

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 24, 2017

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SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventieth day of the One Hundred Fifth Legislature, First Session. Our chaplain today is Pastor Stephen Floyd from the First Church of Nazarene in Falls City, Nebraska, Senator Watermeier's district. Would you please rise?

PASTOR FLOYD: (Prayer offered.)

SPEAKER SCHEER: Thank you, Pastor Floyd. I call to order the seventieth day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Record, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

SPEAKER SCHEER: Any messages, reports, or announcements?

CLERK: Mr. President, Enrollment and Review reports LB234 to Select File; LB255, Select File with amendments; LB255A, Select File; LB455, Select File; LB645, Select File; LB430, Select File with amendments; LB558, Select File; LB315, Select File with amendments; LB159, Select File with amendments; LB138, Select File; LB142, Select File with amendments; LB20, Select File; LB63, Select File; LB154, Select File; and LB176, all to Select File. Mr. President, Senator Kolowski would like to print an amendment to LB409. That's all that I have, Mr. President. (Legislative Journal pages 1139-1147.) [LB234 LB255 LB255A LB455 LB645 LB430 LB558 LB315 LB159 LB138 LB142 LB20 LB63 LB154 LB176 LB409]

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SPEAKER SCHEER: Thank you Mr. Clerk. Senator Hilkemann, for what purpose do you rise?

SENATOR HILKEMANN: Thank you, Mr. President. I ask for a point of personal privilege.

SPEAKER SCHEER: Proceed.

SENATOR HILKEMANN: Thank you. Good morning. I asked for a point of personal privilege this morning to welcome the family of Colonel Stuart E. MacTaggart. Senators Crawford, Krist, and I introduced LR55 to recognize the illustrious military career and life of Colonel MacTaggart. His brave battle with multiple sclerosis took him from his family too soon in February of this year. I encourage you to read LR55, which Senator Krist will deliver to the family, and you may appreciate all that he gave to our state, our country, and his family. On behalf of the Nebraska Legislature, I offer our condolences to the family and friends of Colonel Stuart E. MacTaggart and gratitude for his lifetime of service. The family of Colonel MacTaggart is underneath the north balcony here...or south balcony. Welcome them to the Nebraska Legislature. [LR55]

SPEAKER SCHEER: Senator Chambers, for what purpose do you rise?

SENATOR CHAMBERS: Point of personal privilege, Mr. Speaker.

SPEAKER SCHEER: Please proceed.

SENATOR CHAMBERS: I have two questions for clarification. On the agenda it says any bill with a motion to return to Select File for a specific amendment will be passed over today. Even if the amendment is solely for the purpose of discussion will that cause the bill to be passed over?

SPEAKER SCHEER: If the purpose of the amendment is for discussion only, please make the amendment to strike the enacting clause and we will assume that is for discussion purposes.

SENATOR CHAMBERS: And the second one: If each one of these bills should happen to have a return for a specific amendment, does that mean all of Final Reading would go away and we would proceed directly to LB595? [LB595]

SPEAKER SCHEER: Yes, technically it would, sir.

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SENATOR CHAMBERS: I don't intend to do either one, but for the sake of the record I wanted that clear. Thank you, Mr. President, Mr. Speaker.

SPEAKER SCHEER: You're welcome, Senator. Thank you. Moving to the first item, Mr. Clerk. We are on Final Reading. Members, would you please return to your seats in preparation for Final Reading. Mr. Clerk, the first bill is LB148. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor please vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB148]

CLERK: 41 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB148]

SPEAKER SCHEER: The at-large reading is dispensed with. Mr. Clerk, read the title. [LB148]

CLERK: (Read title of LB148.) [LB148]

SPEAKER SCHEER: All provisions of law relative to procedure having been complied with, the question is, shall LB148 pass? All those in favor vote aye; all those opposed vote nay. Please record. [LB148]

CLERK: (Record vote read, Legislative Journal page 1147.) 49 ayes, 0 nays, Mr. President, on the passage of LB148. [LB148]

SPEAKER SCHEER: LB148 passes. (Visitors introduced.) Moving forward to the next bill, LB182. [LB148 LB182]

CLERK: (Read LB182 on Final Reading.) [LB182]

SPEAKER SCHEER: All provisions of law relative to procedure having been complied with, the question is, shall LB182 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB182]

CLERK: (Record vote read, Legislative Journal page 1148.) 49 ayes, 0 nays, Mr. President, on the passage of LB182. [LB182]

SPEAKER SCHEER: LB182 passes. We will now proceed to LB207. [LB207]

CLERK: (Read LB207 on Final Reading.) [LB207]

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SPEAKER SCHEER: All provisions of law relative to procedure having been complied with, the question is, shall LB207 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB207]

CLERK: (Record vote read, Legislative Journal pages 1148-1149.) 49 ayes, 0 nays, Mr. President, on the passage of LB207. [LB207]

SPEAKER SCHEER: LB207 passes. We'll now proceed to LB210. [LB207 LB210]

CLERK: (Read LB210 on Final Reading.) [LB210]

SPEAKER SCHEER: All provisions of law relative to procedure having been complied with, the question is, shall LB210 pass? All those in favor please vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB210]

CLERK: (Record vote read, Legislative Journal page 1149.) 49 ayes, 0 nays on the passage of LB210. [LB210]

SPEAKER SCHEER: Thank you, Mr. Clerk. LB210 passes. We'll now proceed to LB407. [LB210 LB407]

CLERK: (Read LB407 on Final Reading.) [LB407]

SPEAKER SCHEER: All provisions of law relative to procedure having been complied with, the question is, shall LB407 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB407]

CLERK: (Record vote read, Legislative Journal page 1150.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB407]

SPEAKER SCHEER: LB407 passes. We'll now proceed to LB518. [LB407 LB518]

CLERK: (Read LB518 on Final Reading.) [LB518]

SPEAKER SCHEER: All provisions of law relative to procedure having been complied with, the question is, shall LB518 pass? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB518]

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CLERK: (Record vote read, Legislative Journal pages 1150-1151.) 49 ayes, 0 nays on the passage of LB518. [LB518]

SPEAKER SCHEER: LB518 passes. We'll now proceed to LB518A. [LB518 LB518A]

CLERK: (Read LB518A on Final Reading.) [LB518A]

SPEAKER SCHEER: All provisions of law relative to procedure having been complied with, the question is, shall LB518A pass? All those in favor please vote aye; all those opposed please vote nay. Please record. [LB518A]

CLERK: (Record vote read, Legislative Journal page 1151.) 49 ayes, 0 nays on the passage of LB518A. [LB518A]

SPEAKER SCHEER: LB518A passes. We'll now proceed to LB566. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor please vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB518A LB566]

CLERK: 41 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB566]

SPEAKER SCHEER: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB566]

CLERK: (Read title of LB566.) [LB566]

SPEAKER SCHEER: All provisions of law relative to procedure having been complied with, the question is, shall LB566 pass? All those in favor please vote aye; all those opposed vote nay. Please record. Excuse me. [LB566]

CLERK: (Record vote read, Legislative Journal page 1152.) 49 ayes, 0 nays, Mr. President, on the passage of LB566. [LB566]

SPEAKER SCHEER: LB566 passes. We'll now proceed to LB590E. [LB566 LB590]

CLERK: (Read LB590 on Final Reading.) [LB590]

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB590E pass with the emergency clause attached? All those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB590]

CLERK: (Record vote read, Legislative Journal page 1153.) 47 ayes, 0 nays, 2 present and voting, Mr. President. [LB590]

PRESIDENT FOLEY: LB590E passes with the emergency clause attached. We'll now proceed to LB9. Mr. Clerk. [LB590 LB9]

CLERK: (Read LB9 on Final Reading.) [LB9]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB9 pass? All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB9]

CLERK: (Record vote read, Legislative Journal pages 1153-1154.) 35 ayes, 4 nays, 10 present and not voting, Mr. President. [LB9]

PRESIDENT FOLEY: LB9 passes. We'll now proceed to LB34. [LB9 LB34]

CLERK: (Read LB34 on Final Reading.) [LB34]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB34 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB34]

CLERK: (Record vote read, Legislative Journal page 1154.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB34]

PRESIDENT FOLEY: LB34 passes. We'll now proceed to LB35. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor of dispensing with the reading vote aye; those opposed vote nay. Record, Mr. Clerk. [LB34 LB35]

CLERK: 42 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB35]

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PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB35]

CLERK: (Read title of LB35.) [LB35]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB35 pass? All those in favor vote aye; those opposed vote nay. Mr. Clerk, please record. [LB35]

CLERK: (Record vote read, Legislative Journal page 1155.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB35]

PRESIDENT FOLEY: LB35 passes. We'll now proceed to LB88E. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB35 LB88]

CLERK: 44 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB88]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB88]

CLERK: (Read title of LB88.) [LB88]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB88E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB88]

CLERK: (Record vote read, Legislative Journal page 1156.) 49 ayes, 0 nays, Mr. President, on the passage of LB88. [LB88]

PRESIDENT FOLEY: LB88E passes with the emergency clause attached. We'll now proceed to LB92. [LB88 LB92]

CLERK: (Read LB92 on Final Reading.) [LB92]

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PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB92 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB92]

CLERK: (Record vote read, Legislative Journal page 1157.) 49 ayes, 0 nays, Mr. President, on the passage of LB92. [LB92]

PRESIDENT FOLEY: LB92 passes. We'll now proceed to LB122. [LB92 LB122]

CLERK: (Read LB122 on Final Reading.) [LB122]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB122 pass? Those in favor vote aye; those opposed vote nay. Have you all voted? Record please, Mr. Clerk. [LB122]

CLERK: (Record vote read, Legislative Journal pages 1157-1158.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB122]

PRESIDENT FOLEY: LB122 passes. We'll now proceed to LB151E. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB122 LB151]

CLERK: 44 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB151]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB151]

CLERK: (Read title of LB151.) [LB151]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB151E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Please record. [LB151]

CLERK: (Record vote read, Legislative Journal pages 1158-1159.) 49 ayes, 0 nays on the passage of LB151. [LB151]

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PRESIDENT FOLEY: LB151E passes with the emergency clause attached. We'll now proceed to LB161. [LB151 LB161]

CLERK: (Read LB161 on Final Reading.) [LB161]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB161 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB161]

CLERK: (Record vote read, Legislative Journal pages 1159-1160.) 44 ayes, 2 nays, 3 present and not voting, Mr. President. [LB161]

PRESIDENT FOLEY: LB161 passes. (Visitors introduced.) Proceeding now to LB166E, Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB161 LB166]

CLERK: 43 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB166]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB166]

CLERK: (Read title of LB166.) [LB166]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB166E pass with emergency clause attached? Those in favor vote aye; those opposed vote nay. Please record. [LB166]

CLERK: (Record vote read, Legislative Journal pages 1160-1161.) 49 ayes, 0 nays on the passage of LB166. [LB166]

PRESIDENT FOLEY: LB166E passes with the emergency clause attached. (Visitors introduced.) Proceeding now to LB195. [LB166 LB195]

CLERK: (Read LB195 on Final Reading.) [LB195]

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PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB195 pass? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB195]

CLERK: (Record vote read, Legislative Journal page 1161.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB195]

PRESIDENT FOLEY: LB195 passes. Now proceeding to LB222, Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record. [LB195 LB222]

CLERK: 40 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB222]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB222]

CLERK: (Read title of LB222.) [LB222]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB222 pass? Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record. [LB222]

CLERK: (Record vote read, Legislative Journal page 1162.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB222]

PRESIDENT FOLEY: LB222 passes. We'll now proceed to LB271. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Please record. [LB222 LB271]

CLERK: 37 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB271]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB271]

CLERK: (Read title of LB271.) [LB271]

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PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB271 pass? Those in favor vote aye; those opposed vote nay. Please record. [LB271]

CLERK: (Record vote read, Legislative Journal page 1163.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB271]

PRESIDENT FOLEY: LB271 passes. We'll now proceed to LB339E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Please record. [LB271 LB339]

CLERK: 39 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB339]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB339]

CLERK: (Read title of LB339.) [LB339]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB339E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Please record. [LB339]

CLERK: (Record vote read, Legislative Journal pages 1164-1165.) 47 ayes, 0 nays, 2 present and not voting, Mr. President. [LB339]

PRESIDENT FOLEY: LB339E passes with the emergency clause attached. We'll now proceed to LB340E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed note nay. Record, please. [LB339 LB340]

CLERK: 43 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB340]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB340]

CLERK: (Read title of LB340.) [LB340]

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PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB340E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Please record. [LB340]

CLERK: (Record vote read, Legislative Journal pages 1165-1166.) 49 ayes, 0 nays, Mr. President, on the final passage of LB340. [LB340]

PRESIDENT FOLEY: LB340E passes with the emergency clause attached. We'll now proceed to LB432E. [LB340 LB432]

CLERK: (Read LB432 on Final Reading.) [LB432]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB432E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB432]

CLERK: (Record vote read, Legislative Journal page 1166.) 49 ayes, 0 nays, Mr. President, on the passage of LB432. [LB432]

PRESIDENT FOLEY: LB432E passes with the emergency clause attached. We'll now proceed to LB506. [LB432 LB506]

CLERK: (Read LB506 on Final Reading.) [LB506]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB506 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB506]

CLERK: (Record vote read, Legislative Journal page 1167.) 49 ayes, 0 nays, Mr. President, on the final passage of LB506. [LB506]

PRESIDENT FOLEY: LB506 passes. We'll now proceed to LB539E. [LB506 LB539]

CLERK: (Read LB539 on Final Reading.) [LB539]

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PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB539E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB539]

CLERK: (Record vote read, Legislative Journal pages 1167-1168.) 42 ayes, 2 nays, 5 present and not voting, Mr. President. [LB539]

PRESIDENT FOLEY: LB539E passes. We'll now proceed to LB600. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record please. [LB539 LB600]

CLERK: 38 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB600]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB600]

CLERK: (Read title of LB600.) [LB600]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB600 pass? Those in favor vote aye; those opposed vote nay. Record please. [LB600]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1168-1169.) Vote is 49 ayes, 0 nays on the passage of the bill, Mr. President. [LB600]

PRESIDENT FOLEY: LB600 passes. We'll now proceed to LB625E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record please. [LB600 LB625]

ASSISTANT CLERK: 41 ayes, 3 nays to dispense with the at-large reading. [LB625]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB625]

ASSISTANT CLERK: (Read title of LB625.) [LB625]

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PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB625E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Please record. [LB625]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1169-1170.) Vote is 40 ayes, 3 nays, 6 present and not voting, Mr. President. [LB625]

PRESIDENT FOLEY: LB625E passes with the emergency clause attached. We'll now proceed to LB639. [LB639]

ASSISTANT CLERK: (Read LB639 on Final Reading.) [LB639]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB639 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB639]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1170-1171.) Vote is 48 ayes, 0 nays, 1 present and not voting. [LB639]

PRESIDENT FOLEY: LB639 passes. Proceeding now to LB137. [LB639 LB137]

ASSISTANT CLERK: (Read LB137 on Final Reading.) [LB137]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB137 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB137]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1171.) Vote is 49 ayes, 0 nays on the final passage of the bill. [LB137]

PRESIDENT FOLEY: LB137 passes. Proceeding now to LB180. [LB137 LB180]

ASSISTANT CLERK: (Read LB180 on Final Reading.) [LB180]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB180 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB180]

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ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1171-1172.) Vote is 46 ayes, 0 nays, 3 present and not voting. [LB180]

PRESIDENT FOLEY: LB180 passes. (Visitors introduced.) Proceeding now to LB180A. [LB180 LB180A]

ASSISTANT CLERK: (Read LB180A on Final Reading.) [LB180A]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB180A pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB180A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1172.) Vote is 43 ayes, 0 nays, 6 present and not voting, Mr. President. [LB180A]

PRESIDENT FOLEY: LB180A passes. Proceeding now to LB267. [LB180A LB267]

ASSISTANT CLERK: (Read LB267 on Final Reading.) [LB267]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB267 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB267]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1173.) Vote is 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB267]

PRESIDENT FOLEY: LB267 passes. Proceeding now to LB317. [LB267 LB317]

ASSISTANT CLERK: (Read LB317 on Final Reading.) [LB317]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB317 pass? Those in favor vote aye; those opposed vote nay. Record please. [LB317]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1173-1174.) Vote is 49 ayes, 0 nays, Mr. President. [LB317]

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PRESIDENT FOLEY: LB317 passes. Moving on now to LB444. [LB317 LB444]

ASSISTANT CLERK: Mr. President, I have a motion on the desk. Senator Lindstrom would move to return the bill for a specific amendment, that being to strike the enacting clause. (FA66, Legislative Journal page 1174.) [LB444]

PRESIDENT FOLEY: Senator Lindstrom, you're recognized to open on FA66. [LB444]

SENATOR LINDSTROM: Thank you, Mr. President. Just wanted to get some legislative intent on the record. I was wondering if Senator Walz would yield to a question. [LB444]

PRESIDENT FOLEY: Senator Walz, would you yield, please? [LB444]

SENATOR WALZ: Yes. [LB444]

SENATOR LINDSTROM: Thank you, Senator Walz. Is this bill intended to apply to limited benefit or specified disease policies? [LB444]

SENATOR WALZ: No. This bill is not intended for a specialty type of policy that would cover disability or disease. It is only intended for major medical insurance. [LB444]

SENATOR LINDSTROM: Thank you, Senator Walz. Thank you for the clarification. And with that, I will pull my motion, please. [LB444]

PRESIDENT FOLEY: Without objection, the motion is withdrawn. Mr. Clerk. [LB444]

ASSISTANT CLERK: (Read LB444 on Final Reading.) [LB444]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB444 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB444]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1174-1175.) The vote is 31 ayes, 8 nays, 10 present and not voting, Mr. President. [LB444]

PRESIDENT FOLEY: LB444 passes. Proceeding to LB535. [LB444 LB535]

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ASSISTANT CLERK: (Read LB535 on Final Reading.) [LB535]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB535 pass? Those in favor vote aye; those opposed vote nay. Have you all voted? Record please, Mr. Clerk. [LB535]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1175.) Vote is 49 ayes, 0 nays on the final passage of the bill. [LB535]

PRESIDENT FOLEY: LB535 passes. Next bill is LB641E. [LB535 LB641]

ASSISTANT CLERK: Mr. President, a motion on the desk. Senator Erdman would move to recommit LB641 to the Banking, Commerce and Insurance Committee. [LB641]

PRESIDENT FOLEY: Senator Erdman, you're recognized to open on your motion. [LB641]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good morning, Nebraska. I rise this morning to have a discussion about LB641. We've talked about this bill a couple of times in the past. It came out of committee with one negative vote, one nay, and that was "Professor" Schumacher. I'm of the opinion, similar to his, this is a giveaway bill. The bill also establishes the committee, a committee that is made up of legislators. And they said there's not much cost because we don't get paid much so it won't cost a whole lot. But I look at this. It's going to create a fund that they can contribute up to \$2 million a year. I know the repayment says \$1.4 million the first year, \$900,000-and-some the second year, but it goes on to say how much can be committed going forward. So we're creating a fund going forward that is going to obligate us to make some payments to this committee or this group. When we voted the very first time we had two negative votes, two red votes, and then the second time we had five or six, so we're gaining a little support there. But this is a bill, in my opinion, that needs to go away and I wanted an opportunity this morning to speak about that. And while I'm talking about spending, I want to relate a little story. In the Bible it says the Lord sent Nathan over to talk to David and he came to David. He came to David and he said, hey, there was this rich guy, had a lot of cattle, a lot of sheep, and he had a visitor come to his house one night. And then there was this poor guy that lived next door. He had one sheep and he had raised that lamb, bought that lamb and raised it as if it was one of his children. The lamb ate in his house. And he only had one sheep. And so the rich guy had a visitor. So instead of the rich guy taking some from his many flocks and many herds, he goes over and he takes the one lamb that the poor guy had and prepares it to serve to his visitor. That is a very similar situation as we see with the Appropriations Committee taking \$500,000 from the Brand Committee, and then in their reconsideration they put \$400,000 back. In my opinion, they took it from the poor guy. Those funds were put in there by the people who

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pay for that brand inspection. I don't believe I've gotten any more calls or anything that we've done down here as I have on that. That needs to be reinstated. I was at this morning's briefing on the budget. I understand that the Appropriations Committee worked hard on getting what they got. I do not think that our, going forward, receipts will be what they're projecting them to be. As I may have said earlier, this economy that we're operating in now, if you equate it to a baseball game we may in the second or third inning and all of you know that baseball games usually go nine unless they go extra innings. God forbid we go extra innings what may happen. But if we're in the second, third inning, maybe the fourth inning, we've still got several years to go. Going on the projections of what we've projected to be the revenue going forward I think is a misstatement. I am not all pleased coming out of this budget with a \$1.1% increase in spending. I think we've got an obligation to balance this budget in a better way than on the projections. So after having said that I would say that we need to be very cautious of what we do on the budget and I would ask you to vote red on LB641. And with that, I withdraw my amendment. Thank you. [LB641]

PRESIDENT FOLEY: Your motion is withdrawn. Mr. Clerk. [LB641]

ASSISTANT CLERK: (Read LB641 on Final Reading.) [LB641]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB641E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB641]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1176.) Vote is 32 ayes, 7 nays, 10 present and not voting. [LB641]

PRESIDENT FOLEY: The bill does not pass with the emergency clause attached. The next vote shall be, shall the bill pass with the emergency clause stricken? All those in favor vote aye; those opposed vote nay. Have you all voted? Record please, Mr. Clerk. [LB641]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1177.) Vote is 31 ayes, 5 nays, 13 present and not voting, Mr. President. [LB641]

PRESIDENT FOLEY: LB641 passes with the emergency clause stricken. Next bill, LB641A. [LB641 LB641A]

ASSISTANT CLERK: (Read LB641A on Final Reading.) [LB641A]

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PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB641A pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB641A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1177-1178.) Vote is 31 ayes, 5 nays, 13 present and not voting, Mr. President. [LB641A]

PRESIDENT FOLEY: LB641A passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills: LB148, LB182, LB207, LB210, LB407, LB518, LB518A, LB566, LB590E, LB9, LB34, LB35, LB88E, LB92, LB122, LB151E, LB161, LB166E, LB195, LB222, LB271, LB339E, LB340E, LB432E, LB506, LB539E, LB600, LB625E, LB639, LB137, LB180, 180A, LB267, LB317, LB444, and LB535. Items for the record, Mr. Clerk. [LB148 LB182 LB207 LB210 LB407 LB518 LB518A LB566 LB590 LB9 LB34 LB35 LB88 LB92 LB122 LB151 LB161 LB166 LB195 LB222 LB271 LB339 LB340 LB432 LB506 LB539 LB600 LB625 LB639 LB137 LB180 LB180A LB267 LB317 LB444 LB535]

CLERK: Thank you, Mr. President. Enrollment and Review reports LB383, LB231, LB239, LB306, LB241, LB519, LB464, and LB264 to Select File, some having Enrollment and Review amendments. (Legislative Journal pages 1178-1179.) [LB383 LB231 LB239 LB306 LB241 LB519 LB464 LB264]

Senator Craighead would move to recess the body until 1:30 p.m.

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

RECESS

PRESIDENT FOLEY PRESIDING

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

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

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

CLERK: Mr. President, read on Final Reading this morning were presented to the Governor's Office at 12:26 (re LB148, LB182, LB207, LB210, LB407, LB518, LB518A, LB566, LB590, LB9, LB34, LB35, LB88, LB92, LB122, LB151, LB161, LB166, LB195, LB222, LB271, LB339, LB340, LB432, LB506, LB539, LB600, LB625, LB639, LB137, LB180, LB180A, LB267, LB317, LB444, and LB535). That's all that I have. (Legislative Journal page 1179.) [LB148 LB182 LB207 LB210 LB407 LB518 LB518A LB566 LB590 LB9 LB34 LB35 LB88 LB92 LB122 LB151 LB161 LB166 LB195 LB222 LB271 LB339 LB340 LB432 LB506 LB539 LB600 LB625 LB639 LB137 LB180 LB180A LB267 LB317 LB444 LB535]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Members, if you could return to your desks, we've got some Final Reading we need to finish up. Members, we're just about ready to begin Final Reading if you can take your seats. The first bill on Final Reading is LB75. Mr. Clerk. [LB75]

CLERK: (Read LB75 on Final Reading.) [LB75]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB75 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB75]

CLERK: (Record vote read, Legislative Journal page 1180.) 27 ayes, 13 nays, 7 present and not voting, 2 excused and not voting, Mr. President. [LB75]

PRESIDENT FOLEY: LB75 passes. Proceeding to the next bill, LB376E. [LB75 LB376]

CLERK: (Read LB376 on Final Reading.) [LB376]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB376E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB376]

CLERK: (Record vote read, Legislative Journal page 1181.) 30...excuse me, 43 ayes, 0 nays, 4 present and not voting, 2 excused and not voting, Mr. President. [LB376]

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PRESIDENT FOLEY: LB376E passes with the emergency clause attached. Proceeding to the next bill, LB417. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record. [LB376 LB417]

CLERK: 42 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB417]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB417]

CLERK: (Read title of LB417.) [LB417]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB417 pass? Those in favor vote aye; those opposed vote nay. Please record. [LB417]

CLERK: (Record vote read, Legislative Journal page 1182.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB417]

PRESIDENT FOLEY: LB417 passes. Proceeding to LB91. [LB417 LB91]

CLERK: (Read LB91 on Final Reading.) [LB91]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB91 pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB91]

CLERK: (Record vote read, Legislative Journal pages 1182-1183.) 48 ayes, 0 nays, 1 excused and not voting. [LB91]

PRESIDENT FOLEY: LB91 passes. Next bill, LB91A. [LB91 LB91A]

CLERK: (Read LB91A on Final Reading.) [LB91A]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB91A pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB91A]

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CLERK: (Record vote read, Legislative Journal page 1183.) 48 ayes, 0 nays, 1 excused and not voting. [LB91A]

PRESIDENT FOLEY: LB91A passes. Proceeding to the next bill, LB217E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record, please. [LB91A LB217]

CLERK: 43 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB217]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB217]

CLERK: (Read title of LB217.) [LB217]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB217E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB217]

CLERK: (Record vote read, Legislative Journal pages 1184-1185.) 47 ayes, 0 nays, 2 present and not voting. [LB217]

PRESIDENT FOLEY: LB217E passes with the emergency clause attached. We'll proceed to the next bill, LB225E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record, please. [LB217 LB225]

CLERK: 40 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB225]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB225]

CLERK: (Read title of LB225.) [LB225]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB225E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB225]

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CLERK: (Record vote read, Legislative Journal page 1186.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB225]

PRESIDENT FOLEY: LB225E passes with the emergency clause attached. Proceeding to the next bill, 225AE. [LB225 LB225A]

CLERK: (Read LB225A on Final Reading.) [LB225A]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB225AE pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB225A]

CLERK: (Record vote read, Legislative Journal pages 1186-1187.) 46 ayes, 0 nays, 3 present and not voting, Mr. President. [LB225A]

PRESIDENT FOLEY: LB225AE passes. Next bill is LB263E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record, please. [LB225A LB263]

CLERK: 41 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB263]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB263]

CLERK: (Read title of LB263.) [LB263]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB263E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB263]

CLERK: (Record vote read, Legislative Journal page 1188.) 49 ayes, 0 nays, Mr. President, on the passage of LB263. [LB263]

PRESIDENT FOLEY: LB263E passes with the emergency clause attached. Proceeding to LB263AE. [LB263 LB263A]

CLERK: (Read LB263A on Final Reading.) [LB263A]

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PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB263AE pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB263A]

CLERK: (Record vote read, Legislative Journal pages 1188.) 49 ayes, 0 nays, Mr. President, on the passage of LB263A. [LB263A]

PRESIDENT FOLEY: LB263AE passes with the emergency clause attached. Proceeding to LB276. [LB263A LB276]

CLERK: (Read LB276 on Final Reading.) [LB276]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB276 pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB276]

CLERK: (Record vote read, Legislative Journal page 1189.) 49 ayes, 0 nays, Mr. President, on the final passage of LB276. [LB276]

PRESIDENT FOLEY: LB276 passes. The next bill, LB427, will be passed over pursuant to the Speaker's instructions. Next bill after that is LB487. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record, please. [LB276 LB487]

CLERK: 43 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB487]

PRESIDENT FOLEY: The at-large reading has been dispensed with. Mr. Clerk, please read the title. [LB487]

CLERK: (Read title of LB487.) [LB487]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB487 pass? Those in favor vote aye; those opposed vote nay. Record, please. [LB487]

CLERK: (Record vote read, Legislative Journal page 1190.) 34 ayes, 5 nays, 10 present and not voting, Mr. President. [LB487]

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PRESIDENT FOLEY: LB487 passes. Mr. Clerk. [LB487]

CLERK: Mr. President, some items: LB641, read on Final Reading, has been correctly enrolled; Senator Bolz would offer a new resolution, LR113, it's an interim study, will be referred to the Executive Board; and an amendment to be printed to LB427 by Senator Erdman. That's all I have, Mr. President. Thank you. (Legislative Journal pages 1190-1191.) [LB641 LR113 LB427]

PRESIDENT FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills: LB641, LB641A, LB75, LB376E, LB417, LB91, LB91A, LB217E, LB225E, LB225AE, LB263E, LB263AE, LB276, and LB487. Before we proceed to 2017 senator priority bill, Mr. Clerk, do you have any further items for the record? [LB641 LB641A LB75 LB376 LB417 LB91 LB91A LB217 LB225 LB225A LB263 LB263A LB276 LB487]

CLERK: I have nothing at this time, Mr. President.

PRESIDENT FOLEY: All right, we'll proceed to General File, 2017, senator priority bill. Mr. Clerk.

CLERK: LB595 is a bill by Senator Groene. (Read title.) The bill was introduced on January 18, at that time referred to the Education Committee, advanced to General File. There are committee amendments pending, Mr. President. (AM581, Legislative Journal page 728.) [LB595]

PRESIDENT FOLEY: Senator Groene, you're recognized to open on LB595. [LB595]

SENATOR GROENE: Thank you, Mr. President. AM581 replaces the original bill, so all my remarks will be addressed towards the amendment language. I brought this bill in response to many conversations I've had with parents, teachers, and administrators about the breakdown of discipline in the classroom. The fear of being assaulted, fear of lawsuits if they act to protect students or other teachers or themselves. Parents' concerns about violence towards their children. On Sunday, January 29, the NSEA sent a survey to 19,000 K-12 member teachers concerning the concept of LB595. The response was overwhelming. Within the first three hours they received more than 3,000 responses. By the following week they received over 7,100 responses. At the hearing, Mr. Jay Sears, representing the NSEA stated: In my 33 years in working with NSEA, Nebraska State Education Association, I don't think we have gotten 3,000 responses for almost anything. When K-12 classroom teachers were asked, have discipline and behavioral problems in your school increased over the past few years, 82 percent of the 7,009 respondents said, yes. Nebraska's teachers want statutory guidance as to what they can do to maintain civility in their

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classrooms. Now I'll get to the facts on LB595 on the amended version to offset some of the information my colleagues have received. Section 2(1). If a student becomes physically violent, physically violent, at that moment in time towards himself or herself, a teacher, an administrator, or another student, a teacher or administrator may use necessary physical force or physical restraint to subdue such student until such student no longer presents a danger to himself or herself, the teacher or administrator, or the other students. Subsection (2). If a student exhibits destructive behavior towards school property a teacher or administrator may use physical restraint--notice, physical force isn't used in this section, just physical restraint--to subdue such student until such student ceases the destructive behavior or the student is removed from the classroom. Subsection (3). Any action by a teacher or administrator pursuant to subsection (1) and (2) of this section shall not be considered corporal punishment pursuant to 79-295, which outlaws it in the state of Nebraska. Remember, corporal punishment is to inflict punishment that inflicts pain for the purpose of punishment. Nowhere in LB595 is that considered part of the bill. You will hear opponents of LB595 claim that under state statute 79-258, the State Supreme Court in Daily v. Board of Education , 1999, interpreted the phrase: may take action regarding student behavior as permission to use physical contact short of corporal punishment to the degree necessary to preserve order and control in the classroom environment. When asked in the NSEA survey, do you believe teachers and administrators are currently allowed to use necessary physical restraint or force short of corporal punishment to the degree necessary to subdue a student that exhibits destructive behavior towards school property, nearly 70 percent said they did not know that. Twenty-four states have similar laws in place. Three more states allow corporal punishment without providing for separate force authorization. LB595 when enacted will codify the Supreme Court's Daily decision into statute for school boards and provide clarity for parents, teachers and administrators. Subsection (4). Any teacher or administrator defending himself or herself, another teacher, administrator, or student pursuant to subsection (1) of this section or protecting property pursuant to subsection (2) of this section shall not be subjected to legal action or administrative discipline if such teacher or administrator was acting in a reasonable manner. When we sat down with the NSEA they actually wanted "grossly negligent" there. That's how concerned they are about their classroom, what's going on. The trial attorneys wanted "reasonable manner" and they came in neutral on the bill if we put "reasonable manner." It's common in law. Most lawyers understand that and judges. Subsection (4). Protects school employees from unnecessary retribution for doing what is correct behavior in a moment of time when a quick response is needed to protect others. Subsection 3(1)(a). A teacher may remove a student from a class if the teacher has documented that such student has repeatedly interfered with such teacher's ability to communicate effectively with the students in such class or with the ability of student in such class to learn. Subsection (b). Determine such student's behavior so unruly, disruptive, or abusive that it seriously interferes with such teacher's ability to communicate effectively with the students in the class or with the ability of the students in the class to learn. Subsection (3) (sic: (c)). Determines such student has committed other disruptive acts that merit discipline under the Student Discipline Act. That is act that's in force now. It's

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anywhere from actually physically attacking somebody, to having a gun in the classroom. It just covers that area that's already in there where an administration can suspend its student. Subsection (1) reflects statutes that are present in 25 other states. It gives control of the classroom demeanor to the teacher. Subsection (2). If a teacher removes a student from a class pursuant to this subsection the principal of the school may place such student in another appropriate classroom, into in-school suspension, or suspend the student pursuant to subsection 79-265 or 79-267, which allows an administrator to suspend a student for up to five days without board approval. The principal may not return such student to a class taught by such teacher without the teacher's consent. This is very important because most of the information you're getting from individuals are about special education students. All of the people who testified against LB595 were concerned about special education students. But this language is added: Unless such return is required pursuant to the Special Education Act or the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 in federal statute. If the teacher does not consent to the student's return to the teacher's classroom within two school days following the student's removal, a conference shall be held with the teacher and the parent or legal guardian of such student in the presence of the principal or the principal's designee for the purpose of determining the cause of the problem and developing a plan implementing possible student behavior improvement mechanisms. Here was another concern of administrators but has been fixed in the amendment. Following the conference the principal may readmit each student...such student to the teacher's class. A principal or other administrator shall not coerce a teacher to consent to the return of the student to the class from which student was removed, pursuant to this act. That refers to trying to do it before the hearing so that they don't have to have a hearing with the parent or the guardian and the administration. In response to misrepresentations to the ill-informed and those opposed to this bill, here is what the bill doesn't do. Teachers and administrators must adhere to the individual education programs, IEPs, of all special education students in federal Individuals with Disability (Education) Act. Teachers of students in their classroom are normally members of the student's IEP team, which designs the student's educational process. Teachers are aware of which students have IEP plans in their classroom and know how those students are designed to be handled in the classroom. All the testimony against LB595 was based on the original language, not AM581, which exempted special education students from the classroom removal provisions of LB595. An IEP may have in its plan that a student can be removed, but each student has a...for their open good, but each of those special education students have their own program. This bill does not allow use of force as corporal punishment. Any force used must be necessary to protect the student and others and the student must be actively in the process of being physically violent towards others. This bill does not allow for the mechanical restraint, handcuffs, being tied to anything, or exclusion rooms. Now you might wonder why I put that in. I have e-mails that people thought I was going to...this bill allowed a teacher to put them in handcuffs, believe it or not. [LB595]

PRESIDENT FOLEY: One minute. [LB595]

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SENATOR GROENE: This bill does not give teachers a carte blanche to abuse students. All school district procedures that investigate any teacher-student physical contact remain in place and any teacher using unnecessary force, any teacher acting unreasonable, any teacher assaulting students will continue to be punished. Corporal punishment is still not permitted. This bill does not mandate that teachers use force. Any teacher feeling uncomfortable with separating students or protecting other teachers or themselves or even school property is not required to do so. This bill simply states that they can do this and not fear lawsuits. I will finish the rest of the statement on the amendment opening. [LB595]

PRESIDENT FOLEY: Thank you, Senator Groene. As the Clerk indicated, there are amendments from the Education Committee. Senator Groene, as Chair of the Education Committee you are recognized to open on AM581 committee amendment. [LB595]

SENATOR GROENE: Thank you, Mr. President. I repeat, this does not mandate that teachers use force. They're not liable if they do not if they wish to be passive. And finally, this bill does not undo local control. While the bill offers teachers guidance and protection on a state level, this is an umbrella bill and all districts are welcome to offer further guidance and protection and even training they feel necessary. In fact, the NSEA indicated to us--and their representatives--that they would be happy to offer training to their teachers and administrators. I have heard some people say that the reasonable person standard in the amendment is arbitrary and very subjective. The lawyers in this Chamber will agree that the reasonable person standard is a very common legal standard that the courts use all the time where the court analyzes the facts and determines how a reasonable person would act in a similar situation. Wouldn't we all protect a child? Colleagues, much of what this bill does is to clarify what a teacher can do, not to break new ground. Everybody has a right to use force to defend others, themselves, and personal property. LB595 simply states this is the context of education because teachers are fearful of lawsuits. So we grant them immunity if their conduct was reasonable. You may have been told that teachers are already able to have incidental physical contact in Nebraska Revised Statute 79-258 through that court case I mentioned earlier. The statute reads: Administrators and teachers may take actions regarding student behavior other than those specifically provided in the Student Discipline Act which are reasonable and necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include but need to be limited to: The counseling of students...may not be limited to: The counseling of students, parent conference, rearrangement of schedules, requirement that a student remain in school after regular hours to do additional work, restrictions on extracurricular activities, or a requirement that a student receive counseling and psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation. If you can read into that bill, that existing statute, that a teacher can protect another student or themselves, good luck. But the courts did. In the court case Daily v. Board of Education, 1999, they said they could use...it implied that they could use physical contact, but it is not made clear. LB595 specifies that the

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force has to be necessary, the student has to be violent, and the teacher has to be reasonable. Giving a teacher the right to remove a student is not new. Students are sent to principal's office all the time. Students are put into the in-school or out-of-school suspension all the time. We even have state statutes that override local control and it's plain how suspensions can be used. LB595 just goes one step further by giving teachers another tool to enforce discipline in their class by allowing them to exercise their judgment and temporarily refusing a student's return. This would force a conference with the parent or legal guardian and actually get the student help to change his or her behavior. You would think this would be normal. How often have we all heard a parent say their child got in trouble and they were never told, they never were able to intercede because somebody somewhere in administration didn't have time for a conference. LB595 is needed in this state. It is needed. And when I ran for the Education Committee Chair, my focus as I've told you all is the classroom. And that classroom's environment, learning ability in that classroom, must be our first focus. Thank you, Mr. President. That's my opening. [LB595]

PRESIDENT FOLEY: Thank you, Senator Groene. Mr. Clerk. [LB595]

CLERK: Mr. President, I have amendments to the committee amendments. Senator Chambers, if I may, I understand you wish to withdraw MO19 that involved referencing. [LB595]

SENATOR CHAMBERS: Correct. [LB595]

PRESIDENT FOLEY: The motion is withdrawn. [LB595]

CLERK: Mr. President, Senator Baker would move to amend the committee amendments with AM797. (Legislative Journal page 836.) [LB595]

PRESIDENT FOLEY: Senator Baker, your recognized to open on AM797. [LB595]

SENATOR BAKER: Thank you, Mr. President. Members of the body, I believe that Senator Groene had good intentions introducing LB595 and I appreciate that he attempted to improve the bill through AM581. The broad subject of this bill has some face validity to those who first hear about it. Who doesn't want teachers to have control of the students in their classroom? I would tell you I have a track record of being an admirer and a supporter of teachers. Classroom is where the rubber meets the road. Those dedicated professionals who go into their classrooms each day and directly impact the lives of kids are my heroes. I have spent most of my life in and around classrooms. Of course, I was a student, then I was classroom teacher, I was a principal, then I was a superintendent. For 36 of the 37 years that I was a school superintendent my office happened to be in the high school building. Every day I was among students and staff, had a

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bird's-eye view of the work of building administrators and teachers. Just as you bring your life experiences into this legislative Chamber, whether you are attorneys, farmers, real estate agents, county officials, military, bankers, social services, barber, financial worker, educators, business operators, medical profession, and whoever else I may have left out, I bring my firsthand experiences in schools with me. I'm asking you to trust me when I tell you that passing LB595 as amended by AM581 would be ill-advised. Shortly, I will outline some of my major concerns with the bill, even as it is amended. But first, please look at the first amendment I have offered, AM794, which is a white copy amendment which would become the content of the bill. If you look up statute 79-258 on your gadget you can see the language of that statute is titled, "Administrative and teaching personnel authorized actions." And it says: Administrative and teaching personnel may take actions regarding student behavior other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation or psychiatric evaluation upon the written consent of the parent or guardian to such counseling or evaluation. On the same page there appears an annotation that represents case law interpreted in the statute...an interpretation is established in the case law, "This section provides authority for school teachers and administrators to use physical contact short of corporal punishment to the degree necessary to preserve order and control in the school environment, and authorizes an acceptable level of incidental physical contact as is necessary for teachers to promote personal interaction with their students." That was Daily v. Board of Education of Morrill County School District, and that was in 1999. So, clearly, teachers right now have the right to a) defend themselves; b) prevent a student from harming another student or himself or herself; and c) be damaging property. Some time back I pointed out to Senator Groene that authority is already given for this physical contact under those specified circumstances, short of corporal punishment, which is provided by law. Senator Groene indicated he was now aware of the annotation but he would prefer to have that in statute. AM797 presents an opportunity for a win-win. Senator Groene gets the authorizing language in the statute and the issues that I have, that others have, are resolved. I don't plan to talk very much until the body has a chance to vote on AM797, and if there's a positive vote on AM797 I will drop the remainder of the amendments I have filed and we can move on to the next items on the agenda or be done for the day, as far as I'm concerned. If AM797 doesn't pass, I'm prepared to talk a long time on LB595 and AM581 and other senators indicated they will as well. I've introduced a string of amendments that would allow the discussion of the bill as long as necessary. I'm going to simply list the concerns I have and if the amendment is not adopted I'll go into detail about those concerns. In short, concerns I have are as follows: First of all, we must not represent that teachers want to put their hands on kids. Teachers know that if they manhandle a student the teacher-pupil relationship is damaged, not only to the student involved, but for all the other students who may witness the act.

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Furthermore, students who are autistic or those who have been abused usually can't stand to be touched. I perceive that the NSEA has softened their support and now advocate further study rather than passage of this bill. Two, physical restraint of students as a classroom management technique is ill-advised. The skilled teacher wants to de-escalate aggressive behavior, not escalate. Prospective teachers learn that in college and is reinforced on the job in in-service and professional development. Three, all school districts have extensive discipline policies, regulation, and handbooks that clearly delineate disciplinary actions, suspensions, expulsion, alternate placements, all providing due process to the students' constitutional rights to an education. Such policies, regulation, and handbooks are required by NDE Rule 10 and by state and federal law. There are numerous legal issues. The proposed law would be in violation of 504 plans. There's no reference to Section 504 in the bill, possibly making this bill facially unlawful. Section 504 of the Rehabilitation Act of 1973 requires local school districts and ESUs to accommodate students with disabilities in accessing educational and activities programs of the school. Section 504 of the Rehab Act requires a 504 team make the decisions about the disabled student's placement and the 504 team be made up of individuals knowledgeable about the student's disabilities and services available. The team, and only the team, makes placements and educational setting decisions. The team makes manifest determination in the disciplinary context after removal of ten days or more. Decisions by others as prescribed in this bill could result in unlawful exclusions for the child's placement, unlawful meetings, and unlawful amendments to the student's 504 plan. There is no way to discipline a teacher for intentionally defying his or her own administrator and for violating state and federal laws. Ditto much of the above for special education individuals' individualized education plans. LB595 invades the province of the Nebraska Department of Education under the Every Student Succeeds Act, and may violate ESSA as a result. The bill contradicts federal enforcement actions and civil rights... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR BAKER: ...with respect to seclusion and restraint of vulnerable children such as children with disabilities and may be deemed discriminatory on its face or upon its application under civil rights. Students most likely to be subjected to physical handling by staff are the disabled, the minority students, and the emotionally disturbed. Schools today are dealing with more students with mental health issues than in the past. This Legislature would be well-advised to support mental health support services for youth whose families can't afford these services. There are practical concerns. In small rural school districts there may be only one section of elementary grade level or there may be only one section of particular courses in any size of school. Districts would be required to provide an alternative education which costs extra. With that, I will close and urge your green vote on AM797. Thank you. [LB595]

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PRESIDENT FOLEY: Thank you, Senator Baker. (Visitors introduced.) Debate is now open on LB595, the committee amendment, and Senator Baker's amendment. We have 16 senators in the speaking queue. Senator Blood, you're recognized. [LB595]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow Senators, friends all, I stand against LB595, the AM581, and on AM797 I need to hear more information. And the reason I stand against it as written right now is because when we have a policy where we hurt children be it intentional or unintentional and then we send them into adulthood, they become hurt adults who believe that it's normal to hurt children in order to encourage them to grow into healthy adults. You can't grow a healthy human when they've been hurt or damaged as children, especially when we're talking about those children with disabilities. With that said, I would ask that Senator Groene yield to a couple of quick questions, since we only have a few minutes. [LB595]

PRESIDENT FOLEY: Senator, Groene, would you yield, please? [LB595]

SENATOR GROENE: Yes. [LB595]

SENATOR BLOOD: You touched down briefly on seclusion, and that was one of my questions. So seclusion is not going to be used in any school under the guidance of this bill? [LB595]

SENATOR GROENE: It doesn't authorize it. It doesn't address any present policies. If that is used in a school, it doesn't encourage it. Basically it's not a topic in this bill. [LB595]

SENATOR BLOOD: But it doesn't prevent it? [LB595]

SENATOR GROENE: I...no, because I don't know how many schools are using it and we didn't address that issue. But it doesn't encourage it, either. [LB595]

SENATOR BLOOD: And I don't feel that it does. Here's my concern, is that in the majority of states that do utilize seclusion there is a firm definition within the legislation of what seclusion is. And so that's one of my concerns is that if we're going to give more freedom when it comes to restraint and potentially I hear you saying seclusion, shouldn't we have a standard definition? The next question I have is that--and you've already touched down on this--is that the majority of students that are restrained or secluded in other states have disabilities, but I'm not seeing allowances or exceptions. I heard you talk about the IEP where it can say in the IEP that the teacher can remove the child from the environment. But what I didn't hear you say is that in a

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IEP it can be stated that you cannot remove that child from the environment. Would that be correct? Did I hear that correctly? [LB595]

SENATOR GROENE: No. It depends on the IEP. The team could decide that it's in the best interest. They have a team; a teacher, a parent, or a guardian, representatives of the special education administration. If they by chance got together that team and they said the best interests of this child, if a certain situation comes up, that they were removed from the classroom, that might be part of the IEP. [LB595]

SENATOR BLOOD: So the concern I have when you say that is, what about nonverbal children or kids whose disabilities affect the ability to say, remember, understand, or communicate properly? [LB595]

SENATOR GROENE: I've got to refresh people's memory. The amendment says unless such return is required pursuant to Special Education Act, all special education IEPs trump the teacher's ability to remove the student. [LB595]

SENATOR BLOOD: But you're opening the door to allowing them to put in the IEP that they can be removed from the room. [LB595]

SENATOR GROENE: It's there now. It's there now and in some IEPs it is there. [LB595]

SENATOR BLOOD: When the parents have met with them, right, on the IEP? [LB595]

SENATOR GROENE: When the whole team, which is assigned for every student--and that includes the classroom teacher--designs the program, the educational program for that child with special needs. They're all different, is the way I understand it, that's why you have a team. [LB595]

SENATOR BLOOD: Oh, absolutely, because it's based on the child. [LB595]

SENATOR GROENE: Yeah. [LB595]

SENATOR BLOOD: So the question that I have then is, the bill says physical harm or destruction of property. Is there somewhere else that these terms are defined in state statute or is it simply what a reasonable person determines? For instance, if I'm a child and I'm ripping out the book...pages of a book, I am destroying property. [LB595]

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PRESIDENT FOLEY: One minute. [LB595]

SENATOR BLOOD: That's destruction of property. So I can be removed from the classroom, restrained, for doing that? [LB595]

SENATOR GROENE: Not removed. Removed is in part 2 and that has to be repeated behavior. If a student exhibits destructive behavior toward school property, the teacher or administrator may use physical restraint to subdue such student. [LB595]

SENATOR BLOOD: So a book would be school property. Right? [LB595]

SENATOR GROENE: Reasonable. Reasonable behavior. [LB595]

SENATOR BLOOD: And so it's going to be up to the discretion of the person who's going to decide whether it's reasonable or not? [LB595]

SENATOR GROENE: No. Then a parent could press charges and then a judge...the teacher could claim...if the question comes up on how the teacher uses immunity to be sued, they can file a motion for summary judgment to avoid a trial. The judge would look at alleged facts and decide, and then avoid a court case or the judge could say it was not reasonable. [LB595]

PRESIDENT FOLEY: Time, Senators. Thank you, Senator Blood and Senator Groene. Senator Halloran. [LB595]

SENATOR HALLORAN: Thank you, Lieutenant Governor. I only have anecdotal evidence of the need to at least pursue the debate on this issue. And that anecdotal evidence is what a lot of us will hear from time to time from our teachers and from parents in regard to disruption in the classroom that seemingly, seemingly, is out of control at times and that disruption takes away the focus of the whole class. At that point, I would like to yield the balance of my time to Senator Groene. [LB595]

SENATOR GROENE: You might have received a...from the Nebraska Council of School Administrators a legal brief. On the first paragraph, to articulate our primary concerns with the bill as advanced. Everything that follows is on the original language of LB595, not AM581. On all of their comments about Section 504 and Senator Baker's 504 and the federal (Individuals With) Disabilities (Education) Act, AM581 covers that by giving the exception exempting those students under IEPs to removal from the classroom. So this is meaningless that they gave you dated April 14, as far as the AM581. I'm going to read you some letters that I got from teachers

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and parents and e-mails. This is one from North Platte. I am writing to thank you for introducing the bill for removing a violent student from a classroom. I have taught for 39 years. I have been kicked in the stomach, dropped to my knees by force, hit, spit on, and more. I have had students hurt by other students and nothing has been done. I currently teach in a poverty school in North Platte. The things that go on in our classrooms would shock the patrons of the city. I just got a call from an administrator the other day telling me some of the things he's going through right now. Kids in the hallway all the time and a perpetrator in the room. I currently take several medications just to survive. We used to medicate the kids. We have many wonderful kids in our schools that deserve an education. A good part of my day is spent with behaviors that would be considered a mental illness outside of our building. Our administration tell us to "deal with it." Thank you for your help in getting things back in the hands of the teachers. I've gotten over and over overwhelming comments I got from parents. I could go on and on and I will as I read these to you. Remember, the teachers--the vast majority--are on our side. They want to teach. They don't want to retire at 55 because of fear and they've lost control of their classroom, which I hear from teachers over and over again as their primary reason of leaving the profession. Though you do not represent me in the Legislature I wanted you to know I support your bill for student restraint. I hope you were able to share with those who oppose the bill that the young man who was drug 90 feet, had physically harmed teachers and passed out. That was what happened in North Platte. And, by the way, that was a newspaper reporter. My point was this. We had a very respected teacher for 30-some years who had a violent student, about eight, nine years old, and had no help. He lost it. He finally had to do something to protect the other kids so he drug the kid by the heel about 90 feet to the detention room. My point is this. If this statute, LB595, was in place, would he have lost it? Would he have hesitated before he lost it? Would he have just simply restrained the child? [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR GROENE: When he was asked to go to that time-out room he refused to go by kicking, biting, and backing into a corner where he continued to lash out and there was absolutely no reasoning with him. I do understand the concern of the public. I taught for 35 years and saw many unnecessary actions from teachers. However, there is a point when teachers need to get the behavior out of the room for the safety of other students and themselves. Children with behaviors that involve physical outbursts and covered under special education IEPs still need to be removed if they physically lash out. And the condition of the removal from the classroom should always be in the IEP whether the parent likes it or not. All students deserve an education. The good student is often shortchanged because of the laws that protect students that are disruptive and are dangerous to others. That was one opinion. And at the bottom, it is not what you do for children but what you have taught them to do for themselves that will make them successful human beings. That was the quote. [LB595]

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PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Linehan to be followed by Senators Friesen, Hansen, Lowe, Chambers, and many others. Senator Linehan. [LB595]

SENATOR LINEHAN: Thank you, Mr. President. This is a very difficult subject and I appreciate all the work Senator Groene has done on this. It does seem to me that there is confusion amongst teachers as to what they can and cannot do, and there needs to be some clarification. You worry about kids in school. I also understand concerns on the other side, because teachers...we have to proceed very carefully. But I do appreciate very much Senator Groene's work on this and I think this is an important conversation we need to have. With that, I yield the rest of my time to Senator Groene. [LB595]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Groene, 4:20. [LB595]

SENATOR GROENE: Thank you. Here's another lengthy letter. This one allowed me to use his name and share with other senators. I'm submitting my written testimony in support of LB595. I've been an educator for 20 years, including six years as the local president of the Omaha Educational Association. In my two decades of experience as an elementary and middle school teacher I can recite numerous occasions where provisions in LB595 would have been extremely beneficial to me, other teachers, and countless students. I'll begin with the provisions in the bill that would legally protect teachers from being sued for using reasonable force or physical restraint to protect other students or school property. It is unfortunate but still a reality that I have to, on occasion, break up fights or restrain students during emotional outbursts in a forceful manner. Every time I do this, I can't help but fear in the back of my mind about getting sued for my actions. The last thing I ever want to do as a teacher is to use physical force on any student, but I shouldn't fear for the financial well-being of my family for acting in a reasonable manner to protect other students. I feel confident in speaking for the thousands of teachers in Nebraska that this provision is long overdue and very necessary if we are to maintain safe learning environments in our school. The second provision allowing for a teacher to remove a student and not allow him or her to return for the remainder of the class without the consent of the teacher is also a welcome provision to be included in state statutes as a means of providing and maintaining a productive learning environment for our students. It is unfortunate that on occasion we have some students who choose to be extremely disruptive and interfere with a teacher's ability to provide meaningful, high quality instruction. On these occasions a teacher should be able to use their own professional judgment as to whether or not that student should be allowed to return to class. It is extremely frustrating and at times demoralizing to send a student out of the classroom for extremely inappropriate behavior only to have that same student return a few minutes later after a brief visit with the administrator. I can't count the number of times I've had a student return to my own classroom with a smug smile on their face, thinking they can get away with most any behavior they want at the expense of the other students' ability to learn. And to

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make matters worse, other students see these students return to class with little to no consequences and then some of them choose to act in a similar disruptive fashion, believing they, too, won't get in too much trouble. Teaching is not only a noble profession, but also a very demanding one. We put in tireless hours of preparation every day to help our students succeed and we would all benefit greatly from the provisions outlined in your bill. I want to thank you for the time you have put into drafting the bill and I remain hopeful in its eventual passage during the legislative session. Please do not hesitate to contact me with any question you may have about my testimony. Chris Prolex (phonetic) from Elkhorn. Teachers, if you notice in your communities, usually become part of the community. They spend their lives there once they get a job. But the administrators are different, especially at the superintendent level. They come and they go. We've had seven in ten years in North Platte. And the teacher who has their class in order, has their discipline plan in place... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR GROENE: ...and the superintendent comes and changes it all because he has a new plan. Classroom demeanor, classroom etiquette, classroom behavior should be in state statute and it should be in every classroom across the state. People move from community to community. They should expect the same safety of their children in every single classroom. Superintendents are our employees. They do not tell us what to do. Maybe that's why we have a problem with education, we've allowed that for too long. We need to tell them what to do and how to behave and what laws to enforce. I thank you and I have plenty more to share with you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Friesen. [LB595]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. With all the discipline problems that I've been hearing about in the school classrooms from teachers and others, I think this is the time to address it. Senator Groene's bill may need some work, don't know that, but if we do nothing and just pretend it's not happening, we have a problem. And maintaining discipline in the schools should be one of the main focuses. If you're going to get an education, your classrooms can't be disrupted. With that, I'll yield the rest of my time to Senator Groene. [LB595]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Groene, 4:20. [LB595]

SENATOR GROENE: Here's another letter. I would like you to share my support for Education bill LB595 at your hearing. I'm a special education teacher who has had students who exhibit behaviors which are harmful to themselves, staff, and other students. This has been an

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experience for every school I've taught in. Many times these students are in the red zone, beyond reasoning and very aggressive before I encounter them. They need someone to get them to a safe place to cool down and allow the teacher to teach the other students in class without disruptions. I am pleased to learn that you are proposing a law to protect us who have the students' best interest at heart, but need to restrain them until they can calm down. A seclusion room or time-out room, a place where they can harm no one, including themselves, is sometimes necessary to allow them to calm down. The least restrictive environment for these students is a seclusion room, rather than subject an entire class to leave. The other students have a right to an education without the distractions of violent, out of control students. Teachers need this law to protect our educational environment. Thank you, and I am sure others in our school and representative districts support the passage of LB595. Thank you. I am a retired high school teacher in Blair and am writing to thank you for your introduction of LB595. A teacher cannot be effective if he/she has no discipline control in the classroom. There must be consequences for inappropriate behavior. And on occasion the use of physical restraint is necessary. Thank you for your support on behalf of all Nebraska educators. Your concern is greatly...certainly appreciated. Senator Groene, my name is Dan. I completely support your bill, LB595. I currently have a school administrative certificate and was involved with the education system for 20 years. Due to financial issues and my father's health I currently am not. I was a principal at a school for two years. The school was in York, Nebraska, which is now closed down. I would like the chance to meet with you in regard to this bill because I believe I can give you some excellent advice. Over and over again, I get teachers. In their survey they had not only 7,100 responses, 2,100 teachers took the time to give a written response of situations in their education history. Anyway, I'd like to read the testimony of the NSEA at the hearing, if could I find it. For the record, I am Jay Sears and I am here testifying in behalf. We're testifying today as a proponent because our members have told us in no uncertain terms that they need strong support and additional resources and training to assure safe classrooms for all students. Senator Groene, you've identified an issue that is a significant concern to Nebraska classroom teachers. A week ago Sunday we, the NSEA, sent out to 19,000 of our K-12 members by e-mail a survey on LB595 asking six questions specifically about the little... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR GROENE: ...divisions in each part of the bill and on the issue of safe classrooms and student discipline. Later I'll share those six questions with you and their response. The response was overwhelming. Within the first three hours we received more than 3,000 responses from our members; 3,000 in three hours. In my 33 years in working with NSEA I don't think we've gotten 3,000 responses for almost anything. We've since received more than 7,100 responses of our survey and over 2,000-plus written comments because our seventh question was a fill-in-the-blank tell us what is going on and what do you need. The response rate was easy and I said the highest we've ever received from our members. These are some of the questions that are on the

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mind of the members. I could share with you all 105 pages, but you've got other things to do, like sit here in the hearing. So the questions were: What do I do with a student who is violent, interfering with the opportunity to learn from other students in my classroom? How do I protect my students and myself from being harmed by the violent behavior... [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR GROENE: Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Hansen. [LB595]

SENATOR HANSEN: Thank you, Mr. President. Colleagues, I rise in opposition to LB595 and AM581 and actually in support of the Baker amendment, so hopefully we'll have more time to discuss and talk about that pending amendment. I will say, I do have...I've talked a lot about this bill with colleagues and family and constituents. I know a lot of educators and have talked with them on this bill. And I do get the growing sense--and hearing some of the letters Senator Groene has shared--is that a lot of the frustration is with the lack of support between administration and...administration is not supporting teachers in their classroom. I think that may genuinely be an issue that seems to...that we can focus on. However, this bill I don't think gets there. There's the issue of complete criminal and civil immunity which is amended slightly and changed slightly throughout AM581. I know Senator Groene believes that it doesn't impact with some of the federal statutes, but I'm going to have to listen to him more to figure out how that comes in, as opposed to just kind of saying we've taken care of it, because just reading the face of the bill it's a very unclear practice. So who grants immunity? Who grants civil immunity? Is it the judge, is it the police officer--sorry, that's criminal immunity--but what process does immunity come in and how does this impact? I think we could do a lot to support our teachers. I think we can and do, do a lot to support our teachers, but this goes down a dangerous precedent of creating a whole raft of new statutes, criminal and civil immunities as well as maybe being more disruptive than we need for the students, because as much as we might have some problem students, some students who are disrupting the learning environment for their fellow students, they do still have a right to an education and we have to make sure we are committed to providing them an opportunity as well. And since we're working on the Baker amendment, I would yield the remainder of my time to Senator Baker, if he could use it. [LB595]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Baker, 3:00. [LB595]

SENATOR BAKER: Thank you, Mr. President. Thank you, Senator Hansen. Teachers may harbor resentment if a colleague consistently acts to remove students from her or his classroom, putting an added burden on the other teachers. Assignment of teacher work is clearly a

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management prerogative. Turning the organizational chart upside-down would be chaotic. The chain of command exists in every complex organization for good reasons. Teachers would be required to interpret and apply the Student Discipline Act, which is a province of school administrators. The proposed bill gives broad discretion to exclude students for very simple misbehavior. There would not be a consistent standard of discipline from classroom to classroom, rather, as many standards as there are teachers in a school. Senator Kolowski would you yield to a few questions? [LB595]

PRESIDENT FOLEY: Senator Kolowski, would you yield, please? [LB595]

SENATOR KOLOWSKI: Yes, of course. Thank you. [LB595]

SENATOR BAKER: Senator Kolowski, how many years were you an assistant principal or principal? [LB595]

SENATOR KOLOWSKI: I had a 41-year career in education and almost all of that was in or connected to high schools. [LB595]

SENATOR BAKER: How does one become a principal or assistant principal? [LB595]

SENATOR KOLOWSKI: Well, you start by teaching and with your teaching background and more responsibilities that might come your way within the building or within that district, you have an opportunity to spread your wings and get some additional experiences, show them what you can do, and eventually when the time comes for certain slots to open up in a growing district or in a district that just has turnover, you have an opportunity to apply for and... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR KOLOWSKI: ...and seek an administrative position if you so desire. [LB595]

SENATOR BAKER: Senator Kolowski, have you ever been involved in hiring an assistant principal? [LB595]

SENATOR KOLOWSKI: Absolutely. I hired all of mine at the building I was principal in and as a department head in another building, Millard South for many years, I had a seat at the table with the principal on the hiring of assistant principals that came when those positions came open, yes. [LB595]

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SENATOR BAKER: So did you in filling those positions, did you set out to find proven performers or did you just find any doofus you could find to put them in as assistant principal? [LB595]

SENATOR KOLOWSKI: No, we looked for certain talents and certain ways that they might have had developed over the years or experiences that they had that would stand out and blend that with the team of people that we had. With a building of 2,000, 2,300 kids, it's significantly different because of the size of what we're dealing with. And both the buildings that I served in the Millard Schools had over... [LB595]

PRESIDENT FOLEY: Time, Senator. Time, Senator. [LB595]

SENATOR KOLOWSKI: Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Baker and Senator Kolowski. (Visitors introduced.) Continuing debate, Senator Lowe. [LB595]

SENATOR LOWE: Thank you, Lieutenant Governor. You know, as I look back on my school years which were, oh, maybe four or five years ago, I don't remember--enough with the snickering--I remember punishments not to me, but fellow classmates. And they were a lot more than what we're talking about today. You especially did not want to make the instructor that was a Marine mad at you, because he always had a paddle in his desk. Today, we're talking about removing a student from a class. Now, that seems logical to me to remove one student instead of removing the whole class. That is what we trust our teachers to do, is to educate. And if we trust our teachers to educate and meld their minds, don't you think they know enough to see when there's a problem and to remove that problem? In life we try to remove the problems that are causing problems around us. We don't try to remove everything else that is good and we keep the problem with us. Let's think about life and let's think about common sense of removing one instead of 23. And if Senator Groene would like the rest of my time, I would be glad to yield up my time. [LB595]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Groene, 3:30. [LB595]

SENATOR GROENE: Thank you. I'll go through the questions that the survey was to NSEA members: Have discipline and behavior problems in your schools increased over the past few years? Eighty-two percent, yes. Would Senator Baker take a question? [LB595]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LB595]

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SENATOR BAKER: Certainly. [LB595]

SENATOR GROENE: Senator Baker, what was the last year you were a superintendent? [LB595]

SENATOR BAKER: '12-13. [LB595]

SENATOR GROENE: '12-13. Senator Kolowski, would you take a question? [LB595]

PRESIDENT FOLEY: Senator Kolowski, would you yield, please? [LB595]

SENATOR KOLOWSKI: Certainly. [LB595]

SENATOR GROENE: When was the last year you were a principal? [LB595]

SENATOR KOLOWSKI: Two thousand eight was when I retired. [LB595]

SENATOR GROENE: Thank you. Over the past few years...have discipline and behavior problems in your school increased over the past few years? Eighty-two percent said, yes. Question two. Are unruly and disruptive students the biggest problem you face in your classroom? Sixty-one percent said, yes. The biggest problem. Not English as a second language, not mental health, not poverty. Are unruly and disruptive students the biggest problem you face in your classroom? Sixty-one percent. Do you believe your principal administration is supportive of teacher's decisions on discipline? Seventy-one percent said, yes, they are supportive. Our bill covers both administrators' and teachers' protection when they handle issues of violence in a classroom. Next, question four. LB595 would authorize teachers to remove a student from class if the student's behavior interfered with the classroom. Absent the teacher's consent, the teacher (sic: student) would not be allowed to return to the classroom. The bill prohibits administrators from coercing a teacher to consent to the return of a classroom. The bill also prohibits legal action, administrative discipline against the teacher for removing a student. Should teachers be given the authority to make the final decision in determining whether a student may return to the classroom? Eighty-one percent said, yes. Question five. Additionally, LB595 authorizes teachers and administrators to use necessary physical force or restraint to subdue a student that becomes physically violent towards another student or school personnel. Do you believe teachers and administrators are currently allowed to use necessary physical restraint or force short of corporal punishment to the degree necessary to subdue a student that becomes physically violent towards another student or school personnel? [LB595]

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PRESIDENT FOLEY: One minute. [LB595]

SENATOR GROENE: Sixty percent said, no. They didn't know there was a court case out there. By the way, a court case can be overturned or can be interpreted differently by the next judge. That is why LB595 is so important to codify into law what the Supreme Court has said. Court cases are law in a way until the next judge comes along and changes it. Question six. Also authorizes teachers and administrators to use necessary physical force or restraints to subdue a student that exhibits destructive behavior towards school property. That is wrong. We don't allow physical force. We only use restraint and when school property. Do you believe teachers and administrators are currently allowed to use necessary physical restraints or force short of corporal punishment to the degree necessary to subdue a student exhibiting...? Seventy percent said, no. [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR GROENE: Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Chambers, you're recognized. [LB595]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is such an atrociously drafted bill that I'm not going to try to say everything at one time, but I'm going to participate in the discussion. I'd like to start by asking Senator Groene a question or two. [LB595]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB595]

SENATOR GROENE: Yes. [LB595]

SENATOR CHAMBERS: Senator Groene, will you look at your amendment that you've proposed? [LB595]

SENATOR GROENE: Yes. [LB595]

SENATOR CHAMBERS: On page 1, in line 27 you're talking about a teacher having documented that such student has repeatedly interfered. Do you see that language? [LB595]

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SENATOR GROENE: Yes. [LB595]

SENATOR CHAMBERS: What does the word "documented" mean? [LB595]

SENATOR GROENE: Probably that they sent the child to the principal's office. [LB595]

SENATOR CHAMBERS: No, not probably. What does it mean? [LB595]

SENATOR GROENE: That the teacher sent the student to the principal's office in the past. [LB595]

SENATOR CHAMBERS: Does it say that in the bill anywhere? [LB595]

SENATOR GROENE: That's what I would call documentation. [LB595]

SENATOR CHAMBERS: Does it say that anywhere in the bill? [LB595]

SENATOR GROENE: No, but that's what I would call documentation. [LB595]

SENATOR CHAMBERS: That's you. You didn't define "documented" did you? [LB595]

SENATOR GROENE: No. [LB595]

SENATOR CHAMBERS: No. Okay, now would you turn to page 2? [LB595]

SENATOR GROENE: Yes. [LB595]

SENATOR CHAMBERS: In line 15, would you read the name of that particular federal act that you're talking about? [LB595]

SENATOR GROENE: 20 U.S.C. 14 et seq., whatever that means, legal. [LB595]

SENATOR CHAMBERS: Et seq.? That which follows. But what's the name of the act on line 15? [LB595]

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SENATOR GROENE: Individuals with Disabilities Education Act. [LB595]

SENATOR CHAMBERS: Now, are you aware that when reference is made to a federal law, there must be a specific date given as to when that version of the law is to be utilized? Otherwise you have an unconstitutional delegation of legislative authority by saying whenever the federal government changes the law, it changes the state law in Nebraska. Were you aware of that? [LB595]

SENATOR GROENE: I'm aware that's your opinion. [LB595]

SENATOR CHAMBERS: Were you aware of that? [LB595]

SENATOR GROENE: I'm aware that's your opinion, sir. [LB595]

SENATOR CHAMBERS: Thank you. Members of the Legislature, we're dealing with an ignorant man. That is why you see the head of the Revenue Committee make changes to update the reference to federal laws relative to the Internal Revenue Code and others. It says such and such a code as of, and it gives a specific date. He has no idea what unconstitutional delegation of legislative authority is. He's the one leading you all by the nose. He is ignorant of what he's talking about. There are additional words in this bill that I will take in time, but he keeps referring to the NSEA. There's not one of those people out in the hallway supporting this bill, not one. So Senator Groene was yackety-yakking about the opposition being opposed to the green copy of the bill, but his amendment has changed it. Well, now he's getting some help, maybe somebody can inform him, because whoever drafted this legislation is ignorant of the law. And I know Senator Groene did not draft it, he hired somebody to do it who does not know. But I'm going to tell him something. When my children were in school, Senator Groene, a teacher better not put his hands on my children. And one of them made the mistake of doing it and I went up there and I grabbed the teacher, and the teacher did not file charges. And I let the principal know that not one teacher is going to touch my child. And I went to a class where my little girl was attending and she had mentioned how a little girl in her class was chewing gum. So the teacher put the gum on the little girl's nose and then slammed her face on the desk. So I went up there and I told the teacher, you'd better not do that to my child. Oh, Mr. Chambers, we wouldn't touch your child. I said, well, when you do that to other people's children it makes my child nervous. Don't put your hands on any child in this class. And no class where my children were attending did a teacher ever touch any child. And in those days, they had corporal punishment. There was a school called Kellom. [LB595]

PRESIDENT FOLEY: One minute. [LB595]

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SENATOR CHAMBERS: The principal's name was Warren Taylor (phonetic). He liked to paddle children, especially girls. So I went up to his school when I found out what was happening. I said, Mr. Taylor, let me see this paddle that you use. He pulled it out of his desk drawer, and I'm sure Senator Brewer will understand something like this. I went around the desk and I took that paddle from him and dared him to do anything. And if Senator Groene had put his hand my child, as big as he is, I'd beat him down to his shoe tops. He is creating an adversarial situation in the classroom which is going to get some people hurt. He's talking what he doesn't understand and there are other people in this room who'd tell you the same thing if they'd be honest as I am. And I'm going to give you examples--like he is reading letters from my experience with these vicious, brutal teachers where they actually bloodied children who came to the barbershop and got me. And by the time I got to the school they had sent people from the administration to take that school away...that teacher away because Ernie Chambers is coming... [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR CHAMBERS: ...and I'm coming on this bill. Thank you, Mr. President. [LB595]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Walz. [LB595]

SENATOR WALZ: Thank you, Mr. President. I stand today in strong opposition to LB595. As a former teacher, I do not feel this is the right approach to addressing behavioral problems in schools. I've heard from numerous parents, teachers, and school administrators that all have concerns about this bill. And as I recall, this hearing was very long, and it went way into the evening, the room was filled with opponents to this bill. We heard from teachers, administrators, social workers, parents who all testified against this bill. I really don't even remember...there might have been one proponent for the bill. So to me, already the people have spoken. The number one reason for the concern is that this does nothing to address the root of the problem. It fixes nothing. Do you think that all kids are born to be bad or do you think that sometimes life circumstances that are beyond their control may sometimes have an effect on how a child behaves? What about the child that wakes himself up and moves through the morning without any parental support? And what if that child wasn't able to even get a good night's sleep? This child may not have had anything to eat that morning. This child is probably the student who is teased and bullied because he doesn't look as nice as the other kids do. And then we, because of the importance of placing testing standards on kids, expect them to perform as high as any other child in the classroom. Now, I don't know about you all, but that's a pretty tough way to try and maneuver your way around throughout the day and never ever display any resentment or anger. The very last thing that needs to happen to this child is an altercation between him and his teacher that escalates because we encourage teachers to physically restrain the student. If you

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truly want to make a difference to support our students and teachers, our main focus should be in concentrating and providing students with support and determine what is triggering those actions so our teachers don't have to use physical force. We need to concentrate on how we can proactively alleviate the behavior situations rather than regressing to punitive alternatives found in LB595. I introduced a bill this year that addresses the root of the problem, LB552 which is now AM1165. AM1165 would gut the bill and create Children's Connection program. Oftentimes programs are in place to handle the most extreme cases, like those I believe Senator Groene is trying to address in this bill. However, there are little to no services available to students who show early signs of trouble. Instead of providing preventative services to kids showing early signs of behavioral problems, we ignore the root of the problem until the situation is out of control. I recently attended a community collaborative meeting in Fremont a few days ago consisting of representatives from the community, nonprofit organizations, Health and Human Services, and public schools. The number one concern from these organizations was the lack of services for behavioral mental health programs. I don't think it was the ability to use physical force. LB552 is a step in the right direction... [LB595 LB552]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR WALZ: ...to address the behavioral health aspect of the problem in our schools. Under this proposed amendment the program would be directed through Behavioral Health Regions under the Department of Health and Human Services. Schools would be able to identify and refer students that need assistance but are unable to get the help they need otherwise. Equally important, it would allow behavioral health professionals to meet families and address problems that may be stemming from their home situations so the whole family is involved and working together to resolve issues. There is currently a connections program ran by Project Harmony in the Omaha metro area that has shown great success. This amendment probably won't be heard today, so it won't get a vote, but it should. If you think teachers are at risk, if you think our kids are out of control in the classroom, then let's address the problem. Tell the members of the Health and Human Services Committee to advance LB552 to the floor. [LB595 LB552]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR WALZ: Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Walz. Mr. Clerk. [LB595]

CLERK: Mr. President, a priority motion, Senator Chambers would move to recommit the bill to the Education Committee. [LB595]

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PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your recommit motion. [LB595]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. Recommitment will give us all an opportunity to hear if the NSEA still holds to that mistaken position that they took which they have acknowledged was a mistake. If we were talking about educational programs, I would talk to you about educational programs, how you teach, what constitutes teaching, how you demonstrate whether a child has learned. But since Senator Groene's bill talks about physical force from adults to children, let me tell you about some physical force from adult to adult. Lothrop School didn't have enough classroom space, so they took some rooms in a church, and this church had a long flight of stairs from the sidewalk up to the entrance. And when they shoveled the snow, there were banks of snow on either side of that stairway. So my little sister came home and said this teacher had written the word "f-u-c-k" and asked the children, "what does that word mean? I said, wait a minute. She said, I wrote it down; he told us to write it down. I said, so this word that I see here is what he wrote and asked you what it means? She said yes. Next day I went up to that school. I said, did you ask these children that? He said, well, yes. I didn't wait to ask him why. You know what I did? I grabbed him. All these teachers, by the way, were bigger than me. You can see I'm not bigger than a minute. I grabbed him, I dragged him to the front door, I opened the front door, and I threw him over the railing into a pile of snow. Why didn't he call the police on me? Why didn't he go down and press charges? My little sister, in later years, had gone to Horace Mann Junior High, and she had come home crying because this teacher had slapped her. So I went up to the school, and one of my brothers did, too, and my sister. We were talking to a principal. His name was Eugene Skinner. They named a school after him in Omaha. It still bears his name. And when I came into the principal's office, I saw this huge, monstrous guy, bigger than Senator Groene. Senator Groene looks like a shrimp next to him. He was about 5'6" and weighed over 250 pounds. His daddy taught at Central High School, or was a coach. And I said, this is what slapped my sister? And the guy was sitting in front of one of these heating vents like you have in your office. It's away from the wall and it has openings and the heat comes out of the top, or the ventilation. But when he sat in the chair, the vent was about equal to his shoulders. So when Mr. Skinner said, yes, this is the man, I jumped into his chest--he was sitting down--I put my arm against...my forearm against his throat, and I pushed his head against this vent and his head was going back on it. And I had my knee in his stomach and my brother said, Ernie, Ernie, let him go. I said, what are you talking about? He said, look at him. He was starting to turn blue. His eyes had rolled up in the back of his head. And I'm wondering why this big brute wouldn't throw me off and do something to me, which he did not do. And Mr. Skinner had some people come and escort him or help him to the office. Look at me. I'm not six-foot tall, but you let somebody mess with my sister or my child and I am the giant. And if you think I'm kidding, now I'm 80 years old, test me now. You all brought this mess up about force in the classroom. And I saw what happens when you create a license for these people and you send these white people down to black schools or you send

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these people to these rural schools or to schools where there are poor white children. So the superintendent at that time, I believe his name...he was Paul Miller or Knutson, one of those people, took him down to the city attorney, who was Herbert Fittle at that time, to have charges pressed against me. And Fittle looked at him and Herb Fittle told me about this later. He said, Ernie--because we were talking about another matter, something involving the police--he said, Ernie, you remember that teacher that you had this set-to with? I say, yeah, what about it? He said, well, he was down here the other day and the superintendent wanted him to bring charges against you. I said, I wish he would. He said, the teacher was too smart for that. I say, what do you mean, did he deny that I did what I did? He said, no, he agreed you did very bad things to him. I said, then why didn't he want to press charges? He said that the man told him, Mr. Fittle, you know Ernie Chambers, how big is he, and look how big I am, how would I look standing in front of a judge saying this man strangled me? And this man is barely half my size; I will not file charges even though the superintendent wants me to file them. Those are the kind of things I did. Some children ran to the barbershop and they had been bloodied and that's when I'm telling you the teacher would have been gotten away from that school because that's where I would go. I don't just talk. I go where the ones are who do this. And I'm as old as Methuselah. But you test me whenever you want to, any of you. I try to come here and play the rules...game by your rules. Then you have somebody like Senator Groene who will holler at Senator Pansing Brooks but he won't holler at me. He shows a very sour attitude toward children and toward others and he knows it. He sends very crude, insulting e-mails to people when they write him, question him about some of the things he does as Chairman of the Education Committee, and they've shown me some of these e-mails. And I tell them, I'm not your father, you have to do something about it, go show it to a reporter. Well, they're afraid to do it. But Senator Groene knows the kind of things he's sent out and maybe some of you have been given copies of some of the things he sends out. That's what we're dealing with. And for a grown man to drag a child, nine years old, by his heels 90 feet through a school room, any man who would say that that is right is a coward himself, he hates children, and he's a bully. I'm going to have to drag a nine-year-old child by the feet? I'll tell you what, if I was in that hallway and saw it happening, I wouldn't ask questions. I'd have knocked that teacher down or been whipped by him as I try. But that child would not have been dragged 90 feet through a classroom, through a hallway. What do you think that shows the children, a teacher dragging a student 90 feet? And Senator Groene justifies it. Maybe he's never had children. I did and I would die and go to hell ten times for my children and they knew it. They knew they had somebody who protected them. And the children in their classrooms knew it too. And if you all know any of those old people who taught in the public schools in Lothrop in Omaha, ask them what kind of person I was when a child was being mistreated in my opinion. Over the noon hour one day at Lothrop School I was summoned by a child who ran to the barbershop. In those days they used to have long fountains, or long sink likes...sinks like in the halls. And they had individual little drinking fountains and the kids would line up along it and drink their water. I went into the school and there was this little black child on his knees, a semicircle of white teachers around that child. I pushed them out of the way. I said, get up. And

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he looked around at the teachers. I said, don't look at them, look at me. And I looked at the teachers. I said, get up. And then I told the teachers, don't you ever have one of these children on his knees again. And if I find out about it when I come here next time, I'm not going to just talk to you. Verify what I'm saying. Establish that I'm a liar. People can watch this. They know what I'm saying and they know what kind of person I was when the children were abused in these schools. And that's why I got rid of corporal punishment. I'll give you the name of a former principal at Horace Mann. He's dead now. [LB595]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB595]

SENATOR CHAMBERS: But he used to talk about how he could fight. So I went up to the school, and he didn't act like he wanted to fight me, very courteous, very accommodating, said he never paddled a child if he didn't have permission from the parents. I said, you paddle these little girls, huh? He said, well, that's the way it goes. And then I won't tell you some of the other conversations we had, but he didn't paddle any more children. And I told the kids, you all gather any paddles you can from Horace Mann, bring them to me. And I have a collection of them right now. Some of them had nails in them that were bent. Others had blister holes drilled in them that they made in the shop. One had the teacher's name proudly carved into the handle. And those were the things they were beating children who were just like me, and I knew how I was abused in school, not physically but psychologically, and the cruelty shown to me. And I didn't want any other child to ever face that. [LB595]

SPEAKER SCHEER: Time, Senator. [LB595]

SENATOR CHAMBERS: Thank you, Mr. President. [LB595]

SPEAKER SCHEER: Thank you, Senator Chambers. Waiting in the queue: Senators Brasch, Clements, Pansing Brooks, Vargas, Kolowski, and others. Senator Brasch, you're recognized. [LB595]

SENATOR BRASCH: Thank you, Mr. Speaker. Good afternoon, colleagues. And good afternoon to those watching this afternoon. I do not support the recommit motion made by Senator Chambers, MO98. And I support the bill and its amendment. And I understand there's future amendments, but I...looking at the bill, looking at the amendment here, it clearly states that: If a student becomes physically violent toward himself or herself, a teacher, an administrator, another student, "a teacher or administrator may"--the word "may"--"use

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necessary physical force or physical restraint to subdue such student..." And if you continue reading, again, it talks about "may use physical restraint," and it talks about the teacher or the administrator defending. We're talking about "defending himself or herself, another teacher or administrator, or a student," pursuant to this section, and that the teacher or administrator needs to be acting in a responsible manner and they "may remove." I believe that there is discretion here and the ability for each teacher, based on a student's IEP, on their response to intervention plan, that these teachers or administrators, that they are given an option based on their knowledge of the individual needs of this student. I defend the teachers, as does Senator Groene and others in this body, that to be in that profession they are there, devoted, dedicated, and acting in the best interest of that child's education. I have heard numerous times from those speaking of, Senator, you don't know what it's like in our classrooms these days. And I believe that Senator Walz was alluding to that as well, that the classrooms have changed significantly and are ever changing based on a child's situation, whether it's family needs, emotional needs, disabilities, and those are being addressed, and that everyone is working toward that child's ability. But this gives the teacher and administrator an ability to have the need to look at what they may do to help remove that child from a situation that would be harmful to that student, themselves, to the classroom students around them and the teacher. You know, I don't believe that a teacher or anyone in the classroom would physically, in today's world, put nails in boards such as Senator Chambers...I don't know how recent that is in history, but that, to me, would be beyond reasonable means as this speaks of reasonable means. I would like to yield the rest of my time to Senator Groene. [LB595]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Groene, 1:15. [LB595]

SENATOR GROENE: Thank you. I want to clarify Senator Chambers' question about the language. That was the language recommended by the attorneys and the Department of Education and the research then written by attorneys in bill writing and perused by the attorneys that I have as counsel. So if a date needs to be added, it needs to be added, but we took professional advice on that. As to the remarks about corporal punishment, this has nothing to do with corporal punishment, absolutely nothing. This has to do with, as Senator Brasch said, that moment in time when violence is taking place. Happens every day in Nebraska. I can name you two or three instances that are not hearsay that happened in the last year in my district. And by the way, I have six superintendents there. I met with them, had coffee with them. None of them opposed this. They look at it as an umbrella law to cover the things that they are already doing and the opportunity to improve on what they are doing. And, of course, I've had a lot of comments from teachers on the streets that agree with it. Nobody here wants to abuse children. And I resent the fact we even... [LB595]

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PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR GROENE: ...have to defend that. Thank you. [LB595]

PRESIDENT FOLEY: Thank you. Thank you, Senator Groene. Senator Clements. [LB595]

SENATOR CLEMENTS: Thank you, Mr. President. I rise to oppose MO98 and oppose AM797. I do support AM581 and LB595 as amended. I come from a small, rural town where classroom problems were rare. My superintendent was a World War II paratrooper who dropped from a plane into Germany and made it back home and he knew how to use discipline. I was surprised to...but that's quite a few years ago. But I was surprised to hear over 80 percent of teachers, 5,738 of them, now are having behavior problems. It's time for a solution to these problems, in my opinion. I believe Senator Groene does care about the children, especially those wanting to learn. And I yield my time to Senator Groene. [LB595]

PRESIDENT FOLEY: Thank you, Senator Clements. Senator Groene, 4:00. [LB595]

SENATOR GROENE: Thank you, Senator Clements. I have personal experience, too, myself and my son. We both experienced corporal punishment in our schools. And as Paul Harvey says, The Rest of the Story. We turned out okay. Maybe Senator Chambers can say how the youngsters that he referred to, how they turned out in life. Back to the testimony about the Department of Education. One of the biggest questions of the 2,000 respondents was, how do I protect my students and myself from being harmed by the violent behavior of a single student? Student...teachers care. One of their main comments was, will this student get the help he or she needs to return to and function in the classroom? LB595 forces that issue. When that student is removed from the class, it forces that meeting between guardian, parent, teacher, and administration. It forces everybody to address the situation. That leads to help. That's called intervention. It's used in a lot of, lot of situations with health issues. Will this student get the help? These are...I'm getting tired of reading. This is what Mr. Sears said because there were so many responses: ...but they enlighten me about what's really going on in some classrooms. Let me share with you just one teacher's story: I was assaulted by a student my first year in my district. I was taken from the classroom to an emergency room. I missed a week of work. Never occurred to me that that student would be placed back in my classroom. But upon my return, the student was to return to my room. There's more to the story, but I think you should know this was a fourth grade teacher. Innocence, bad behavior, is not...follow age groups. Those of us who read the Bible--think Senator Chambers does--know of sin nature. It's there. We misbehave. It's not always mental health. It's reactions to be...our situation in life and how we do not want to be told what to do and to follow rules. Not all of us do it but some of us do. I needed guidance in school, believe it or not with my meek personality, but anyway, and I'm glad there were strong

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individuals in the public education sector that helped lead me where I was going, and in the private parochial schools in my youth. But if you want to get into personal retrospect, I'm gladly to do that with you. In Nebraska every teacher...back to Mr. Sears's comments. "In Nebraska, every teacher knows that we speak..." [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR GROENE: "...about the opportunity for all students to learn. 'All students' means all students to our members. Our members do not want any child to miss the opportunity to learn, even those who are disruptive and need to be removed from the classroom for a while. The Nebraska student discipline statute and in particular Statute 79-258, states that teachers are allowed to use physical contact, short of corporal punishment, to the degree necessary to preserve order and control the school environment. Yet our members are fearful that when they do remove a student from class, the student might return in a matter of minutes." This is a commonsense law. You can bring up hearsay and stories of your past that you remember. I could do that too. But the reality is today and the reality is this. When that moment in time when violence happens, this teacher is in the hospital for a week or two. I heard a lawyer come in and testify against the bill and said,... [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR GROENE: ...well, we have something in place. I'll finish later. [LB595]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Pansing Brooks. [LB595]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I'm rising to support Senator Baker's AM797. I found this bill really confusing because I usually take great umbrage on what the teachers are saying and so when the study came forward I felt like I really needed to listen and try to wrap my head around what in the world they were saying, because the laws already allow constraint or restraint to a degree. But I couldn't understand what had come out. And then it all of a sudden...there's all sorts of backtracking going on and the only people to testify in support of this bill was the representative from the NSEA. Not one teacher came forward to explain how this was so important for them. So then you look at the issue about the fact that we don't want to pay for behavioral health. We have...we currently have zero tolerance policies in the schools so, of course, that feeds the school-to-prison pipeline. And, you know, I will generally support teachers at all costs, so I was nonvoting in this to come out of committee, genuinely confused. Now I've talked to a number of teachers. I haven't had one teacher call me in support of this bill. I've had tons of administrators say this is confusing, it doesn't set appropriate standards, there's no training attached to this. Of course this unfairly affects children of color and

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children with disabilities who are already the most at risk. So I, you know, I really do have issues with this whole thing. I know Senator Groene is attempting to fix something that he feels heart...that he feels very...is a very serious problem. But again, I just don't see how this is truly necessary with the laws that we have. Maybe that specific instance that Senator Groene is talking about, maybe the principal needs to do a better job of supporting those teachers. But to give rampant extension of immunity and allow these teachers to do whatever they want to whomever they want at whatever point they want, there is an added, in the amendment, reasonableness standard, but again, it's very confusing in light of when you look at the language with the immunity as well. So I'm just going to read you a little bit. The executive director from Disability Rights Nebraska, Brad Meurrens, spoke and he talked about the GAO report that, "...for example, teachers restrained a four-year-old--a four-year-old--with cerebral palsy in a device that they described as similar to an electric chair because that student was reportedly being uncooperative; and teachers confined a child to a small, dirty room 75 times over the course of six months for offenses such as whistling, slouching, and hand waving." So he went on talking a little bit and it became my turn to ask a question in the hearing and I said, okay, I just have to ask, because you said it, what did you mean, like an electric chair? And Mr. Meurrens stated, "That was the language that they had in the report...I didn't look at the...they didn't have a picture of the chair, anything like that. I mean it...that's what the GAO..." report...and I said, "Were they shocking a child?" And he said, no, I think that if my reflection...recollection is correct, I think they were talking about how it was...it may have been wooden, it may have had a flat back. [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR PANSING BROOKS: So I said, is it...did it have restraints on the arms? "Is that what you're talking about?" And he said, yeah, I think that would probably be accurate, I don't know, I need to go back and look. And so I said, okay, I'm getting nods from experts all around the room that that's what it was. He said: But that...but there are other reports, like the NDRN--the National Disability Rights Network--report does talk about children being restrained in their chair, being duct taped, bungee corded down to their chairs with their arms being...you know, being wrapped and their legs wrapped around the chair, so that does happen; I don't know why they said the electric chair. So if we're talking about full restraints, that is not the school's business. That is not what the school should be doing. And we have to help provide help and dollars to help our mental health experts to appropriately fund schools to deal with issues that are this serious. Thank you, Mr. Lieutenant Governor. [LB595]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Vargas. [LB595]

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SENATOR VARGAS: Thank you very much, President. Colleagues, I rise in support of AM797, Baker's amendment. I've...this is an issue that I've been trying to really understand a little bit more. I do have different perspective, so I appreciate very much Senator Groene creating this discussion. I think I've heard a little bit of both sides. I've heard more overwhelmingly when we're looking at the perspective of teachers there are clearly issues we're having in certain populations in certain areas. And we are having behavioral problems, I'll be the first to say, in OPS. We have seen that before. But I want to get back to what Senator Walz brought up that I think oftentimes we're not addressing some of the underlying factors when we are trying to think about how to fix a problem or get to the right solution. I think this is a perfect example of that. When we are thinking about what is trying to do the best for the well-being of a parent...sorry, of a student in the classroom and the welcoming environment we want to create and ensure all kids are safe, I think the first question we should be asking ourselves is whether or not we provide more, say, immunity or more rights to the teacher to simply be able to restrain a child from himself if they're endangering themselves or other people or other students in the classroom. But more: What do we need to do to try to make sure that more individuals in that classroom, that we have a more welcoming environment that's supportive of one another, that the teacher has the adequate training they need to be able to create that type of environment and that they can also recognize their own teacher actions that may be contributing to the potential environment that they're in. I think when...in all of our jobs we always take a little bit of culpability or responsibility for how we contribute to a culture of a job or any team that we end up a part of. And as a former teacher myself, I think that is a huge part of what I did as a teacher. You have to take a certain level of responsibility what's happening in your classroom, but we also have to make sure we have some management systems in place and some mechanisms that provide due process both for a teacher, a student, a parent, and a principal. The part that I'm most concerned with here is that we're hearing a good...more due process, at least for a teacher, but we're not hearing that at least more from the parents. I'd like to hear more and I have heard from parents in e-mails, especially over the last 48 hours, that they're really concerned about this, that this would provide a little less autonomy for them to advocate for their child in a scenario here and that's probably the part that's most concerning for me when we're thinking about a law that would enable more due process to the teacher and more say to define what determines something that is...actually deem something to be disciplined in a classroom or get to the point of harming him- or herself. I could tell you it is very difficult. From one teacher to another, defining that in their own eyes is very different. And I know that there is a Student Discipline Act that's referenced. But for all those things that are not referenced in that act, I'm very, very worried that we're leaving this up to sort of the perspective of a teacher only. And I can tell you I've talked with teachers that have been in support of this and some that have not, some that have a perspective that we need to have more strict mechanisms to be able to hold a student accountable and make sure everybody is safe and others that say we need to do more to support all the things that are happening both mental healthwise, both for making sure a child is eating and that there is...there are coping mechanisms that we're enabling and supporting for a child and their family. And I'm

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hearing both those sides, so it doesn't seem right that we're only going to this, catering to this one side of this law to make sure that they have this sort of fail-safe mechanism. I want to make sure that we are doing more within the classroom to support the entire classroom environment and training. So I do have that concern. The second piece that I have a concern is that we're not seeing the training that wouldn't be needed for somebody to know how to restrain. As somebody that has had to have been trained in restraint before... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR VARGAS: ...for a special education classroom, it is not as simple as you would think. There are actual definitions and training institutes to know how to restrain a child and to make sure to do it in a way that is safe and is making sure that they are kept...as much of their well-being is kept intact and also that is making sure that the other people in the classroom know that there is less judgment placed upon them. That training piece isn't in here. I'd love to see more of that if this is going to move forward. But that is the biggest concern for me because the best way to empower our classrooms is to make sure we have the adequate training mechanisms to support our students, to support our teachers, so that we don't have to get to this place where somebody is unnecessarily being restrained and then we are then creating a very unsafe environment, setting a very tricky precedent what's happening in a classroom. Colleagues, I do urge you to support Baker's amendment and I urge us to have a more honest conversation. If we are setting a standard that allows this to happen, in what ways are parent voices more being heard in this to make sure that their voice is heard in a policy... [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR VARGAS: ...that's going to impact their child. Thank you very much. [LB595]

PRESIDENT FOLEY: Thank you, Senator Vargas. Mr. Clerk, items for the record? [LB595]

CLERK: Thank you, Mr. President. Quickly, Enrollment and Review reports LB371, LB86, LB476, LB406, LB584, LB375, LB463, LB318, LB280, LB624, and LB204 all to Select File, some having Enrollment and Review amendments attached. Amendments to be printed: Senator Friesen to LB327 and to LB331. Bills read this afternoon on Final Reading were presented to the Governor at 2:15 (re LB641, LB641A, LB75, LB376, LB417, LB91, LB91A, LB217, LB225, LB225A, LB263, LB263A, LB276, and LB487), and a notice of hearing from the Retirement Committee. Thank you, Mr. President. (Legislative Journal pages 1192-1197.) [LB371 LB86 LB476 LB406 LB584 LB375 LB463 LB318 LB280 LB624 LB204 LB327 LB331 LB641 LB641A LB75 LB376 LB417 LB91 LB91A LB217 LB225 LB225A LB263 LB263A LB276 LB487]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing debate, Senator Kolowski. [LB595]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I would ask everyone, as you have an opportunity to look at the Omaha World-Herald today, to read in the editorial page the school restraint bill being "risky" and "unnneeded." Look that over and if I have time to put that into the record in total, I'll do that yet today or, if this goes over, to another time. I stand opposed to LB595 and AM581. I support the Baker amendment and also could support the Chambers recommit to Education if that's the way this is going. I wanted to talk about something that is totally missing from the discussion and hasn't been part of the conversation in any way, shape, or form that we look at this particular topic of school discipline. When I look at the opportunities that we've had as educators to construct a climate and a culture within a building, within a district, within a classroom at any one level that you're looking at the system called education, it's extremely important to us that we take the time, the energy to look at the difference it makes when you're putting together what you think is the very best program that can make a difference for all students and staff in a building that is truly trying to excel to the highest level of their potential. I have the good fortune with my 41-year career in education, the last 15 years of that being as a high school principal, which I greatly enjoyed doing. It was a truly remarkable opportunity because, unlike most individuals, I got to build a building from the ground up. I was hired two years out within the district designated as the high school principal for a new building that was being put together. And the core team that I put together had an opportunity to have direct input into every aspect of what we were doing building that building. One of my own background strengths is having training in a program called Breaking Ranks. This comes from the secondary school principals program that...in Reston, Virginia, and I'm doubly trained: not just in the first Breaking Ranks but Breaking Ranks II as well. This program has at the heart and soul, the center of everything they're doing is about improved student performance. We deal with three r's as we're looking at relevancy, rigor, and relationships involved with the targeted area of improved student performance. I want to talk about just the relationship side of those three circles at this time and give you an idea of some of the things that would be thought of. And you need to think in terms of systems that you have in place in your school to make something happen in such a positive way that would make each of these come alive and make a difference as far as the school and the environment that you hope to produce. Within the relationships it's basically defined as personalization and the school environment. Working with high schools to "create small units in which anonymity is banished" is one of the targets you have within this area. Another is: Each high school teacher involved in the... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR KOLOWSKI: ...instruction program on a full-time basis...responsible for the contact time with no more than 90 students during the given term so that the teacher can give greater attention to the needs of every student. Each student having a personal plan for progress is

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important. Every high school student having a personal adult advocate in that building is also essential, teachers conveying a sense of caring so that students feel that the teachers share a stake in the student learning. High schools will develop flexible scheduling to work with students in a varied way to their academic success. High schools will engage students and families as partners in the student's education... [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR KOLOWSKI: ...and high school... [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR KOLOWSKI: ...community. [LB595]

PRESIDENT FOLEY: Time. [LB595]

SENATOR KOLOWSKI: One minute? [LB595]

PRESIDENT FOLEY: No, that's time, Senator. [LB595]

SENATOR KOLOWSKI: Thank you, sir. [LB595]

PRESIDENT FOLEY: Thank you, Senator Kolowski. (Visitors introduced.) Continuing debate, Senator Groene. [LB595]

SENATOR GROENE: Thank you, Mr. President. Let's bring everybody back to reality. This isn't corporal punishment. This isn't mental health. This is addressing an instant in time when violence occurs in a classroom. That's what it addresses. We can be concerned. We can protect children. And, yes, I love children and that's why I'm here. You think I'm taking all this abuse about something that really doesn't affect my family because we raise our children and we use education as a tool. Education is just a tool to us. It is not the center of our community, but we use public education and parochial education. But I am concerned about those children who that is where they get all of their guidance, if any and those teachers who work in that environment. All we are talking about is a moment in time when violence occurs, and also to give the teacher control of their classroom. Talk about lawyers, a lawyer that represents a lot of school districts testified after Jay, Mr. Sears, did, the representative from NSEA, when he gave that example of the fourth-grade student. "If a fourth grade student assaulted a teacher in one of my school

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districts to the extent that she had to be taken to the hospital, we would immediately recommend that student for expulsion. Under the Student Discipline Act, you can expel a student for one semester for most types of misconduct; two semesters for serious bodily injury. If the teacher was transported via unit to the hospital, I would take the position that that was serious bodily injury so we can already expel that student for two semesters and we don't need LB595..." Court cases, what, take months, years? Meanwhile the teacher is in the hospital. But the mind of an attorney is we've got a redress for this, we can expel that child. Meanwhile the teacher is in the hospital with serious injuries. How do we get from point A to point B? How do we make sure that teacher or child isn't injured in that classroom? LB595, that's how we do it. Then we worry about expulsion. Then we worry about mental health. Then we worry about IEPs. That moment in time when violence occurs, small school district this fall, 15-year-old got his phone taken away in my district in an advanced class, stood up, threw his desk all over the place, threw stuff, went out in the hallway, went down to the weightroom, grabbed 25-pound weights, came back, the school was in lockdown, threw it through the windows, shatterproofed glass. Glass flew all over the place. Administrator and a teacher followed him around, afraid to restrain him. County sheriff is 20 miles away. Until they showed up, he roamed the school and the school was in complete shutdown. But we can expel that child six months later. We can take them to court. This is a moment in time where we are protecting staff and children from violence. If you want to talk about discipline or you want to talk about corporal punishment, go ahead, but that isn't the effort that this bill is placed at. This bill is for a moment in time to control a classroom, that's all it is, to match what 25 other states have done... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR GROENE: ...to address, codify a court case in the law that lets...that protects our staff, our teachers, our employees, and fellow students. I did get contacted by a lot of parents saying with instances, stories about how their children were threatened in the classroom, harmed even, because the teacher didn't step in quick enough. This has nothing to do with a bad employee. If a bad employee exists and assaults somebody, the legal system kicks in. If a bad employee harms a child physically for...the legal system kicks in. What we are protecting that teacher and administrator from is frivolous lawsuits when they are just protecting others, the same thing we could do on the street if we seen two children fighting. [LB595]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Baker. [LB595]

SENATOR BAKER: Thank you, Mr. President. First of all, the memo from the KSB law firm, I was under the impression this came out at...after AM581 was introduced and I did go out and confirm that is, in fact, true. You know, the belief is that all these types of constitutional issues, legal issues, are not just simply removed by a statement on page 2. It says a principal may not

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return such student to class taught by the teacher without teacher's consent unless such return is required pursuant to the special ed act, the federal Individuals with Disabilities Education Act. So that still stands. Would Senator Geist yield to a question? [LB595]

PRESIDENT FOLEY: Senator Geist, would you yield, please? [LB595]

SENATOR GEIST: Yes, I would. [LB595]

SENATOR BAKER: Senator Geist, did your son and daughter attend the school while I was superintendent? [LB595]

SENATOR GEIST: Yes, they did. [LB595]

SENATOR BAKER: So when you hear these wild stories about classrooms out of control, did your kids ever relate anything like that happening? [LB595]

SENATOR GEIST: Not at their school, I didn't have that... [LB595]

SENATOR BAKER: Thank you. Thank you, Senator Geist. We keep hearing about this moment in time when the teacher needs to be able to do something. And, you know, I have to take some responsibility here. I only said it twice and I should have said it three or four times. They already have that right. It's already there. Section 79-258, the annotation: This section provides authority for school teachers and administrators to use physical contact short of corporal punishment to the degree necessary to preserve order and control in the school environment, and authorizes an acceptable level of incidental physical contact, as is necessary for teachers to promote personal interactions with the students. They already have that. They already have that. LB595 and AM581 don't give the teacher one iota of additional authority to manhandle the kids, it just doesn't. In my district every teacher was trained in the Boys Town method. And I know that my district wasn't the only one that provides training to teachers. The whole Boys Town method has to do with deescalating situations, how you can avoid a confrontation and deescalate the situation down so that the problems is not there that's going to necessitate taking a student down. Furthermore, key personnel, including principal and principal's staff, special ed teachers, special ed paras whose job is going to be dealing with students who may have emotional disorders, emotionally disturbed students, they're giving Mandt training to give them specific instruction on how to do that, to take the child out of harm, in turn, without harming the student. Did Senator Kolowski leave the premises? I'll catch him when he gets back. So I'm going to move in now to talking about school government...governance. School governance is provided by the Nebraska Constitution. Section 79 of the law book, Nebraska Revised Statutes contains laws governing

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schools. Section 32 provides for and says how boards of education, or school boards, are selected. [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR BAKER: Most of you have some knowledge of school operations. You know, some of you in here have been teachers; some of you are spouses of teachers; some of you are sons and daughters of teachers or administrators; some of you are parents of teachers. We have a principal who had been a principal of high-profile school in Nebraska and several people in here I know have served as school board members, so those...you have some understanding, a little bit of understanding about the governance of a school. So let's talk about the chain of command. First of all, the citizen voters elect community members to serve as their elected representatives. Those elected representatives are known as a school board or board of education. [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR BAKER: Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Hilkemann. [LB595]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. Things have changed a little bit since I was in the classroom. I was in the classroom from '69 to '72 and I guess I never had anybody that I felt like I needed to be mean to, to that point of it. But I've got some questions and I'm wondering if Senator Baker would yield to a question. [LB595]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LB595]

SENATOR BAKER: Certainly. [LB595]

SENATOR HILKEMANN: Senator, right now, if I were in your classroom, and you said you've been out of it now for about two years, but if I had a student that started beating up another student or started hurting themselves, wouldn't I have the right as the teacher in that classroom, wouldn't I have the right to intervene right now without this bill? [LB595]

SENATOR BAKER: You absolutely do, and that's what my bill...AM797, it takes the case law that already applies and would put it in statute to hopefully, at least partially, satisfy Senator

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Groene to have that in statute rather than an annotation based on case law. Yes, you do have that right, right now. [LB595]

SENATOR HILKEMANN: Now I was interested because we just had an example given a couple of times ago by one of our senators about someone taking and throwing something out the window. Would that not be misdemeanor? Would that not be something that they would be arrested for by the county sheriff or officials? [LB595]

SENATOR BAKER: Well, it certainly depends on what was thrown out the window. If it's a school computer or something of value, yes, yes. And in a situation where one student is assaulting another or, heaven forbid, assaulting the adult in the room, that's an assault. It would be what we would term a level two investigation. That would be turned over to law enforcement. You know, many schools, and certainly the B and C schools, have school resource officers present in school. That person would undertake the investigation, take it out of the school's hands because there might be criminal charges. And if he determined there was reason to press charges for an assault of one student to another or to a student to a teacher, then that would go to the county attorney and decision would be made there what to do about it. [LB595]

SENATOR HILKEMANN: Okay. Would Senator Groene yield to a question? [LB595]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB595]

SENATOR GROENE: Yes. [LB595]

SENATOR HILKEMANN: Senator, I think you were the one who just shared the story about the teacher, them following the student while he took some weights and throwing them. Is...are you saying in that story...am I correct that you mentioned that story? [LB595]

SENATOR GROENE: Yes, and didn't you hear my ending that I said they waited till the county sheriff showed up? That was in my comment. [LB595]

SENATOR HILKEMANN: I did hear that. [LB595]

SENATOR GROENE: Right. [LB595]

SENATOR HILKEMANN: That concerned me because weren't there people with having...weren't students endangered by the fact that this kid has these weights? [LB595]

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SENATOR GROENE: Yes. [LB595]

SENATOR HILKEMANN: And why would an administrator not do what I think would be the natural thing, which would be to stop it? [LB595]

SENATOR GROENE: Fear of a lawsuit. [LB595]

SENATOR HILKEMANN: Okay. May I ask you another question? [LB595]

SENATOR GROENE: Yeah. [LB595]

SENATOR HILKEMANN: I was at...I was...I'm not going to mention the person's name, but I went over to have lunch with some of the superintendents and one...we were talking about this bill that was coming up and... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR HILKEMANN: ...he expressed a real concern in the fact that he said if...what bothers me...and he was in one of these small school districts. He said, if I can't put the student back into the classroom, that's the...if there's only one science teacher, what am I going to do with that student because they have to get science and if that teacher said he can't come back into my classroom, what am I going to do with that? And then my concern is, is that...what's that going to do to that teacher when his contract negotiations come up next time? [LB595]

SENATOR GROENE: Are you asking a question? [LB595]

SENATOR HILKEMANN: I'm asking you a question. What would...what...he was concerned about that. [LB595]

SENATOR GROENE: The principal...right now, students are removed from classrooms all over the state in small schools, big schools when they misbehave. They're sent to the principal's office. They put them somewhere. The principal decides within two days. He can call that parent immediately. Usually when the student is very misbehaving, they're sent home for that day. He can call that meeting that afternoon. [LB595]

PRESIDENT FOLEY: Time, Senators. [LB595]

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SENATOR GROENE: Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Hilkemann, Senator Groene. Senator Blood. [LB595]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow Senators, friends all, I again stand against LB595 as written and the amendment from the Education Committee. I think I'm leaning towards Senator Baker's amendment and possibly Senator Chambers' motion. I just want to say that I'm sitting here with such a heavy heart listening to this. And as I listen to what people are saying and Senator Groene's what I believe are good intentions, because I do think we need statutory guidelines for our teachers--I just don't think we're there with this bill--I started to think about my family member. And I have several family members that are teachers. And one of them moved from Nebraska to Florida in the early '80s to teach because we paid our teachers so poorly in this state. And I remember him telling me stories about how they had corporal punishment in Florida. And I know, Senator Groene, that we're not talking about corporal punishment, but we're talking about laying our hands on our children, on our babies. And so the first thing that comes to mind to me is to compare statistics. So in Nebraska we lead the nation in high school graduates with 89 percent. So over a decade ago in Florida the graduation rate was less than 60 percent. But then they started to do something and that was decreasing corporal punishment and all that went with it, which was just not paddling but also restraint, about 89 percent during that time. And so as those children got older over the decade, guess what the graduation rate is now in Florida? Seventy-eight percent. That's substantial. And that is a number that we can look at to say, is this what we want in Nebraska? What I thought was really telling when I looked at stats are the people most affected by this type of legislation, the children, are special ed and African-American students and specifically elementary students more than middle and high school students. And that statistic surprised me. We are talking about our babies, our children whose brains are not developed in a way that they really have good self-control at that age. And because it is so important, Senator Groene, I think it's important that we get this bill right. So I do support what you're doing as far as your efforts and trying to put in good guidelines. But I don't think we're there. You look at those numbers and the great thing about numbers is that numbers never lie and they're the same in every language. You hear me say that all the time. But now let's talk about the people part of the bill. I am not willing to risk our great graduation rate here in Nebraska by implementing a policy that is not right and needs to be corrected before we make it a law because these are my babies, these are your babies, these are our babies. Let's get it right. [LB595]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Halloran. [LB595]

SENATOR HALLORAN: Call the question. [LB595]

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PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor of ceasing debate vote aye; those opposed vote nay. 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. [LB595]

CLERK: 25 ayes, 0 nays to place the house under call. [LB595]

PRESIDENT FOLEY: 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. Members, if you could please check in. Senator Wayne, Riepe, Murante, Pansing Brooks, Bolz, Stinner, please return to the Chamber and check in, please. We're under call. Senator Halloran, at this point we are lacking Senator Wayne. We can either wait or proceed with the vote. We will proceed. The question before the body is to cease debate. Those in favor of ceasing debate will vote aye; those opposed vote nay. Record, please. [LB595]

CLERK: 29 ayes, 2 nays to cease debate, Mr. President. [LB595]

PRESIDENT FOLEY: Debate does cease. Senator Chambers, you're recognized to close on your motion. [LB595]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, these are teaching moments for us too. We have the remainder of the session before us. We're going to deal with budget bills. And I want to thank Senator Halloran because he gives me a chance to have...to jump in front of the line again by calling the question. And I'm not blaming him because when you vote I'm going to be not voting. Then when I make my motion to reconsider, that's a priority motion and he will allow me to jump to the front of the line because there are things that need to be discussed with this bill. There are no definitions, no definition of force. In line 9 on page 1, Senator Groene talks about the word "reasonable." But when it talks in line 9 about an administrator, it says an administrator may use necessary physical force. It doesn't say reasonable physical force, so it leaves it arbitrarily up to each individual based on how that individual feels at the time or how the individual may feel about the particular student. There is no standard whatsoever defining or describing any of these student activities which will allow the application of force. And when you talk about physical force, you have to have standards, you have to have definitions. Even the police, they have standards, they have restraints in language on when to use deadly force, for example. Senator Groene said the word "restraint" bothered people because they thought it might mean handcuffs and he mentioned some other items. It could. He doesn't describe restraint. The only descriptor of restraint in line 9 is the word "physical." So physical restraint could be handcuffs. It could be a rope. It could be a strap. It

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could be an arm around the throat. It could be anything and there is no definition. When you get into this area, you should have definitions, obviously, but that's when you're dealing with intelligent people who understand how to craft legislation. And I don't care how many lawyers he says he talked to. If you are going to make reference to a federal statute that has the force of law in Nebraska, you must give it a specific point in time so that if that particular statute is changed by the federal government it does not automatically change the law in the state of Nebraska. The law in the state of Nebraska is passed and put into force by the Legislature, not the federal government. So if you are going to incorporate a federal statute by reference, it has to be at a specific point in time. Then even if the federal government alters that statute, it does not change Nebraska's law. Nebraska's law is put in place by this Legislature, not the federal government. And people who don't understand statutory construction will not understand that and they'll say it doesn't make sense to them, and it shouldn't because they're not trained, they don't understand. In line 12 on page 1, it talks about a student exhibiting destructive behavior toward school property. A piece of chalk is school property. An eraser is school property. The pencils that they give, at least when I went to school,... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR CHAMBERS: ...when they were supplied by the school were school property, and they were turned in, believe it or not, books, paper. There is nothing that gives any definition. And when you're talking about authorizing somebody to lay forceful hands on a child, you need much more in the way of descriptive language, restrictive language, limiting language than is in this bill. And I'll bet there's not one man on this floor, nor one woman, who would take something like this and say on the basis of this somebody can put forceful hands on my child. So we can let this be a test vote if you want to. Maybe if it's a vote against me because you're angry, it'll turn out one way. But we'll see if they get 33 votes. Thank you, Mr. President. [LB595]

PRESIDENT FOLEY: Thank you, Senator... [LB595]

SENATOR CHAMBERS: And I will ask for a roll call vote in reverse order. [LB595]

PRESIDENT FOLEY: Thank you, Senator Chambers. The question before the body is the adoption of Senator Chambers' motion to recommit the bill to committee. There's been a request for a roll call vote in reverse order, Mr. Clerk. [LB595]

CLERK: (Roll call vote taken, Legislative Journal pages 1197-1198.) 14 ayes, 24 nays, Mr. President. [LB595]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. The motion to recommit to committee is not adopted. I raise the call. Mr. Clerk. [LB595]

CLERK: Mr. President, Senator Chambers would move to reconsider the vote just taken with respect to the motion to recommit. [LB595]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your reconsideration motion. [LB595]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, when it comes to the children, you are on the fighting side of me. If this bill would pass, then I will do everything I could for the rest of the session to torpedo it. I know I couldn't stop everything, but we'll spend all those long nights here. And I will make every motion that I can, which means if we get to the budget bill, which we will, so I should say when, I will offer motions to strike language section by section. And I will make reconsideration motions. We're talking about children now. And for those who come from these rural areas and don't pay attention, read the amendment offered by Senator Baker. Senator Groene once again showed his ignorance of the law. When Senator Baker made it clear that the language in his amendment is how the Supreme Court of this state interpreted the powers of teachers and administrators to maintain order, you know what Senator Groene said? These Opinions can be overturned by the next judge. A judge cannot overturn an Opinion of the Nebraska Supreme Court. That's the man leading you. That's the man telling you how to craft legislation. He doesn't know the basic about the law. The rest of you all should care about it. No matter who brings you that truth, don't be so offended by the one bringing you the truth that you turn your back on it. I doubt that there is anybody other than Senator Groene who would think that a judge could overturn a Supreme Court decision even when the Legislature enacts a law. Do you all know who has the final word on what that law means? The Supreme Court. The Supreme Court has the final word. Senator, the amendment that I was referring to, of Senator Baker, is what I shall read. Words mean something. Words in a Supreme Court decision mean something. The decision is when the court makes a ruling, yea or nay. That's the decision. The Opinion is distinct from the decision because that is the language, the rationale given by the court that leads it to the decision. This is the language that Senator Baker has presented: "School teachers and administrators may use physical contact short of corporal punishment to the degree necessary to preserve order and control in the school environment and may use an acceptable level of incidental physical contact as necessary to promote personal interaction with students." Do you notice how careful the court is? It does not use the term "force" anywhere. It does not say physical force. It says, "physical contact." And it points out this falls "short of corporal punishment." You cannot do this because you're upset and you're punishing or, in a manner of speaking, quote, fixing a child for what he or she may have done. Then the court uses the words "to the degree necessary." It doesn't even use the term "reasonable," because that has different meanings to different people. It says, "to the degree

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necessary to preserve order..." If a stern look is what it takes for some students, that is to the degree necessary. If it means walking toward a student and the student backs off, that is to the degree necessary. Senator Groene uses the word "force" throughout, "physical force." That is not the language of the court. It should not be the language of a Legislature behaving responsibly. Senator Baker did not pull this language out of thin air. He did not create it out of whole cloth. It's what the Nebraska Supreme Court said and you can go to the section of statute to which this language is an annotation and it will give you the citation to the case and you can read the entire Opinion. It contains everything that is necessary to provide guidance to teachers and to administrators. And as brief as this statement is, five lines and not five complete lines, maybe four and a fifth of a line, four lines and a fifth of the line, and what is the restrictive language that the court used? "To the degree necessary," "to the degree necessary," no more than that. If it becomes more, it moves into the realm of excessive force and it no longer is protected by the law. These grants of authority that the court sets forth are designed to preserve and maintain order. It does not comprise a license to gratuitously hurt, harm, punish children. It cannot even be corporal punishment. That's illegal in this state. And it can be done to preserve order. What does order mean? Things are done in the way that is appropriate and required under the circumstances to achieve the educational result. And the court says that to the degree necessary to preserve such order, there can be physical contact by a teacher or an administration where a recalcitrant student is involved. It refers, the court does, to control in the school environment. The control has to do with authority. Who has the final word? Who speaks and all people must obey or comply? In the classroom it's the teacher; in the school it is the principal. All of that is embraced in this language. Senator Groene has all this surplusage because he went to these other states and just took what they had written and that's why that green copy was so atrocious. He took that from some other state. That's what he has in this amendment, a mere modification, a change which is of no significance. So what is being asked here is to the established...for the establishment of a policy which the Nebraska Supreme Court has already provided. It is language which is crisp, it is clean, it is concise, it is precise, so clear that even a fool cannot err. And the court even talks about "incidental physical contact as necessary." There may be a brushing against a student in the process of restoring order. The main purpose of that conduct by the teacher is not to use it to restore order. It's just incidentally there in the process of restoring order, but it cannot go beyond those four words, "to the degree necessary." If you're going to put things into statute, you should put no more... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR CHAMBERS: ...than is needed to achieve the result. If teachers, if administrators need guidance, what better source than the Nebraska Supreme Court? And that guidance is offered by Senator Baker's amendment. The next time we vote, which will be on my reconsideration motion to recommit the bill, then let it be a test vote on Senator Baker's amendment. Vote to reconsider or don't vote at all. We need to bring this to a head. Senator

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Groene talked about a point in time. That's not what his bill deals with and it's not what I'm dealing with. The point in time, if we want to limit it to that, is right here, right now. Thank you, Mr. President. [LB595]

PRESIDENT FOLEY: Thank you, Senator Chambers. Debate continues on LB595 and the amendments and motions. Senator Hansen. [LB595]

SENATOR HANSEN: Thank you, Mr. President. Colleagues, I voted for the remit to...recommit to Education motion and I will ensuingly vote for the motion to reconsider. I do think there is a possibility to get something out of this that we could work with. But I think as has been said by multiple of my colleagues on the floor, we are interacting with some legitimate confusion, unclear language and, frankly, some uncertainty and some things that could be resolved by a much better or--better is, I guess, subjective--a much more clear statute. One of the terms we've been struggling with is what do physical force, physical restraint, and some of those other things come with? So I was just curious whether or not our statutes cover any of those terms. And I looked up "physical restraint." And the only time "physical restraint" is defined in our statutes in any meaningful detail, it's referred to as in a few sections or defined as being in custody in some arrest statutes, but the clearest definition I got of physical restraint is in the Assisted Living Facility Act. Now, obviously, that's a different section and a different topic and a different population we're dealing with. But in Chapter 71-5903(10), we define: Physical restraint means any manual method or physical or mechanical device, material, or equipment attached/adjacent to the resident's body that he or she cannot easily remove, that restricts the freedom of movement and normal access to his or her own body. Now, I know Senator Groene has gotten up and said the fears and worries about, you know, some sort of device, handcuffs or something and the other being used are ill-founded and, of course, the bill doesn't cover that. I don't think it's an "of course the bill doesn't cover that." I'm glad we've got some statutory intent and Senator Groene has indicated that it's not his intent and hopefully that we never reach a situation like that. But when we're just using vague terms where physical force, you are completely shielded from any administrative, criminal or civil things, physical restraint you're completely shielded from any sort of administrative criminal or civil things, it's very unclear what those terms could mean as well as what would people being in a reasonable matter. I think we all kind of drew out and envisioned the scenario we think is appropriate in the statute, in the classroom. We're going to get all sorts of different examples and all sorts of different ideas. So I mean...so hence the concern for why we need more clear definitions on this. That's one of many issues that I think we have on this bill, one thing I would like to get moving forward. Frankly, that's why I know a recommit was likely a kill motion for the year, but just kind of on principle, I think there was much more work the Education Committee could have done to get better and more clear definitions in this bill. With that, Mr. President, if I have any time left, I'll yield it to Senator Chambers. [LB595]

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PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Chambers, 2:00. [LB595]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Hansen. We're at the point as far as I'm concerned where now we can look at the policy that we're being asked to put in place and we're being asked to accept language which is not appropriate to the intent that was expressed. And the thing which is so telling is brought by the Chairperson of the Education Committee. The Chairperson of the Education Committee has no respect for language in terms of precision, exactness, and the elimination of vagueness or overbroadness. All of those things are present in what he presented to us and it's because no original sitting down and discussing of the issue occurred. They reached to other states, and Senator Groene even gave us a list of those states, and simply because they did something a certain way, Nebraska should. If they had people in those legislatures such as myself, you would have better legislation for states like Nebraska to copy. Senator Groene cannot define words. When I asked him what--... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR CHAMBERS: ...well, there was a word that he used--documented meant, he couldn't define it. He said this is what it meant to him. Well, it means something else to me. And when two people or more who can be presumed to be reasonable can arrive at different conclusions as to the meaning of a term, then it is vague, it lacks precision. But when you document something for a term paper, and I don't know if he ever wrote one, and they say document it, that doesn't mean you give your opinion. It's not an opinion. Documentation goes beyond your opinion and relates to facts. And there is nothing in this bill which defines "documented" and that is a basis for taking action to remove a student from a class. You have documented it repeatedly. It doesn't say that you have presented examples to the principal of misbehavior by the student. [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR CHAMBERS: Thank you, Mr. President. [LB595]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Erdman. [LB595]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good afternoon. I've been listening to the debate. I was listening pretty intently when Senator Baker was talking about they already have this provision that they can do these things now. And Senator Walz was actually correct when she said that hearing went late into the night--I think it was like 9:20 or something--so we had a lot of people testify. But we did hear them say that they did have that authority and it was amusing to me to see that if they do have that authority, then why don't the teachers know that?

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And I guess my question is perhaps the administration hasn't done their job and explained to the teachers what exactly their authority is. And so Senator Kolowski and Senator Baker were both administrators and I would say that in that regard it points the finger to some of those administrative people that haven't taken the bull by the horns to explain to the teachers what exact role you do have and what you can do. And so I was also amused and amazed by the amount of teachers on the NSEA survey that responded and the percentage of those responded about having problems in their classroom, how big a problem that really was. So I understand what Senator Chambers is trying to say and I understand that the biggest problem we have in most or some of these schools is discipline and we need to work on that. When I was a young person, my dad explained to me what discipline was. He did that once. It worked for 13 years in school and never needed to do it again. And so I am in support of AM581 as amended into LB595. And I would yield the rest of my time to Senator Groene. [LB595]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Groene, 3:00. [LB595]

SENATOR GROENE: Thank you, Senator Erdman. He's good, Senator Chambers, but I think he was in the body here in 1976, 1994, so he probably voted on some of these bills, 199...79-258, you want to talk about something that isn't clear? Administrators and teaching personnel "may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further..." That line, may take action, our Supreme Court used legal activism to translate "may take actions" into "This section provides authority for school teachers and administrators to use physical contact short of corporal punishment..." As to Senator Chambers, I have the court Opinion on Daily v. Board of Education. He said I went to other states and looked at their laws and definitions. Here's a statement out of the court Opinion: Other state statutes contain these elements, but also have exceptions that provide, generally, for use of physical contact to maintain order and control. For instance, Wisconsin law provides that corporal punishment does not include "using incidental, minor or reasonable physical contact designed..." I'm in good company, folks. I'm in the same company with the Supreme Court justices. They looked at other state statutes to decide what ours means. That's what we did. The language you used on definitions, we looked at a lot of state statutes. And definitions, it's called local control. That is why I call this an umbrella bill. You want to document it? You decide what documentation is necessary. You want to define force? NSEA, the school administrators get some instruction out there. Wisconsin--the State Supreme Court looked at other state statutes to find the meaning of our vague, vague, vague law that had no definition,... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

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SENATOR GROENE: ...that Senator Chambers claims mine doesn't. He was here and voted on that. I don't know how he voted, but he voted on 79-258. "May take actions" turns into "physical contact." Come on, folks. LB595 puts true definition into what a teacher can do and what legally is followed up on by the courts. And, yes, the Supreme Court can overrule itself, can change that law. This is so vague on the Supreme Court, there can be a court, an appellate court that can define this even further about what physical contact is and what they can do is take instruction from LB595 what is meant by physical contact. That is our duty as elected officials, to give the court guidance. [LB595]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Groene. Senator Albrecht. [LB595]

SENATOR ALBRECHT: Thank you, President Foley. Senator--he's walking away--Groene, would you yield to a question? [LB595]

PRESIDENT FOLEY: Senator Groene, would you yield to a question, please? [LB595]

SENATOR GROENE: Yes, I would. [LB595]

SENATOR ALBRECHT: Can you tell me again who Jay Sears is? [LB595]

SENATOR GROENE: He's been with...representative of the NSEA for 33 years. He's a good man. I respect his opinion. [LB595]

SENATOR ALBRECHT: Did you ask him to do this survey or did he do this survey on his own? [LB595]

SENATOR GROENE: No, he did it. [LB595]

SENATOR ALBRECHT: And why did he do it? Did he do it because of this bill? [LB595]

SENATOR GROENE: They did it because they cared about what their rank-and-file of their membership thought. That's a good union. [LB595]

SENATOR ALBRECHT: Okay, so...but you didn't ask him to do this? [LB595]

SENATOR GROENE: I was stunned that they did it and I was very happy that they reported the results. [LB595]

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SENATOR ALBRECHT: Well, it's interesting to me that the NSEA put this survey out to their teachers. And if they have 28,000 teachers and it shows that out of the 19,000 of the K-12 members that were e-mailed the survey asking six questions, within three hours they received more than 3,000 responses? You know, that is an incredible number. I used to do surveys a lot in the business that I was in. But to me that is a cry for help. That is...I can't believe that they even put anything in writing for fear of retaliation. Now here's my take on all of this. Of course, I didn't fill out the 25 questions that the NSEA had when I was running and nor would I probably do it in the future. But my point is that these teachers are calling out to us to help with this bill. So again, you know, the only people that I talk to from the schools when I'm down here is a representation of the superintendents. I...really, I've had a few school board members come into my office. But when I had Charles, my LA, contact all of my schools, all but three responded, and he left messages there. But all of them pretty much said that they're really not leaning toward this, and of course it would probably be because of the report that they received from their attorneys that, you know, there could be a lawsuit. Well, you know, let's put the lawsuit portion of it aside and let's take a look at what these teachers are saying. You know, some of them obviously want to retire early because they may be in situations that are very dangerous not only for themselves but for the other students. But I just feel that if there is really a situation that we need to deal with here and it's very, very evident in the surveys that were returned, I would sure like to be able to have my hands on the District 17's schoolteachers that responded because, in my eyes, I don't feel like maybe I have a problem or they feel that, you know, along with what Senator Baker has talked about, they have these CPIs--is that what they call it?--and the Boys Town method of deescalation in place already. But if it's not working, then we need to find out what we can do to help them. And you know, this bill has so many amendments, just like the Revenue does. But to me, the more amendments that are out there, the better bill it becomes. Instead of working against Senator Groene on this bill, we should work with him. It's very evident that we need to craft this so that it works for the state of Nebraska. [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR ALBRECHT: If other people in certain areas have a bigger problem than I do in District 17, I need to know that because the safety of our children and our teachers is extremely important to me. So I'm sitting back and I'm listening. I'm hearing what my superintendents are saying because they're afraid of a lawsuit. But I'm afraid for the children and those that are acting out. They need to be, you know, like coddled along too. There is a reason that they're acting out. And for crying out loud, make sure that we protect those that are in wheelchairs or in a special needs-type program is very important as well. So I will be listening, but I certainly don't appreciate anyone, Senator Chambers, calling Senator Groene ignorant because, you know what, there is a lot of attorneys involved in this, some wanting to do business with those that think there's going to be a lawsuit and those that are in this building that have helped craft this bill.

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And I hope that we can work together to make it a better situation for all people. Thank you.
[LB595]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Chambers. [LB595]

SENATOR CHAMBERS: Thank you, Mr. President. And for Senator Albrecht, I meant what I said. I said with reference to the law, and he is ignorant of the law. He said a judge could change the Supreme Court's decision. This time he said an appellate court could do so. An appellate court, the only appellate court really, is the Court of Appeals and it does not overrule the Nebraska Supreme Court. That is a fact, whether you like it or not, whether he likes it or not. And when you don't know what the facts are, you're ignorant of those facts. I mentioned the area in which he shows ignorance and he did it again. The Supreme Court can overrule itself. Look at the instances when it occurred and it's not on something as cut and dried and as simple as this language that the Supreme Court stated. There is no reason to overrule it, there is no basis, and no appellate court. There's only one. Now, the supreme Court can be called an appellate court, but the Court of Appeals exists as an entity with a specific number of judges. When somebody appeals from a district court Opinion, they write the appeal to the Supreme Court. If the Supreme Court thinks the issue is serious enough, the Supreme Court would take it; otherwise, they buck it down to the Court of Appeals. But the Court of Appeals does not overrule the Supreme Court; otherwise, the Supreme Court is not supreme. So let these people, these grown men defend themselves. Let these men defend themselves. Too often women jump in to protect men. You don't do people a favor when you do that. All that needs to be said, all the direction that's needed is what is found in Senator Baker's amendment. These issues are not resolved by a popularity contest. Somebody at the federal level was talking about a huge number of responses to something that were generated. Now, I don't know what these terms are called in the computer world or "computerese," but it came from one account. One account generated thousands of responses and maybe that accounts for all these that Senator Groene keeps talking about. But the NSEA, I'll bet if you did talk to teachers or the leadership, you wouldn't get support for this. And when Senator Groene was talking about not having gone to other states, I know that they did. Texas might have been the state that they went to. So he believes in revisionism. That green copy was not based on anything the Nebraska Supreme Court said. It was not. So again, he speaks from the position of one ignorant of the facts in terms of what's going on in his own committee. You brought this up, Senator Albrecht, so I went ahead and discussed it. I'm a grown man and I'm going to say what I believe. And if others get in the way, then we're all grown. This is a legislative assembly. We are formulating policy. This is atrocious language and this amendment that these various senators said they support and they don't even understand it and they don't know what it means. I could ask Senator Clements specific questions. He couldn't answer them. I could ask Senator Erdman questions and I'd venture to say he couldn't answer them. You could ask me questions about farming which I couldn't answer because that's not my area of expertise.
[LB595]

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PRESIDENT FOLEY: One minute. [LB595]

SENATOR CHAMBERS: I've been trained in the law. I've handed out information, which you all probably didn't read, of cases I won in the Supreme Court. I'm the only person who ever got a grand jury report expunged from the record, the only person. So I do know something about the law. Nobody can predict with precision how a court is going to decide a case unless it's a very simple one. And in case Senator Groene didn't hear me, no appellate court can overrule the Supreme Court. He said some court of appeals or appellate court could change a Supreme Court decision. It cannot. The Supreme Court is on top. And he had first said a judge could change that Opinion and he ought to get the transcript and read and see. I pay more attention to what he says than he did. You all feel sorry for him. A bill shouldn't be enacted because you feel sorry for the introducer. [LB595]

PRESIDENT FOLEY: Time, Senator. [LB595]

SENATOR CHAMBERS: Thank you, Mr. President. [LB595]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Walz. [LB595]

SENATOR WALZ: Thank you, Mr. President. I stand in favor of AM797 brought by Senator Baker. And if Senator Groene would yield to a couple questions... [LB595]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB595]

SENATOR GROENE: Yes. [LB595]

SENATOR WALZ: Thank you. Senator Groene, what event spurred you to write this bill? [LB595]

SENATOR GROENE: Oh, I could list about a dozen of them, or more than that even, but I can pinpoint one: the Nathan Hale issue in Omaha where the teachers had to just about go on strike and go down to the school board because they didn't feel safe; the incident that happened in North Platte because he was a good individual, good teacher, and if he'd have had something in place he probably wouldn't have reached that level; the incident in North Platte, in Hershey, that happened. I can go on and on of... [LB595]

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SENATOR WALZ: Okay. Let me ask another question then. Did North Platte have policies and procedures in place? [LB595]

SENATOR GROENE: Not on physical...not on a violent situation. They had, what do you call, anger management or whatever where they were supposed to stand and watch. [LB595]

SENATOR WALZ: Okay, because in the article--I think it's Omaha World-Herald--it said that the teacher had violated the district's policies and procedures when dealing with the student, so I was just wanting to make sure that there were actual policies and procedures put into place. I mean, it would have been kind of tough for him to violate them if they...if there weren't any. My next question is the bill talks about the ability to use force in response to a student behavior. What behavior would constitute restraint or physical force? [LB595]

SENATOR GROENE: Becomes physically violent, violence has to be present. Now you could go on and say describe that. Oh, let's see, when I was a kid, a kid came at me with a pencil. I would consider that violent. A young child...in the North Platte instance, the child was kicking and punching and doing things to other students. I would call that violent. Let's see, you pick up the chair and you throw it at somebody, I would consider that violent. [LB595]

SENATOR WALZ: Um-hum. [LB595]

SENATOR GROENE: I mean, you know, it's like the Supreme Court said about pornography: When you see it, you know it. I can't describe it to you, but when you see it, you know it...what it is. It's pretty much the same with violence. [LB595]

SENATOR WALZ: Um-hum. So I guess from what I read, the child was acting out. It didn't say that he was kicking, screaming, and hitting other kids. He was acting out. I don't know exactly what that meant. And nothing was done at that point until he walked to the office, the school office, and that's the time when the teacher went to get him and decided to drag him back to a time-out room. Is...does that sound correct? [LB595]

SENATOR GROENE: That wasn't the incident that drove it. That was just an incident that happened. [LB595]

SENATOR WALZ: I know. [LB595]

SENATOR GROENE: Yeah. [LB595]

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SENATOR WALZ: I'm just trying... [LB595]

SENATOR GROENE: Yeah. [LB595]

SENATOR WALZ: I'm just... [LB595]

SENATOR GROENE: And I said if something was in place he could have restrained the child and then all of this... [LB595]

SENATOR WALZ: I'm trying to determine... [LB595]

SENATOR GROENE: ...you're talking about probably wouldn't have happened. [LB595]

SENATOR WALZ: I'm trying to determine what constitutes, what behavior constitutes restraint, because it's really important to understand that. As a teacher, this bill makes me very nervous because anybody could have a number of definitions in their mind as to what would constitute behavior or what behavior constitutes physical restraint. So for that reason alone, it makes me nervous. And I know that, you know, in this article the teacher says that in retrospect... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

SENATOR WALZ: ...I shouldn't have done that, I shouldn't have pulled him, that was bad judgment on my part. [LB595]

SENATOR GROENE: I agree. [LB595]

SENATOR WALZ: That right there makes me very nervous, too, because how many teachers out there, not knowing what the definition of behavior that would constitute restraint, would make bad judgment? So again, I am very much opposed to LB595 and in favor of AM797. Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Walz. Senator Briese. [LB595]

SENATOR BRIESE: Thank you, Mr. President, and good afternoon, colleagues, I rise to comment on LB595 and AM581. And I want to thank Senator Groene for bringing this bill. This bill reflects some things that I believe. First, there is nothing we do that is more important than how we educate our children. Secondly, absolutely no one has the right to interfere with a child's

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education, whether it's the school bully, the class clown, or whether it's a child simply acting up and disrupting the educational process for his or her peers. And third, we need to give our teachers the tools they need to control the classroom. Contrary to what some have said, teachers are held accountable in this bill. How? Because their actions must be reasonable. Their conduct must be reasonable in using physical force. Their conduct still must be reasonable in removing a student. Some suggest we're turning the process on its head, that it's depriving administrators of the ability to administer schools. I say it's only appropriate to give teachers some say in removal and return of a student to a classroom. But the principal still has the final say. This bill is about protecting the educational process in our classrooms. It may not be perfect. Let's work together to help make it perfect. And with that, I'd yield the rest of my time to Senator Groene if he has any use for it here. Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Groene, 3:30. [LB595]

SENATOR GROENE: Thank you, Mr. President and Senator Briese. The incident in North Platte was just a minor one where I gave an example. And nobody, including myself, said what that individual did was...should have been done. I go back to that if we had something in place. You want to talk about ambiguous, think about that incident in North Platte. Senator Baker's amendment: School teacher and administrator "may use physical contact short of corporal punishment to the degree necessary to preserve order and control in the school environment..." Oh, so the kid threw a spit wad. He can use physical contact. What physical contact? You talk about vagueness. Is there violence? The kid didn't do his homework and he couldn't read the paragraph the teacher assigned him. "Punishment to the degree necessary to preserve order and control in the school environment," this is vague. This leaves teachers open to lawsuits. This puts teachers in a worse position than they were before. "May use physical contact short of corporal punishment to the degree necessary to preserve order and control"--what's that definition?--"in the school environment and may use an acceptable level of incidental physical contact as necessary to promote personal interaction with students," what does that mean, you can pat them on the rear end? What? "Incidental physical contact as necessary to promote personal interaction with students," describe that to me. Give me a definition. What does that mean? Give them a hug? What? This is bad legislation. AM581 gives distinct definitions of what has to be happening--violence--when anything can happen after that. "Physical contact short of corporal punishment to the degree necessary to preserve order and control in the school environment," hmm. Kid's not walking down the hallway. He's goofing off. Physical contact, why not? Kid left his homework at home. Dog ate it. Physical contact, why not? This is absolutely BS. This is not good legislation. It leaves them teachers open to all sorts of doubts of what they can do and what they can't do. I got an e-mail from a teacher who said his retired friend... [LB595]

PRESIDENT FOLEY: One minute. [LB595]

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SENATOR GROENE: ...was doing PE. He took a clipboard and popped the kid on the rear end to encourage him. He was sent a letter the next day that he could not substitute at that school again because they had a complaint. But this one says incidental physical contact as necessary to promote personal interaction with students. I guess you...he could point to this, said, I can do that, I was just interacting. No, we did a lot of research into LB595. We look at lots of state statutes. We looked at legal Opinions. I don't even have a law degree. But I can read. This is vague. This is bad law. Vote no on AM797 if you...we get that far. This is ridiculous...vagueness. Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Brasch. [LB595]

SENATOR BRASCH: Thank you, Mr. President. And good early evening, colleagues and those watching. And I stood before in support of LB595 and AM581 and against the AM797, the motion to recommit, and the motion to reconsider. If you read the bill and you look at the bill, again, there is "allowment" for discretion. The word "may" is used multiple times throughout the bill. The student here is using violence. They may hurt themselves, they may hurt others. Their acts are potentially dangerous and the acts also, to be permitted without any type of restraint, could be telling other students that that's acceptable behavior, that merely having someone hurt someone else is not acceptable behavior. And the ability and the discretion of that teacher, we are being told, is already in place. Well, if it's in place, I don't understand why I am hearing from so many educators and parents of an educator or a spouse of an educator saying, oh, you don't know how dangerous it is in those classrooms today that...you know, and I have heard the expression, and I would agree, that our students and our classes today carry the heaviest backpack of any generation, and that backpack is not books. It's talking about social issues, societal burdens they carry, what they see on TV, what they see on the streets. And I think that those students in the classroom are just children, I agree, and that the teachers are adults and they have the discretion and I believe they will use that or they're not in the classroom. But the teachers need some protection from prosecution and liability of removing that child from the classroom. I do not believe that this is a bill that permits a child to be injured by any means, by any adult in the classroom, but prevent them from injury. And I also believe that it is very frightening for students to see a student that may want to hurt them or hurt their teacher. That's also a very uncomfortable, frightening situation. So I believe by just putting the tool in their toolbox that they may use this is something that is a protection for that schoolteacher or administrator. It's not a wild card to hurt a child by any means. I don't think they'd be in the classroom if that was of the fabric a teacher was made of. So with that sense that I believe that this bill was put there to help teachers better educate our children and to help educate our children that violence in the classroom is not acceptable, not by the teacher or the student, but they are simply given the ability to restrain or remove that student in a reasonable manner without fear of liability or prosecution. How much time do I have left? [LB595]

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PRESIDENT FOLEY: One minute, Senator. [LB595]

SENATOR BRASCH: So, colleagues, I do believe as you read the bill...it's not that long of a bill. You read the amendment and you look into what we are asking, and it's simply to help students and help our teachers and administrators in carrying out an orderly, safe classroom environment for teachers and students. Thank you, Mr. President. Thank you, colleagues. [LB595]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Craighead. [LB595]

SENATOR CRAIGHEAD: Thank you, Mr. Lieutenant Governor, and good afternoon/evening, colleagues. I have a friend who went back to teaching after a many-year hiatus. She started out as a substitute and often taught in alternative schools. She could hold her own pretty well. She's a tough lady. But she was harassed and cursed at by her students. And I could not believe some of the stories that she would tell me, and I was thinking you deserve battle pay for this. What I didn't quite understand when she and I talked about this is she said that she had talked to her principal numerous times and the response was always...she was always told, that's your classroom, you deal with it. Finally she was hired by a private school and didn't have any discipline problems with students. And I'm just wondering, because we haven't talked about this at all, could there be a little bit of a disconnect between teachers and administrators? I'm not sure where I stand on this bill or the amendments right now. I'm still listening and I'm just not quite sure. Not only did I hear this, these comments from my friend who is a teacher, I heard this quite often when I was campaigning for the Legislature three years ago. I'm going to yield the rest of my time to Senator Wishart. [LB595]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Wishart, 3:40. [LB595]

SENATOR WISHART: Thank you, Mr. President, and thank you, Senator Craighead. I rise today in opposition of the motion to recommit this bill to committee. I agree with Senator Albrecht, and I believe it was Senator Briese that said that we can work on this bill to address the concerns of teachers while maintaining student safety. I believe that Senator Baker's amendment does this. I think it's a good compromise. It clarifies in statute the tools available to teachers to manage their classrooms. So with that, I support AM797. Thank you. [LB595]

PRESIDENT FOLEY: Thank you, Senator Wishart. Items for the record, Mr. Clerk. [LB595]

CLERK: Mr. President, amendments to be printed: Senator Friesen to LB409; Senator Chambers to LB595; Senator Linehan, LB327; and Senator Walz to LB595. Mr. President, Senator

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Kolterman would like to add his name to LB117, Senator Krist to LB389. (Legislative Journal page 1198-1206.) [LB595 LB409 LB327 LB117 LB389]

And Senator Clements would move to adjourn the body until Tuesday, April 25, at 9:00 a.m.

PRESIDENT FOLEY: Members, you heard the motion to adjourn. Those in favor say aye. Those opposed say nay. We are adjourned.