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Floor Debate  
March 09, 2018

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[LB42 LB702 LB714 LB724 LB861 LB931 LB935A LB944 LB945 LB946 LB993 LB998  
LB1054 LB1078]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fortieth day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Pastor Eddie Goff of the New Hope Baptist Church in Hastings, Nebraska, Senator Halloran's district. Please rise.

PASTOR GOFF: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Goff. I call to order the fortieth day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, your Committee on Appropriations chaired by Senator Stinner reports LB946, LB945, and LB944 to General File with amendments. Enrollment and Review reports LB724, LB714 and LB702 to Select File. Senator Brewer would like to print an amendment to LB1054. And lobby report as well as agency reports acknowledgments. That's all that I have this morning, Mr. President. (Legislative Journal pages 893-900.) [LB946 LB945 LB944 LB724 LB714 LB702 LB1054]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Members, if you would please come to order, I want to recognize Senator Stinner for some important information regarding the state budget issue. Senator Stinner, you're recognized.

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, you have at your place a yellow copy of the Appropriations Committee budget proposal. You can study that this

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weekend. We will have a 9:00 meeting conference, I believe it's in--we'll get to you on what room it's in downstairs. It's in one of the conference rooms from 9:00 to 10:00 and we'll start our budget discussions and debate on Tuesday. So have a look at it, read it, get familiar with it. And if you have questions, I'm sure either you can ask me or some of the people on the Appropriations Committee during the day. So thank you.

PRESIDENT FOLEY: Thank you, Senator Stinner. We'll move right to the agenda, a series of confirmation reports. Mr. Clerk.

CLERK: Mr. President, the first report is from the Government, Military and Veterans Affairs Committee. Senator Murante, your appointee, Tom Carlson to the Accountability and Disclosure Commission. (Legislative Journal page 772.)

PRESIDENT FOLEY: Senator Murante, you're recognized to open on your first confirmation report.

SENATOR MURANTE: Thank you, Mr. President, members, good morning. Our first appointee for the day is someone we all know quite well. Senator Tom Carlson has been appointed to the Nebraska Accountability and Disclosure Commission. Senator Carlson served two terms here in the Unicameral. He served on the Banking, Commerce and Insurance Committee; the Committee on Committees; and, of course, chaired the Natural Resources Committee. He was nominated for this position by Secretary of State John Gale and was reported out of the Government, Military and Veterans Affairs Committee unanimously. I have full confidence in Senator Carlson's ability to serve on the Accountability and Disclosure Commission with impartiality, and he is a person who earned the respect of those with whom he served, including myself. I support Senator Carlson's appointment and encourage you to do the same. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Murante. Debate is now open on the first confirmation report. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I seldom speak on these matters before a committee, but I did serve with Senator Carlson the time that he was here and I was at the hearing. I was in the hearing room when his nomination came up and I spoke in his favor then, and I just want to reconfirm that here by stating on the record that I support his confirmation. Thank you.

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Smith.

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SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I, too, would like to rise in support of this confirmation of former Senator Carlson. I had an opportunity to serve with him for a number of years, found him to be a very honorable person, an ideal candidate for this position. So it's very good to see him appointed to this position, and I certainly support him in every way. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Smith. Seeing no further discussion, Senator Murante waives close. The question before the body is the adoption of the confirmation report from the Government Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: (Record vote, Legislative Journal pages 900-901.) 36 ayes, 0 nays on adoption of the confirmation report.

PRESIDENT FOLEY: Confirmation report is adopted. Next report, Mr. Clerk.

CLERK: Senator Murante, I now have the appointment of Marty Callahan to the Accountability and Disclosure Commission. (Legislative Journal page 772.)

PRESIDENT FOLEY: Senator Murante, you're recognized to open.

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. Marty Callahan owns and operates the Greeley Citizen, a weekly newspaper serving the surrounding communities. He also owns and operates Central Cable Company. Mr. Callahan was nominated for this position by Governor Ricketts. He serves on the FCC Advisory Committee for the National Emergency Alert System, conversion from the original emergency broadcast system; the village of Greeley Board of Trustees; and the president of the Greeley Public School Board. With his breadth of experience, Mr. Callahan will bring a valuable voice to the Accountability and Disclosure Commission; and I urge your support of his appointment. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Harr, you're recognized.

SENATOR HARR: Thank you, Mr. President. I just wanted to join in the lovefest since I missed out on it for Senator Carlson and say I've known Mr. Callahan for a number of years and I stand behind him 100 percent. And I would encourage everyone to please vote green on him as well.

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PRESIDENT FOLEY: Thank you, Senator Harr. Any further discussion? Senator Murante, you're recognized to close. He waives close. The question before the body is the adoption of the confirmation report. Those in favor vote aye; those opposed vote nay. Record, please.

CLERK: (Record vote, Legislative Journal pages 901-902.) 37 ayes, 0 nays, Mr. President, on the adoption of the report.

PRESIDENT FOLEY: The confirmation report is adopted. (Visitors introduced.) Proceeding now to the next confirmation report.

CLERK: Mr. President, the Government Committee reports on the appointment of Patrick Guinan to the State Personnel Board. (Legislative Journal page 772.)

PRESIDENT FOLEY: Senator Murante, you're recognized to open.

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. Patrick Guinan has been nominated for reappointment to the State Personnel Board by Governor Ricketts. Mr. Guinan has been with the Erickson Sederstrom law firm since 1998 and has been a partner since 2002. Mr. Guinan graduated from the University of Nebraska School of Law in 1993 and was a deputy Douglas County Attorney prior to joining the firm. He has been a great asset to the State Personnel Board and his contributions, I believe, should continue. As mentioned, Mr. Guinan received unanimous support from the Government, Military and Veterans Affairs Committee; and I urge you to support his appointment. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Murante. Debate is now open on the confirmation report. Seeing no one wishing to speak, Senator Murante waives close. The question before the body is the adoption of the confirmation report from the Government Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: (Record vote, Legislative Journal page 902.) 39 ayes, 0 nays, Mr. President, on the adoption of the report.

PRESIDENT FOLEY: The confirmation report is adopted. Next report, please.

CLERK: Senator Murante and the Government Committee would report on the appointment of Roger Dixon to the Nebraska Tourism Commission. (Legislative Journal page 828.)

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PRESIDENT FOLEY: Senator Murante, you're recognized to open on the confirmation report.

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. Roger Dixon is a well-known name in the Nebraska entertainment industry. He's an accomplished executive with extensive experience in sports, entertainment, convention facility management. He has built strong relationships with customers, vendors, and community business leaders to optimize organizational operational effectiveness. As president and CEO of the Metropolitan Entertainment and Convention Authority, he's responsible for the recruitment and contract negotiations of the national and international sporting events, concerts, and family shows which are directly responsible for bringing in tens of thousands of visitors to our state. With his extensive experience, Mr. Dixon will serve the Tourism Commission well. He was advanced unanimously by the Government, Military and Veterans Affairs Committee; and I encourage your approval of him today. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Murante. Debate is now open on that confirmation report. Seeing no one wishing to speak, Senator Murante waives close. The question before the body is the adoption of the confirmation report from the Government Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: (Record vote, Legislative Journal pages 902-903.) 39 ayes, 0 nays on adoption of the report.

PRESIDENT FOLEY: The confirmation report is adopted. Next report, please.

CLERK: Mr. President, the Government Committee reports on a series of appointments to the State Emergency Response Commission. (Legislative Journal page 828.)

PRESIDENT FOLEY: Senator Murante, you're recognized to open on that confirmation report.

SENATOR MURANTE: Thank you, Mr. President. And, Mr. Clerk, this includes Sherry Blaha, John Grimes, Joseph Oswalt, and Matthew DiVito, all four?

CLERK: That is correct, Senator.

SENATOR MURANTE: Thank you. Thank you, Mr. President. Members, good morning. Matthew DiVito has been nominated to the State Emergency Response Commission by Governor Ricketts. He's a terminal manager for Crete Carrier. His position currently...his current position with Crete Carrier entails overseeing the transport of hazardous materials, and he has extensive

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military planning and operational disaster response experience during Hurricane Katrina and the 2010 Haiti earthquake. Additionally, he served in Operation Iraqi Freedom and Operation Enduring Freedom while on active duty. He was advanced from the Government, Military and Veterans Affairs Committee unanimously. Also to the SERC board is Sherry Blaha who has served our state as a member of the SERC board and I encourage my colleagues to reappoint her. She serves or has served on numerous local boards and positions, including Scotts Bluff County Commissioner, the Panhandle board chair for the Area Office on Aging, the Panhandle Mental Health Center regional governing board. She has also served as Scotts Bluff County and Banner County's emergency manager until 2008 where she coordinated federal, state, and local services through four major disasters, including two tornadoes and a train derailment. Her leadership on the SERC board will continue to be a valuable asset to our state. John Grimes currently chairs the SERC board. He is also the chair of six local county emergency planning committees in northeast Nebraska, as well as the Safe Communities coalition in Norfolk. He's also a board member of the Nebraska Safety Council. Additionally, he has been a member of his local Optimist club since 1995. His emergency response experience has helped our state, and I urge your support of him. Finally, Joseph Oswalt currently serves as the environmental health safety manager for E Energy Adams, an ethanol plant in southeast Nebraska. His duties as environmental health safety manager includes regulatory compliance with OSHA and the EPA laws, contractor safety, and railroad logistics. Joseph began his safety career in the United States Navy serving as a power plant operator. Joseph is an OSHA authorized outreach trainer for general industry and received his certification as an environmental health and safety management specialist from the National Association of Safety Professionals in 2012. Again, all of these confirmations appointees were confirmed unanimously by the Government, Military and Veterans Affairs Committee; and I encourage your support of them today. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Murante. Debate is now open on the confirmation report. Senator Erdman.

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good morning. I rise in support of Commissioner Blaha. Commissioner Blaha and I go back quite a ways. We served together on several boards. The last one we served together was the Area on Aging. She was chairman of that board, did an outstanding job leading the discussion, bringing us to a conclusion when we needed to. And I have complete confidence that Commissioner Blaha will give her best effort to make this commission better, and I would support her 100 percent like Burke Harr said. And please vote green. Thank you.

PRESIDENT FOLEY: Thank you, Senator Erdman. Is there any further discussion? Seeing none, Senator Murante, you're recognized to close. He waives close. The question before the

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body is the adoption of the confirmation report from the Government Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: (Record vote, Legislative Journal pages 903-904.) 37 ayes, 0 nays, Mr. President, on adoption of the report.

PRESIDENT FOLEY: The confirmation report is adopted. Next confirmation report, please.

CLERK: Natural Resources reports on two appointees to the Oil and Gas Conservation Commission. (Legislative Journal page 784.)

PRESIDENT FOLEY: Senator Hughes, you're recognized to open on the confirmation report.

SENATOR HUGHES: Thank you, Mr. President. Members of the Legislature, I present for your approval the reappointments of Robert Goodwin and Thomas Oliver to the Nebraska Oil and Gas Conservation Commission. Mr. Goodwin called in to his appointment hearing on February 22, and Mr. Oliver was present and appeared before the committee at his appointment hearing on February 22 as well. The Oil and Gas Commission was founded in 1959. Its mission is to permit the development of Nebraska's oil and natural gas resources up to the maximum efficient rate of production while promoting the health, safety, and environment of the residents of Nebraska. The commission consists of three members, all appointed by the Governor. At least one member of the commission shall have had experience in the production of oil and gas and shall have resided in the state of Nebraska for at least one year. Each of the other members shall have resided in the state for at least three years. Mr. Goodwin lives in Sidney. He is a partner and practicing lawyer in the local law firm Sonntag Goodwin and Leef. He is a graduate of the University of Nebraska with both his bachelor of science and juris doctorate degrees. Mr. Goodwin has been practicing law since 1982. He is a member of the Nebraska Bar Association and the Cheyenne County Lawyers Association. He currently serves the Supreme Court Commission on Children in the Courts. At his firm he specializes in estates, probates, trusts, real estate transaction, and corporate law, and is knowledgeable in all the areas of his firm. He is presently serving as chairman of the Nebraska Oil and Gas Conservation Commission and has been since 2004...'14, excuse me. Thomas Oliver lives in Bridgeport, Nebraska. He is a practicing lawyer in his private practice firm Oliver Law Office. He graduated from the University of Nebraska with both his bachelor of arts degree and then juris doctorate degree from the College of Law. After several years away from Nebraska following law school, he came back to practice in Bridgeport and has been there since 1998. Being a one-man rural law firm, Mr. Oliver practices any and all areas of law but with the main focus on business, estate planning, natural resources, probate, and real estate. In his absence from Nebraska, he worked 16 years as a senior counsel with Chevron U.S.A. Inc. in both Denver and Houston, and then as a senior

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attorney for two years with Seagull Energy Corporation in Houston. He is highly respected in his community. In addition to serving on the Oil and Gas Commission since 2014, he also serves on the board of trustees of the Morrill County Community Hospital since 2013, as a director...and as a director of the Bridgeport library board and the Morrill County Hospital board. He provides pro bono legal work for many area associations and organizations as well. Both Mr. Goodwin and Mr. Oliver impressed the committee; and it is clear that they both have great knowledge, knowledgeable assets to serve in this quasi-judicial commission that serves the state's oil and gas resources. The committee voted to advance both Mr. Goodwin and Mr. Oliver's appointments by a 7-0-1 vote, with 1 committee member absent. I ask for the confirmation of Robert Goodwin and Thomas Oliver to the Nebraska Oil and Gas Conservation Commission. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Hughes. The debate is now open on the confirmation report. Senator Larson.

SENATOR LARSON: Thank you, Mr. President. What a great timing to talk about our Oil and Gas Commission but also energy security in the United States. As we continue to learn more and more of the investigations that are happening on the federal level, I saw an interesting article from the Financial Post, which would be Canada's version of The Wall Street Journal, so not a right-wing blog or anything by any means, talking about the report just released by our Congress on energy security and Russia's attempts to undermine North American energy security. And in that report it gets rather detailed on what Russian operatives did to try to undermine U.S., Canadian, and North American energy security, essentially so we would stop producing as much and help one of their top exports. Now one of the things that they did with not just the bots that we've heard all about in the Trump campaign and what the bots did for the right and also the left, it shows. But what they did is they purposely planted information on Facebook, Twitter, and other social media organizations trying to divide and specifically supporting people that were opposing DAPL, Keystone XL, the Enbridge Pipeline. And they funneled money into some of the groups that were fighting it, including the one that is run by the Democrat state chair, Jane Kleeb, Bold Nebraska, according to the Financial Post. So essentially as we...I've seen her tweet about Trump and Russia and I've heard members on the floor discuss it, her organization, as the Democrat state chair, her side organization has direct links to Russia and it has shown that Russian influence was purposely working to aid her in her fight against these pipelines. Now the next shocking thing is we've seen the Financial Post and a number of other organizations report on this, but here in Nebraska I guess I've only seen one with Joe Jordan. I've seen the World-Herald report on Senator Murante's 15-year-old speeding tickets. I've seen the Journal Star write a quick article about how a Red Coat asked Senator Morfeld to take off a DACA button, but nothing about actual ties that the Democrat state chair has to Russia. Now I saw that she said that she has no...that she has taken no money from Russia. Well, the organizations that the Congressional Report listed her organization has taken money from. Did she take...did Putin



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send her a check personally? Probably not. But in the end, the money is there. But I guess our news outlets don't find that link to be important. We'd rather report, again, on Senator Murante's 15-year-old speeding ticket. This is a real issue...

PRESIDENT FOLEY: One minute.

SENATOR LARSON: ...and one that ties close to home. And I guess it's just fate that we had the Oil and Gas Commission confirmation today to talk about this, because in the end this is about our national security and what other countries are continuing to do to try to undermine that. And they're using, as the Financial Post said, an old Soviet term, "useful idiots," to go about it. It is a real issue when it comes to our national security. It is a real issue when it comes to our economics. And it's something that we should be taking seriously. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Erdman.

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good morning again. Thank you, Senator Larson, for the update. I have not read The Wall Street Journal or any other information, but I do know this. I know these two gentlemen very well. Mr. Oliver lives in Bridgeport. Mr. Goodwin lives in Sidney. I had many opportunities to have interaction with these two gentlemen. They spent a lot of time last year in the hearings about the well in Sioux County. They do an outstanding job. The person running the organization is very well thought of in Sidney. They do a fine job for the compensation they get, and I would recommend you vote green on both of these. Thank you so much.

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I really want to thank Senator Larson for informing us of some very, very interesting facts, as he calls them. I had no idea that the Russians were behind the opposition to that nefarious pipeline that's being run to Nebraska, but if it's true, viva la Russia. I am so glad that Russia has more sense than some of the people in Nebraska. I'm just sorry they didn't give more money and even talk to me. This is a time for me to make a confession. I probably have a more direct tie to Russia than what Senator Larson is alleging through his garbled presentation here, which reminds me of a lyric from Stevie Wonder's song, very superstitious: When you believe in things you don't understand, you'll suffer. But look, I've read material by a guy named Leo Tolstoy, who was a Russian; Theodore (phonetically) or Fyodor Dostoyevsky, a Russian. I have even read things by Stalin, Lenin, and other people from Russia. And I want that on the record so if Senator Larson wants to scoop some of those national publications that he quoted, he can get that done. And when it comes to getting speeding tickets, Senator Murante is not even in my category. I've probably

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gotten more speeding tickets in my career than anybody who's ever been in this Legislature or who will ever be in this Legislature, but I've never got enough points to lose my driver's license. Because I'm trained in the law, I believe in applying the law; and I would challenge these tickets in court. I didn't win every time, but I won the majority of times. And the tickets were thrown out, which means that the law enforcement were violating my rights under the constitution and laws of this state by giving me a traffic ticket that I should not have getting...get...received, making me go to court, making me do research, making various officials of the Nebraska State Patrol waste hours and hours of time that was paid for by the citizen taxpayers of this state and, by the way, people who are noncitizens but had to pay taxes on various purchases that they made. But the State Patrol tried to learn something by attending the court sessions where I was present. I was in a Sarpy County Courthouse and they had, from the State Patrol, a captain who trained the troopers, a trooper who gave me a ticket, I believe a member from the State Patrol's legal department, and then they threw in the prosecutor from Sarpy County for good measure. We had a trial that lasted more than a day, I don't remember how many days, but it resulted in a transcript maybe as thick as the "Holly Bible."

PRESIDENT FOLEY: One minute.

SENATOR CHAMBERS: And the outcome was that the judge had reviewed all of the evidence presented by the state. I did not offer any witnesses. I did not offer any evidence. I simply cross-examined those who were testifying for the state, and the judge concluded that the state had failed to carry its burden; therefore, the ticket was dismissed. And I see Senator Murante walking down the aisle and I want him to hear me say, if he didn't hear it before, he is a piker when it comes to getting speeding tickets. In fact, I have also sponsored and in some cases obtained passage of legislation that weakened the application of the speeding limit on the interstate in Nebraska. I wasn't going to do any talking this morning, but Senator Larson spoke and I've got to make some confessions as a result of that. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue on your second turn.

SENATOR CHAMBERS: Let me tell you another nefarious thing that I did. That overreaching federal government had imposed a 55-mile-per-hour speed limit on all of the interstates, including that one that goes through Nebraska. There was no way I could persuade the Legislature to undo what the federal government had done or to change the speed limit. So I got my wicked mind kicked into the gear of fighting against the overreaching federal government, and I got legislation that created what became known as the cushion. If a person were exceeding the speed limit by no more than ten miles an hour, the maximum amount of the fine was \$10 and no points off the license. Then-Governor Exon was furious, so he wanted that challenged in the Nebraska Supreme Court. And he had the Attorney General argue that it was special legislation

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by giving people who commit an offense on the interstate a favored status. The state presented its case. It went to trial. The judge ruled that it was not special legislation, that the Legislature could do what it did in adopting my proposal, and ruled against the state. And that's how it got into the Nebraska Supreme Court. The Nebraska Supreme Court, after notifying everybody that, being fully advised in the premises...which is some of the arcane language used by courts of final resort in this state and maybe in other countries. But I haven't reviewed all of the final decisions and judgments of all the courts of fine...last resort in all the countries on the face of the Earth, or maybe Mars and Venus for all I know, because they said men are from Mars and women from Venus. So if they've got men in Mars and women in Venus, I'm sure that they have conflicts. And if they are there and they're civilized or uncivilized enough to have conflicts, they probably have a court system. But I have not undertaken the research in astrophysics that would be necessary for me to find out what their courts had determined. And I'm speaking at the same level as Senator Larson. He really did a service this morning, and I'm doing all of this to show my appreciation. I had to confine my activities to decisions of final courts...final decisions of courts in this country. At any rate, the Nebraska Supreme Court in that case said that there is no special legislation, that the interstate system is a discrete entity, and that anybody who committed a violation on the interstate was subject to the same punishment, which would be the \$10 fine maximum and no points off the license. And therefore, what Senator Chambers had done--they might have mentioned me by name--was not unconstitutional and the citizens of Nebraska and commerce passing through Nebraska using the interstate could exceed the speed limit by no more than ten miles per hour and only pay \$10 fine. It helped facilitate the movement of commerce. It helped facilitate the travel of people on the interstate. After having done that, I was involved in legislation that raised the speed limit on the interstate to 60 miles an hour. Then when the federal government decided not to overreach...

PRESIDENT FOLEY: One minute.

SENATOR CHAMBERS: ...and the states were allowed to put the limit back to 75 miles an hour, there I was again. As a result of that, I got one of those invitations that senators from the Nebraska Legislature don't get. They had a program in those long-ago days called Today. There might be one with that same name, but it wasn't...it's not the same now as it was then. And I'll wrap it up when I'm recognized. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue on your third opportunity.

SENATOR CHAMBERS: I received an invitation from NBC to appear on The Today Show early one morning. And naturally, they pay all of your expenses, travel, hotel. I am not a high-maintenance traveler. If I would order anything from room service, it would be something very

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simple. I did not use the telephone to make long distance calls, which I could have done and they would have paid for it. And when I went into the studio, there was a young actress who was going to be on, not with me, but she was there and other very important people, and I was watching them and how they were being prepared. And somebody came up with what was in those days known as a powder puff. You youngsters may not know about that, which shows how much you missed out on by being (singing) born too late. But nevertheless, there are some here who were not born too late, so they knew what...they know what a powder puff is. And they would rub that powder puff into a little container and, through the mysterious operations of laws of physics, powder particles would stick to that puff and it would be used to transfer those particles to the faces of people who were going to appear on camera so that when they were under those bright lights there would be no reflecting. I don't know what's wrong with that. People have seen people with their faces reflecting. I'm not a germophobe, but not being sure whether the sponge, or whatever the substance that pad was made from, had been used on somebody else, and also due to the fact that I'm not vain, I said you're not going to put any powder on me. I do not use makeup of any kind under any circumstances. Now I bathe regularly, I use deodorant, but I don't put on makeup and you'll not put any makeup on me, and I was not invited here because of the way I look but, rather, for what's inside of my head. Now if there's some way you can set up an x-ray machine without it being close to me and putting those rays through my head and you can show the public who are watching this program my brain in operation, I don't object to that. They wanted to question me about my work on the interstate and the speed limit. So I pointed out that in the northeastern states, which were smaller and congested, 55 miles per hour would not hurt anybody because they don't have that far to go anyway. But when you go to the vast reaches of states like Nebraska, sparsely populated, long, unobstructed highways with a view from here to the horizon, it's unreasonable to have a one size fits all, and I did all I could to undermine it. And so I was asked, could I sum it up? I said, yeah, long distance times short time equals jet propulsion when you've got a long way to go and a short time to get there. Oh, there was a movie. (Singing) I've got a long way to go and a short time to get there; we "gonna" do what they say can't be done. That was from Smokey and the Bandit. I know things, just like Senator Larson, and I think I'm making as much sense as he made this morning. And I think people will give as much credence to what I said as they gave to what he said. But now I have another confession. After listening to Senator Larson raise his voice,...

PRESIDENT FOLEY: One minute.

SENATOR CHAMBERS: ...I have no idea what he was talking about. I have no idea of what point he was trying to make. But I heard him accuse Ms. Kleeb of receiving money from the Russians, although not by way of a check. But I think he ought to contact the FBI and the CIA and Mr. Mueller and tell them that he has some very interesting information that may facilitate his investigation. And with that, I want the people in Washington and Mr. Mueller, if he follows

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what Senator Larson has indicated and will provide to his investigative group, that we in Nebraska are very proud of our native son, Nebraska State Senator "Keith" Larson. (Laugh)  
Thank you.

PRESIDENT FOLEY: Thank you, Senator Chambers. Speaker Scheer.

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Colleagues, Friday again, so we'll let you know what we're sort of thinking for next week. We have done a fairly decent job of moving along this week. I always would like to be a little quicker than slower, so any assistance any of you can give us as a body, that would certainly be beneficial. First reminder, and it will not be on the sheet, on Tuesday we will start with the budget and hopefully be able to get through the budget. It is a long day so I'm hoping...there are only three budget bills, so I'm hoping that day at least we can get through the three budget bills before we adjourn. As far as new bills that will be on the agenda for hopefully next week, we will get to them, will be LB873, LB1005, LB921, LB948, LB1132, LB986, LB1009, LB1091, LB865, LB827, LB906, and LB940. My hope would be that we would maybe have enough to maybe do some Select one of the days next week and if, I have not checked the numbers, if we have 12 to 15 on Final Reading, I will try to get some Final Reading done as well next week. Maybe I'm being too optimistic, but hopefully we'll be able to facilitate that and...as we move farther into the session. Again, as always, if you have any questions regarding any of the bills or our path as we move forward next week, please don't hesitate to contact myself or Spencer or Laurie in my office. We'd be more than happy to try to assist whatever complement you need. Thank you, Mr. Lieutenant Governor.

PRESIDENT FOLEY: Thank you, Mr. Speaker. Continuing discussion on the confirmation reports, Senator Larson.

SENATOR LARSON: Thank you, Mr. President. If Senator Chambers needs me to walk him through what I was saying, a little more step by step, I'm more than happy to do that. Essentially, a United States Congressional committee, specifically the U.S. Committee on Science, Space and Technology, said that the surge of American energy in the global marketplace heightens the desire...for Kremlin's desire to eliminate or mitigate it and to do so by influencing social media users, American voters, and public officials. So that is a United States Congressional subcommittee. So I assure you, Senator Chambers, those in Washington already know what's happening. This isn't just me saying it. I promise you this isn't something new to them. Specifically, as I said, this was reported in the Financial Post, which would be the Canadian version of our Wall Street Journal. So this isn't a shocking revelation that I've dug up on my own, by any means. And to explain it again a little more step by step, if you're having trouble understanding, Russia essentially wants to meddle in U.S. and North American energy policy. Yes. It's shocking, I know. And they have done that by the bots on Twitter and social media and

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funneling money into groups that are fighting some of these organizations that want to build U.S. and North American energy infrastructure. And it just so happened that one of those groups is based here in Nebraska, actually two of those groups are based here in Nebraska, I think, according to the Financial Post. And one of those groups is headed by Nebraska's Democrat Party chair. So hopefully that walks you through a little more, Senator Chambers, of exactly what's happening. Yes, this is a big deal. My second comment was I have yet to see anybody besides Joe Jordan report on this in Nebraska, yet we report on speed limit fines from 15 years ago or a senator being asked to remove a DACA button here on the floor of the Legislature. But Russian influence into U.S. energy policy, specifically when it hits home in Nebraska, that's not reportable, according to our media outlets here in the state of Nebraska. So hopefully that walks you through a little more clearly, Senator Chambers, if you were having a hard time understanding what I was saying. I think most people got it, though. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Larson. Seeing no further discussion, Senator Bostelman, you're recognized to close on the confirmation report. He waives closing. The question before the body is the adoption of the confirmation report from the Natural Resources Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: (Record vote, Legislative Journal page 904.) 28 ayes, 0 nays on the adoption of the report.

PRESIDENT FOLEY: The confirmation report is adopted. (Visitors and doctor of the day introduced.) Next confirmation report, please.

ASSISTANT CLERK: Mr. President, the next confirmation report from Health and Human Services is two appointments to the Foster Care Advisory Committee. (Legislative Journal page 853.)

PRESIDENT FOLEY: Senator Riepe, you're recognized to open on the Health and Human Services confirmation report.

SENATOR RIEPE: Good morning, Mr. President, colleagues, and Nebraskans. I rise to present two appointments to the Foster Care Advisory Committee: Michael Aerni and Nicole (sic-- Noelle) Petersen. The Foster Care Advisory Committee was established by LB998 in 2012. The committee consists of five members appointed by the Governor and who serve a term of three years. The duties tasked to the members of this Foster Care Advisory Committee are to: One, hire and fire an executive director for the Foster Care Review Office; and two, to support and facilitate the work of the office. Mr. Aerni is a resident of Fremont and is a retired elementary

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principal from the Fremont Public School System. He currently serves on the Fremont, Nebraska, Foster Care Review Board and is also a volunteer at the Fremont Elementary School. Ms. Petersen is a stay-at-home mother here in Lincoln, raising her two-year-old adopted daughter. She volunteers on the Foster Care Review Board and advocates for children who are stuck in the system. Ms. Petersen became interested in child welfare issues while working here in the Legislature for Senator Mike Foley and Senator Tony Fulton. Both individuals were advanced from the Health and Human Services Committee on a 7-0 vote, and I believe both will make excellent additions to the Foster Care Advisory Committee. Ladies and gentlemen, with that I ask for your green vote. And thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now open on the confirmation report. Senator Walz.

SENATOR WALZ: Thank you, Mr. President. I very rarely rise in support of...or not support, but I talk on this. But I do stand in support of the confirmation of Mike Aerni for Foster Care Review Board. I worked as a teacher under Mike at Fremont Public Schools, and it was always very, very apparent to me that he had the students' best interest in every decision that he made. He served on the Foster Care Review Board in Fremont, he was principal at Fremont Public Schools, and I believe that Mike understands the issues regarding turnover in HHS. And I think he'll work hard to address those issues. I have a lot of respect for this man and I think you picked the right guy. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Walz. Senator Crawford.

SENATOR CRAWFORD: Thank you, Mr. President. And I rise in support of these nominations as well. I was very struck in our confirmation hearings for these two individuals that both had had experience on their local foster care boards. So they were coming to our state foster care board with that local experience. And both independently of one another, not hearing the other's testimony, stressed, when asked what do they see as one of the most important issues for us to address, they both stressed caseworker turnover and that being a critical issue that they see at the local level, both in the Omaha area and in the Fremont area. So I see that they have been very committed in their local foster care review board, and I'm excited to have them on-board as new appointees to our state Foster Care Review Office Board, and I encourage your green vote on both nominees. Thank you.

PRESIDENT FOLEY: Thank you, Senator Crawford. Seeing no further discussion, Senator Riepe, you're recognized to close. He waives close. The question before the body is the adoption of the confirmation report from the Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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CLERK: (Record vote, Legislative Journal pages 904-905.) 36 ayes, 0 nays, Mr. President, on the adoption of the report.

PRESIDENT FOLEY: Confirmation report is adopted. Items for the record, please.

CLERK: Thank you, Mr. President. A new A bill, Senator Kuehn offers LB935A. (Read LB935A by title for the first time.) An amendment to LB931 by Senator Howard. That's all that I had, Mr. President. (Legislative Journal page 905.) [LB935A LB931]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll now proceed on the agenda to General File, 2018 senator priority bills.

CLERK: Mr. President, LB993, a bill by Senator Friesen, relates to the 911 Service System Act. Senator Friesen presented his bill yesterday, Mr. President. There are Transportation Committee amendments pending to the bill. I also have an amendment to the committee amendments, Mr. President. (AM1908, Legislative Journal page 748.) [LB993]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Friesen, you opened on the bill yesterday. There is an amendment coming, I understand, but before we proceed to the amendment why don't you take couple of minutes, if you'd care to, and refresh us on where we are on the bill. [LB993]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. LB993 is a bill that brings on next-generation 911. It will be the new, advanced version of our 911 system that can handle wireless calls seamlessly and be able to pinpoint locations for those individuals who cannot be located currently. Current data shows about 80 percent of the calls coming in to the 911 center are currently wireless. And so what this bill does is brings in the new generation of technology that allows texting. It will allow you to send video. It brings in the ability to pinpoint the location of the wireless caller. With this program, the Public Service Commission will administer it and they're going to have...they'll develop the rules and regs that allow this to happen. But what this enables, the Public Service answering PSAPs will be able to take calls and they'll be able to transfer calls amongst different PSAPs to wherever they belong. It will allow these Public Service answering spots to consolidate down the road if they want to. They can join the next-generation 911 system when they choose to. They can maintain their legacy system if they'd like. But when they need to upgrade equipment, they could choose to jump on board next-generation 911. So this is the modernization of the 911 system. And some of the amendments that are going to follow, as you remember we ended the day yesterday discussing the legal issues on liability and I think we do have a fix for that. And so I think with that, I will think everybody has been refreshed. Thank you, Mr. Lieutenant Governor. [LB993]



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PRESIDENT FOLEY: Thank you, Senator Friesen. Mr. Clerk. [LB993]

CLERK: Mr. President, Senator Hilgers would move to amend the committee amendments with AM2325. (Legislative Journal page 906.) [LB993]

PRESIDENT FOLEY: Senator Hilgers, you're recognized to open on AM2325. [LB993]

SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. AM2325 is a product of some conversation that we had at the end of the day yesterday on the mike as well as off the mike when we adjourned. And I think especially as we develop a record and kind of talk through some of these policy issues, I think it's important to give a little bit of context about what the fix in AM1908 was intended to do, some of the concerns that were raised by Senator Schumacher and Senator Chambers yesterday, and how we then tried to address some of those concerns. So AM1908 did have this...a gross negligence change from what is sort of a baseline of negligence liability for the current 911 system. I do want to talk about that in sort of the second half of my remarks. But I want to talk about this process to lead us to how we got to AM2325 this morning. As part...as the committee was focused on a narrow slice of this gross negligence standard for the people who put in place the technical systems, as the language was drafted in the amendment, yesterday Senator Schumacher and Senator Chambers both identified what I view are correct, correctly identified overbreadth of that particular amendment. And there's two ways that the amendment, in my view, is overbroad. One way was--and this was especially focused by Senator Schumacher after we adjourned--is that although the intent of the committee, I believe, was to amend the standard for next-generation 911, the language of the amendment actually also altered the standard for current 911 services. There's some reason to have that because it would harmonize liability, but we were not so much concerned with current 911 services. That wasn't the primary intent of the bill. And I agree with Senator Schumacher that making that change, it's not something that we wanted to do and it causes...could cause a lot of downstream impacts that we haven't fully considered. The second area of overbreadth in AM1908 was one of Senator Chambers' concerns, which is that what we don't want to have is a gross negligence standard for some of the end providers of 911 services, in other words, the person who, as Senator Friesen mentioned, the person taking the phone call or the ambulance going out to the accident site or those state agencies and employees, those individuals act. We want to make sure that those people are acting with...under a more...a negligence standard which is a lower standard of liability. We looked at the language that, again, that wasn't really the intent of the bill, although the language did, I think I agree with Senator Chambers, did what he said it would do. And so we focused on both those two areas of overbreadth, understanding that we have no pride in authorship here. The committee was intending to do something different. The language went broader. And so last night and this morning we worked on an amendment, which is AM2325, which is an attempt to address both of those concerns. It is limited to next-generation 911 services. So, in other words, it addressed the overbreadth concern that this is

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going to change the standard for current 911 services, which has worked for a long time. So that's point number one. And the second one is it carves out and ensures that the state employees and the people who are ultimately putting the system into practice, that those individuals do not have a gross negligence standard. They do...they have the negligence standard which is what they have now. So that's what the amendment attempts to do. Probably on the next time on the mike I'll talk a little bit about why we...the justification for the more narrow gross negligence standard for the smaller technical piece of the system. I think there's some good reason for that. But that's what the amendment does. I think it was a very valuable exercise certainly for myself to have the conversation with Senator Schumacher and Senator Chambers yesterday after adjournment. I took their concerns seriously, Senator Friesen and I did, and we hope that you will support AM2325. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Debate is now open on the amendment. Senator Schumacher. [LB993]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Just comparing the language from the law the way it is now, the one in existence, to the suggested language, there's a slight difference in phraseology. One says in the old language, existing law, that the standard is, "failure to use reasonable care or for intentional acts." The language that Senator Hilgers is proposing says, "except for failure to use reasonable care or for intentional acts." I believe as I read that, those are equivalent statements and there is no change now or will be no change if we adopt this amendment in the standard to be applied in these cases. Would Senator Hilgers yield to a question? [LB993]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB993]

SENATOR HILGERS: Absolutely. [LB993]

SENATOR SCHUMACHER: Senator Hilgers, is it your intent and the intent of this amendment not to change a standard of care? [LB993]

SENATOR HILGERS: For the current 911 provider, provision of current 911 services? [LB993]

SENATOR SCHUMACHER: Right, and for what would apply to the new providers. [LB993]

SENATOR HILGERS: I just want to, since we're making a record, Senator Schumacher, when you say providers are you referring to the individuals referenced in lines 3 through 8 of AM2325? [LB993]

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SENATOR SCHUMACHER: What I'm referring to very simply is, is there a change in the level of care in the E-911 system from the existing law to what you're suggesting under AM2325? Is it the same people with the same standards of care or is it changing for somebody? [LB993]

SENATOR HILGERS: It is changing for somebody in lines 9 through 19. [LB993]

SENATOR SCHUMACHER: And who is it changing for? [LB993]

SENATOR HILGERS: These are the...there are four different subsections that they're meant to apply to the, broadly speaking, from a layman's perspective, Senator Schumacher, it's those who are creating the technology and the service providers who are installing that technology and maintaining the technology. [LB993]

SENATOR SCHUMACHER: Is there a gross negligence standard remaining in this legislation? [LB993]

SENATOR HILGERS: For those individuals, yes, Senator Schumacher. [LB993]

SENATOR SCHUMACHER: For...and for who is getting by with a gross negligence standard? [LB993]

SENATOR HILGERS: It's the individuals in lines 9...the ones I just described, which are 9...lines 9 through 19 in the amendment. [LB993]

SENATOR SCHUMACHER: And could you tell us who those are so everybody can hear that so we know who we are setting up with a gross negligence standard? [LB993]

SENATOR HILGERS: Sure. So it's in subsection (2) of AM2325. Might just be easier if I read it. Is that okay, Senator Schumacher? May I just read it? [LB993]

SENATOR SCHUMACHER: Yeah. We want to know who...normally it's a negligence standard. So who does this propose to let by with a gross negligence standard? [LB993]

SENATOR HILGERS: Well, I would quibble with...I wouldn't concede that we're letting people by. But it's for this next-generation 911, so it's limited to the new, the next-generation 911. It's those individuals who receive, develop, collect, or process information for any 911 database, provide local exchange, interexchange, or transport service in connection with any next-

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generation 911 service; relay, transfer, operate, maintain, or provide next-generation 911 service or systems capabilities; and provide next-generation 911 communication service for emergency service providers. Now it, to the extent that any...there's...so then there's an exception to that in subsection (1) that are excluded from that gross negligence standard. [LB993]

SENATOR SCHUMACHER: I think I'm confused. And I have problems if we are letting providers of a service for life-saving mechanisms then get by with gross negligence. That's a humongous standard. I thought this... [LB993]

PRESIDENT FOLEY: One minute. [LB993]

SENATOR SCHUMACHER: ...was resolved, but I'm not sure it's resolved anymore. There is no reason for the new multibillion, million-dollar system to impose a lesser standard than we did under the old wire system flopping in the wind, strung on poles. This is still not where we should be. I'm perfectly okay to say, apply the old negligence standard, what was good for the old is good for the new. But I now have real problems unless we extend this standard of ordinary negligence to the super-duper companies that we are contracting with and spending a lot of money on, and on which people rely for their life. I'll continue to listen to debate, but I've got great difficulties yet with this. Thank you. [LB993]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Friesen. [LB993]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I will yield my time to Senator Hilgers. [LB993]

PRESIDENT FOLEY: Senator Hilgers, 5:00. [LB993]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Friesen. I didn't, just for the record, so the record is clear, I don't want to imply that this amendment addressed every one of Senator Schumacher's concerns. It attempted to address one that we had discussed in detail yesterday at adjournment, that concern being it does not change the standard for the current 911 system. That system has worked, that liability standard has worked. We're not purporting to change that. This only applies to a certain subset of providers for the next-generation 911 system. And I think it's worthwhile to have this policy discussion and to talk about what gross negligence versus negligence means and how we've used it in our statutes in the past. There are a number of different liability schemes sort of in our common law, in our statutory system. One is that pretty much everyone is familiar with, which is a negligence standard that we've talked about. That's sort of a due care standard, reasonable care standard. It's a fairly low standard. It's a

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fairly low standard to overcome in order to fill a lawsuit and not have it get dismissed at the pleading stage. And it's one that sort of takes into account the circumstances. The vast...maybe not vast majority but probably I would say significant majority of liability actions in this state in our common law are negligence matters. Now not all are. Another level up, sort of, is gross negligence. Gross negligence is a higher standard. There is a higher burden for gross negligence. And there are a number of instances in our statutes in which we have decided as a policy matter that it is important to deviate from...to have a higher standard than negligence. And I've pulled just last night a number of these. One of the prominent ones is through emergency management for...immunity from liability for activities for emergency management workers under Chapter 81-829.55. There's 13-910, 13-1208, 79-980. I could go on and on just to make the record. There is...the reason why you would do a gross negligence standard, in general--and then I want to talk about how we got to where we are today--is there are certain instances in which the mere filing of a lawsuit with...the mere filing of a lawsuit can incur significant costs in areas where it might not otherwise be justified. And so with the negligence standard, it's not just about...well, I'll take a step back. When you're filing a lawsuit or you're incurring those costs, it's not just what will happen at the end of the day when you're in front of a jury. It's even having the lawsuit filed in the first instance. Part of the reason why we have qualified immunity decisions early on in a case is the idea, as a policy matter, we want to ensure that only the subset of cases that we are really concerned about are even brought, because the litigation system can be abused and it could put a lot of pressure on individuals. And so we've decided, as a policy matter over a dozen times in our statutes, to use this gross negligence standard. Now why are we using it here? Well, this is not an idea that just came from some local Nebraska company. Specifically, it's not one that...someone I...the reason why I quibble with or disagree with Senator Schumacher's contention of getting by is I think that sort of pejorative statement suggests something different than what we're dealing with here. What we're dealing with here is ensuring that we are incentive...are ensuring that we have the right providers providing cutting-edge technology in a quick way to this next-generation system, because what really matters for a lot of these providers is legal certainty. So one of...for any business, in general, forget about next-generation 911, you want to ensure that you have legal certainty. You want to know the rules and regulations are certain, that you're not going to be exposed to unnecessary liability just for your normal actions and that you're not going to have a shifting or an inconsistent legal scheme across states. Now the federal...the FCC... [LB993]

PRESIDENT FOLEY: One minute. [LB993]

SENATOR HILGERS: Thank you, Mr. President. Mr. President, am I next in the queue? [LB993]

PRESIDENT FOLEY: You are. [LB993]

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SENATOR HILGERS: Thank you. So the FCC several years ago when this next-generation system was being discussed at a federal level did a significant comment...request for comment and comment period in which it solicited comments from not just providers but all sorts of different entities about what is the best way to ensure that this investment, this 911... next-generation 911 investment occurs in states nationwide. And from that comment period, the FCC recommended that states adopt model language from the National...I believe it was the National Highway Administration--I could be incorrect on that, I'll correct it for the record if I'm wrong--to create this gross negligence standard for these technical providers. And the reason is, unlike the normal 911 system, when we're dealing with sort of traditional, robust, copper wires that everyone kind of knows how they operate, this 911 system... [LB993]

PRESIDENT FOLEY: You may continue. You're next. [LB993]

SENATOR HILGERS: All right. Thank you, Mr. President. This 911 system that we're dealing with is really cutting-edge technology. It's very innovative technology. It uses voice over Internet protocols. It uses various algorithms. And what it will do for our citizens in Nebraska is incredible when it's fully implemented. It will expand our 911 service capability, especially in rural areas. It will allow for our service providers, emergency personnel to respond more promptly. It will give them better information and I think ultimately will allow us to have a much better 911 system than we currently have. But to do all that, you need to ensure that you have providers that are able to put the dollars in to invest and bring this technology here to the state of Nebraska. And what the FCC determined, after an extensive comment period, was that if we did not have a higher standard, it would deter investment into these systems. So this legal...this concept of legal certainty and to ensure that by going into an inherently...an area in which by its very nature is dealing with life and limb and by its nature generates many lawsuits, some of which are founded, some of which are not, and exposes people just by operating within that area to potential significant liability, that they were able to have the legal certainty to get involved. Now it doesn't absolve, it's not an immunity provision. They could still be sued. But it does allow them to have some certainty so that they can get this technology faster. And so what we...what other states have done, some of which were cited yesterday by Senator Friesen, is they have added this gross negligence standard after consultation with the industry, working with the FCC and, I believe it's, National Highway. And that's what this provision would do here. Now I'll talk about a...how much time do I have left, Mr. President? [LB993]

PRESIDENT FOLEY: Three minutes. [LB993]

SENATOR HILGERS: Okay. Thank you. So there are a couple of ways in which this legal certainty...and I'm using it sort of broadly, but there's a way...a couple ways in the lawsuit context in which it can really deter companies from operating, and one of which I'll sort of draw from

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my experience as a patent litigator. One of which is in a patent is that by virtue of operating in an arena, you can invite a lawsuit that will...that may not have much merit, but by virtue of being able to bring a lawsuit, you can force a company to settle and incur legal fees and pay dollars that might otherwise not be justified. How it happens in the patent context is there's a very low...fairly low threshold to file a patent case in the United States. You have to have a valid patent, have at least some reason to believe that a company is infringing that patent. If you bring the lawsuit, what happens in these suits is you have...there's such a high cost, there's such a high cost to defense in these lawsuits. And you might get a reasonable jury who agrees with you that you don't infringe the patent, but you might not. And so companies that are faced... [LB993]

PRESIDENT FOLEY: Excuse me, Senator. Some of the members are having difficulty hearing because of the noise. [LB993]

SENATOR HILGERS: Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Please continue, Senator. [LB993]

SENATOR HILGERS: Thank you, Mr. President. What happens in the patent context is, because the serial nature of these technology, especially in the technology world, there's so many of these lawsuits, what happens is you start to see providers back away from even operating in certain fields, not because of the ultimate merit of the lawsuit but because of the volume of the lawsuit and the fear that they aren't, other than instead of putting their resources to actually growing their business, they have to spend money on legal fees. What happens is they make what is a rational choice just to not operate in that field. So that's something we see in the law when you have this instance in which lawsuits can be filed with a very, very low threshold and they deal...especially when they deal with facts such as a 911 system where we are dealing with life and limb. And so I think that is something that happens in other contexts and I think that's one of the concerns, that's one of the concerns here. Now Senator Chambers... [LB993]

PRESIDENT FOLEY: One minute. [LB993]

SENATOR HILGERS: Thank you, Mr. President. Just briefly, Senator Chambers discussed yesterday this idea that a negligence standard does...and I may not have time to complete this thought, but that a negligence standard does sort of take into account these evolving circumstances. And that is true and it's not true. I think the principle I certainly agree with. In the application here, it doesn't...I don't believe that it works out the same way because the point is not ultimately they could be vindicated. It's to have clear legal guidelines about what the rules are before they get involved. Because this is such cutting-edge technology when you're dealing with algorithms and innovation and applying some of these--and I'll go through some examples

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the next time I'm on the mike--these things, it's not clear going in what would be determined to be a reasonable care. And so the fear, which is addressed by AM1908, amended by AM2325 is that we would discourage investment and we would not be able to have the same 911 system at the same speed...or the same rate of implementation as maybe some other states who have done this. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Morfeld. [LB993]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I've been listening to the debate and Senator Hilgers' explanation. I'm not necessarily opposed to his amendment or the standard. But I do want to get some more information from Senator Hilgers, if he would be willing to yield to a question. [LB993]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB993]

SENATOR HILGERS: Of course. [LB993]

SENATOR MORFELD: Thank you, Senator Hilgers. And I'll give you the remainder of my time after I'm done here, so you can talk a little bit more so you don't have to stall or take up too much of my time. But in terms of this gross negligence standard, so I was trying to track a little bit what you're saying. So this is a national standard for these types of systems and these providers? [LB993]

SENATOR HILGERS: I would say, Senator Morfeld, it was nationally recommended. Several states have implemented but not...I wouldn't say all states have. [LB993]

SENATOR MORFELD: Okay. So would you say that like a, I mean, the majority of states have implemented this that have looked at this, or would we just be one or two or three? I'm trying to get the national landscape on this. [LB993]

SENATOR HILGERS: Of actual implementation, this is a fairly new area. It was not a majority. So it would be a handful, four or five maybe, that have actually done it so far. [LB993]

SENATOR MORFELD: Okay. Thank you. And then my other question for you is you specifically talked about emergency responders being a class of individuals that have the gross negligence standard. Is it common to give this gross negligence standard to private actors, because that's what we're doing in this case, correct? Or am I reading that wrong? [LB993]



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SENATOR HILGERS: When you say when I refer to emergency responders having gross negligence, were you talking about the other statute that I referred or... [LB993]

SENATOR MORFELD: Yeah, the other statute. [LB993]

SENATOR HILGERS: Senator Morfeld, I'd have to go back and look. [LB993]

SENATOR MORFELD: Okay. [LB993]

SENATOR HILGERS: I believe some are of the...are private actors and some are not. [LB993]

SENATOR MORFELD: Oh, some are and some are not. Okay. I'm just trying to get the landscape of who exactly gets a gross negligence standard and who doesn't, and if that's primarily public actors, so police officers, you know, emergency officials, things like that, or if this is common for private actors to receive this type of standard of care. In any case, I'll yield the balance of my time to Senator Hilgers, if he has any more thoughts on the matter. Thank you. [LB993]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Hilgers, 2:50. [LB993]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Morfeld, for the time and thank you for the question. I think this is exactly the policy conversation that we ought to be having, and I appreciate Senator Morfeld is helping to illuminate some of those thoughts. Now having not researched Senator...the specific question that Senator Morfeld has asked, my instinct is that in some...again, we haven't...we've done this over a dozen times. What I would...my instinct is that probably most of those times are not for private actors but I'm not entirely sure. I have to go back and look at that data. But my guess is that they would not. This is sort of a...these...I would agree, the carve out, the reason why I clarified Senator Morfeld's question is AM2325, I'm sorry, AM1908 initially did cover, not really intentionally, that wasn't sort of the thrust of where the committee was going, but did cover the emergency responders. And so what AM2325 is intended to do is to carve that piece out. So that's why I clarified that particular part of Senator Morfeld's question. And I think in this case we are, even though they are private actors, we're dealing with a public function, this 911 function. And so I think that in implementing that function we want to ensure that we...we do want to make sure that it is implemented in a way that is thoughtful and careful and all the things that we would expect of a negligence standard. And so people operating this technology, people we have decades of experience, frankly, in the...well, shouldn't say decades because I'm not entirely sure, but we've had the 911 system in place for a long, long time. We do have a good sense, there is a pretty

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good legal certainty about what this negligence standard means for the 911 operators, for the emergency responders. But this is new technology. This is a new area. It's a new field and we don't have the same type of grasp. And there are so many more moving parts on the technology side as compared to the copper wire system... [LB993]

PRESIDENT FOLEY: One minute. [LB993]

SENATOR HILGERS: Thank you, Mr. President. That there's so many moving parts on this technology side than the copper wire system, there's a lot more uncertainty. So I probably will come back on the mike. I'm happy to answer any other questions that there might be. I do want to talk a little bit probably next time on the mike just a little bit about how this...how the negligence standard doesn't quite apply the same...might not apply the same way and not provide the same type of legal certainty for this new technology, and a little bit of some of the tariffs that have provided some liability protections already for the current system that we really haven't touched on. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Schumacher. [LB993]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. We spent some time, I think it was yesterday, talking about how you put a child in a care restraint and how we exercise a lot of care. Well, today we're talking about what standard of care should be used by the people who provide a life-saving equipment and service. When you drive a car, you're held to the negligence standard. Our 911 services were always held to the negligence standard. When you don't scoop the snow off your sidewalk and somebody slips and falls, it's a negligence standard. It's the normal, reasonable standard that we expect. Now we're adopting some new equipment, some what's supposed to be better service, and buried in here is language that changes the standard for the new system to gross negligence. In the minds of a jury, one, in ordinary negligence, you know, you didn't do what you should do. Gross negligence means you were really pretty bad and you were really pretty sloppy beyond what normal people would expect you to be, beyond the normal standard all of us live our lives by. It's kind of like saying, you know, the old airplane, the old prop airplane, well, this is a standard that you have to comply with in order to fly one of those. But now we're going to spend millions of dollars on a jet airplane. And you don't have to be as careful if you're running a jet airplane, because, you know, if you had to be careful and if your airplane wasn't properly maintained and you crashed and you burned, why, if you had the old standard, you'd probably lose the lawsuit or at least have to fight a lawsuit. So we want to, in order to encourage jet airplanes, say we're going to hold the person hurt, the person who was burned in the crash doesn't have to...has to prove that you were really bad. If we're buying a new system and we're investing millions of dollars in it and we want it properly deployed so we don't have to go do over again when a flaw is found in it or something

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isn't working because somebody could get by with gross negligence, then we should buy a good system, at least as reliable and as safe as the old system. Why we are setting up this system and then providing less reliability than the old system, I'm not sure. If you're the unlucky person who the new system fails on, you're going to bear, and your family is going to bear if it kills you, the entire burden of the cost of doing it right, with the proper components and the proper backups. And if that's okay with you, it's okay with me. But it shouldn't be okay with you because you may end up...I'll be gone before you have to rebuild the system because of some flaw or you get sick of seeing people who were failed by it. Let's do this right. If there is a bit more cost to doing it right, to using a bit higher grade of equipment, a bit more diligent, then let's... [LB993]

PRESIDENT FOLEY: One minute. [LB993]

SENATOR SCHUMACHER: ...spread that cost through insurance throughout the entire system. But why, on God's green earth, we would lower the standard to operate a jet airline from what we required with a prop airline, I don't know. And it seems to me this is just a matter of trying to move something through and seeing how it falls out, and if you win, you win. And if not, they go back to the old standard and they still employ it, employ the new system, only they do it better. This is bad policy to change this standard on something any one of us could have to rely on for our life or our family member. This, it makes no sense to lower the standards of care. Thank you. [LB993]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Bostelman. [LB993]

SENATOR BOSTELMAN: Thank you, Mr. President. I am in support of LB993 and the amendments. A couple things out of my district: we had one of a...a neighbor of mine actually came in and testified on this bill. Him and his wife are both deaf and they spoke of how the challenges they have with cell phone servers where he had an emergency out in the field and he had to actually flag down, find a neighbor in a field that was out working in the field, flag him down to where that person then could call in and speak for the emergency to get help out to him. I had another, and only other way that he has is he'd have to go back home and in his house he has the, I believe it's, TTB (sic--TDD or TTY) or the system in his house where he could use that to communicate with people. So this was a very important bill for him to see to be passed and come through for his ability to connect with an emergency situation. As well as I had...I was contacted by some constituents that live south of Fremont, along the highway just a few miles south, where they don't have cell phone reception either. And there was an emergency on the road out in front of their house, and they had to go back inside to the house to use their landline. What I believe is going to happen with the services we're going to get that improve services is a really good plan that was put together and something we really need in the state of Nebraska.

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And I fully support the bill and I would encourage everyone's green vote on the amendments and LB993. And I would yield the rest of my time to Senator Hilgers. [LB993]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Hilgers, 3:20. [LB993]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Bostelman. I do want to...I very much do appreciate the comments of Senator Schumacher. I do want to...I do disagree with one point, but I think it's illuminating, which is this notion that we're trying to sneak something past. That certainly is not true and it also is not true, more broadly from a substantive perspective. What I mean by that is this is not an issue that has just came up in front of the Transportation and Telecommunications Committee that we just sort of grabbed on because of one testifier and said, let's do this, let's just see if this works. In fact, quite the contrary. This is years of effort, not just from industry participants but from federal regulators who have focused in detail on these issues. And they have concluded the same thing that we're talking about today, those who are supporting the amendment and the bill. As an example, Federal Communications Commission, and I'm citing for the record from their February 22, 2013, report entitled, "Legal and Regulatory Framework for Next Generation 911 Services." And I quote: In this regard, we also concur with commentators (sic--commenters) that liability protection should be extended to any entity that is providing next-generation 911 services...as a means to incent participation in the next-generation 911 transition and provide valuable services to customers utilizing newer communications platforms. It's not just the FCC, colleagues. The NENA, I actually don't know if that's nee-nah (phonetically) or...I'll just call it the NENA, which is one of the regulatory bodies helping with the next-generation transition, in their next-generation 911 "Transition Policy Implementation Handbook," they make the case pretty explicitly. On page 22, I quote: Experience in the deployment of E-911 has shown that a lack of legal clarity on the issue of liability can lead to delays in the provisioning of 911 service. Next...that's...so E-911 is what we have. Next-generation 911, which is far more complex, has far more technological variables and issues involved, is a different...even a different story. Next-generation 911 will promote a more complex service delivery environment with more types of services able to connect to 911 systems. [LB993]

PRESIDENT FOLEY: One minute. [LB993]

SENATOR HILGERS: More....thank you, Mr. President. And, Mr. President, I believe I'm in the queue next. Is that right? [LB993]

PRESIDENT FOLEY: Yes, that's correct. [LB993]

SENATOR HILGERS: Can I just continue? [LB993]

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PRESIDENT FOLEY: You may. [LB993]

SENATOR HILGERS: Thank you. "More external data sources available to PSAPs, and increased information sharing options among emergency response agencies," let me stop right there. Those are all really, really good things. We want our next-generation 911 service to do more than what we currently have now. Those are good things, colleagues, but they introduce a level of complexity, technological complexity in particular, that enhances or is exacerbated by...exacerbates that legal clarity question that we currently have. I return back to page 22: "These technological possibilities will potentially complicate how liability protection is appropriately provided for new and future services." Going further: Next-generation 911 systems will likely more rapidly be implemented, the transition will more rapidly occur, with the legal certainty that the good faith efforts to improve 911 and emergency communications services will not expose them to further liability. Again, these are the conclusions of two regulatory bodies who have studied this issue in tremendous depth and detail. Now we could disregard that, certainly we could, but I think those are very powerful statements. And let me give you an example of how this might play out in a real-world circumstance. And it's a little bit technical, but as we build a record and as we discuss this, I think it helps to take the conceptual down to the real. Here's an example of what 911...next-generation 911 can do and I'm just going to read this, it's a paragraph: Next-generation 911 will also enable informed dispatch decisions to be made based on information about the incident and caller available from external systems (sic--sources), a capability that is not possible with today's E-911 system. That's a good thing, right? We want to be able to utilize other sources of information so we can make solid, real-time decisions about what help is needed, when, and where. Those are good things. Here's an example: An example is a 911 call that arrives at a PSAP from a telematics equipped vehicle with information on the severity of a crash, along with the information from the vehicle's occupant's electronic health record. "Based on that information, algorithms may be able to predict the probability of severe injury and suggest a certain type of response." Those are good things. "These capabilities are intended to result in the appropriate level of care quickly being sent to victims in need of assistance. This should lead to lives saved. However, it may also result in unintentional errors despite the best efforts of all parties involved in the response. Liability protection statutes should extend to intentional non-location-based routing capabilities and the use of incident and personal data for emergency dispatch." That's one example amongst many. The point is, colleagues, that's a real-world example of how next-generation 911 services, through a complex set of technological tools and algorithms, can enhance our system and save lives. In order to get to that point, we need to incentivize--these are not my words, I've quoted from two, I believe, respected authorities who have researched the subject--in order to incentivize the providers to actually provide the technology, not expose themselves to unnecessary liability and risk, this standard is an important part to ensure that that occurs. How much time do I have left, Mr. President? [LB993]

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PRESIDENT FOLEY: 2:30. [LB993]

SENATOR HILGERS: Thank you. Thank you. So I understand Senator Schumacher's point in concept. I certainly agree that we ought to be very reluctant to deviate from a negligence standard. And in many...vast majority of cases of human interaction, we don't. But in certain circumstances, especially in circumstances in which we are providing these types of emergency services--I've cited one other statute for gross negligence in the provision of emergency management services--we have said a gross negligence standard is appropriate. Based on these authorities, based on the research done by other...these, you know, the FCC, NENA, and others, they've arrived at the conclusion, and I have no reason to believe that that conclusion is incorrect, that the liability standard will help ensure that we get this technology implemented as fast as we can get it done. That will lead to more lives saved here in Nebraska and better outcomes through our 911 service. I think it's a good thing and I'd ask for your support of AM2325, AM1908, and LB993. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Hilgers, and that was your third opportunity. Senator Briese. [LB993]

SENATOR BRIESE: Thank you, Mr. President. Good morning, colleagues. I appreciate the debate on this issue, and I look forward to a little more debate today. At this point, I intend to support both amendments and the bill. But with that said and at the risk of reiterating what has already been said, the general rule of tort law is that we have a duty to act, conduct ourselves as a reasonable person would under similar circumstances, in other words, a duty to exercise reasonable care. Here are the issues of whether we should have a reduced standard of care relative to 911 service or, as per AM2325, some aspects of 911 service. I note that comments were made at the hearing and Senator Hilgers has hit upon some of these that a lower standard of care will encourage participation by a wider array of bidders for implementing the service. It will enhance expansion of these services. And that may well be true. I don't necessarily disagree with that. But there wasn't...I don't believe there was any real data presented at the hearing to back up that assertion. And as Senator Friesen pointed out yesterday, and Senator Hilgers this morning, the National Highway Traffic Safety Administration suggests this lower standard is appropriate. I've handed out a document here from the NHTSA on this issue, and I do note the suggested language there would require an element of good faith on the part of the contractors or providers. And I do note that AM1908 and AM2325 do not contain the good faith element. And we talk about gross negligence. What is gross negligence? It can be defined many different ways, but in one Nebraska statute it's defined as the absence of even slight care. And that raises a question for me, should we require injured or aggrieved Nebraskans to prove the defendant failed to exercise even slight care? That's a pretty high standard. And I would note that the states certainly aren't uniform in adopting this lower standard of gross negligence. And I believe Senator Friesen gave some examples yesterday of states that have adopted this lower standard of gross negligence, and

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I believe there are more. But as one testifier at the hearing suggested, the states are all over on this. There are some states that still adhere to the reasonable care standard, so Nebraska wouldn't be out on an island really regardless of which way we go on this. And so what's the practical effect of our decision? I don't think lowering the standard of care will lower the number of claims or lawsuits relative to 911 service. What it will do and what it may do is lower the number of successful claims. That in turn could save liability insurers some money and that, in turn, could save taxpayers paying those premiums some money. But it could also leave some of our residents injured and aggrieved by failures in the system without recourse. And so, like I said, I'm probably supportive of these amendments and the bill, of course, but I'm interested to hear a few more comments on this. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Chambers. [LB993]

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is one of those issues where people can disagree. They can be on diametrically opposed courses without either side being venal or underhanded or anything else. I want to make that clear so nobody feels from anything I say that it's an attack against a person. What I'm attacking is the concept that people who are going to do a job can be told by the Legislature, you don't even have to be careful when you do this. That's what happens when you do away with the standard of ordinary negligence. Judges, courts, they are not lacking in understanding of what these terms mean. When the ordinary standard of negligence is in play, it means that you have to do what it is you're doing in a way that a person of ordinary intelligence and under the circumstances would do it in order to be doing it correctly. Nobody on this floor, I don't think, would want a teacher to tell a student, you won't fail this course unless you get a zero on everything. And let them know when they start out, you don't have to be careful, you don't have to be a good student. Just come here and be quiet and don't be disruptive and you'll get a passing grade. There are people who would be outraged at that. But when you're talking about multimillion-dollar operations, you all act like we're saying you get volunteers to do this. These companies make a lot of money. The programs that we're discussing, the systems to be set in place are not in an experimental...let me ask a question of Senator Hil...oh, I don't see him. I'd like to ask Senator...oh, I'd like to ask Senator Hilgers a question when he reaches his desk. [LB993]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB993]

SENATOR HILGERS: Absolutely. [LB993]

SENATOR CHAMBERS: Senator Hilgers, this system that we're talking about, without detailing it, is it considered experimental? [LB993]

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SENATOR HILGERS: I don't know if I would characterize it as experimental. [LB993]

SENATOR CHAMBERS: The technology. [LB993]

SENATOR HILGERS: The technology? [LB993]

SENATOR CHAMBERS: Is the technology experimental or has it reached the status where it's accepted as a valid operational activity and if you do it this way, according to these standards, this is the result you can expect to get. [LB993]

SENATOR HILGERS: I would say neither of those. It's probably somewhere in-between, Senator Chambers. [LB993]

SENATOR CHAMBERS: Okay. Thank you. Members of the Legislature, it is far enough beyond an experimental stage so that the government and these consumer protection groups have not said it should not be put in place. When it's put in place, people expect it to operate a certain way. Those who are putting it in place know there are certain things they should do. And this is an oversimplification, but I want ordinary people who may be listening to us to understand what I'm saying. If you're going to jump-start a battery or if you're going to put a battery charger on a battery, they color-code those posts. The one that is going to put power into the battery, it has a red clip and a blue clip. The post on the battery is red, blue or black. The red one is the business one. You will not be told under any circumstances to put the nonred on the red. [LB993]

PRESIDENT FOLEY: One minute. [LB993]

SENATOR CHAMBERS: So these people know how to attach the parts in this battery jump-start process that we're discussing. What is being said, when you say gross negligence, you don't even have to worry if you put the blue with the red. That's not going to make you liable. What will make you liable, if you know fumes are being emitted by that battery and you deliberately strike a spark and cause an explosion, that's when you're going to be liable. But if you simply attach the blue to the red, no, that doesn't matter, even though if you do that it might disable the system. I am not in favor of changing the ordinary negligence standard which says this: you must use reasonable care. You all want to say, you don't have to be reasonable. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing discussion, Senator Harr. [LB993]



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SENATOR HARR: Thank you, Mr. President, members of the body. I rise in opposition to this AM2325. And I've been listening to the conversation, and I didn't know where I was. But listening to Senator Hilgers, it occurred to me, is there a business out there that's going to say, you know what, I was going to go make money--because these are for-profit companies--I was going to go make money, until I saw that higher level? I can't make money at that. No longer can I make money if I'm held responsible to a reasonable care standard. I'll just get out. That's ridiculous. These are corporate citizens. These are good people. These are good businesses. I bet you if you went and talked to them, they'd tell you, we'll use reasonable care, we're okay being held to that standard. And then you ask yourself the difference between reasonable and gross negligence, how much does that save that company, that it would drive them out of business, that they wouldn't do it? I haven't heard that number. I haven't heard that cost. Well, let me tell you what the real cost is. I don't know if anyone in here remembers Jason and John Edwards, two individuals shot and killed by their sister's estranged boyfriend. Outdated 911 system, yes, we need to update the 911 system. But there sure as heck was negligence there. We need to do the right thing, folks, and just as we need to advance the system so that everyone can receive the proper care, if we update the system, we've got to make sure that system is good and reliable, not just not grossly negligent. We want those new systems to use reasonable care. We want them to be reliable. It boggles my mind that we say we want our 911 system to be the best there is out there, and then we don't hold them accountable. We want you to be the best, but if you screw up, we're not going to hold you to this level of care or this level but to this bottom level of gross negligence. Folks, these are real lives on the line, lives that will be won and lost if businesses are allowed to be less than reasonable. We need reasonable care. When this is not E-, emergency, 9112.0. E-911 has evolved over the years. And at every step previously, the industry was willing to accept reasonable care. Why all of a sudden are we going to gross negligence? And why has not one person from the industry come and said to me, Senator Harr, we think we need to be held to a lower standard? We can't be held to the highest standard or even a reasonable standard. We need a strict liability. We need not just strict liability, not reasonable care, but a lower one so that we can provide something at a lower rate. Because I know they don't want that. I don't think they want to admit that. They are providing a valuable service, something we need to make sure that they can make money at. But it shouldn't be make sure they make money on the backs of those unfortunate souls whose lives... [LB993]

PRESIDENT FOLEY: One minute. [LB993]

SENATOR HARR: ...are lost because they were negligent instead of grossly negligent. We need to hold them accountable so that we know they will provide the best service to those in need. Because when you pick up the phone and you call 911, if there's a screwup, you can't hang up and call 911 or, excuse me, 912, 913, 914. You're stuck. They have a monopoly on you. So we need to hold them accountable. And they need to hold themselves accountable. And I don't know why anyone in their industry would say, well, you know, we hold ourselves accountable, but

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maybe the next town over shouldn't hold itself accountable. No, we need a good, reliable system. And if that means having regular negligence as opposed...maybe we should have strict negligence,... [LB993]

PRESIDENT FOLEY: Time. [LB993]

SENATOR HARR: ...strict liability. Thank you. [LB993]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Friesen. [LB993]

SENATOR FRIESEN: Call the question. [LB993]

PRESIDENT FOLEY: Senator, there's only two more senators in the queue. Why don't we just let it go for a bit? Senator Chambers, you're recognized. [LB993]

SENATOR CHAMBERS: Thank you. Mr. President, I'm going to say this now. If those who are trying to ram this bill through keep it up, I am going to take over. Now nobody up to this point has tried to terminate the discussion. I want that in the record. I'd like to ask Senator Harr a question, if he would respond. [LB993]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB993]

SENATOR HARR: Yes, I will. [LB993]

SENATOR CHAMBERS: Senator Harr, do common carriers have to meet a strict liability standard? [LB993]

SENATOR HARR: Ooh, I don't know. [LB993]

SENATOR CHAMBERS: I think they do,... [LB993]

SENATOR HARR: I think they do too. [LB993]

SENATOR CHAMBERS: ...but we'll let that go. Members of the Legislature, we know that businesses are not going to spend any more than they have to, to get what they're trying to do, to get the biggest bang from the buck. Senator Friesen, obviously, wants to tell these companies,

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when you set up the plan for this system, it doesn't have to be too expensive, because you don't have to meet this standard. You don't have to meet an excellent standard. It can be cheaply done. And even if problems result and the public is hurt, it doesn't matter because just make sure you are not grossly negligent when you do it. You can be negligent. You don't have to show due care and the Legislature has said so. So when you're calculating how much you're going to charge for this when you're bidding, then you keep in mind that you are not mandated to meet the ordinary standard of negligence. You don't have to show care. You don't have to be careful. That's what we're being asked. And I will fight to kill this bill, and they can probably get 33 votes over what I'm doing. But I'm deeply offended, and until Senator Friesen tried to call the question, I didn't feel the offensive...I was not offended by anything anybody said. We are in such a hurry. Yeah, I said what I said, and I say it in front of him. He's going to call the question because he wants to ram this through and say that the public be damned. If they get hurt, forget it. I've got senators on this floor who don't care about the public. He's the one who said don't worry about the load-bearing capacity of bridges. I took his word on that, because he lives out there. But I know about other people who have to use the 911 system, and it should be required to work. They cannot build negligence into the system when they put it in place, but we are authorizing that. We're saying you don't even have to have a standard that would be acceptable when you build it. You can build it negligently. You can be negligent when you build it. That's why I want Senator Hilgers to see it. He has some understanding. But now I'm going to dig my heels in on this bill. I wasn't aware that the industry had taken such hold. I don't think that the industry would come here and say itself, well, we're going to build a system that's not going to work. We're not worried about that. They would tell you if we're bidding or if you're going to hire us to do this, we're going to meet the highest standard, you can count on us. But what Senator Friesen wants to say, you can say that but you don't have to do it. That's between you and the Legislature. We know the truth. The public doesn't have to be protected. If they dial 911, you don't have to worry about answering, you don't have to answer too quickly. If the call is going on or you're upset, just hang up and say, well, it was just a glitch in the system, because the Legislature has said these glitches are allowed. [LB993]

PRESIDENT FOLEY: One minute. [LB993]

SENATOR CHAMBERS: They can be a part of the system when you build it. Do you think these car manufacturers would voluntarily put safety features in these vehicles? They are mandated. That's when changes occur. And for a Legislature to start out at ground floor and say, when you build this system, when you put it in place, you don't have to use ordinary care, just anything will be satisfactory, just be careful you don't merge over into gross negligence. Anything less than that, you're okay. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Crawford. [LB993]

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SENATOR CRAWFORD: Thank you, Mr. President. I've been listening to this debate over these few hours that we've been spending, and I really appreciate Senator Schumacher calling attention to this key question that was in a committee amendment. And as we have term limits and we all have to make sure we're stepping up into our roles, I really appreciate the role he has often played in watching all these amendments carefully and raising questions if there are questions about some of the content of those amendments. And I thank him for that and just a call to all of us, we're all going to have to step up that effort as he gets term limited out. I've been very alarmed by this conversation about this change in the liability standard and particularly, as Senator Harr pointed out, when this is a monopoly kind of situation. So if this is 911 technology, we want to encourage innovation, yes, but it is a situation that it's also critical in terms of life-saving ability. And if we have no other options, then it's really additionally critical that reasonable care is taken. And reasonable care does not seem to be an unrealistic expectation. Now as we've also heard in this debate, the reasonable care standard has already been in place for 911 current technology; and, colleagues, I do not believe we've heard of a rash of frivolous lawsuits under current 911 technology with that reasonable care standard. And I don't think that we should use that fear of that threat of frivolous lawsuits to lower the standard as we move into new technology. This new technology should also be done in a way that shows reasonable care. And so I'm very concerned. I will, unless I hear something that convinces me otherwise, I intend to vote red on the two amendments and vote green on LB993 so that on Select File we can come back and make any other changes that we may need to make to LB933 to move forward on this important effort, but not support the change of the standard, moving the standard of liability. I'm very concerned about that. It's also the case, as one of the handouts we got from Senator Briese, talks about the importance of having a standard of liability that is the same across 911 service providers. And, colleagues, we've already talked about the current ones. We're going to keep them at reasonable care. And we've talked about other in AM2325, carving out some other components that will have the reasonable care standard. So to keep it consistent across the board, we should keep that reasonable care standard for all of the components of our 911 system. So, colleagues, I urge you to vote red on AM2325 and AM1908. And I rarely, rarely ever vote no on a committee amendment; but in this case, I think this is an important issue that we need to consider further. And we need to make whatever change, other changes we need to make in LB993 on Select File, but not adopt this change that would change this level of liability. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Harr. [LB993]

SENATOR HARR: Thank you, Mr. President. I yield my time to Senator Hilgers. [LB993]

PRESIDENT FOLEY: Senator Hilgers, five minutes. [LB993]

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SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Harr. I really greatly appreciate the conversation this morning. I think it was very worthwhile. What I'm about to do is, in a moment, I'm going to withdraw AM2325. And Senator Friesen has an amendment drafted to AM1908. That amendment will return the standard as currently in the committee amendment on the next-generation 911 to the current negligent...the standard that we currently have. So when I withdraw it, there will be another amendment that Senator Friesen will open on and hopefully that will resolve this issue and we can move forward. So with that, I would withdraw AM2325. [LB993]

PRESIDENT FOLEY: Without objection, the amendment is withdrawn. (Visitors introduced.) Mr. Clerk. [LB993]

CLERK: Mr. President, Senator Friesen would move to amend the committee amendments with AM2323. (Legislative Journal page 906.) [LB993]

PRESIDENT FOLEY: Senator Friesen, you're recognized to open on AM2323. [LB993]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I did think we had a good discussion here. When the committee talked about this bill, this was an item that we knew would come up for discussion. The rest of the bill I think is all pretty good and self-explanatory. This was a major sticking point that we thought might come up and it did. But I think for those that were listening, I think it was a very good and intelligent discussion. It's one that we don't always have on the floor. But I think there was a lot of very knowledgeable individuals arguing this case. And so in the end, I do believe the previous amendment was satisfactory to me. It was not satisfactory to everyone. So what my amendment does is strike that language and now puts everything back to where the current standards are on our 911 system. Thank you, Mr. Lieutenant Governor. [LB993]

PRESIDENT FOLEY: Thank you, Senator Friesen. Debate is now open on AM2323. Senator Schumacher. [LB993]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. And thank you, Senator Friesen, for coming to a very common-sense solution on this and so we can have a good E-911 system in the framework that we usually have. Just a second here, it is so important for you guys in the future to be in your chairs and read the stuff before you; because a lot of the stuff is written by interests who are here in the lobby to do one thing, and that's make more money. And your obligation is to make sure that's not at the public expense. So it is so important to read that. This happened to jump out because it was on page 1 of the amendment. And it's so important if you have legal counsel in our office or can access committee counsel to ask the

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questions if you don't understand the nuance between negligence and gross negligence or carelessness or strict liability, all that kind of stuff, because no one expects everyone to be a lawyer. But there are lawyers available. We came to a good conclusion on this one because it was read and there were enough folks in the room to begin to understand the issue. So you're dealing with multimillions of dollars. You're dealing with people's lives. I don't need to tell you that. But you don't even know if you're making a screwup if you haven't read it and you're not here and you're down in your offices trying to do whatever you think you can do in an office. This is the most important room of your life and for the life of the people of the state during your time to have precious access to these microphones and those buttons and the seat to listen to the debate. Be here, not half empty. If you're here, you will learn a lot about the state, about the intricate stuff that happens, about the people pulling the strings in the Rotunda and those who are paying them to let them pull their strings. So I think we had a good conclusion here, but there is lessons. And for the next two years, those of you gifted enough and lucky enough to be here, listen to Senator Chambers. Sometimes he goes off into never-never land, but almost always there is a message that will teach you how to be a better senator. And if he sounds the alarm, like those prairie dogs coming up and looking around and sounding an alarm, don't write him off. There might be a fox that's going to get you otherwise. Thank you. [LB993]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Crawford. [LB993]

SENATOR CRAWFORD: Thank you, colleagues. Thank you again, Senator Schumacher, for raising this conversation, and Senator Chambers and Senator Harr and others who...and Senator Hilgers, all who have been engaged in this conversation. This is really critical work to make sure these laws are sound and have the effect that we expect them to have. And so I appreciate all the conversation. And I've just read Senator Friesen's amendment and so now I intend to vote green on AM2323 and I will be voting green on AM1908 and LB993. And I, again, I appreciate the conversation. I appreciate that we were able to make sure that we were holding all of these providers to this reasonable care standard. And I appreciate the conversation and debate that led to this, and I encourage you also to vote green on AM2323 and AM1908 and LB993. Thank you, colleagues. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Bolz. [LB993]

SENATOR BOLZ: Thank you, Mr. President. I've been listening to the debate and trying to keep up with all of the pieces of this legislation. Would Senator Friesen yield to a question? [LB993]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB993]

SENATOR FRIESEN: Yes. [LB993]

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SENATOR BOLZ: Senator, I, reviewing your language and matching it up with the bill, and I just want to make sure that I'm clear. The amendment achieves the goal of maintaining the existing standards that are in existing law. Is that correct? [LB993]

SENATOR FRIESEN: Yes. Well, this would match what the old 911 system has. This is a new next-generation system so it...the language does match exactly what we had under the old system. The two will still be active. [LB993]

SENATOR BOLZ: Okay. Could you, just to help me understand that in a little bit more depth, could you just describe what's matching up with what? Can you just say a little bit more about that, please? [LB993]

SENATOR FRIESEN: Well, before, the language that Senator Hilgers had in there changed the standard of negligence from gross liability or gross negligence. It allowed that to those companies supplying equipment and things like that at the lower level, the cables, the connections, the equipment, and the others were held to a higher standard were the PSAP operators, the PSAPs themselves, the EMS personnel. Those were on the same standard as the old system. And so the only change there was requiring or letting the equipment suppliers, so to speak, if I want to use a general term, a different standard. Now everyone is held to the same standard. [LB993]

SENATOR BOLZ: The same higher standard. [LB993]

SENATOR FRIESEN: Yes. [LB993]

SENATOR BOLZ: Thank you. Thank you, Mr. President. [LB993]

PRESIDENT FOLEY: Thank you, Senator Bolz and Senator Friesen. Senator Friesen, you're recognized to close on AM2323. He waives closing. The question before the body is the adoption of AM2323. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB993]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Friesen's amendment. [LB993]

PRESIDENT FOLEY: AM2323 is adopted. Further discussion on LB993 and the pending committee amendment? Seeing none, Senator Friesen, you're recognized to close on the committee amendment. [LB993]

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SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Again, I look at what was accomplished today and we did work out a solution. When you look back, though, at the number of 911 calls where there's been a lawsuit, there have been less than a handful. Two of them currently exist in Omaha. And most of it had to do with being unable to locate the person due to the 911 system that we currently have. They were unable to triangulate that position. So what this next-generation 911 system would do is be...it will give them a better opportunity of locating that person. It is very specific in the location. They don't have to triangulate between towers and make a guess in a 15-mile radius of where you might be. So this system and what this does now, this amendment now merges some funds to allow them to put the system together and get it running. So again, I don't think the standards that we were trying to apply would have changed a whole lot. At times, I do think we always need to look at cost versus benefit. And I think sometimes we've put too much into it and we create jobs for lawyers, but that's only my opinion. Thank you, Mr. Lieutenant Governor. [LB993]

PRESIDENT FOLEY: Thank you, Senator Friesen. Members, you've heard the closing on the committee amendment. Those in favor of voting for it vote aye; those opposed vote nay. Have you all voted? Record, please. [LB993]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB993]

PRESIDENT FOLEY: The committee amendment is adopted. Is there any further discussion on LB993? Seeing none, Senator Friesen, you're recognized to close on the advance of the bill. He waives closing. The question before the body is the advance of LB993 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB993]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB993]

PRESIDENT FOLEY: LB993 advances. We'll proceed to the next bill. Mr. Clerk. [LB993]

CLERK: Mr. President, LB998 is a bill by Senator Walz. (Read title.) Introduced on January 11 of this year, at that time referred to the Education Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM2044, Legislative Journal page 732.) [LB998]

PRESIDENT FOLEY: Senator Walz, you're recognized to open on LB998. [LB998]

SENATOR WALZ: Thank you, Mr. President. Finally. I first want to just say good morning to my daughter, Emma. She's at home from school today, and I told her she had to do something



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worth learning about and she had to watch today. So good morning, Emma. Before I continue, I want to thank Senator Bolz for prioritizing this legislation. This conversation is long overdue and imperative to the health and safety of this state. LB998 develops the Collaborative School Behavioral and Mental Health Program, a program which would provide a social worker to each of the 17 educational service units in the state. A director would oversee each social worker and would be housed under the ESU Coordinating Council. The program will not only provide services but track resources available within communities across the state. This gives the Legislature further information on what tools are available and where we need to provide additional support in the future. I'm bringing this bill to the floor today for many reasons. The first is a growing concern of mental and behavioral health of students in classrooms across the state and the nation. I have in front of me a handout with the 2017 Nebraska School District Mental Health Survey results. This handout includes 126 responses from superintendents, principals, school counselors, special education coordinators, and many other education professionals. This evidence shows how necessary it is to address this issue within our state. Through this survey, five areas were overwhelmingly identified as areas of concern among school districts within the state of Nebraska. These five areas include: people to provide services, training, awareness of resources, programming, and family supports, all areas that a social worker is able to provide through their training. I have received approximately 100 letters of support for this issue. I would like to highlight one that emphasizes the need to address mental and behavioral health services within the state. This letter was written by a special education teacher from Omaha. She says, "I am writing to express my support for LB998. I am sure that you are getting bombarded by emails, and I'm hoping that you read this letter in its entirety. I have been a special education teacher for eight years, seventh grade for one year, and eighth grade for seven years. Unfortunately, I have too many stories to tell regarding how mental health has impacted my students. First off, I should start by telling you that I am very passionate about my students. I work in a very diverse middle school with over 75 percent of the students receiving free or reduced lunch, 20 percent of the students receiving some form of special education services, and 15 percent of the students receiving ESL support. I love my job, but there are days that it is so physically and emotionally draining when I see what my students are up against. During one of my first years of teaching, I had my first experience with how lacking mental health services are in Omaha. I had a young lady on my caseload who was in and out of group homes and mental health facilities on a very regular basis. There was absolutely no communication between the treatment facilities, and she would return to school without us knowing about any of her transitional needs. There was no transition plan or communication at all. She would end up back at the facility within a week. The process would then repeat itself. Another young lady would frequently miss school due to the extent of her mental health issues. When she was in attendance, we had to be vigilant about putting up anything that she could use to self-harm herself. If she spotted a loose staple on the floor, she would use it to harm herself. Another student that I had could not use the restroom or locker room when peers were in there because of his tendency to become sexually aroused and act upon his arousal. He also killed his

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pet hamster. Each year I have several students on my caseload who would benefit from consistent and effective mental health support. It's just not available. This year, a student has been to school only two days. Yes, she attended only two days since the beginning of the school year in August. Over the years, all of the students that I have seen handcuffed by our officer have been mentally ill in some capacity. We do not have enough resources and support at the district and state level. Something needs to be done to meet our students' mental health needs, and I think LB998 is a great place to start. Thank you for your time and consideration." This is a prime example of many challenges we are facing right here in Nebraska and how serious this issue is. The lack of communication between the school and treatment facilities emphasizes exactly why this program is needed, and it needs to be housed within the ESUs. ESUs, as opposed to the Department of Health and Human Services, create a pathway of communication between the school districts and services within the community. It was also developed because we want this to be about prevention, something that will save the state money in the long-run. HHS is already understaffed and faces more potential budget cuts. They also focus primarily on crisis situations. And with prevention being the primary goal of this bill, ESUs provide more avenues to allow this to take place. There are 17 ESUs compared to only six behavioral health regions. With less territory to cover, it will allow for each social worker to be more connected with the school districts in their region. In addition, ESUs already work closely with school districts, making it an easy transition to add a social worker. When I was a teacher, I understood the role the ESU plays in helping schools and providing resources that each school cannot do on their own. And I think that you don't understand that unless you are a teacher or working in the education system. Over the summer, we worked on an idea that would more effectively provide assistance and support to students and families. We felt this was the best plan to get resources to these individuals. I want to thank the ESUs for their cooperation and being a leader in this issue. Social workers contain the knowledge and training to address the five areas identified by the educational professionals before. We chose social workers because social workers know their community resources better than anyone else. I passed out a handout with a graphic that provides how the social workers will serve as liaison between school districts and the community. The school districts will send requests to the ESU's social worker. The social worker advocates for appropriate services for students and their families and coordinates those referrals. They will also work with school personnel to provide prevention and intervention services. Once they have reviewed the request, they will then refer the student or family to community, behavioral, and mental healthcare providers, nonprofit organizations, and other community resources. When I was a teacher, there were numerous students that needed further assistance and services that I just could not personally provide. As a teacher, I wanted to do more in the area of prevention. I wanted to be able to spend more time talking with my students about the Internet, social media, bullying, drug and alcohol abuse. I wanted to get more engaged in family education because I knew all of these things could improve the lives of our children in the future; but I didn't have the training, I didn't have the resources, and I certainly didn't have the time to attend to all these students in the full capacity that they need. As I speak with other education professionals, mental

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and behavioral health is an issue that is continually mentioned. The rising number of cases is becoming more prominent, and a solution is needed for this issue. [LB998]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB998]

SENATOR WALZ: And LB998 is the first step to ensuring our students have the mental and behavioral health services they need. Another part of this bill I'd like to highlight is funding. There's a current amendment to the bill, AM2044, that I am in support of, which changes the structure of funding for this program. The second part of AM2044 moves the role of hiring the social worker from the Educational Service Unit Coordinating Council to each individual ESU. And this allows the ESUs to determine the social worker who best fits their needs in their community. I also understand that Senator Linehan has an amendment to the committee amendment. I want to thank the committee and Senator Linehan for working on this bill and making it stronger. Thank you, Mr. President. [LB998]

SPEAKER SCHEER: Thank you, Senator Walz. As the Clerk stated, there is a committee amendment. Senator Groene, as Chair of the committee, you're welcome to open on that. [LB998]

SENATOR GROENE: Thank you, Mr. President. Mr. President, members of the Legislature, AM2044 was presented to and adopted by the Education Committee at the request of Senator Walz. AM2044 was adopted by a 6-2 vote of the committee and would make the following changes. On page 3, line 6, strike "born equally between" and insert "paid by any combination of." Excuse me. This change would provide fiscal flexibility under the plan. On page 3, line 7, strike "the General Fund," which change allows for the program to be accounted for under the budget of the entities participating and by donations in future years. It takes the state's financial responsibility completely out of it. On page 3, line 17, strike beginning with the word "and" through the word "unit" in line 18. This change removes the requirement that the Education Service Unit Coordinating Council, ESUCC, hire a social worker from Section 4 of this bill. That is now placed in Section 5. And on page 4, line 5, strike beginning with "a" through the word "Council" in line 6 and insert the new language, "the Educational Service Unit Coordinating Council", ESUCC, "or an educational service unit", ESU, "may employ a social worker. Such social worker". This change would provide the permissive ability to hire a social worker in Section 5 of the act and clarifies that either an ESUCC or an ESU may hire a social worker. Those are the changes that would be made to AM2044 to LB998. And I would ask for the adoption of AM2044 and the advancement of LB998. Thank you. [LB998]

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SPEAKER SCHEER: Thank you, Senator Groene. As the Clerk stated, there's an amendment to the committee amendment. Senator Linehan, you're welcome to open on that. (AM2333, Legislative Journal page 907.) [LB998]

SENATOR LINEHAN: Thank you, Mr. President. Good morning, colleagues. I want to first say that I have watched Senator Walz work this legislation, and she has been very diligent. And it is no doubt that her heart is in the right place. She has been an educator, she's seen this firsthand, and it is a situation that is a problem across the state with kids. We've got 350,000 kids in Nebraska in both public and private schools, K-12. And if you just look at the statistics, at least 10 percent of those kids are in need of some kind of behavioral or mental health intervention. So that leaves us with around 35,000 kids, which is very close to the number on one of the handouts this morning that says there are 39,080 kids who are in need of treatment. My concern with the bill without this amendment is I don't see how 17 social workers, as good as they may be, and I'm sure they're all wonderful, how 17 can help 35,000 kids. The numbers just don't make sense to me. And I've shared this with Senator Walz. One of the other concerns I have is a social worker in an ESU, when she walks into a building, whether it be an elementary school or a high school or a middle school, who is she supposed to talk to? It's not clear to me that the bill, the legislation, makes it clear that the schools are, you know, 50/50 partners here or 75/25, whatever. There's no I think having a chance of this working, which I'm concerned about. You're going to have to have each district designate a person in each building that is the go-to point person for this program. And that can be a principal, it can be an assistant principal, it could be a nurse, it could be the psychologist, it could be whoever that district decides in that building. But if this is, and I agree that this is a problem across our state and it's something the schools are needing to deal with or have to deal with to be successful, then it also seems just common sense to me that every building needs a point person when this social worker walks through the door. So I'm glad to take any questions, but that I would ask for your green vote on AM2333. Thank you. [LB998]

SPEAKER SCHEER: Thank you, Senator Linehan. Those waiting in the queue: Senator Bolz, Crawford, Blood, Harr, and others. Senator Bolz, you're recognized. [LB998]

SENATOR BOLZ: Thank you, Mr. President. And thank you, Senator Walz, for this important legislation and to everyone else who has contributed thoughts and ideas to make it better and stronger. I also appreciate everyone who has had a discussion with myself and with Senator Walz about this bill, raising important, thoughtful questions. I think everyone has the best interest of Nebraska kids in mind. And so I wanted to use my time on the mike to address some of the questions that have come to my attention and provide some information and answers in case there are others on the floor who have similar questions that have been brought to me. The first question is, will this initiative make a difference? And one of the things that I think is important to share is that the legislation is built on a successful model that is working in the Omaha area. It's a partnership with Project Harmony and Omaha Public Schools called the Omaha

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Connections program. And the Connections program has been evaluated by Chapin Hall at the University of Chicago. And because it is an innovation project, the evaluation both makes assessments of how effective the legislation...or the program is and some recommendations moving forward, which I think strengthens Senator Walz's bill, because not only do we have a proof of concept with the Connections program, we also have a road map for moving forward for other initiatives based on the recommendations that Chapin Hall has made. So the evaluation results from the program is suggestive that the model can be a sustainable approach for improving behavioral health of vulnerable children and youth identified by schools. The project has had positive outcomes related to parent engagement, engagement in therapy, and progress for children. And the report makes some helpful recommendations moving forward regarding best practices for caseloads, best practices for engagement of minority families, and recommendations regarding documentation practices. So I think the work that has already been done in the Omaha community is really helpful to us as we're thinking about how to build up this concept across the state. I also wanted to kind of address the question of what will the impact be or how do we make sure that this one person who is at the ESU makes a difference for the needs that are identified in various reports in various school buildings. And I think that there are a number of smart, strategic interventions that can and will be used in this initiative, modeled off the Connections program, but also developed according to the language of the bill, which requires plans and strategies to be developed so that we can focus on the priority issues and needs in populations in ESU districts and schools. So it is overwhelming to think about serving large numbers of kids with one person; but if you strategize and prioritize as the bill recommends, we can make a start in making a difference here. I do think it's similar to the way that local public health programs think through the menu of options that are available and the number of issues that public health has to address and make strategic choices about the interventions that they think apply the most to their communities. But some of the impactful things that the Connections program is doing and can be done under LB998 include identifying and training up best practices; capacity building for the community collaborators, so making sure that therapists are available, that other nonprofit agencies are trained and identified as partners and have the capacity that they need to serve kids. I also wanted to answer a question that I had received about referrals. And one of the questions was, well, how would this work? Because of course we need to protect the privacy of kids and families. The Connections program has formal agreements with specific referral sources. [LB998]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB998]

SENATOR BOLZ: These include school districts and agreements with community mental health providers. I would argue that this is the best practice because it retains that local control. It retains everybody's ability to have agreements that they are comfortable with. And I'm sure that

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the Connections program would be happy to share some of their materials and models. The last question that I wanted to address on the mike was a question about funding into the future, and I think that's a reasonable question to think about and ask. This is a great example of a public/private partnership that I think can prove that proof of concept, create innovation, and establish future success. But I wanted to mention a couple of other examples of ways in which we leverage public/private partnerships. So a great example is the Sixpence program, which partners with local communities who want to build up early education programs. And that is philanthropic dollars that created an endowment and then moved up the local programs. [LB998]

PRESIDENT FOLEY: Time, Senator. [LB998]

SENATOR BOLZ: Other examples are Game and Parks. So thank you for your time and attention, and thank you for your support of LB998. [LB998]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Crawford. [LB998]

SENATOR CRAWFORD: Thank you, Lieutenant Governor. And good morning, colleagues. I rise in support of LB998 and in support of the Education Committee amendments and support of Senator Linehan's amendment. And I thank Senator Linehan and the Education Committee for their work on this bill and to bring it out. And I appreciate Senator Linehan's attention to making sure there's a point person at each school. And I also appreciate Senator Bolz laying out how one person can have an impact in many schools, in part because a lot of it is prioritizing and screening...excuse me, prioritizing and identifying areas of emphasis and providing training and providing plans. And those can make a big difference in the work today work of people on the ground. Colleagues, when I first started going door to door before my 2012 election, I was struck by how many times the conversation turned to the help that teachers need. I talked to too many teachers who were retiring early because they couldn't handle things that were currently happening in their classroom, and they knew that those kids needed more help, and they knew that they could not provide that help, and they didn't know where to turn. I can't tell you how many families I talked to door to door who talked about the fact that they didn't know where to turn. And the same thing happened again as I went door to door in 2016. The same thing has happened over and over and over again when I meet with county officials, when I meet with school officials, when I meet with parents, when I talk to someone at the grocery store. Over and over and over again I hear teachers need help; parents don't know where to turn; kids are falling through the cracks; and how too many heartbreaking stories of what's happened to some of these children who have fallen through the cracks. And, colleagues, this bill gives us a way to try to prevent those kids from falling through the cracks. Yes, we can't reach every single child at risk, but we can reach many of them. We can reach more of them, and that's what we can do with

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LB998. We have private funding that we're going to be using for the first three years. So we are reaching out and helping these kids for at least three years. And this is a wonderful gift we have in our state. And why would you not step up and accept a gift that will help keep the children in your districts from falling through these cracks? I mean, it's particularly critical, especially in more rural districts where there are fewer support networks in place. We have an opportunity to provide additional support networks across the state to help teachers get help, and help families know where to turn. And we can do that for the first three years with private dollars. Why wouldn't you vote green? Now the only argument that I've heard back is, well, once it gets started, then nothing that ever gets started ever ends. So I did call our ESU, someone who works with our ESUs across the state, and I asked him, have there been ESU programs that were started and then ended? And in fact, absolutely there have been. Here are a few: Statewide math grant, the SAFARI Montage, the nursing services program, driver's education training program, special education classroom aides, and migrant programs. So, colleagues, our ESUs have been responsive in the past when a need was not being met or when the funding was not available. There are programs that have had to be cut, and they have cut those programs. [LB998]

PRESIDENT FOLEY: One minute. [LB998]

SENATOR CRAWFORD: And our ESUs are like our NRDs: They are regional entities with elected boards that we can hold accountable. And just like we were pushing to provide more local control for NRDs, I urge you to support LB998. It gives a privately funded resource to our ESUs across the state; and then after that money is over, it will be up to those ESUs across the state to decide whether or not they can continue to get private funding or whether or not they're going to step up and find some other source of funding. But please don't keep these children from getting this free opportunity to get this resource to help our teachers and help parents know where to turn all across the state of Nebraska. Please vote green on LB998. Thank you, Mr. President. [LB998]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Blood. [LB998]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand today in support of LB998 and both amendments. I love this bill. And I'm going to approach it from a little bit different angle than what everybody else has spoken on. One of the things that I find very frustrating as a policymaker is that we don't always tend to be forward-thinking. We tend to start making policies when the crisis becomes too big to handle. And what I like about this preventative care, and that's what this is, bill is that it's creating a system that promotes and supports mental health. It's addressing the risk factors and providing early intervention, and those are positive things. Because what happens when we don't intervene with mental health in a timely manner affects all of society. Children that have mental health issues also have to deal

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with issues like suicide. The fact is that 13 lives, young people's lives, are lost every day to suicide. Incarceration, we're trying to figure out how to keep our prisons from being overcrowded? This is how you do it. Do you know 65 to 70 percent of those that are in detention centers right now have been diagnosed with mental illness? Homelessness, do you know that these children with mental illness on average are homeless for at least one week per year? High school dropouts, job loss, these are things that we can control at this level through good legislation. This is forward-thinking. Why are we always trying to solve these problems when they're too big to handle and we don't have the money to address them? Here is a free solution. Now I don't usually read letters on the mike, but I think it's really important to hear again from another teacher who deals with this every day. This teacher says she's been in the classroom for 28 years and 2 years ago she had a student that greatly concerned her. The child came to her room after spending the previous year in private behavior rehabilitation. She's had students from this facility before, and they generally come with a behavior plan to help them be successful. But in this case, the student had no plan. Repeated requests for information were not replied to. And the student exhibited extreme behaviors that had the teacher questioning his mental health on a daily basis. He would sit and pound his head on the wall or the floor. He would pick up items off the floor, such as gravel, and consume them. He put his head inside his desk and would repeatedly shut the lid on his head. He liked to crawl under tables and hide. He broke the eraser off his pencil and would cut his arm with the metal holder for the eraser. He attempted to tip his desk over on top of himself. He would stand on his desk and jump off of it. These are just a few of the behaviors that he exhibited in her room. She repeatedly asked for help. Her first concern was his safety as he was never aggressive toward other students. Her administrator, unfortunately, dismissed her concerns as trivial. The resource teacher for her school repeatedly attempted to get her supervisor to come and observe him. When the supervisor did come out at the end of the school year, she spent a total of 10 minutes observing him and dismissed all of the documentation that was accumulated. Last year, he continued the same behaviors and added a few new ones. He would shut himself in lockers and closets. He would climb on top of bookcases. He would refuse to come back into the building after recess. The special education supervisor came again to observe him, and again she dismissed the documentation accumulated by the classroom teacher. [LB998]

PRESIDENT FOLEY: One minute. [LB998]

SENATOR BLOOD: He was finally placed in special education class in the second quarter of the school year. We need to protect these children. We need to protect them now. This is a good bill, this is forward-thinking. Let's fix these issues now before they become a bigger problem later and we don't know how to pay for them. Thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Schumacher. [LB998]



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SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. This may be one of the last opportunities I have to talk about mental health. And I would encourage maybe somebody in the freshman class to get involved. If you do get involved in trying to redo the mental health system, it will take you your entire time here, because it's pretty messed up. Brief kind of rough history, we had regional centers, or what were called, across the state...think in terms if you ever saw the movie "One Flew Over the Cuckoo's Nest." That's what we had. And to supplement them, counties began to form kind of clubs of counties to do mental health-ish kind of things. And for lack of a better name, they called them regions, because they covered a region of the state, I guess. And then the state decided to become enlightened. And in the enlightenment process, we decided to close down most of those regional centers with the idea of focusing on community health centers. Save money closing down the regional centers, cost money to open community health activities so you know which one we did: half of the job. In trying to manage that situation, the state passed a law that kind of set up Department of Health and Human Services, a behavioral health division within it, to be the grand czar of mental health in the state. And there was some conflict back and forth because the regions kind of had their own little fiefdoms out there, and now you had the grand czar over the fiefdoms. And the grand czar didn't have any money, and there was a mechanism where they funded the fiefdoms, so you know how that story ends up. You have these fiefdoms out there, some of which do a very good job, some which do a not-so-hot job, some of which don't have even standards for who can be a director of a fiefdom. And underfunded in a big bureaucracy was the grand czar of mental health in the state. Complicating the whole mess is that the people who do the work, who hold the contracts, who are the mental health professionals in the state, have got to go to this system to get their contracts. So they're really cautious in how they...what information they pass out. And they really hide in the closet a lot and try to get somebody else to do something magical, because they don't want to have a conflict with the people who grant them their contracts, even though they are very unhappy with the system. So that's the mess we have. My time here, I wasn't successful at unraveling it, part of which because we don't fund mental health because those folks don't have a good lobbyist. In fact, they maybe don't even have a good lunch. So that's something for if you're really into this--and it will probably take more than one of you, because they will just run you back and forth between the pillars if there's just one--to get a handle on over a four-, five-, six-year period, and try to come up with a better mental health system. In the absence of that, we have legislation like this one, trying to deal with a very real problem in kind of a happenstance way. We're going to go out and we're going to get some free money for three years and then who knows what's going to happen, whether or not they'll fund it or not fund it, whether it's coordinated with anything else or not. Who knows? Probably a good idea, but in the context of a mental health system in the state... [LB998]

PRESIDENT FOLEY: One minute. [LB998]

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SENATOR SCHUMACHER: Did you say time, Mr. President? One minute. In the context of a mental health system in the state, not the optimal way to do it. I'm going to support this measure, but certainly encourage a more comprehensive approach toward our mental health problems. When people tell you that we need a lot more money and a lot more focus on this, they're not pulling your leg. When people tell you that the way our institution is organized now is not very good and very efficient, they're not pulling your leg. And try to work this through in your time here, because it is indeed one of the larger messes in the state. Thank you. [LB998]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Kolowski. [LB998]

SENATOR KOLOWSKI: Thank you, Mr. Lieutenant Governor. I stand in full support of Senator Walz and this particular bill, LB998. And I want to give you some background from a school perspective, where I spent my career and my life as far as another option that we should think about that isn't always discussed or put into place. And it does work, because I've done it. From 1970 to 2008, I had 38 years in the Millard Public Schools. In 1970, when I started in that district, we had 14 or 15 different locations in the city of Omaha for mental health services that we could touch base with and bring into our schools and neighborhoods and classrooms to make a difference with the kids that we were dealing with. Today, you can hardly find any support system in the city of Omaha that does very much in that particular way. We do work with the issues, we do work with some local entities, but it's nothing compared to where we used to be and the services that were rendered at one time. I want to talk about advisor-advisee programs. It's within the context of an advisor-advisee relationship within schools, whatever the size of your school, and in the Millard Public Schools we're dealing with three of the largest high schools in the state, each between 2,000 and 2,500 students. Those three schools, and I was principal of one of them, we had a daily homeroom or quality time, as we called it, breaking down the bigness, breaking down the bigness of the school into a smaller category of 20 to 25 students that every teacher in that school had a quality time on a daily basis. And for all four years you were with that teacher and that group of people, mixed grade levels, going through what they were doing in the school on a yearly basis. We had a set curriculum that we trained the teachers in and we had some training that was available for others beyond that if they wanted to go further, as I did, as a T.E.T., a nationally trained teacher effectiveness training teacher, in the Millard schools. I taught that staff development program for many years in the district, impacting the teachers and students of that district. We have an opportunity to look at how advisor-advisee programs, advisement programs, can also make a difference and be part of the solution to what we're dealing with by working with teachers and the staff development programs in each of the high schools and the educational service units that serve those districts. You have to understand how complex and big 2,500 students in a high school is. Having that culture and climate at the right level of productivity and acceptance is one of the main jobs of a principal of a high school of that size. And I did that for over 15 years in the Millard schools. From 1993 until 2008, when

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I retired from the district, we had a very active advisor-advisee program, as they still have today. [LB998]

PRESIDENT FOLEY: One minute. [LB998]

SENATOR KOLOWSKI: It makes a difference. It anchors students into the culture and climate of that particular building, and can be of great assistance as we're looking at mental health services being delivered through our counselors, through ESUs, or through neighborhood entities that work within the Millard and the Omaha area. I also consult with the NOVA program in Omaha. I'm the administrator of record. This is a 24-hour-a-day, 7-days-a-week treatment program for drug and alcohol students--20 to 25 students that are totally under the guidance and auspices of the NOVA program. Those are the ones who didn't make it, they fell out of high school. They had their problems and we deal with them in a different and expensive way when things get out of hand and not making it. [LB998]

PRESIDENT FOLEY: Time, Senator. [LB998]

SENATOR KOLOWSKI: Thank you very much for your assistance. [LB998]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Items for the record, please. [LB998]

CLERK: Mr. President, Enrollment and Review reports LB861 and LB42 to Select File. I have amendments to be printed: Senator Crawford, LB1078; Howard, LB714; Krist, LB944, LB945. An announcement: The Judiciary Committee will have an Executive Session upon adjournment in Room 2022. Judiciary upon adjournment. (Legislative Journal pages 907-913.) [LB861 LB42 LB1078 LB714 LB944 LB945]

PRESIDENT FOLEY: (Visitors introduced.) Mr. Clerk.

CLERK: Mr. President, Senator Clements would move to adjourn the body until Monday morning, March 12, at 10:00 a.m.

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