great, because you appeal to the people who made the decision in the first place. So there you go. So then, they took it to the courts and a judge issued an injunction so that they cannot begin the transition of the contract until the court case is settled. This is different from when we had the St. Francis Ministries, because they started down that road of a lawsuit, seeking an injunction. But while they were seeking the injunction, DHHS sped up the implementation and that was causing a lot of disruption in our child welfare system in the Eastern Service Area. So PromiseShip, who had the contract, decided to drop, drop the lawsuit because it was going to be extremely detrimental and disruptive to the population being served. And that population-- very vulnerable population, children in the child welfare system. So there you go.

**KELLY:** One minute.

**M. CAVANAUGH:** Thank you, Mr. President. I don't know how I got on that, but there we are. Case man-- oh, yeah, because it was the Therap contract expiring. All right. DD Services Coordination. DDD requests transfer of general fund appropriation from Program 421, Beatrice State Development Center, to Program 33, in order to restructure the DD services coordination team to cover the payroll expenditure for staff to provide services to participants on the registry for 500 participants in the biennium. OK. And that is \$538,545 this year, and \$1,000,103,000--

**KELLY:** That's your time, Senator. And you're next in the queue. That's your last time before your close.

**M. CAVANAUGH:** Thank you, Mr. President. OK. So this is DD Program 421, Beatrice State Development Center, to Program 33, the program that six people voted at the last time to eliminate-- \$1,103,965 in the next year. Just looking to see if I have a lozenge. OK. Developmental Disabilities Liberty Contract. The Department of Developmental Disabilities, DDD, requests appropriation of general funds from Program 33 to utilize the funds to pay for an existing contract which serves participants in Medicaid home and community-based services for developmentally disabled or DD HCBS waivers, as an operating expense in Program 33. This is on ongoing contracts, which ends in December 2025. Economic Assistance Call Center-- hold on. Just looking for a throat lozenge. Found one. Economic assistance Call Center. Due to workforce shortages, economic assistance or EA, had to contract with call centers due to increased workload. Failure to maintain certain metrics could result in a reduction in federal funding. Due to the ongoing need, a funding adjustment is needed to continue the contracts. \$3 million. OK. Economic assistance had-- the EA had a contract with a call center. Wow. Economic Assistance West Omaha Call Center. This funding is for a call center in west Omaha intended to accommodate 80 positions transferred from one of two Fremont call centers. The purpose is to improve retention and reduce training and recruitment costs. However, real estate is more expensive in west Omaha. Therefore, additional appropriations are needed to make up the difference in cost between the facility in Fremont and the new facility. Might I make a suggestion? Real estate in west Omaha is probably more expensive. Real estate in north Omaha is probably less expensive. Perhaps we should consider putting an economic assistance call center in north Omaha, where there is also a need for good jobs. I'm just going to put that out into the universe. FMAP, Federal Medical Assistance Percentage Increase. Let's dig in, shall we? The Federal Medical Assistance Percentage or FMAP, is computed from a formula that takes into account the average per capita income for each state relative to the national average. The FMAP is calculated for the fiscal-- federal fiscal year which begins October 1, where a state fiscal year begins July 1. A higher FMAP means less general funds are required for programs for with the federal and state governments, particularly Medicaid, share costs. All right. HIE and PDMP Operations or CyncHealth. Funds are contractually obligated to the Health Information Exchange, HIE and Prescription Drug Monitoring Program, PDMP.

**KELLY:** One minute.

**M. CAVANAUGH:** Thank you. Cync vendor. Federal laws require that states-- federal laws require states to have PDMPs. These programs were previously supported with a larger share of federal funds which are no longer available due to the advancement from development to operations. This portion is dedicated to the PDMP. iServe. This funding supports the new assistant applications portal, iServe. The new portal will be a modernized, easy-to-use system for Nebraskans to apply for benefits and services with enhanced self-service capabilities. Interesting. All right. IST Data Nexus. The committee approval follows the Governor's recommendation which included a one-time \$4 million transfer from the Cash Reserve Fund to the Health and Human Services Cash Fund.

**KELLY:** That's your time, Senator. Seeing no one else in the queue, you're recognized to close on AM1626.

**M. CAVANAUGH:** Thank you, Mr. President. I was-- IT-- IST Data Nexus. How could I forget that that's where I was at? The committee approval follows the Governor's recommendation which included one-time \$4 million transfer from the Cash Reserve Fund to the Health and Human Services Cash Fund to implement updates to the public health data nexus to modernize data systems. IT Hardware Refresh. DHHS needs to escalate the rate of renewal of employee computer hardware to get back on a regular cycle. DHHS has 1,500 devices that will be out of maintenance in FY '24 and another 2,000 in FY '25 for a total of 3,500 in the biennium. This issue has a net zero effect on the overall budget due to a concurrent reduction in funds for this issue from Program 347, Public Assistance, because of the FMAP bump. So there you go. MLTC Contracted Services Appropriation Alignment. I should go back to the [INAUDIBLE]. I have a whole nother philosophical issue with all of that and how we are appropriating and redistribution-- redistributing public assistance funds. I talked about that a little bit yesterday. It's a little bit more complicated than I want to get into at 8:00 tonight. But I just want to put that marker down that I have an issue with our FMAP reallocation of funds. OK. MLTC Contracted Services Appropriation Alignment. These funds, to align appropriations with actual changes in cost to contracted services in Medicaid, required-- recuper-- recupering, recupering [SIC] of existing contracts and inflationary cost increase requires additional funds. OCIO Rate Increase. This issue covers published rate increases and returns of standard volume units to utilization of the mainframe. Cool. Office Consolidation. DHHS has consolidated staff formerly

located at 340 Victory Lane, Lincoln, Nebraska into the Nebraska State Office Building. This issue recognizes savings through terminating the lease and thus, rent payments to Victory Lane. Protection and Safety Workforce. This increase adds 14 FTEs needed to handle field operation for adult protection abuse hotline licensing and placement, policy, data analysis, as well as programs created by the Legislature. DHHS could see an annual General Fund benefits of \$2.6 million in the Program 354 Child Welfare aid budget if the staff is able to license all eligible IV-E homes. I have a lot to say about IV-E funding, as well. But I'll save that for probably tomorrow, because it's complicated and it's late and my brain is tired. Public Health Cancer Registry Funding. The cancer registry funded by the cigarette tax and mandated by statute is needed to provide central databank related to cancer in Nebraska. The current appropriation for the registry is insufficient. Therefore, additional funding is required to meet the needs of the program. Public Health Lab Equipment. This is a one-time GF-- I think that's General Fund, appropriation for the Nebraska Public Health Environmental Lab, NPHEL, for equipment to continue critical operations to maintain their status with the EPA as a--

**KELLY:** One minute.

**M. CAVANAUGH:** --primacy-- thank you, Mr. President-- Primacy Lab. It includes \$165,000 or 165K for high performance liquid chromatography, 115K for two solid phase extraction systems and 165K for three flow injection analyzers. Public Health Parkinson's Registry. The Parkinson's Disease Registry, currently funded by the Health Care Cash Fund and mandated by statute, provides a central database for detecting, detecting in-- incident of and possible risk factors for Parkinson's Disease and related movement disorders. Federal funding formally available to bridge this funding gap is no longer available. This item has-- was approved to be authorizing a one-time \$820,000 transfer in FY '24 from the Cash Reserve Fund to the Health Care Cash-- Health Care Services Cash Fund [SIC] in FY '24.

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

**ASSISTANT CLERK:** 6 ayes, 2 nays to go under call.

**KELLY:** The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the

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Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Day and DeBoer, please return to the Chamber and record your presence. The house is under call. Senator DeBoer, please return to the Chamber and record your presence. The house is under call. All unexcused senators are now present. Members, the question is the adoption of AM1626. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 2 ayes, 27 nays, Mr. President, on the adoption of the amendment.

**KELLY:** The amendment is not adopted. I raise the call. Mr. Clerk, for items.

**ASSISTANT CLERK:** Next item, Mr. President. Senator Machaela Cavanaugh would move to amend with AM1627.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to speak-- to open on your amendment.

**M. CAVANAUGH:** Thank you, Mr. President. First, I want to acknowledge I-- it, it is, again, May the fourth be with you. And Senator Brandt and Senator Bostelman, you are two brave gentlemen. You must have Jedi hearts or something to vote against road construction, but-- or vote for it. Against it? You're voting for removing it. So, again, appreciate a, a little chaos agent in the body. What if all of the sudden everybody changed and 23 other people were like, you know what? Bruce Bostelman is voting for this. If it's good enough for him, it's good enough for me. Right? I am just looking for where I set-- I was so organized for those first two amendments. I had them sitting here, right, ready to go. And then I set them aside and they're probably just sitting right here. I don't know if you all have noticed, but I got a lot of papers over here. And-- all right. OK. We're just going to go old school and open up the laptop because I can't find the paper. Somehow, that's old school right now. I found out from the Clerk's Office staff yesterday, I think it was, when something wasn't getting into the system fast enough, they actually distributed and maybe you noticed that the pages distributed one of the amendments to everybody on the floor. And they said that's how we used to do it, like, before we had the whole instant-- semi-instant. It's not really instant. There's a whole bunch of people up there that do all of this work, but semi-instant technology of information, of what's going on and what we're looking at. They would have to print off the amendment and distribute it on the floor, so that we all knew what we were

debating. And I thought, wow. I mean, I would really struggle if you all had to print every single thing that I have submitted this year and make a copy for 49 other people. There would have been a lot of trees that did not make it. So I'm glad for technology. Thank you for that. OK. Strike section 20. I mean, I should have figured it was just the next section. That would have made sense. Strike Section 20, Section 20. All right, those of you that like a little chaos with your budget, Section 20 would strike agency numbers 46, Department of Corrections Operations. Senator Erdman, I hope you entertain this one. I might actually vote for this one. AM1627 strikes Section 20, Agency 49, Department of Correctional Services, Program number 200 Operations. And that would be \$24,925,453. Let's do it. Let's do it. I am going to get in the queue. One moment. Let's strike corrections operations budget. I mean, if we were willing to be chaotic and strike DHHS's operations budgets, let's just go-- let's go for broke, shall we? So. All right. I actually didn't read the intent statement of LB813. LB813 introduced by the Speaker at the request of the Governor is part of the Governor's biennium budget reductions. This budget-- sorry, making sure-- this budget makes sure-- makes adjustments to the appropriations and reappropriates for-- reappropriations for state operations and aid programs in the current fiscal year ending June 30, 2023. The adjustments will be used in programs where the forecasted cost has risen or decreased due to circumstances that were unforeseen when appropriation bills were passed two years ago and subsequently amended by the Legislature in 2022. This bill contains an emergency clause. Detailed information regarding the Governor's budget recommendations may be found in the 2023-25 Biennium Executive Budget Recommendations, which may be viewed on the Department of Administrative Services State Budget Division's website, at <https://das.nebraska.gov/budget/publications.html>. OK. There we go. OK. So if people are here and they want to yield me time because they don't want to keep coming back for calls of the house votes, please feel free to do that. I-- on every single one of my amendments, I get 10 minutes to open and then an additional 15 minutes, so 25 minutes. So every 25 minutes we go to a vote, unless people either speak or yield me time. So 25 minutes from whenever I started talking is roughly when we'll go to a vote again, unless people get in the queue and speak or yield me time. But don't fear. If you're concerned about helping me filibuster, I have a lot of amendments filed, so it's not about me not having enough to keep it going. It's just a matter of how often do people want to vote. So there we go. OK. Where did I leave off? I was on page 140 of the Martian-- the green Martian-- Public Health Cancer Registry Funding, I think I already read that. Well,

we'll-- nope. Public health lab, I already read that. Parkinson's Registry, Public Health Vital Records System. OK. I think that might be about where I was. The Appropriations Committee approved the \$11.5 million cash appropriations to support modernization of the Public Health Vital Records System, which serves Nebraskans with critical documents such as birth certificates, death certificates, marriage and divorce certificates. There is not a Oxford comma there. Interesting. I'm just curious. Do different members of the Fiscal Office write different? I would love to know what the internal debate is on the Oxford comma within the Fiscal Office. I might ask people tomorrow. All right. So DHHS testified that the agency has over time saved \$5 million in Vital Records fees-- fee revenue which is used for this purpose. Also included is a one-time transfer from the Cash Reserve Fund to the Health and Human Services Cash Fund in the amount of \$6.5 million to support this initiative. That reminds me, I don't know why, but this morning, hours ago, when we were talking about the Universal Service Fund, NUSF, and the, the fees that, that they come from and how we can't utilize those fees, they're not tax levied by the state, etcetera, etcetera. Senator Moser put in the amendment. The amendment passed. Everything is gravy. But then I did mention when we were discussing it, I mentioned the driver's license fees and that we actually charge more than it costs to get-- to produce driver's license. And last year, Senator Geist had a bill that took \$3 from the driver's license fees, that three of-- \$3 out of the \$10 that were previously going directly into the general fund and reallocated them back to the Department of Motor Vehicles for-- to cover their expenses, which is an appropriate use of the fee. This year, Senator Moser has a bill that takes the remaining \$7 and takes it back to the Department of--

**KELLY:** One minute.

**M. CAVANAUGH:** --Motor Vehicles, again, to cover services, costs of operations, etcetera, that are appropriate. And I mentioned that I was concerned that we were maybe doing something inappropriate by having those fees previously go directly into the General Fund. But Mike Hybl, the wonderful legal counsel for Transportation and Telecommunications, came over and talked to me off to the side. And I am remiss that I didn't talk about it earlier. And he informed me that, no, in fact, we were allowed to do that. It was laid out in statute that we could do that. And so everything was copasetic and above board in the past, even though we're changing it in the future. So, just wanted to say that. Thank you to Mike Hybl for that piece of information. It's always good to know that we're doing things the



right way. I think I'm running out of time, but I am in the queue. And when I come back I will pick back up on DAS Assessment Rate Increases, because I know we're all dying to know about.

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** Thank you.

**KELLY:** Thank you, Senator Cavanaugh. Senator Hunt, you're next in the queue and recognized to speak.

**HUNT:** Thank you, Mr. President. And thank you, Senator Machaela Cavanaugh, for the information that you're sharing about this budget as it pertains to LB813. I'll be opposing AM1627 and I'll be not voting on AM1169 and LB813. A lot of people have left the Chamber and I want to tell that those of you in the body who are still waiting until we adjourn tonight, that you could take off and go, too. Go for it. A lot of people have left because they're being asked a lot of questions by the media about their anti trans bills. As far as I can tell, the more those people talk on the record, the better, because the things that they're saying to journalists are really helping my cause. Just a couple of hours ago in the news, this news came from Florida. So I really like Formula One. A couple of years ago, during the pandemic, my friend Angela got me into Formula One. We were on Zoom and we were talking and she was telling me, oh, you don't watch Formula One? Like, you would really love it. I can't believe you don't watch it. And so, I was like, well, why do you think I would like it? And she said, because it's all about fashion. I loved that. And it's true. It's basically like European NASCAR, it's Formula One cars. And every weekend, almost every weekend, there's a lot that they go off, but every weekend they go to a different place in the world and they do a Grand Prix. Some of the most famous ones are in Monaco. My favorite one is in Singapore. Last weekend, they had one in Baku, Azerbaijan. And this weekend, they're having one in Miami. And Miami is one of the only races that they do in the United States. This year, there's a United States driver for the first time in a long time. And my favorite drive-- I have a couple of favorite drivers. My team is Ferrari, but my favorite driver is Lewis Hamilton and he drives for Mercedes and he is known for being very politically outspoken. You can see why maybe I like him. He's also the only black driver in Formula One, and he's also the winningest driver ever in Formula One. He's a seven-time world champion in his long career as a racer. But this, this weekend, as they're having the next Grand Prix in Miami on Sunday, right now, on Thursday, the teams are starting to get into the

paddock. They're starting to unpack all of their, you know, crew and cars and equipment and engineering supplies. Tomorrow, they'll do practice runs, three one-hour practice runs for all the different drivers. There's 20 drivers. And on Friday, they will do qualifying. So it's a, it's a round where they drive around the track as fast as they can, to decide to-- which decides what order they're going to be racing in, who gets to be in the front position and so on. And this article says, seven-time Formula One champion Lewis Hamilton lashed out Thursday at anti-LGBTQ measures enacted by Florida lawmakers and ripped the state's controversial "don't say gay" law, with a reference to oppression seen in Saudi Arabia. Quote, it's not good at all, Hamilton said, ahead of Formula One's highly anticipated race in suburban Miami this weekend. Quote, I stand by those within the community here. I hope they continue to stand firm and push back. I'll have the rainbow on my helmet. It's no different to when we were in Saudi, unquote. Hamilton, Formula One's only black driver, regularly uses his platform to speak--

**KELLY:** One minute.

**HUNT:** --on issues of social justice and race, human rights and protection of the LGBTQ community. The 38-year-old Briton speaks out while racing in countries with questionable human rights records, including Saudi Arabia and now, colleagues, including the United States, or when an issue arises in which he feels his voice can lend support. The comments come just three days before the first of Formula One's unprecedented three stops in the United States this season and amid surging interest in the racing series among Americans. The other stops are Austin, Texas, and Las Vegas. And this is the first year that we're having the race in Las Vegas. And I'm still scheming and trying to figure out how I'm going to get to that. If there's any Harlan Crow types, any people out here listening, who would like to do a very expensive favor for a lawmaker, I want to go to the Formula One race in Las Vegas. I see Senator Holdcroft is next in the queue. And I'd like to hear what he has to say, so I'll yield my time. Thank you.

**KELLY:** Thank you, Senator Hunt. And Senator Holdcroft, you're recognized to speak.

**HOLDCROFT:** Thank you, Mr. President. I rise in opposition to AM1627. And I yield the rest of my time to Senator Machaela Cavanaugh.

**KELLY:** Senator Machaela Cavanaugh, you have 4:48.

**M. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator Holdcroft. I was standing in the back of the room. I wasn't expecting that. I was having a conversation about a, a-- it's still May 4, so obviously, Star Wars and The Mandalorian. And I was reflecting upon Senator Hansen's comments. And I know he's here, but I just don't see him at the moment. But I, I really, next time he's available, I'm going to want to ask him about his feelings on the Mighty Ducks. Because he said he doesn't like Disney, but like Senator-- and Senator Hansen and I are the same age. I'm, I'm only-- I'm

like four or five months older than him. And, and so, I know that the Mighty Ducks is of his vintage. And I'm just-- it's a, it's a Disney product, so I am curious if he also-- if that extends to his, his boycotting of Disney extends to the Mighty Ducks. I haven't watched the new Mighty Ducks series. I hear it's pretty good. But I was a fan of the movie, starring Emilio Estevez. And I think it also starred oh my gosh, what is his name? Percy? No. He was on Dawson's Creek, but he wasn't Dawson. Jackson-- Jason Jackson. Joshua Jackson. Joshua Jackson was also in the Mighty Ducks, I believe. Anyways, Senator Hansen, next time you're available, just know this is a burning question I have. OK. Back to DAS Assessment Rate Increase. I think that's where I left off. These-- this is on page 141 of the Martian. These adjustments account for changes in fees charged to DHHS so that current resources will be available to support the mission of the agency. DAS Assessment Rate Increases. There's-- it's two different ones. I'm guessing-- OK. I'll just read it. These adjustments account for changes in fees charged to DHHS so that current resources will be available to support the mission of the agency. OK. And a third one, DHH-- DAS Assessment Rate Increase. These adjustments account for changes and fees charged to DHHS so that current resources will be available to support the

mission of the agency. Annualization LB921 Reimburse for LRC Admissions. So LB921 was part of the-- kind of part of the sentencing reform package from last session. LB920 was the main show, the main event that did not get passed. LB921 was the still significant and important package of, of, of bills, but it didn't go as far as LB920 did to accomplish as much in sentencing reform. Still important, still significant. OK. So this is the Annualization LB921 Reimbursed for LRC Admission. And LRC is, I'm going to say, it's the Lincoln Regional Center. I think that's what the LRC in this particular instance stands for. But somebody will correct me, I'm sure, if I am incorrect. This request is being made in order to adjust base salary of three new FTEs included in LB921. Positions are required to be in place by July 1--

**KELLY:** One minute.

**M. CAVANAUGH:** --2023. Thank you, Mr. President-- 2023. No personnel costs were included in FY 2022-23 amount. Costs associated with implementation during '22-23 are being removed and the additional personnel staffing costs to be incurred, beginning July 1, '23-- 2023, have been added and include the 5 percent increase in salary for each year of the biennium. The fiscal note provided for LB921 in 2022 was based upon a base wage rate of \$17.90 beginning in FY '23-24. This issue increases the rate to \$18 and 79.8 cents and \$19 and 73.8 cents per hour for social service workers, FY '23-24 and FY '24-25. DAS assessment rate increase. These adjustments-- well, I'm not going to read that anymore because I've already read it several times. OK. DD Service Coordination. See--

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** --thank you.

**KELLY:** Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. Rising with respect to LB813. We're to a point in our state where there's a sitting lawmaker who's actively encouraging Nebraskans not to support other Nebraska businesses just because they oppose her bill, just because they oppose her bigoted, discriminatory, shockingly discriminatory bill. And she has left tonight, so she's not here to respond to that. But this is an issue that's rising in states all around the country and it's affecting business. It's affecting the ability of states to attract events. And in Florida, where they have laws like the one Senator Kathleen Kauth would like to pass, plus more-- you know, if she thinks people don't

want to move to Nebraska because of-- we block her bill or something, maybe she should move to Florida and she would feel more at home there, to use her own logic, which I don't agree with. But Lewis Hamilton, who's this driver for Mercedes and he's a seven-time world champion in Formula One. This article about him continues: Hamilton often races with a rainbow flag on his helmet, specifically when Formula One stops at venues located in countries with restrictive laws. There was no on-track activity Thursday and Hamilton wore a Tommy Hilfiger, Hilfiger two-piece blue set that had red and white accents to commemorate being in the United States. Another thing I like about Lewis Hamilton is most drivers come into the pit wearing like, their team gear, you know, like the, the racing suit or like a polo with all the logos of their sponsors on it, like you see, also, in NASCAR. And Lewis Hamilton always wears something designer, like something very, very envelope-pushing and different. And he's wearing this Tommy Hilfiger tracksuit and it reminded me of the tracksuits that Tommy Hilfiger designed for the U.S. Special Olympics team. In the Olympics, the official designer is Ralph Lauren because they pick an American designer. But Tommy Hilfiger does the uniforms for the Special Olympics team. And it was a little bit reminiscent of that. But the article continues: Republican Governor Ron DeSantis signed the parental rights and education bill into state law at the end of March. The measure, since widened, prohibits public school teachers to teach pupils about sexual orientation or gender identity. Colleagues, particularly those of you who are still thinking about LB574, that bill in Florida started as, let's make sure that young kids aren't learning about gay people, like elementary school age. And then before the law finally got passed, they changed it to include all school-age kids. So kids in Florida up to age 18, because the point was never to, quote unquote, protect kids, the point in Florida, as it is here in Nebraska, is to erase LGBTQ people from public life. The article continues. Although Hamilton is against it, the veteran Mercedes driver would not say if Formula One should avoid racing in Florida because of its social policies. It's not for me to decide something like that, Hamilton said. I did hear and have read about some of the decisions that have been made in government here. And I do not agree with it and I do not support it. I really do continue to stand with the LGBTQ community. And I'm wearing a rainbow flag on my helmet this weekend and I just really want to continue to support the community here and let them know I stand with them and I hope they continue to fight against it. Quote. It's not the people of Miami that are making these decisions. It's the people in government and that's the issue, he added. And this also gets to the problem, the people of Nebraska,

just like the people of Florida, just like the people of the United States of America, do not want to discriminate against LGBTQ people.

**KELLY:** One minute.

**HUNT:** They do not want government wrapped up with these questions of culture wars and this prurient obsession with, with kids and sexuality and being gay and straight and whatever it's going to be. This is new. This is a new boogeyman scapegoat that average voters and average residents of Nebraska and Florida and of the United States really don't care about. I think-- the article continues. I think, hopefully, all I can do-- the sport is going to be here, whether I am or not. But the least I can do is just continue to be supportive and just being here and having that on my helmet, hopefully that speaks well to the subject. I think some of you could challenge yourselves to feel the same way. These legislative seats are going to be here 25, 50, hopefully 100 years from today. And they aren't going to be yours. But I hope that you feel you are building a legacy that is fu-- future facing, that is allowing the future to come into being and that future lawmakers will be proud of. Thank you, Mr. President.

**KELLY:** Thank you, Senator Hunt. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Before I go back to the budget, I received an email sometime today. Maybe-- perhaps others of you received this, as well. But it is from Janet Seelhoff, from the Nebraska Optometric Association. And May is "See to Learn" month in Nebraska. And we invite you to help create awareness about a resource for free vision care for children in your district. Through the See to Learn program, any three-year-old in Nebraska can receive a free vision assessment from participating doctors of optometry. The assessment goes well beyond a typical vision screening and includes a case history, vision assessment, testing of eye alignment and an eye health examination. Vision problems in very young children can interfere with developmental mile- milestones. Vision assessments and exams are essential in preparing children for school, since 80 percent of what the brain processes comes through the visual system. One in five children entering school has a vision deficiency or disorder that can impact school performance, social interactions and self-esteem. Many of these vision problems are unknown to parents or pediatricians. See to Learn is offered through the Nebraska Foundation for Children's Vision, in collaboration with the Nebraska Optometric Association. More than 130 doctors of optometry in over 40 communities across the

state accept patients throughout the year through the See to Learn program. You can learn more at [seetolearn.com](http://seetolearn.com) or find your participating-- your closest participating opt-- optometrist at [seetolearn.com/find-a-doctor](http://seetolearn.com/find-a-doctor). Participating doctors have provided more than 20,000 free eye exam to three-year-olds across the state over the past 25 years. Well, thank you to Janet Seelhoff, executive director of the Nebraska Optometric, Optometric Association, for sharing that information. And if you know anybody who needs-- any three-year-old who needs an eye exam, send them to [seetolearn.com](http://seetolearn.com) and hopefully, they can get that taken care of. As I wear glasses myself, I clearly need eye exams, as well, so appreciate See to Learn. OK. I was-- DD Services Coordination. See issue in Program 033. Oh, I'm at-- sorry. I'm in the Martian-- the green Martian and page 141. Federal Medical Assistance Percent or FMAP Increase. See agency wide issues. Next page, DAS-- skip that-- HIE and PDMP Operations, CyncHealth. This says, funds are contractually obligated for the Health Information Exchange or HIE and Prescription Drug Monitoring Program, PDMP, vendor CyncHealth. This portion is dedicated to the HIE. State laws obligate DHHS to work with the HIE vendor to secure federal funds to support the program. This new program segregates funding for the HIE and is needed to maintain transparency and integrity of the programs. State Aid. I'm on page 142 of the green Martian. ARPA Base Annualization, ARPA Reappropriation. LB1014, 2022 Session, the Division of Behavioral Health was awarded funding for a pediatric trauma center in Nebraska to purchase technology that will support statewide pediatric mental health services through telehealth and telemon-- telemonitoring. I'm going to pause for a moment because I just remembered something.

**KELLY:** One minute.

**M. CAVANAUGH:** I hope he's not watching, because it's 8:40 at night and he's probably putting the kids to bed. But my husband today, was in charge-- not in charge, he was one of the parents that went on the school field trip to the zoo with our middle kid today. And he was-- during out-- throughout the day, he sent me some pictures and they were super cute, of course, of the kids-- of the second graders at the zoo. And he told me about the-- one of the kids scraped their knee. And he had preemptively packed ointment, Neosporin, bandages, just on his own had packed all of these things. I think it's his soccer kit. When our kids have soccer games and practices, he just has all these things with him. And so, he was like on the spot with the first aid care. And I just wanted to mention it. Why? Because he's just a great guy. He's a great dad, he's a great husband, he's a great guy. He's taking care of a lot of things.

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** Thank you.

**KELLY:** Senator Holdcroft, you're recognized to speak.

**HOLDCROFT:** Thank you, Mr. President. I rise in opposition to AM1627. And I yield the remainder of my time to Senator Machaela Cavanaugh.

**KELLY:** Thank you, Senator Holdcroft. Senator Machaela Cavanaugh, you have 4:45.

**M. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator Holdcroft. Yeah. So I was in the middle of saying just that I appreciate my husband. He's a great guy. And he was doing double duty on all fronts today. He was being a chaperone at the zoo. He was being a dad. He's putting the kids to bed right now. Or maybe, God willing, they're asleep and he's relaxing and watching some show or documentary that I'm not interested in. If he's watching one that I am interested in, that will be a bummer because we-- there's some shows we like to watch together and some shows that we have total different interests in. He's a, he's a big history person. He actually studied history in his undergraduate degree and so he loves a lot of things history-related. And while I enjoy history, I am not so interested in historical documentaries. So those, those are things he, he tends to watch on his own while I watch The Mindy Project, which I love and I'm rewatching, currently. OK. ARPA Reappropriation-- I already read that part. Behavioral Health 988 Call Center. Beginning in July 2022, nationwide use of a three-digit code for persons to access behavioral health assistance and referral, including for suicide ideation and other behavioral health emergency care, began operation. Excuse me. DHHS worked with Boys Town to fund the first year of the statewide call center using carryover funds and a one-time federal grant. This request establishes ongoing funding for the operations of the call center. It is estimated that 32,500 inbound, outbound chats and texts can be answered annually with the statewide 988 call center. OK. I, I also-- oh, that's it. I almost forgot what AM1627 does. But I was going to say, I appreciate that Senator Holdcroft gets up and first states that he is in opposition to it. You probably should be in opposition to it. It strikes funding for operations for corrections. But I did notice that a few of you are a little-- feeling a little like chaos agents this evening, so you might vote for it. But let me just say that I don't think Senator Holdcroft or Senator Machaela Cavanaugh will be voting for it, but you all do you. OK. BH Base



Correction for Provider Rates. Funding for the 15 percent provider rates for FY '22-23 was offset from the anticipated \$16,500,000 of the unexpended balance in the program. The unexpended base correction of \$6,194,049 is included in the appropriation for the next biennium. The remainder of the 15 percent in provider rates increases, in the amount of \$10,305,951, were not included as there is sufficient appropriation within the Division of Behavioral Health Program to finance the additional rate increases. Intent language related to behavioral health regions. It is the intent of the Legislature that any appropriation to the department of (for) behavioral health aid and designated as funding to be allocated to the regional behavioral health authorities in behavioral health regions--

**KELLY:** One minute.

**M. CAVANAUGH:** --thank you, Mr. President-- shall be utilized to provide activities pursuant to the approved annual budgets of the regional behavioral health authorities or activities identified through demonstrated need. Whenever circumstances occur during the budget year that impact the initial projected regional behavioral health authority budgets, the Director of Behavioral Health shall allow for reallocation of funding to accommodate emerging needs identified by the regional behavioral health authorities to maximize the ability of the behavioral health regions to implement new behavioral health services and supports. The Director of Behavioral Health shall determine whether to approve the reallocation of funding within 30 days after receiving a request by a regional behavioral health authority. Any request for reallocation of funding under this section shall be deemed approved 30 days after the receipt by the Director of Behavioral Health unless sooner approved or denied.

**KELLY:** That's your time, Senator.

**M. CAVANAUGH:** Thank you, Mr. President.

**KELLY:** Senator, Senator Bostelman, you're recognized to speak.

**BOSTELMAN:** Thank you, Mr. President. Good evening, everyone. Since it's May the Force, I thought it'd be appropriate to do a little bit of Star Wars trivia tonight before we end the evening since we're kind of coming to a close the evening, I believe. Senator Machaela Cavanaugh, Cavanaugh and I were talking a little bit about Star Wars a little bit ago, so I thought, you know what? Maybe it's time to add some trivia to the day and, and close out the evening that way. So

let's, let's have some trivia questions. And you can play along if you want at home or, or here in the, in the body. So first question I have is what is baby Yoda's real name? Would Senator Cavanaugh yield to a question?

**KELLY:** Senator Cavanaugh, will you yield to a question?

**M. CAVANAUGH:** Yes, I would.

**BOSTELMAN:** What is baby Yoda's real name?

**M. CAVANAUGH:** Grogu.

**BOSTELMAN:** Thank you very much. You're correct. It is Grogu. Where did Obi-Wan take Luke after his birth, do you know?

**M. CAVANAUGH:** Oh, my gosh. I, I don't remember the name of it. Tatooine.

**BOSTELMAN:** And [INAUDIBLE]-- Tatooine?

**M. CAVANAUGH:** Tatooine. Yeah, Tatooine.

**BOSTELMAN:** Yes. You're-- that is it. Who was Palpatine's granddaughter?

**M. CAVANAUGH:** Palpatine's granddaughter? I'm looking around now. I don't-- I think you need to yield to-- ask Senator Holdcroft to yield to a question. He seems to know these answers.

**BOSTELMAN:** Senator Holdcroft, would you yield to a question?

**KELLY:** Senator Holdcroft, will you yield?

**HOLDCROFT:** Yes.

**BOSTELMAN:** Senator Holdcroft, do you know who Palpatine's granddaughter is?

**HOLDCROFT:** Is it Rey?

**BOSTELMAN:** Awesome. You're correct. It is Rey. So who was Anakin Skywalker's Padawan?

**HOLDCROFT:** Anakin Skywalker's Padawan. Oh, well, of course, that was Luke. No, no, I'm sorry. No. I don't know that one.

**BOSTELMAN:** I'll pronounce it wrong. Ahsoka Tano.

**HOLDCROFT:** Oh, yes. That was from the cartoons.

**BOSTELMAN:** OK. All right. What is Mando's real name from The Mandalorian?

**HOLDCROFT:** I don't know that one.

**BOSTELMAN:** Would Senator DeKay yield to a question?

**HOLDCROFT:** I'm going to guess Bob.

**BOSTELMAN:** Wrong. It was Din Djarin. Who had the highest-- well, we'll skip that one. What year did the first Star Wars movie come out? Some of you may not be old enough. I don't know, but some of you-- would Senator Hughes yield to a question?

**KELLY:** Senator Hughes, will you yield to a question?

**HUGHES:** Yes, I will.

**BOSTELMAN:** First Star Wars movie. What do you think?

**HUGHES:** I thought it was '75, but then I heard--

**BOSTELMAN:** You're close.

**HUGHES:** --somebody say '77. '77?

**BOSTELMAN:** 1977. Very close. Well, let's try the next one. Where is Jabba the Hutt's Palace located?

**HUGHES:** On a, on a planet.

**BOSTELMAN:** Tatooine. OK. So who were Kylo Ren's parents? Senator Cavanaugh-- Machaela Cavanaugh, would you yield?

**KELLY:** Senator Machaela Cavanaugh, will you yield to a question?

**M. CAVANAUGH:** Princess Leia and Han Solo.

**BOSTELMAN:** Correct. Who killed Qui-- Qui-Gon Jinn?

**M. CAVANAUGH:** I feel like I'm cheating on that one. But it was-- oh my-- now I forgot-- Maul.

**BOSTELMAN:** Darth.

**M. CAVANAUGH:** Darth Maul.

**BOSTELMAN:** There you go. So let's see. OK. Here's a toughie. So what is the episode number of the very first Star Wars film? Go ahead. Go ahead.

**M. CAVANAUGH:** Four, four.

**BOSTELMAN:** Four. You're, you're exactly right, Senator Cavanaugh. Thank you. Who built C--

**KELLY:** One minute.

**BOSTELMAN:** --C-3PO? Last question. Who built C-3PO? Anakin Skywalker. So what we'll end with tonight is a quote from, from Yoda. "Do or do not. There is no try." Thank you, Mr. President.

**KELLY:** Thank you, Senator Bostelman. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. Not supporting gay rights is something someone on the dark side would do, so that's something for all of you to think about. This article I'm reading about trans rights in Florida continues talking about Lewis Hamilton, who's the winningest driver in Formula One history, and making a statement for the upcoming race in Florida by wearing a rainbow on his helmet in the state that has so many anti-gay and anti-trans laws like the ones most of you support here in Nebraska. He continues, quote, it's not the people of Miami that are making these decisions. It's the people in government and that's the issue, he added. I think, hopefully, all I can do-- the sport is going to be here whether I am or not, but the least I can do is just continue to be supportive and just being here and having that on my helmet, hopefully that speaks well to the subject. Before last year's inaugural Miami Grand Prix, they just had the first one last year and they're having the first one in Las Vegas this year. Before that, the only race that they had in the U.S. was in Dallas. And I think that there's a growing fan base in the United States and that's why they're bringing more races here. But it says, before last year's inaugural Miami Grand Prix, Hamilton dipped into the Roe v. Wade debate and hosted former first lady Michelle Obama in his pit for practice and qualifying. Quote, I love being in the States, but I can't ignore what's going on right now and what some in the government are trying to do to the women who live here, Hamilton said then, ahead

of the Supreme Court decision to end the nationwide right to legal abortion. Quote, everyone should have the right to choose what they do with their own bodies. We can't let that choice be taken away, unquote. Formula One's governing body said at the start of the year that drivers would be prohibited from speaking out on social justice issues at events. The drivers pushed back and the FIA clarified its position to allow drivers to respond to questions. Hamilton, on Thursday, was asked about Florida's laws, but he had previously said he wasn't going to follow FIA guidance. Hamilton became the first black race winner in Formula One in 2008. Now, in the final year of his contract with Mercedes, Hamilton is the winningest driver in series history and is tied with Michael Schumacher with a record seven titles. Earlier this year, from this article from the Associated Press about that guidance to drivers, it says, the governing body for Formula One issued guidance Friday, on a rule recently introduced that prohibited drivers from speaking out on political and controversial issues. The FIA's original rule barred, quote, political, religious and personal statements without prior consent and expressed no limitations on where that restriction applied. Drivers were nearly unanimous in their criticism of the ruling and seven-time Formula One champion Lewis Hamilton said he would not follow the ban. The guidance issued Friday puts limits on when the FIA can apply the rules and the restrictions will be upheld during pre- and post-race events and on the track. The guidance noted, drivers can express their views on any political, religious or personal matter before, during and after the race in their own space and outside the scope of the international competition. The FIA will permit the freedom of speech, quote, through their own social media, during interviews with accredited media and during the FIA press conference, only in response to direct questions from journalists. The FIA will allow exceptional circumstances in which it could grant a driver the ability to make a political statement at an international competition that would otherwise be prohibited--

**KELLY:** One minute.

**HUNT:** --thank you, Mr. President-- if that request is submitted to the governing body four weeks in advance of an event. The conversations that we've had on the floor today remind me of a video that I saw today from Florida. The Florida Legislature recently adjourned sine die. And there was a video that went a little bit viral of many members of the legislature dancing the Cupid Shuffle together in the show of bipartisan unity. And a lot of people were raising this up as an example of, you know, how lawmakers ought to behave and how we

should be. But I completely reject that. And I completely reject all of you making cutesy jokes about Star Wars, your favorite little movie, when all of you would have been on the dark side. And look how diverse and different space is. You know, there's not a lot of-- there's a lot of bodily autonomy in space, isn't there? So I think that you should think about what pop culture is telling you and if it's really something for you or not, because I don't think so. Thank you, Mr. President.

**KELLY:** Thank you, Senator Hunt. Senator Holdcroft, you're recognized to speak. And this is your last time on the amendment.

**HOLDCROFT:** Thank you, Mr. President. And I rise in opposition to AM1627. And I yield my time to Senator Machaela Cavanaugh.

**KELLY:** Senator Machaela Cavanaugh, that's 4:51.

**M. CAVANAUGH:** Thank you, Mr. President. Thank you, Senator Holdcroft. I'm not entirely sure, I think we're coming to an end on the evening. So I started trying to organize my stuff and I found my amendment that I was looking for before. It was right where I left it. I appreciate Senator Hunt talking about the Formula-- I can't-- Formula One. Thank you. I was going to say Formula 400. Formula One racing. It actually reminds me of my grandmother, who was really into following Formula One racing because she-- this was when she was in her nineties. But because her-- the woman who did her hair's like, great nephew was a driver. And so, that's the kind of person my grandma was. She wanted to take an interest in this because it was of interest to that woman. And she wanted to be able to keep up on what her-- this woman's great nephew was doing, so that when-- whenever she went to see her, she could say, I saw your, your nephew race or I read about his race or whatever. And so, just-- that just sparked a memory for me. This is my mom's mom. And for any of you that have met my mom, that probably tracks with why my mom is the way that she is, in taking a significant interest in the people around you's lives and-- yeah. I just think maintaining a, a connection and ensuring that the people around you, whether they're strangers or not, feel a connection to the person standing next to them, it's, it's a really, kind of a lovely thing. You don't always have to have, like, an in-depth conversation to maintain the connection. I, I think I've mentioned this before. I have like to-- perhaps, the fault of being rude to, if I'm talking on the telephone to someone, I will-- I am much more likely to be rude to the person I'm on the telephone with. If I'm on my cell phone and I'm at the store and I'm in a checkout line, I will, I will get off the phone

very abruptly, so that I'm not on the phone when I am checking out. Because I think that it is extremely important to be present in front of the person that you are engaging with and that is you having a, a transactional service with or whatever, I think it's really important. And for me, personally, I always think that if I'm anything less than pleasant to this person in front of me that is helping me check out my groceries or when I stay here, helping me check into my hotel, if I'm anything less than pleasant, like I might be the only pleasant interaction that this person has at their job today. And I don't-- I want to make sure that they have a pleasant interaction. So I'm going to be present for that. And-- I don't know. Formula One just made me think about all of those things. So thank you, Senator Hunt, for that great reminder of the power of using your voice and the power of caring about people. I will yield the remainder of my time.

**KELLY:** Thank you, Senator Cavanaugh. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Amendment to be printed to LB813, by Senator Wayne. Name adds: Senator Conrad to LB632, Senator Ibach to LR124 and LR125. Finally, a priority motion. Senator Lippincott would move to adjourn until Friday, May 5, 2023, 9:00 a.m.

**KELLY:** Senators, you've heard the motion to adjourn. All those in favor say aye. Those opposed, nay. We are adjourned.