

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate January 13, 2020

**FOLEY:** I call to order the fourth day of the One Hundred Sixth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

**FOLEY:** Thank you, Mr. Clerk. Are there any corrections for the Journal?

**CLERK:** I have no corrections.

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

**CLERK:** Mr. President, a report from the Executive Board regarding the appointment of the state Ombudsman; that will be laid over at this time. Reference report referring LB852 through LB903. New resolutions: Senator Albrecht and others offers LR293 that congratulates Allen Beermann on his accomplishments over his career; that will be laid over. I also have, Mr. President, pursuant to statute, the lobby report, as required by state law. That's all that I have at this time, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Senator McCollister would like to announce that Dr. Christine Jeffrey of Omaha, Nebraska, is serving today as family physician of the day. Dr. Jeffrey, thank you for being with us under the north balcony. Please rise so we can welcome you to the Legislature. We'll proceed now to the first bill, LB147. Mr. Clerk.

**CLERK:** Mr. President, LB147 is on General File. Pursuant to Rule 3-- or excuse me, Rule 6, Section 3(f), Senator Wayne would move that LB147 be indefinitely postponed.

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

**WAYNE:** Good morning, colleagues. Welcome to the session. It's unfortunate that we are starting off with a IPP motion, but I think it's important we have this debate and, more importantly, colleagues, I think, when we talk about student discipline in general, I hope-- I hope this body truly listens to the debate, truly opens up their minds of what we're talking about today instead of just voting. And I think, by the end of my conversation regarding this IPP motion, most of all we'll come away with the flaws that are in this bill and why we should

not move this bill at all. In the beginning, when this bill came to the floor, I was told that this would force a conversation around student debate. I was told that we would've come with a comprehensive bill. The fact of the matter is, today, before us, colleagues, is a bill and both amendments that is not comprehensive in nature and, in fact, it's not at all what I thought this bill would look like when this bill came to the floor. And so, colleagues, I really want you to listen to these three things that I'm going to touch upon today. And it may take a little bit of time, but I'm sure we got time as we still are drafting bills. But there's three real basic reasons why this bill fails: one, as I just said, it's not comprehensive, and we'll go through that. But two, for my conservative friends, I want you to understand that this creates liability-- at worst, this is an unfunded mandate which will result in property tax increase at the local level. The third reason-- and this is for my side of the aisle-- this will destroy the relationships between the student and teacher, parent and school, and community and school district. Now some of you might ask, why should you listen to me about this and why should it even matter? Well, I think for the last three years, I've established a work ethic in this body where, even if I'm not on the bill, even if I don't care about the bill, I will walk this floor and figure out how to come to a compromise 'cause I think it's what the body needs-- how to work together. And I've done that with bills that don't even pertain to me, that doesn't pertain to my community, but just are important to me. So I think my work ethic speaks for itself on this floor. But the second reason is, fortunately or unfortunately, I was part of a school district as the president, as a board member who dealt with these particular issues, thick and thin. And then in my private life as a juvenile attorney, I've seen the effect of student discipline has on the prison pipeline and what goes on in our judicial system. So in 2013, we did a first ever needs analysis in Omaha Public Schools, which said that minority students, particularly black and brown, are being suspended at higher rates. What many of you don't know is, in February of 2015, when I was on the school board, the federal government and Nebraska Department of Education actually sanctioned Omaha Public Schools for suspending too many African-American males with special needs, to a tune of \$1.8 million that we had to set aside to deal specifically with how to reduce the disproportionate suspension of African-American males with special needs. From that experience, we crafted data points where every year school board members receive breakdowns of suspension, expulsions, and long-term suspensions by school, by gender, by race, by grade, 'cause we needed

that data to inform our decisions on what we wanted to do and what we tried to do. At one point, myself, Marque Snow, and Matt Scanlan rewrote our entire student code of conduct because we were told that's part of the issue. With that, we changed our entire support structure, through the help of grants, to a tune of about \$3 million just to provide supports to try to move the needle. And what you'll see, when we get to the part where we start talking about data, is we didn't move the needle hardly at all, that it actually requires more support systems and it actually requires more dollars, that at the time when we were getting cut, when the education throughout this body was getting cut, we couldn't afford to implement the supports that were needed to make a change. So in dealing with this issue of student discipline, on the school board we looked at a comprehensive approach. We didn't want to create more liability for the district, we didn't want to raise taxes, and we didn't want to destroy the relationship between the student, teacher, parent, school, community, and district. This bill and both of the amendments fail on all three parts. So I'm going to take a little bit of time. How much time do I have left on my opening?

**FOLEY:** 4:40.

**WAYNE:** Great. So I'm going to take a little bit of time and talk about why this isn't comprehensive. And then we'll go through why this creates more liability and it's a unfunded mandate, which will ultimately result in higher property taxes. And then we'll talk about how it destroys the relationship. So let's talk about this being not comprehensive. Did you know that in the amendment, AM1803, the word "training" is not even mentioned? It's not even on the bill itself, but we want to push AM1803, which basically allows for immunity, a physical intervention without providing any training. Now AM1750 says that school districts will create training, but what does that training look like? And I want you to think about this from a logical perspective, colleagues. We're going to pass a bill that has a operative date of August 1, 2020, but we know training won't be implemented before then. So logically, we are setting ourselves up to allow teachers-- and there's this little sneaky word in there: "other" school personnel. So we're not just talking about some people who might have had de-escalation training. We're not talking about some people who know how to work with students. We're talking about anybody who is a contracted employee with that school district that won't have training, can now provide physical intervention. See, the first section says administrator and teachers. But when you hop down to

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Section 2, it broadens it to other school employees. And what saddens me is, when I look around this body-- and I know we're working on bills and we're working on a lot of things-- one of the most important issues-- and I think Senator Linehan would agree and I think Senator Groene would agree-- when it comes to student achievement, is student discipline. Yet this Chamber is empty. When we talk about prison-to-school pipeline, Senator Lathrop, and reducing our prison population, a student with a suspension in elementary school is three to four times more likely to end up in prison than one without. But yet this body is empty. And maybe it's because everybody decided how they're going to vote and what they're going to do. But that doesn't mean that we can't have a real conversation about one of the most important issues facing not just my community, but all communities, around student discipline. So again, Section 5, Section-- and Section 4 says the operative date is August 1, 2020, but yet there is no training that goes along with this bill. And I wouldn't be so terrified if it was just limited to administrators and teachers. But it says other school personnel. That means paras, that means people working in the cafeteria, that means if you're in OPS-- and we have maintenance people and carpenters-- they can intervene with physical intervention without any training and be immune from criminal prosecution or civil liability. So it doesn't discuss training. It doesn't discuss de-escalation. Now think about this: law enforcement have to have a certi-- not just law enforcement. We require our coaches before they can even apply to be a coach--

**FOLEY:** One minute.

**WAYNE:** --to have training around how to deal with sports and kids playing sports. That is a requirement by our schools, by our Nebraska Department of Education. We don't even have that requirement here. So we're going to spend a lot of time talking about the lack of training. There's no trauma enforced training. There's no de-escalation. There's not even a diversity training. Touching a kid from a different culture might mean something different to somebody else, but we don't have that training here. But yet we're gonna go ahead and say you're immune, starting August 1, without any training before that immunity starts; that makes no absolute logical sense. I'll reserve-- or I won't reserve, but I don't want to start on my next point until I push my button. With that, I would ask you to go ahead and send this bill home with the IPP. Next year we can come back with a comprehensive bill--

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**FOLEY:** It's time, Senator.

**WAYNE:** Thank you.

**FOLEY:** Thank you, Senator Wayne. There's a long list of senators in the speaking queue, but Senator Groene, as the prime sponsor of the bill, you're recognized first.

**GROENE:** Thank you. I appreciate Senator Wayne's concern-- a lot of points that I could talk on. This bill has been vetted over three years. When we went through the process-- it started with LB595 in 2017-- it started a huge discussion. We have had stakeholders in the room from all parts: administrators, school teachers, school boards, special education, and child advocates. And we have come with a process. This is just step one. By the way, folks, everything Senator Wayne said is happening now in our schools. Intervention is taking place. Untrained intervention is taking place. It's happened in our schools from beginning of time. We hear-- read stories where individual teachers, because they were not trained, because they did not know that they would be protected liability if they reacted, reacted wrongly because of built-in frustration in them, and they took the wrong actions. Today Senator Murman will drop a bill on training that was vetted and put together by a panel that we put together of specialists, of school board administrators, of teaching union representatives, ESU representatives, people with MAT training, people with Boys Town training. It is going to be-- everything Senator Wayne discussed will be in there. Intervention will be "formount." When we're done and then we're going to pay for this, the plan is with, with, with very timely sunsets on, on lottery money. It's a three-step process. Funding will be guaranteed for five years-- and adequate funding. We are going to get there. The whole goal of this is less intervention. We need to restore who this adult in the schoolroom is again. We need to let children know that they are safe. We need to let parents know that their children are safe in the schoolroom. Discussions were done on why we did all school personnel. A gun shows up in the hallway; the janitor might be the first one to see that. A fight with a knife starts in the cafeteria; the cook is the first responder. They need to be trained. And believe me, every school year, a cook or a school personnel or hall monitor does face that reality of violence in front of them. They need to be trained. The training will take effect this year. The money will be available this year for the start of the school year. That will all be-- these-- be defined to you in the training bill brought by Mr.-- Senator Murman. This is

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well-thought-out process. I have been in this Legislature five years. I have never seen, besides the Revenue bill on property taxes, more vetted, more stakeholders involved, more senators involved than this legislation-- this legislation. AM1803 will be the bill. It needs to be; it's been very-- it's vetted. The training that was in AM1750 is now gonna be in a separate bill, which it needs to be. That is an issue we need to debate as a body separately than this removal process from the schools and protection of our school teachers and our, and our-- from reasonable, reasonable. There is the Daily case in 1999. Most of it-- the language reflects the State Supreme Court's Daily case. This was written by attorneys, written by people in the know, the first responders, the administrators, the school teachers, the people who work in our schools. They love the children. They want what's best for the children. They want to be trained.

**FOLEY:** One minute.

**GROENE:** They want to be able to protect themselves and children. Right now, it is a free-for-all. Surveys have been taken by the, by the teachers union of teachers. And they are-- they come back and say they don't believe they can intervene in a fight or in violence. Only 30 percent believe they do. They told-- then we're told, well, there is a court case that says they can't. We need to take what the court said and put it into statute. We need to let everybody know who's in charge in the classroom. That teacher who, by the way, is the first responder in most "crises" in the classroom. These three-step process and three statutes that we will be bringing from the Education Committee all follow each other. If you want to, after three hours, we're going to push through quickly a hearing on Senator Murman's bill.

**FOLEY:** That's time.

**GROENE:** Thank you.

**FOLEY:** Thank you, Senator Groene. Senator Clements, you're recognized.

**CLEMENTS:** Thank you, Mr. President. I stand in opposition of the motion and in favor of LB147. In December, I had dinner with teachers in my district, and LB147 was the number one topic of interest, and they urged me to support it. That was most of the hour we were talking about student discipline and the need that they had for some help from the Legislature. And the re-- I see in the bill, reasonable intervention is required. It's not a blank check immunity, like

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Senator Wayne was talking about; it has to be reasonable. And I like the fact that that's in there. There is some restriction on what kind of force can be done. I have had conversations with disabled student parents who are concerned about how they'll be treated. I believe this does protect many disabled students from bullying in the classroom. And also, I believe that there are other protections that these disabled students have federally that will cause this not to be a problem. I yield the rest of my time to Senator Groene.

**FOLEY:** Thank you, Senator Clements. Senator Groene, 3:30.

**GROENE:** Thank you, Senator Clements. To make sure you-- we are an outlier state. Forty-five states have similar inform-- legislation statutes in place; we do not. We rely on a court case from 1999. Only five states, including us, do not define what we expect of public employees in our schools to do to protect our children and themselves when we turn over the custodial duty to them for seven or eight hours a day. We expect-- we drop the child off and we hope-- and we expect that our teacher, that the person who is nearest our children when something happens, are able to protect them without concern of being unduly disciplined by the administration, by the school board or the courts. I was passed a note that said the reality is when it-- when the law looks at what we are saying here about reasonable, it is a defense. It is not an immunity. It tells those individuals that if they act reasonably, that they will not be haunted by lawsuits, haunted by disciplinary actions, that they were able to protect a child in their care and themselves from harm. This is good legislation. We can go off in the weeds and talk about specific instances. And ask yourself, when you hear these instances, would have something been different if those teachers would have been trained? Would something happen differently if that teacher knew that they could have reacted quickly when true violence with a gun or something happened in the hallway? Ask yourself. This has nothing to-- this was brought to me by rural parents, rural districts, my district. In all of the examples I heard from parents and teachers and concerned administrators, not once was sex, race, age ever brought into the conversation, not once. It was children, and children only, being protected and the will of those individuals who worked for us in those public schools to step forward and to protect those children. And they wanted to be protected, also. So you can go off into the weeds. You can go back to the 1970s and '60s when I took-- the switch was taken to me.

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**FOLEY:** One minute.

**GROENE:** This bill also, folks, finally defines what corporal punishment is. It is physical action to create punishment for misbehavior. It suspects-- especially says you cannot intervene for that purpose-- first time in our statutes. This is very good legislation. It needs to be passed. We need to go on to the training. And we need to go on to funding it. We can finally improve the learning environment in our classrooms. That's what this bill does. That's what the follow-up bills will also do to help create the process. Thank you, Senate-- President.

**FOLEY:** Thank you, Senator Groene. Senator Chambers.

**CHAMBERS:** Thank you. Mr. President, members of the Legislature, process is important. I would like to ask Senator Groene a question or two--

**FOLEY:** Senator Groene, would you yield, please?

**CHAMBERS:** --in his capacity as Chair of the Education Committee.

**FOLEY:** Senator Groene, would you yield, please?

**GROENE:** Yes.

**CHAMBERS:** Senator Groene, I don't use the gadget; I use these books. And when I look in this book, I see a green copy of LB147, but I don't see a committee statement. Where's the committee statement?

**GROENE:** The process was followed, through the rules of this body, to pull this body-- majority of the body decided that this was such an important issue that they pulled the bill, LB147, to the floor.

**CHAMBERS:** So there is no committee statement anywhere. Is that true?

**GROENE:** That is true because it was pulled.

**CHAMBERS:** Thank you. Now it was pulled from the committee because a majority of the members of the committee would not advance it. Is that true?

**GROENE:** It was pulled from the committee because it was a 4-4 deadlock along political lines.



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**CHAMBERS:** Here's the question. And if you want to play, then I'll play with you. For the record, the bill was not advanced because a majority of the committee members were not willing to vote to advance it. Is that true or not?

**GROENE:** Four voted to advance; four did not.

**CHAMBERS:** So a majority did not vote to advance it for the record. Is that true?

**GROENE:** Four voted to advance; four voted not to advance.

**CHAMBERS:** Thank you. Members of the Legislature, that's why he shouldn't be Chair of the Education Committee. Now I've been nice. When you are the head of something, you ought to be well versed in it. You should be knowledgeable about it. And your conduct should be an example that people can follow and see what this work you're doing is to be about. If I am the Chairperson of the Education Committee and I don't know a preposition from a noun, I don't know a verb from an adverb, I don't know the meaning of a word "syntax," when I speak, my presentation does not comprise appropriate syntax where the English language is concerned, only a group of fools would vote to put such a person in charge of Education. Now if Senator Groene wants to play today, we're going to play that game the rest of the session. This is a bad bill. There is no committee statement. If the members of the committee could not be persuaded to advance the bill, why should the Legislature step in and do this work which was not done by the committee? I don't see an amendment. Senator Groene has rambled about this, he has rambled about that. Others who will try to support Senator Groene don't understand the bill, so they will stand up to help him and give time. Not once while these issues were being discussed have I heard any discussion, by anybody who supports this kind of legislation, about a problem in the schools which has reached epidemic proportions. And because you people don't like to take my word for anything, I produced what I call an "Erniegram," and I presented four articles written by the Omaha World-Herald-- and I have no editorial say-so as to what goes into the World-Herald. There is detailed--

**FOLEY:** One minute.

**CHAMBERS:** --discussion of the grooming by these teachers of young girls for sexual exploitation. Senator Groene hasn't been concerned

about that. The teachers, when they had their organizational meetings, did not talk about the rampant activity of a sexual nature. I'm having a bill drafted now so that the Department of Education can obtain information from CPS when a complaint is filed or information given about misbehavior by a teacher. Right now, CPS cannot give that information to the Department of Education. And, were I the Chair of the Education Committee, that's one of the first things I would have dealt with. But in view of the fact that this chairperson does not see that as being important, his committee has not seen it as being important, I've called--

**FOLEY:** That's time, Senator.

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

**FOLEY:** Thank you, Senator Chambers. Senator Pansing Brooks.

**PANSING BROOKS:** Thank you, Mr. Lieutenant Governor. Good morning, Nebraskans. Our state's unique motto is "Equality Before the Law." So know that whoever you are, wherever you are on life's journey, and whomever you love, you-- we want you here; you are loved. And now to LB147, I want to speak generally about the history of this bill and how we arrived at this point. As you know, I am on the Education Committee. As you also know, I am committed to helping and protecting children, particularly those children who are most vulnerable. That's part of why-- part of the reason that I wanted to be on the Education Committee. And as many of you also know, I am a huge supporter of teachers. When we first heard this bill in committee, I had serious concerns about it, as did many others. During the discussion in committee last year when the bill was stuck in committee, I pledged to Senator Groene that I would help him try to reach some consensus on the bill. I suggested he work with the various child advocates-- advocacy groups to try to come to some sort of agreement. At my specific request, these child advocacy organizations agreed to meet with Senator Groene, even though they were all unified in opposition. I insisted that they come to the table to work with Senator Groene, the teachers, the administrators to work on a compromise. Although not all of the child advocacy groups were happy, AM1750 was drafted by teachers and child advocates, and addressed many of the concerns that some of the advocates have. But as it happens with these sort of bills, AM1750 was opposed by school administrators. Indeed, they walked out of the joint negotiations within ten minutes after the start of the meeting. I was willing to continue to work with the

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introducer and the committee to nego-- to continue negotiations with all parties, but, instead, the bill was pulled from committee. Thereupon, Senator Groene also filed AM1750-- AM1750-- so that is all part of the legislative record, and he supported that verbally in many instances last year. Now we have before us AM1803, which is an amendment drafted by the teachers and administrators alone, with no input from the groups that advocate for children and the disabled. Additionally, according to the administrators, we have been told we must vote for AM1803 as is, without one word being amended. At this point, I feel I'm being asked to make a choice between protecting the children and teachers versus protecting the terrain of the administrators. It's not fair for any of us to be put in this, in this position. We want to protect everyone. I'm looking at both the original version of the bill, AM1750 and AM1803, and I have passed out a sheet that does quickly summarize some of the differences between AM1703-- or AM1750-- and AM1803. And I cannot support the bill, as originally drafted, or AM1803. I don't want to do anything that's going to add confusion to the law or make children vulnerable, especially disabled youth or children of color. And I certainly don't want to do anything that's going to leave the teachers unprotected. Teachers have been asking for clarity in our law and for appropriate training for many years. Senator Groene says we're going to get to it through another bill. I don't know how that bill is going to go. Why isn't the training that was in AM1750, which came down and everybody voted on, why isn't that where the training stays? We must do this in a way that sets appropriate parameters for the protection of our children. AM1750 is the version-- is that version of this bill that gets us closest to the proper balance. I've heard that Senator Groene is going to-- is going to pull AM1750. I have subsequently added AM2078, which is a complete--

**FOLEY:** One minute.

**PANSING BROOKS:** --re, reconstruction of that same amendment. I have-- it's essentially the same thing. I have passed around a sheet, as I said, prepared by numerous parties regarding AM1803, as compared with the protections that are in place with AM1750. Colleagues, I ask you not to support AM1750, and to instead support AM2078, which is the verbatim language of AM1750, which was the amendment voted on by the Education Committee, 7 to 0, that Senator Groene originally introduced in May of last year. The safety of everyone in our schools, from

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teachers to students to staff and administrators, is too important not to get this bill right. Thank you.

**FOLEY:** Thank you, Senator Pansing Brooks. Senator Cavanaugh.

**CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Before I begin with my remarks, I would like to draw your attention to an article that was distributed to everyone this morning called "The Takedown." While we have a lot of time, I believe, this morning, I encourage you all to read it so that we aren't talking in hypotheticals. This says: Illinois allows schools to physically restrain children. But workers often violate the rules in dangerous ways. So if we want to look at an actual case study, you all have it sitting on your desk, and I encourage you to take a look at it this morning. I rise today to speak truth to power. LB147 is about the power structure and preserves a system that historically suppresses vulnerable populations. Everyone in this room has the power to change the system, but we only-- we will only be successful if we change the system together. LB147 does not change the system. Does this bill and its various amendments seek to support our teachers who are confronted with challenging classroom behavior? Sure. But is this the only way? I don't believe so. If we are hurting children at the expense-- at, at the expense of those in power, even if we are talking about teachers, then we are failing the children of the state. It is our solemn duty to stand up for children, no matter what. This body "oftentime" talks about how we are a pro-life state. I struggle this-- with this claim when I'm confronted with legislation such as LB147. LB147 does not speak to valuing life. It does not say that we care for children above all else. If we want to live up to the values we espouse, then I invite you to join me in sending LB147 back to committee. This bill was pulled to the floor last session with the minimum amount, amount of votes needed, circumventing the work we do in committee to make a bill stronger public policy. Now we're being asked to debate and vote for something that has no agreement and violates the rights of children. Systemic racism, systemic gender discrimination, systemic LGBTQ discrimination, systemic disability discrimination-- LB147 and all of its amendments are about trying to deal with the systemic problems in our educational institutions. But the problem is systemic, is that it does nothing to address any of the systems of discrimination themselves. On the contrary, this bill and its various forms makes their efforts worse-- their effects worse. In 2018, members of this body voted for LB998, by Senator Lynne Walz, by a margin of two to one. This bill would have created a collaborative

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school behavioral and mental health program. It would have been able to provide students that have behavioral or mental health problems both preventative care and treatment, which would minimize classroom disruption and safety. It would also have allowed for the hiring of social workers, specifically qualified to train educators and other staff in ways to provide these services and engage de-escalation. I have introduced this bill as a white-copy amendment here this morning. It is AM2085, and I encourage you all to go on-line and read it. It does what I think we all are trying to do for our children. Now I'd like to talk about Corrections. We've talked a lot about Corrections reform. Inadequate behavioral and mental health services for the kids who need it most is one of the pillars of the school-to-preschool-- the school-to-prison pipeline. And this bill will only strengthen the foundation of that pillar. If LB147 passes, more children-- primarily those who are nonwhite, low income or dealing with mental illness-- will find themselves passing through our criminal justice system instead of receiving the vital healthcare they need. I'm opposed to LB147 and AM1803. While it seeks to put in protections for students, it is not sufficient--

**FOLEY:** One minute.

**CAVANAUGH:** Thank you-- and continues to ignore the root of the problem. There are no resources or requirements for training for teachers and administrators. There is no reporting and tracking requirement for the use of physical intervention. Why are we ignoring the issue of early interventions for individuals with learning, physical, and developmental disabilities? What work are we doing to identify children suffering from adverse childhood experiences better known as ACEs? How does this address the preschool-to-prison pipeline? This lacks proper exemptions for IEPs. Students with disabilities and students of color are disproportionately impacted by physical restraint and exclusionary policies. I want to be able to look every single child, in the state of Nebraska in the eye and be able to say that I've spent every day of my time in the Legislature [SIC] fighting for them. I hope you will consider what I am saying this morning before you cast your vote. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Blood.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I rise today, not necessarily in support or against either the IPP nor the the underlying bill, but in hopes of having multiple questions

answered so I can vote accordingly. And such an important issue-- I truly wish I'd see more senators in their seats today that are actually here for the debate and participate in the debate and hopefully haven't already made their minds up. With that said, I ask that Senator Groene take pen to paper because, if time allows, I'm going to ask that he yield time. But at this time, I'm gonna go ahead first and put my questions on record. So reading the bill, the concerns that I have is, what is the amount of time that a restraint may be used? Is there a marker of reason? How long is too long? How long is not enough? How will this be tracked in our schools? How will we know how many times this is utilized, who it's utilized on, and who will do the tracking, and who will that be reported to? Is the purpose of the bill to make the classrooms safer or to exempt the school personnel? How long does a teacher or staff train on how to implement an IEP? And the reason I ask that question is that we're saying that IEPs are not mentioned in the bill. So how, how are they exempt? Is-- does that say that in current statute, in current policy? Does it already define that? I know there's Section 4, page 2, where schools can create policy. But if schools can create policy, will that be consistent policy across the state of Nebraska? Or will every school have the option of doing whatever the heck they want to do? Another thing that really concerns me is that I don't see the word "prone" used anywhere in the bill. I always think of those poor children that were in the rebirthing ceremonies that were held down. And when you hold a child down in a prone position, they can't breathe and they suffocate, and so again, another issue that I'm not seeing addressed and I'm worried about. And then I'm also not seeing retraining. Now Senator Cavanaugh talked about the prison system. When you work in the prison system, every year you go back to training and you requalify in weapons. Not that I can compare weapon training with restraint training, but the point being is that I'm not seeing a comprehensive view of how this is going to work in the future. Now I hear him saying that this is part of a process and this is step one. And part of a process I do understand. But if you're trying to create policy, shouldn't all the steps be included in the legislation that's brought forward? And so I respect that Senator Murman's bill is going to address some of this, but if it addresses this and this bill is so important to Senator Groene, I'm not clear on why we're pushing this bill through on the first day that we have debate, as opposed to waiting for Senator Murman's bill-- which I'm hoping that it's his priority bill-- so we can combine the two and have a true debate about

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what he's trying to do. And with that, I ask Senator Groene to hurry back to his mike because I'd like him to yield to those questions.

**FOLEY:** Senator Groene, would you yield, please?

**GROENE:** Yeah.

**BLOOD:** Senator Groene, did you hear those questions?

**GROENE:** Yes.

**BLOOD:** Could you please provide an answer?

**GROENE:** In the bill, in AM1803, it says, "Teachers and other school personnel may use reasonable physical intervention to safely manage the behavior of a student-- Protect such student, another student, a teacher"-- reasonable. If you put in law that you can only hold them for a minute and you let them go, they still got the knife in their hand and they want to hit Susie. Reasonable might be--

**FOLEY:** One minute.

**GROENE:** Five cents. Am I done?

**FOLEY:** One minute.

**GROENE:** Reasonable might be five minutes, it might be it might be standing in between two students and waving your hands. We must-- we are a country that relies on the courts to decide what is reasonable. We do not write statutes that say 30 seconds, one hour. We leave that to the administration. To the training the teachers, what we've seen--

**BLOOD:** Thank--

**GROENE:** --the training bill--

**BLOOD:** Thank you, Senator Groene.

**GROENE:** --coming is very, very-- covers all the points I've heard so far about intervention--

**BLOOD:** Senator Groene.

**GROENE:** Thank you.

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**BLOOD:** Senator Groene.

**GROENE:** All right.

**BLOOD:** But it doesn't define physical intervention. I'm not standing here trying to sink your bill. I'm standing here trying to comprehend it. So I appreciate your enthusiasm and your speech, but help me understand the answers to this. And we may have to do this off the mike or later on in the debate. Thank you, Senator Groene. Thank you, Mr. President.

**FOLEY:** Thank you, Senators Blood and Groene. Senator Vargas.

**VARGAS:** Thank you very much, President. Colleagues, a couple of things I want to talk about with this bill. Now I'll do some similar preface as Senator Wayne. I think-- you know, part of our reputation is to be able to talk with individuals and work with individuals. I have had experience working with Senator Groene, and I really want to try to debate the policy here, as much as possible, because that's what we do here-- and, and also give a little background. So once upon a time, I was a teacher, I was a public school teacher, and I worked with, primarily, students from low-income backgrounds and those that come from underrepresented groups. I, myself, identify as Latino. I also went through a public school and was on the free and reduced lunch program, and worked with special education students in my classroom. And since that time, being in the classroom, my professional career has been working in schools, working with administrators and school districts all over the country, in 40 different-plus states, in some way-- capacity. And, you know, that's one of the reasons that led me to be on the Omaha Public School Board. I was lucky to serve with Senator Wayne. And, you know, one of the things-- one of the reasons why I ran is because sometimes the voices, the, the, the necessary diversity of voices and conversations on policy are not always heard. I ran because the voices and the identities that I have, that I just shared with you, were sorely missed in the conversations we had at the Omaha Public Schools Board of Education. Then when I got on the board, we worked to try to make sure that this conversation, and the voice that I brought, was taken into account when we were drafting policy and, and thinking about what the real needs are. What ended up happening is we had some hard conversations; Senator Wayne shared some of them. Some of the hardest conversations we had were about the numbers that we were seeing in Omaha Public Schools in regards to black and brown kids in the system, specifically in regards to



suspension and any of the other types of disciplinary actions that were happening, even though the population across this-- across the country right now, when we're looking at the number of individuals of color, kids of color, and the percent of them that are in suspensions or for some other disciplinary action, we're in-- relative to the percentage of those in public schools, it is vastly overrepresented. Now the needs analysis from Omaha Public Schools did share that there is-- we did have some issues with student discipline, specifically discipline and suspensions with students with disabilities, especially African-American males, are high. That was one of the recommendations, one of the, one of the, the findings of the needs analysis. Now we've improved, but what I'm trying to share with you is that, not just in Nebraska but across the country, we are seeing issues with disproportionate minority contact. I know that's a-- this word-- I want to try to-- this is, if you are a black and brown child, you are more than likely to then engage in a student discipline system in some way, shape or form. So this issue on whether or not we get the language right isn't about whether or not Senator Groene is right or wrong, whether or not any of the advocates outside are right or wrong; it's whether or not we get the policy right. It is too important to then simply leave it up to not defining the language in the best way possible. And the reason why I know this is because we have these debates on most other issues. This is, for some reason, being pushed aside as we will let the courts define it. We don't often always have that argument. I think it meets this need in this instance. But the reason why I'm most concerned about this amendment is because of the vague--

**FOLEY:** One minute.

**VARGAS:** --definitions that we're seeing. And I'll get up on the mike again, but I have concerns about reasonable physical intervention, as-- again, as a former educator-- and the lack of definition on when we're actually qualifying training, why we couldn't include it in the original amendment. I think it's in-- increasingly important. I think we need to make sure that we're also looking at other ways to, then, better define what we mean by removing a child's immunity. This-- these, these types of definitions and examples are important in this law because we are fortunate enough-- we have a lobbying on behalf of teachers. And I've been very supportive of teachers. We're very, very fortunate we have lobbying on behalf of students. I'd like to think that we are the entity that provides lobbying on behalf of people. And I will tell you, the voices of children and families here are the one

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piece that is not unanimous in this bill, 'cause I'm getting people contacting me, saying there is a reason that we're trying to solve a problem. I'm also getting students and families that are really scared--

**FOLEY:** It's time, Senator.

**VARGAS:** --about opening up.

**FOLEY:** It's time, Senator.

**VARGAS:** Thank you very much.

**FOLEY:** Thank you, Senator Vargas. Senator Matt Hansen.

**M. HANSEN:** Thank you, Mr. President. And good morning, colleagues, and happy first day of full day debate. I rise today, and I wanted to address a couple of points. I, like many of you, received a packet from the NSEA, the state teachers' association, last week. And I made a promise that I would read it. And I did read it. And there was one document that I'm sure many of us got-- was a December 2019 NSEA survey. And it had a variety of incidences and a variety of reports from different teachers who'd experienced threats, who'd experienced violence, who'd experienced harm. And I want to say from my perspective, I have many family members who work with children-- granted, not in a public school, granted, not in a K-12 facility-- but they work with elementary, middle school-aged children. And some of these stories could be, word for word, about a family member. I'm going to-- I didn't necessarily get their permission to share specific details, so, so I won't. But spit, shoved, scratched, bruised-- all of these things would apply to family members that I see regularly and care deeply about. And so I feel like I can understand the problem. I can understand the concern that the teachers are coming with. But just because we can recognize there is a problem, that doesn't mean the first proposed solution in front of us is the correct solution. And just because we have, you know, a strong emotional case for help and support of our teachers doesn't mean that anything we pass in this body will be good enough, especially taking into account are also the duty we have to the students and their families. For me, this is a pretty serious issue because, when we think about it, we have a strong requirement to-- for, for K-12 education, we require students to be getting education and then while they're there, we're going to potentially give teachers very wide latitude to use physical

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intervention-- force-- whatever you want to call it. And that's something we owe to be very crystal clear. I've heard some of those discussions and some of the amendments today described as a defense versus an immunity. That's something we're going to have to iron out. That's a very clear distinction, and that's something, a distinction that means a lot to me. And that's something that I, reading the bill as a lawyer, as somebody who's worked in elementary school, I can't tell necessarily which way it's going to go or how it's going to go. When you cannot be found civilly liable or criminally liable-- criminally liable is not necessarily a term we use a lot-- it's unclear. Does that come up? Does that prevent the prosecutor from bringing charges? Does that prevent the-- is that a defense you raise at your trial? If it's a criminal case, does it preempt any of filing a lawsuit? Do we have a lawsuit over the reasonableness to see if there's a reasonable-- if there's a lawsuit that can be filed? Where do we go? How does that work? That's an important distinction we owe, just in the technical matters, to make clear. And those are some of those concerns. So don't think that hesitation or opposition or concern over this bill is necessarily we're dismissing the issue out of hand. At a minimum, it's just-- I would-- you know, we should have some more work and some more clarity. And with that, Mr. President, I would yield the rest of my time to Senator Wayne.

**FOLEY:** Thank you, Senator Hansen. Senator Wayne, 1:50.

**WAYNE:** Sorry, how much time?

**FOLEY:** 1:45.

**WAYNE:** Senator Groene, if you would yield to a question, please, or a couple.

**FOLEY:** Senator Groene, would you yield, please?

**GROENE:** Yeah.

**WAYNE:** Senator, turning to page-- Section 4 on page 2, what does removal from class actually mean? And this is part of your AM1803. Let me ask it this way: Is removal from class an expulsion? Does that qualify as a removal from class?

**GROENE:** No. It clari--

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**WAYNE:** Is [INAUDIBLE]. It-- go ahead.

**GROENE:** You asked me a question. Do you want me to answer it?

**WAYNE:** Yeah, I appreciate it. So is long-term suspension considered removal from class?

**GROENE:** Yes, but that is, that is an action. We're talking about the moment of time when a student is, is disrupting the class. The teacher has the authority to ask the administration, if they followed policy of the school, to have the student removed. Now that goes into a different arena, where the, where the administration says the actions of this student warrant, and the school board warrant removal. Those types of removals-- expulsions-- are already in state statute. LB147 and AM1803 does not concern those actions.

**WAYNE:** OK. So I want to ask you a practical question. So if in middle school and high school, where they rotate classes and they have six to seven different classes per day, if one teacher removes a kid from that class, are they removed from all classes or are they just removed from that class before the intervention comes into play?

**GROENE:** The statute says-- let me get to it again so I'm clear-- that, "When a student is removed from a class, the goal must be to return the student to the class as soon as possible after appropriate instructional or behavioral interventions or supports have been implemented--

**FOLEY:** It's time.

**GROENE:** -- to increase the likelihood--

**FOLEY:** That's time, Senators.

**GROENE:** --the student will be successful."

**FOLEY:** That's time, Senators. Thank you, Senator Wayne and Senator Groene. Senator Albrecht, you're recognized.

**ALBRECHT:** President Foley. Good morning, colleagues. I rise in opposition of Senator Wayne's indefinitely postponing this bill. I had several questions, as, as all of you, and those of you who have expressed some of your concerns. I get several letters from my district as well. But with permission, I had a letter come to me just

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the other day, and I was also observing over the interim, the television-- Channel 7-- had some teachers on that expressed their frustration with what was going on in the classroom today. I just want to briefly just read a short synopsis of someone from my district. She has taught in Nebraska schools for 20 years. And over those years she has witnessed firsthand: how violence and aggression has affected my classroom and disrupted learning from my students. Just in the last couple of years, I have had a student throw a chair at another student, intending to hurt him, and have also had students threaten other students with violence. It is time for this to stop. All students are affected when a student becomes so aggressive or violent that other students are in danger or a classroom must be cleared. I had another student who picked up a desk in a fit of rage and hurled it across the room. It was terrifying for me, and I can't imagine what the students were thinking as they hurried to the door to get out of the way of this out-of-control student. I do not want any child to miss an opportunity to learn, including students who are disruptive and need to be temporarily removed from the classroom. Every child deserves to feel safe and secure in his or her classroom. Furthermore, learning, quite obviously, is not taking place when there are constant behavioral disruptions. This is not conducive to a good learning environment for the disruptive student either. Teachers deserve the right to reasonably protect themselves and their students when they are in harm's way. I-- I've read through LB147. I am more appealing-- it's more appealing to me to look at AM1803, which answers some of the questions that some of those who have written to me have had concerns with. I'm going to yield my time to Senator Groene here. And I would like, Senator Groene, if you will enlighten us to those of you-- those groups that you have met with, whether it be the unions, the administration, those with disabilities, please address those three things, because that's what helped me get over this. And I can only hope that our body would be able to come to a compromise on this bill, because it is very important to the, to the students and the families of all the children in our schools. Thank you.

**FOLEY:** Thank you, Senator Albrecht. Senator Groene, you've been yielded 2:10.

**GROENE:** Thank you. Yes, since 2017, when I worked with Senator Pansing Brooks and Walz-- they came to me and they wanted to help put together a consortium of, of interest groups, stakeholders to examine this issue. And what we did-- what we came back with was this is necessary; AM1803 is necessary. Training is just as necessary, more necessary to

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follow. And then the administration and the school board said, how are you going to pay for this? Then we came in with the lottery money. And the lottery money we use will not affect the Opportunity Grant fund or some of the others. We're gonna do growth and move some money around that wasn't being used very efficiently; that's if the committee will go along. This is well thought out. Senator Blood said: Why? Why now? Why, why the first bill of the session? It is a carry-over priority. I could go into the politics of it. Senator, the Speaker wanted to leave early this year-- last year-- be, because we could. And the agreement was we have to-- it would give me more time, and Senator Pansing Brooks and Walz, to study it more, to come up with a better bill so that we could leave early.

**FOLEY:** One minute.

**GROENE:** It comes up first this year because it is a committee priority, and priority bills come up first; that is why. I will assure all of you the three hours will go by, I will ask for my 33 votes. This bill will not go forward unless, unless Senator Murman's training bill and the lottery part comes out of committee and becomes part of a group effort to answer these questions. This is good legislation. I am not a minority student. I was just a poor farm kid. Call me a minority. I was beat. I came out of it OK. This protects those kids. It sets in a process, a policy. We went through 244-- my staff did-- of, of removal policies of school districts. It went all the way from very well written things to one of the bigger schools in the state, all it said was: We leave it to the superintendent. That was the sentence.

**FOLEY:** It's time.

**GROENE:** This bill creates policy.

**FOLEY:** Thank you, Senator Groene. Senator Williams.

**WILLIAMS:** Thank you, Mr. President, and good morning, colleagues. You've heard me talk a number of times on this floor about process. I don't like the process that has us here at this point. I did not support pulling this bill from committee. But the plain fact is our process goes forward, and here we are now to debate this. One of my primary concerns that I would like to explore for a few minutes here is the assurances on the training and the funding for that training. Would Senator Groene yield to a question?

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**FOLEY:** Senator Groene, would you yield, please?

**GROENE:** Yes.

**WILLIAMS:** Thank you, Senator Groene. You have talked about Senator Murman's bill, and how that process would work. Can you explain that again so that I-- very clear on that legislation.

**GROENE:** First, I'll tell you how we came to the language. Senator Murman expressed an interest in training. He has a daughter, as we all know, a special girl. Senator Arch came to me, who had ran Boys Town. Their expertise at the Boys Town's hospital was behavioral. He was interested. So Senator Arch, myself, a member-- the, a representative from the administrators, a representative from the union, two Boys Town experts on, on training, three individuals were in the room that had MAT training, we had the ESU Coordinating Commission [SIC]. We put them together and said: Bring us language, bring us language. I left the room. They got together without the senators in the room, and they brought us language. It is very good language.

**WILLIAMS:** Thank you, Senator Groene. So in my conversations with the administrators, they have told me that the training piece is, to them, essential and one of the most important pieces of this whole thing. We all know that training costs money. How do you plan to pay for this? And is that funding sustainable long term?

**GROENE:** My staff investigated what it cost, contacted a training organization-- Boys Town, MAT, CPI-- and said: What's the average training to train a trainer? It was \$1,700. So we said: How do we make sure the schools receive that money? We said: We're going to make an adjustment on their TEEOSA formula, that they will receive the money, \$2,000 a building-- or a school. That's more than enough to train an individual, to train the trainer or to bring somebody in, or to contract with an ESU who comes up with a, with a training program if you're a small school. And then if you've got a larger school, the rest of-- any money left over is prorated per, per-teacher formula, how many teachers you have.

**WILLIAMS:** Specifically--

**GROENE:** It's very well--

**WILLIAMS:** --specifically, Senator.

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**GROENE:** --very well thought out and it's lottery money.

**WILLIAMS:** Specifically, Senator Groene. OK, there you mentioned it: lottery money. Where's the money coming from? From lottery. And is it taking away money from some other source that's currently expecting to have those funds?

**GROENE:** As far as guaranteed, if we pass this bill it would be guaranteed five years. You and I will be gone from the body hopefully by then. It is-- and it will be-- training will be done every year. There was a 10 percent retainer fee that was involved in the lottery money. We no longer need that-- and that's \$2 million because it was-- because now we prorate the money by percentage instead of a dollar amount, so we don't need a cash reserve fund.

**WILLIAMS:** So you are, you are confident that the money is there that is not taking it away from other sources that are depending on it. And it's there for at least five years.

**GROENE:** I think it's been very well thought out what the plan is on the lottery if it, if it goes through.

**WILLIAMS:** Tell me, from a process standpoint then, with a new bill being introduced, will it have a priority? How will we catch that bill up with this bill so that we would be assured that the training-- that we would not pass the current bill we're debating without the training bill, either--

**FOLEY:** One minute.

**WILLIAMS:** --attached or passing at the same time?

**GROENE:** The plan is this: this will go three hours, and then the Speaker will ask me for 33 votes. I will wait on that. We are going to expedite Senator Murman's priority bill on training-- the committee will. The committee will expedite the lottery funding. It's up to the committee if they drag their feet or members do not go along. But it's-- and then we hope that-- we will go around and get your approval to-- for cloture. And then, if we can, I am willing to amend the other two bills. We'll have, at least, the one bill-- the training-- into LB147. The lottery bill is a massive bill and probably needs to stand alone, and I would hope the Speaker would put them on the floor together. This needs to be done. There's no games being played here. There's no Groene writing a bill on his own. This has been worked out



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with all of the stakeholders having a voice. It is necessary for the, for the learning environment in our classrooms and the safety of our children.

**WILLIAMS:** Thank you, Senator Groene.

**GROENE:** Thank you.

**WILLIAMS:** I think it's very imperative that we--

**FOLEY:** That's time, Senators.

**WILLIAMS:** --have the training along with it. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Williams and Senator Groene. Senator Groene, you're next in the queue.

**GROENE:** Thank you, Mr. President. As I said, this is not Mike Groene's bill. So any of you "never Groene" people, look at the bill, read it. This is good legislation. We have bent over backwards. As a chairman-- there's only one other chairman I've ever been experienced with and that's the Revenue Committee Chair, who has bent over backwards to bring all the members into the committee if they wished to be part of the answer. I did that-- brought all the stakeholders in. Senator Pansing Brooks said she brought in-- I turned it over to her and Senator Walz to bring in a group to work with committee counsel. I, as a strong personality, agreed not to be in the room; I wasn't in the room. I said: Bring me the amendment. They brought us AM1750. Another group split off and said they brought AM1803. We tried AM1750 last year. After more study this year-- all interim-- I was down here all the time, between Revenue and Education, on this issue and taxes. We brought groups together again-- administrators, school teachers-- and we defined it. And we said training, training, training-- funding of training. 180-- when I revisited AM1803, it fit; the pieces fit. AM1803 was specific to the removal and intervention with language written by a barrage of attorneys. Then we come with the training. Then we come with the funding. This is good legislative process, folks, very good. The people are out there. I get hundreds of emails, responses from citizens worried about their children or grandchildren in our schools. They hear the stories. Teachers, I started out-- remember folks-- saying teachers were lazy, they were quitting at 55. I was completely wrong, completely wrong in that view. They quit because of the atmosphere in the classroom. They can't teach anymore. We are losing very good, hardworking teachers because of this issue.

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You can deny it if you want, but they are leaving. They can't teach. They are not allowed to control their classroom. This isn't a verdict against children. All children fight against authority. It's in our human nature. But we must lead, give them boundaries. We must help them to go in the right direction. This bill does that. This bill does it. It's very good legislation. Step one, two, three. Those three bills will merge and become one of the best examples in the nation of how to handle this issue. Here comes Senator Arch. He's been involved. He's seen it at the Boys Town Hospital where he worked-- or managed it, ran the place. When you see that training bill, you will like it. It covered all the catchphrases that we heard here today: inter, intervention. Let me read you some of the terms: The training, the behavioral awareness and intervention training shall include, but not be limited-- evidence-based training on a continuum that includes recognizing detrimental factors impacting student behavior, including signs of trauma, positive behavior, support and proactive teaching strategies, including inspection, expectations and boundaries, verbal intervention and de-escalation techniques. Clear guidelines on removing and returning students to class, behavioral intervention and supports that will take place when the student is outside the classroom, physical intervention for safety. Physical intervention for safety is the very last one-- for safety. Not for punishment, not to harm-- for their safety and the safety of the classroom.

**FOLEY:** One minute.

**GROENE:** That is where we're heading with this legislation. Conservatives like Mike Groene love children as much as you do. We want the best for them. We want our public schools to function. We want our teachers to love their jobs. That's what we want, as you do. This is not a left or right issue. This is not a race issue. This is about children. This is about the one thing we are directed in our Constitution to supply: free instruction in our common schools. That instruction time in the classroom has been severely limited by behavioral issues. You know it; I know it. We are addressing that, and we are going to fix it. I firmly believe the conscience of this body will do the right thing at the end of the day. So we'll go our three hours. You can attack--

**FOLEY:** That's time.

**GROENE:** --my verbiage usage.

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**FOLEY:** That's time, Senator. Thank you, Senator Groene. Senator Briese.

**BRIESE:** Thank you, Mr. President. Good morning, colleagues. Our schools need to provide a safe, welcoming environment for everyone that's there: our students, our teachers, our staff. And as a result of that, our teachers need the ability to take reasonable action to protect safety. And perhaps the original bill went too far, as it allowed restraint under the guise of protecting property. To me, it would appear that AM1803 is a reasonable compromise. And why do I say that? You know, first of all, it allows intervention to protect safety, not to protect property, not simply to calm down an unruly class, not simply to calm down an unruly child. It's only to protect safety. And it requires a teacher's conduct to be reasonable. And reasonable-- reasonableness, by definition, is a fluid concept, a concept that requires that teacher's conduct to be commensurate to the threat. And if this, this bill's adopted, a teacher will have to use this authority judiciously. I heard something earlier about, you know, we're giving teachers immunity here. And I, I don't agree with that; that's not the case. His or her conduct will be reviewed in the context of whether it was reasonable. He or she will have to utilize this authority really at their own peril. An employee will have to-- a teacher will have to use this authority only where warranted and only to the degree that it's a reasonable response. And there's no hard and fast rules for the situations we're talking about here. Reasonableness is the appropriate standard. And again, I'll listen to the debate, but it sounds like AM1803 is a reasonable, fair place to be, a good point to arrive at on this issue. And so, again, I listen to the or look forward to the further debate. And I would yield any remaining time to Senator Groene, if he would like it.

**FOLEY:** Thank you, Senator Briese. Senator Groene, you have 2:50.

**GROENE:** Thank you. As I said, I wish, as time goes by-- had things happened quickly here, I could have in front of you the-- Senator Murman could have in front of you his bill, because it's-- I don't believe it's-- he said it wasn't back from bill writing yet. But on the training, and to recap on Senator Williams' question about funding, the Opportunity Grant will not receive any more or less money from lottery than they did this last year, which was the biggest user. We have-- we're taking some of the Innovation money and using it for this purpose. There was another program that 9 percent was the Community College, but we got overambunctious the first five years

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when we put that much to it. They've only been using about half of it, so we're going to redivert that to the training. The very first year we're gonna be able to take this training into place for the very first year because of that 10 percent sitting there in the fund. We don't have to wait for the first year lottery monies to come in. There's \$2 million sitting there. That money will be used for the first year's training immediately. And then the next year the lottery money will catch up with it. This is well thought out, folks. We understood that the training had to coincide. But I want to make something clear here, folks. This is happening today, today in a school in Nebraska, a child is going to be restrained-- restrained. By the way, a lot of the policies of our schools use the word "restrain." This bill does not. Training does not. It's intervention. It's a much better word. As I said, it could be a hand on the shoulder. It could be somebody's wave-- getting between two students and waving their arms; that's intervention. And it could, yes, be a-- wrapping a child up. I ask you, what do you want a teacher to do--

**FOLEY:** One minute.

**GROENE:** --when a child is beating their head against a wall? Do you want them to stand there? Do you want them to physically intervene? What do you want them to do? What do you want to do? What do you want a teacher to do when a kid, when a kid comes after them that's bigger than them and grabs them around the neck? What do you want them to do, stand there? That's what's happening now. We can talk words and legal-- legalese, but the reality is, this is happening. This is reality. We need to train them. We need to assure them that they can act reasonable to stop a child from harming themselves. They're not clear now. Just, just what they think is right guides them, and they risk their jobs, they risk reprimand. We need to get-- have their back. This needs to pass, folks. You can-- if you want to put your name on it and say you did it, fine, I don't care. This isn't Groene's bill; this is Nebraska's bill.

**FOLEY:** That's time. Thank you, Senator Groene. Senator Linehan.

**LINEHAN:** Good morning, colleagues. I rise in opposition to Senator Wayne's IPP motion. This is a very, very tough issue. And I agree that there needs to be the training, and it needs to be funding. And as strong opinions in the Education Committee go back and forth, it's my sense, at least, from my colleagues on the committee, that we all know we have an issue that needs to be addressed. Last year, we were all

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shown a video of a young girl getting beaten up in a school while adults stood by and watched. Now when I looked at that, what I thought to myself, would I let my child go back to that school the next day? I would not. I think we owe it to parents that when they put their child in a school for eight hours a day, they have some assurance that that child will be protected from harm. Now I know we have children who, through no fault of their own, have difficulties controlling their emotion and their behavior. And that's why the training is critical. I've talked to Senator Arch about this. He knows a great deal about this-- was his livelihood, helping kids with needs. I think there's a way we can do this and all be very proud of our work. This is only one part of what we need to do. We need to give teachers and administrators clear guidance as to what they cannot do. So we don't want them standing around watching something that none of us would stand around to watch. So they need clear guidance, and they need training. And Senator Groene has found a way to pay for it. So I hope we can keep this bill moving forward, we get Senator Murman's bill to the floor, and we can put them both forward and be very proud of the work we're doing here, because there is no doubt-- as soon as I heard the common practice currently in many of our schools is, if a child misbehaves or is endangering any of the other students, the teacher and all the other students leave the room. Well, I've raised children and I've got grandchildren. And you can empower a child that he knows if he throws a book across the room, everybody gets up and leaves. That's not appropriate. So we-- first, we've got to recognize we have an issue which the teachers have been talking about for years, and very intensely. We have an issue, we need to address it, and we need to help them with clear guidance and with training so they know what to do in these situations. Thank you. And I would yield any time I have left to Senator Groene.

**FOLEY:** Thank you, Senator Linehan. Senator Groene, you've got 1:50, if you care to use it.

**GROENE:** I guess I will; thank you. If a friend is willing to give you some time, you better never turn a gift down. I want to follow up on one of-- some of the things about how this all plays together. You know, as I said, when at the end of the last time I stood up, we looked at 244 policies of school districts. Some have none on removal or intervention. Some had one line, just give it to the administrator for he decides on an individual case-- very vague. We heard from school teachers who worked in the same place for 30 years. Things were going along fine. A new administrator came in with a new bright idea

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and changed everything. From one year to next, discipline policies in the classroom changed. AM1803 says a policy that is: Each school district shall have a policy that describes-- shall have a policy that describes the process of removing a student from a class and returning-- returning a student to a class. Such policy shall: describe how and when a student may be removed from a class and return to a class. It must use a discipline process that is proactive, instructive and restorative; require appropriate communication between administrative, teachers and other personnel, students and parents and guardians. Such policy shall be made available to the public. I heard teachers tell me the policy was: Ask the teacher, ask an administrator to remove the student from the classroom. The administrator, all red-faced, comes in, yells at the kid to sit down, points at the teacher and says, you handle this, and walk out. Is that proactive? Is it, folks? Is it instructive? Is that restorative? That's what's happening out there. That's what's happening in your school, Senator Wayne. You have a great superintendent now, to have better policies. She's not going to be there all the time.

**FOLEY:** That's time, Senator. Thank you, Senator Groene. Senator Wayne.

**WAYNE:** Thank you. Well, let's-- we hear a lot about training dollars, but I think you guys need to read the bill a little closer, 'cause on page 3 of the amendment he wants to move forward, it also says: after instructional and behavior interventions or supports have been implemented. There's your unfunded mandate. There's your increase in property taxes. The training dollars can train the teachers to intervene, but if therapy is required as a support, the school district has to provide it-- has to. We're not-- I didn't hear anything about training dollars or dollars going to behavioral supports-- nothing about the kids, just about the teacher side of thing. That's a unfunded mandate. And that's going to increase your property taxes because I know how much it costs to implement some supports in Omaha Public Schools. But I want to talk a little bit more about the reasonableness. Will Senator Groene yield to a couple questions?

**FOLEY:** Senator Groene, would you yield, please?

**GROENE:** Yes.

**WAYNE:** And I'm just trying to get clarity because words have meaning when we write statutes. According to, on page-- Section 4, if a

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teacher uses reasonable force, then neither the teacher nor the district is liable, either criminally or civilly, correct?

**GROENE:** That's true, if it's reasonable.

**WAYNE:** Right. So you would agree that there is a difference between reasonable and unreasonable force, correct?

**GROENE:** Yes, there is.

**WAYNE:** So--

**GROENE:** You know the four steps, the-- [INAUDIBLE].

**WAYNE:** So if a teacher-- if a teacher-- just so I can understand this a little better-- so if a teacher uses unreasonable force, then that teacher or the school district is now liable, underneath your bill.

**GROENE:** They're liable. It's called--

**WAYNE:** They're--

**GROENE:** --battery.

**WAYNE:** They're lateri-- they're liable, OK. So just so I'm clear that if a district or a person-- district personnel uses unreasonable force, they are now liable. They are now liable if they use unreasonable force, correct?

**GROENE:** Yes, they are now. If a-- if a parent wants to call the county attorney and say, I want to press assault charges, they can.

**WAYNE:** OK, well--

**GROENE:** And then the judge will look at, was this reasonable.

**WAYNE:** Then let's--

**GROENE:** And then the judge will say this was reasonable, and that's the end of it.

**WAYNE:** Let's keep going on this--

**GROENE:** All right.

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**WAYNE:** --'cause I want to make sure we get it right.

**GROENE:** All right.

**WAYNE:** So who decides what's reasonable?

**GROENE:** I just told you.

**WAYNE:** The judge?

**GROENE:** The judge, the county attorney.

**WAYNE:** The county attorney and judge. Well, what if I told you, actually, current state law does not allow the school district to be sued for battery?

**GROENE:** I understand that.

**WAYNE:** Even if it's--

**GROENE:** I understand if it's under the political subdivision.

**WAYNE:** So your law is specifically changing that?

**GROENE:** No, it's coinciding with it.

**WAYNE:** So what you're saying, then, is whether a student-- a teacher uses reasonable or unreasonable force, there is nothing a parent can do, underneath the statute.

**GROENE:** That's not true because, under the political subdivision, if they-- if they follow school policy, they are not liable.

**WAYNE:** But what you're saying is current law-- you're mirroring current law that they cannot do anything, 'cause a motion to dismiss will be filed because it's considered battery and arising under battery. Then no matter what this bill does, a parent has no recourse if a teacher or a student or a personnel use unreasonable force, correct?

**GROENE:** You can still be sued for negligence or gross negligence or whatever the three steps are above reasonable.



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**WAYNE:** Actually, you can't. There's this case called Kimball that talks specifically about arising out of, and arising out of battery. So we are going to pass a bill that gives blanket immunity.

**GROENE:** That's the Kimball.

**WAYNE:** And parent has no recourse. Think about that, guys. Think about that, colleagues. We are passing a bill that says if there is reasonable force or unreasonable force, a parent or student has absolutely no recourse. Is that the statement we want to send? Is that the culture we want to create? See, right now the story that was told by Senator Linehan, and adults standing around, watching, they could have intervened. Underneath case law, they have the right to intervene.

**FOLEY:** One minute.

**WAYNE:** And case law is just as much weight as statute. But we are going to give carte blanche, criminal and civil. See, before it was just civil; we couldn't sue. But criminally, you could. We are going to remove all of that liability from the district. So when something happens, whether it's reasonable or unreasonable-- hear me out, reasonable or unreasonable-- a parent or student has absolutely no recourse. I thought we were better than that. I thought if a government or a student or a teacher or other personnel commits a wrong, they should be held accountable. But this bill does absolutely the opposite of that. And again, we heard a lot about training, a lot about training dollars, but what you didn't hear is about the behavioral supports and interventions that is mandated to school districts.

**FOLEY:** That's time, Senator.

**WAYNE:** Thank you.

**FOLEY:** Thank you, Senator Wayne. Senator Hunt.

**HUNT:** Thank you, Mr. Lieutenant Governor. So what I'm all about in my time here that I've got, is that I really want to be a part of building a Nebraska where well-being is the measure of our success as a state. And for this bill, LB147, I've landed in a place of opposition to this bill, because this bill does not contribute to the well-being of teachers, students, parents, or our state and society as a whole. Teachers do not want to be put in a position to have to

physically restrain a child. That's not why they go to school, to do that. Students, even students with severe mental and behavioral challenges, want to learn. They don't want to be a disruption. They want to feel safe and supported. And in today's world, where we have so many challenges of trauma, of poverty, of things like that, that prevent children from coming to school, ready to learn and participate productively, that's where responsibility lies with us, people who shape laws and norms of society. And responsibility also lies with the executive and judiciary branches and how we make policy for state agencies and in how we enforce justice. These issues of violence and disruption weigh really heavily on children. They weigh on parents, they weigh on teachers and administrators and school districts and educational service units and the state as a whole. But we can't answer these issues with more violence and disruption. If we pass this law in Nebraska, we will be reinforcing a culture of resorting to violence and aggression instead of a culture of education and training around the value of the whole child. If we pass this law in Nebraska, we will be fanning the fire of another crisis for students, what we call the, the school-to-prison pipeline. So I wasn't here at the time, but I was a watcher, and in 2018, the Legislature was considering a bill introduced by Senator Walz, LB998, to put a social worker in each of the 17 educational service units in Nebraska. So these social workers would have been available as a resource for strategy and proactive solutions for the kinds of challenges that LB147 is trying to target. That bill to put social workers in the ESUs did eventually pass in the Legislature, but it was returned by the Governor without a signature. So that's why I talk about the responsibility of all branches of government to protect our children and to put into place the values and policies that could support kids who face these challenges. And maybe some of the problems that LB147 seeks to address would be much less severe if that bill had not been vetoed by the Governor. So I followed that bill and that debate and, in the course of that debate, for that bill to provide social workers, in the floor transcript for the debate, it shows that Senator Groene said, "There is no such thing as behavior or discipline in our schools no more; it's mental health." And he also said: I just want to make clear that I don't believe mental health is part of the mission of education. We have Health and Human Services Department. We constantly hear we don't have enough money for education, yet we seem to have money to hire psychiatrists and social workers. That is not part of education. When we fund this government, we have to keep those two separate. This is not to disparage Senator Groene, who I have a positive relationship

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with. I'm only saying that he, himself, said these words, and I assume he'd stand by them today unless he wants to speak to that. Mental health and behavioral health cannot be separated from the mission of educating the whole child. Mental and behavioral health issues cannot be separated from the capacity of each child to learn. The Legislature could help by connecting schools to training and support around mental and behavioral health. And that makes all the difference in the world in these situations that we recognize are so urgent for teachers today. And that urgency is only going to increase as time goes on. If students and teachers don't feel safe in our schools, they won't be concentrating on learning. We all know that; we agree on that. And for this reason, with respect to Senator Groene and all of the stakeholders who have been working to build compromise--

**FOLEY:** One minute.

**HUNT:** --I encourage you to support the IPP motion. I encourage your red vote on AM1803 and LB47 [SIC LB147] when that comes up. We're also having a new conversation here on the floor about funding, that now Senator Murman is going to be introducing a bill, which I hope he prioritizes or there's no chance that it's going to get to the floor. I wish these bills were in the other way, like we probably should be debating the funding for this type of thing before we pass the bill, saying we can hold down children with no accountability for the child. We have due process for janitors, for staff members, for anybody in the school, apparently, under this bill. But what about the due process for the kids? What about the due process for the parents who are supposed to receive notice that restraint was used? Well, how is that notice going to be delivered to the parents? When is that? An hour later? A week later? By phone? You gonna get a letter in the mail? There are a lot of problems with this bill. It's not ready. We've got to be funding positive interventions for kids through people who know what they're talking about, through social workers, through--

**FOLEY:** That's time, Senator.

**HUNT:** --psychologists. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Hunt. Senator Chambers.

**CHAMBERS:** Thank you, Mr. President. Members of the Legislature, I handed out some articles from the World-Herald. I'm going to read a couple of paragraphs from one of them. This particular article was

dated August 2 of last year. Seventeen year-- seven-year-old child. The student told investigators that Sedlacek had digitally penetrated her several times. The abuse-- excuse me-- the abuse, the claims says, started the first week of school and continued until Sedlacek was caught. The student said that the abuse was painful and that, on at least one occasion, she experienced bleeding, according to the claim. Sedlacek started grooming the girl when she was a kindergartner. He would tell the girl that he was-- she was his favorite and give her hugs. There were reports of what this guy was doing, and nothing was really done to stop him. And you all are around here talking about these teachers and how they are afraid in the classroom. And you can read and have articles like this, for girls as young as 7 years old, are being sexually assaulted. And you don't even want to talk about it, you bunch of hypocrites. You're a bunch of liars, and you're a bunch of ignoramuses, as Senator Wayne pointed out in questioning Senator Groene. He knows-- Senator Groene knows-- you all don't pay attention and you don't know any more about the law than he does. So he says the law is this, the law is that. And Senator Wayne patiently showed Senator Groene that he didn't know what he was talking about, explained the state of the law, which is a practice I used to engage in years ago, but I realize that in the same way you cannot get blood out of a turnip, you cannot put intelligence or understanding into a nonfunctioning brain. You all are being led by a man who does not understand the law as it exists now, does not understand the impact of this bill. He's going to have you all, lemminglike, following behind. He talks about what Senator Murman is going to do, what Senator Arch is going to do. Now white people are supposed to be superior to people of my complexion. Well, this inferior black man is wondering why all these intelligent, superior white people, who say everything is agreed on, don't come together and meld their concepts into a bill and present it, instead of saying, we'll take this today, and then take his if it gets somewhere, and then take that one tomorrow if it gets advanced, and then prioritize; that is idiocy. What you all are doing is detrimental to the cause of white supremacy. I don't feel inferior around you all at all. And you all are the superior ones; then I must be super superior. And I've watched this for decades. I know you. So why don't all these people get together and put a proposal, with all of these notions, into one bill, one amendment, and present it so all of it can be discussed as a totality? Not here a little, there a little, line upon line--

**FOLEY:** One minute.

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**CHAMBERS:** --precept upon precept, word upon word. And by the time you get to state, to stage 20, you've forgotten the 19 preceding ones, and not one person involved can explain all of it comprehensively. I'm going to watch you all, and I'm going to have fun this session. And I'm going to offer amendments after amendments after amendments and show you how I can get ahead of the line whenever I want to, speak whenever I want to. You're not going to listen to somebody who would try, as Senator Wayne is, rationally, to explain to you what you're doing, what you ought to be doing. But Senator Groene has been told this is it. This is it. We got, we got to take this; this is good. He can tell you all that. And when you ask the question, he raises his voice. That just indicates that he's got no point, and he's going to overwhelm you with noise because he--

**FOLEY:** That's time, Senator.

**CHAMBERS:** --cannot persuade you with logical argument. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Chambers. Senator Murman.

**MURMAN:** Thank you, Lieutenant Governor. I stand opposed to Senator Wayne's motion and in favor of LB147. As has been mentioned several times before, I am bringing a bill to provide for the funding for the training that is necessary, that's something we really need in our schools right now. The training will be administer, administered by the local school district. So they will have a choice as to what kind of training they would like to have their teachers do there-- and their employees do that's specific to their district. It will be funded by the lottery funds. So we check out how the lottery funds are spent every five years, so it will be guaranteed for five years. It will be train-- training the trainers. So each school district will have a certain number of trained personnel that the funding will be provided-- \$2,000 per person for training. And then that will be increased according to the number of school buildings and the number of students. When, when a situation happens in a classroom or any, anywhere in a school, the first thing that the school employee should think about is, how are we protecting the students? And they shouldn't have to worry about what's going to happen if I have to grab that kid with a knife or a gun or that's, that's swinging at another student or teacher. Their first reaction ought to be, how can I protect the students, keep everyone safe in my classroom, and not to worry about, is it OK if I put my hands on that student's shoulder, grab their arm

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or whatever is necessary? And by the way, as we mentioned several times, it's gonna be reasonable. It's reasonable intervention. So if it's something that's not reasonable, a special education student with an IEP, that student is protected, as well they should be, because that's the reason we have-- one of the reasons that we have IEPs now is to make sure that special education students, as all students, are protected from bullying or being abused in any way-- verbally, spitting, physically. We don't want any of our students in school to be abused, and we want to provide the safe, safe and con-- conducive platform for students to learn. As, as has been mentioned also on the floor, I do have a disabled daughter. My wife and I have a disabled daughter. She went all the way through the school system, was included all the way through. She's 31 years old now, so this has been several years ago. But one of the first things we told the teachers and the school and the administration when she--

**FOLEY:** One minute.

**MURMAN:** --started school is that, if she is being disruptive in class in any way, we-- we don't want that to happen. She always had a full-time aide with her and we said, just take her out of class, you know, and, and she'll settle down. Like she wasn't a type of student that would be really disruptive, but she, she could vocalize and, you know, disrupt the class in that way just by being kind of loud. So but our first, first concern was for the whole school district as a whole, for all the students in the class. Of course, we were concerned about her, as our own child, but, but our concern was for everyone. So I think this training bill, behavioral training bill, LB147, and the funding that'll go with it will be very beneficial for improving the school system in the state of Nebraska. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Murman. Senator Cavanaugh.

**CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Thank you, colleagues that are here with us today and listening intently to this important issue. This bill, again, does nothing to address the issues facing teachers in the classroom. Where's the funding to make class sizes smaller? Where's the funding for behavioral health supports? How are we addressing ACEs? And when we talk about the long-term financial planning in this state, we're looking to take dollars, that we apparently have to use for something in the lottery dollars, for training for something that has been proven in other states. And Senator Groene acknowledged that Nebraska doesn't have this. But

again, I will reference that article that I distributed to everyone. Illinois does, and it's proven that this does not work. So what are we doing to be fiscally responsible? We spend massive amounts of money in Corrections. If we invested more in early interventions, more in supports in the schools, we know-- we know for certain-- data shows, time and time and time again, that early supports for children, early interventions, will reduce crime, will reduce our prison population, will create more productive citizens who are paying taxes, which will increase revenue. But that's not what we're talking about. We're talking about perpetuating the preschool-to-prison pipeline in this state, which is ultimately going to cost us more money. It's going to take people out of the work force, because we are creating a generation where these children are going to think that being restrained and, and incarcerated is the way that their life has to go. We're not talking about training for de-escalation. We're talking about training for restraints, reasonable or otherwise. We're talking about training for restraint, not de-escalation. In Omaha, our police force provides free training for de-escalation. We could be talking about partnering with-- in OPS and Westside and Millard-- with the Omaha police, and learning how to de-escalate situations. I'd now like to, since we don't have a committee statement, as Senator Chambers previously pointed out, I'd like to read some of the testimony that we heard on this bill last year, on February 11 in the Education Committee. There was a Brad Johnson [SIC], who represented his colleagues from the Nebraska State Association of Secondary School Principals. And Mr. Johnson [SIC] said that they have: a policy in place that clearly defines when restraint and seclusion, and I know, again, we're separating those two things now, but can be used. In our hand, our staff handbook, it clarifies what our staff-- with our staff when restraint can currently be used, and those questions come up many times. One of those times is to protect a student or protect another student or even protect yourself. So in the incidence that Senator Linehan mentioned, that's uncalled for, and they should have intervened. No child should be beat up in front of adults and not have those adults intervene. There's nothing stopping an adult from intervening except for themselves. So that was extremely inappropriate of that adult. And Senator Linehan actually asked Brad Johnson [SIC]: the restraints we're talking about is defined when they're to use when they're protecting another child or property or another teacher or themselves. And Mr. Jacobsen said: Well, that would-- and so that would be part of the question that we have in this administration-- administrators as to why, why do we need it? We can already do these

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things. I already have a board policy and I already have an-- a staff guidance that amends, you know.

**FOLEY:** One minute.

**CAVANAUGH:** I could almost-- thank you-- could track right along with my current board policy. It's already in place. So again, why are we having this conversation? They can already do this. I would then reference you all to the stat-- our statute-- pardon me for a second-- 79-258: Administrative and teaching personnel; authorized actions. Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with educational process. What are we doing today? What are we doing? We're taking three hours at the beginning of session, of a short session, to debate something that we don't need to be doing. We have protections for teachers. We have protections for students. They can intervene. What we're doing is making it OK for systemic racism and systemic discrimination to go on, endorsed fully by this body.

**FOLEY:** That's time.

**CAVANAUGH:** Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator McCollister.

**McCOLLISTER:** Thank you, Mr. President. Happy fourth day, colleagues. Glad to be here. I'm wondering if Senator Groene would stand for a few questions.

**FOLEY:** Senator Groene, would you yield, please?

**GROENE:** Yes.

**McCOLLISTER:** Senator Groene, you talked, the first part of the morning, about the original genesis for this, this bill. Can you relate how you came to this bill? I know it's a-- you've done this now for two or three years. What was the motivation for this bill?

**GROENE:** I sat down with-- teachers, called me, parents. My own grandson, my own granddaughter told me how school was going. And all-- every conversation came up with, well, Johnny gets to do whatever he want, and he just, he just disrupts the class. And we can't learn--



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heard that a lot. I heard what was going on. And when I said that stupid remark, which was stupid about teachers were lazy, I got a lot of emails from teachers that retired at 55, and they explained to me why. This was the issue.

**McCOLLISTER:** Thank you. How about-- is there any statistics on whether this is a major problem or not? Do we? Or is this something that is a random event?

**GROENE:** When the-- the first responders are the teachers. When the union sent out a-- they originally were going to oppose my LB595; they were-- the bureaucracy of the union. Then they sent a survey out to their members; 7,000 out of 28,000 replied, three to four times more respondents than they ever had on any issue. They said it was-- 80 percent of them said it was the number one issue, and those that had been there 20, 30 years said it was "exponently" expanding. Something is going on in our society. Part of it is we need to teach, which teachers do, is to teach boundaries of what is expectation, behavior when you are part of a civilized society. We apparently have taken that away from them, that ability to do that. They want-- they don't want to do it, but they know it has to be done. And they're the ones on the front lines. They want to be protected when they do the right thing.

**McCOLLISTER:** Thank you. I showed you a document from the association A-R-C, and it has the red and green boxes.

**GROENE:** Um-hum.

**McCOLLISTER:** Have you seen that?

**GROENE:** Yes, I did.

**McCOLLISTER:** You may have a copy.

**GROENE:** Yes.

**McCOLLISTER:** And some of the issues that they raised are about definitions of the bill, limits the amount of time restraint can be used, prevents prone-- on the ground-- restraint. And I think you've got a copy of it.

**GROENE:** Yes, I do.

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**McCOLLISTER:** It sets limits, training requirements, and standards. Would you wish to respond to some of the issues raised?

**GROENE:** Sure. As far as clarification-- defining what the intervention was, when my staff first started looking across the country about other states that had bills, some of them actually defined what restraint was: holding their hands, wrapping them up, can't use prone. Well, what we discovered, talking to the legal individuals-- Senator Chambers, I might not be as bright as you think I should be, but I have prayed for wisdom and I go with that. So when I do these issues, I go to the experts; and I went to the legal profession. And the legal profession said, you can't define this, what is reasonable. You cannot put prone in here. Why? A gun shows up in the classroom, 120-pound teacher tackles a student and sits, tries to sit on top of him. They're going to get fired because they put a child in a prone position? Think about it.

**FOLEY:** One minute.

**GROENE:** Kid-- kid throws a book, and the teacher puts the child in a prone position, they will be fired; it is not reasonable. So we cannot define. We need to let the specialist teach the training of what is intervention. I mean, they will do it. The Boys Town model, the Arc, CPI will teach these individual teachers the proper way to intervene. Let the process happen.

**McCOLLISTER:** Thank you. We've got a couple more issues, but I'll get back on the mike and we'll cover those, as well. Thank you, Senator Groene.

**FOLEY:** Thank you, Senator McCollister and Senator Groene. Senator Vargas.

**VARGAS:** Thank you very much, President. I was wondering if Senator Groene would yield to a few questions so we can--

**FOLEY:** Senator Groene, would you yield, please?

**GROENE:** Yes.

**VARGAS:** Thank you very much, Senator Groene. You know, we've had-- you and I have had some conversations about this over time. I don't serve on Education Committee. I don't have the pleasure of serving on that committee. But I was wondering if you could answer some questions,

specifically about the intent. So you said earlier on-- the impetus behind this bill, what's the problem that was trying to be solved?

**GROENE:** Clarification-- to combine the Daily case, which is now law, and I mentioned the survey earlier also. Even though the Daily case said that they could use physical contact, only 30 percent of the teachers could-- thought-- that took the survey thought they could. To put it into statute, which the body does and legislatures do across the country, when there's a court case-- the Supreme Court rules, you take their ruling and you-- and you put it into statute. That's the part about the intervention. The classroom removal wasn't-- was a problem that was brought to us by the stakeholders.

**VARGAS:** OK. Thank you very much; I appreciate that. Based on what you just told me, at what point did it become necessary to then have this separation for teachers and school personnel to-- that they should not be subject to any criminal or civil liability? At what point did that become something that needed to then be solved and put into this bill?

**GROENE:** That's again for clarity. Under the political subdivision law, they already are protected if they use reasonable or if they follow the policy. If the policy of the political subdivision says that you do this-- which we now tell the schools they must have a policy-- then they are held not liable. But they were never held-- not liable to be fired, to be administrative persecution, if they did the right thing. The best-- the biggest part we're adding here is that they cannot be taken-- they can't be disciplined by the administrators--

**VARGAS:** Yeah.

**GROENE:** --or the, or the school board because they followed policy or they followed state law.

**VARGAS:** So the question I have is, so if you're telling me that-- I'm trying to get a better understanding of this issue of immunity, because if you're telling me that immunity still currently exists right now for teachers and administrators, then what's the need to then put this into the statute? I'm not entirely sure that immunity would, would exist, but I'm trying to get a sense of why that's needed to put in here. What due process exists for students and families in this bill? If there is going to be civil liability removed for teachers and administrators, what due process exists for teachers and parents?

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**GROENE:** Let me, let me repeat. If this bill don't pass, it's already there through the political subdivision affirmative defense of reasonable, as long as they follow the policy. Children are protected by all the stat-- by statutes of abuse--

**VARGAS:** So what's the standard, though? You talk about the policy. I want to make sure there's a standard across the state. So the question is, when somebody is removed, how long are they removed for? You know, that's a, that's a, that's a rhetorical question. When somebody is removed from a classroom, how long are they removed for? When somebody is removed and a parent or a teacher is notified, in this, there is no timeline. You can notify them a year from now or you can notify them right away via phone or you can do a telegram. If you're leaving it up to the, the-- let's say, the policies and the practices of a board, why not create a standard, a reasonable standard? I think earlier you gave a less reasonable one where you were saying five minutes or three minutes. But a reasonable standard for notification or time out of classroom, maybe even days out of classroom, in this, I think that would provide some more clarity to then improve the bill.

**FOLEY:** One minute.

**VARGAS:** And I'm trying to get understanding of why we could, we can't include that. I-- for the reference, I introduced two amendments, one amendment that essentially would-- and I do appreciate Senator Murman and not only his story in background, but a need for training-- I think it's worthwhile to have training in this bill, as it is. And rather than specifically dictate the funding source for it, we can just say we require training prior to any physical restraint. I understand the need to do physical restraint, especially in cases to then protect the student and/or the classroom and/or from themselves. But I still think there is a benefit from putting it in the same bill if we're going to pass this amendment. So there's one amendment I have there, and the other amendment is basically just to make sure that there is some due process and notification if a student is removed for a certain amount of time. You know, depending on the amount of time they're removed, they would then get some notice to their parents or families. And it follows very similar guidelines to expulsion and out-of-- in-school--

**FOLEY:** That's time, Senator.

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**VARGAS:** --out-of-school suspension. So I just wanted to make sure to--

**FOLEY:** It's time, Senator.

**VARGAS:** --to [INAUDIBLE] people. Thank you.

**FOLEY:** Thank you, Senator Vargas. Items for the record, Mr. Clerk.

**CLERK:** Thank you, Mr. President. Very quickly, new resolution, LR294, offered by Senator Kolowski. Pursuant to its introduction, the Speaker is directed that LR294 be referred to Reference. Hearing notices from Urban Affairs Committee and Retirement Systems Committee. And a series of amendments to be printed, Mr. President: Senator Vargas, LB369; Senator Pansing Brooks, LB147; Senator Walz, LB147; Senator Cavanaugh, LB147; Senator Vargas, LB147. That's all that I have. Thank you.

**SCHEER:** Thank you, Mr. Clerk. Colleagues, just for informational purposes, if we do not reach resolution before that time, we will spend this morning going till 12:07 on this item so that we don't have to come back and go five, six, seven minutes this afternoon. So if you're scheduling changes because of that, you might want to take care of your luncheon duties or let them know that you might be a tad late, 'cause I do plan on staying until the 12:07 to finish the first three hours of this bill. Those waiting in the queue: Senator Walz-- green [SIC], Senator Matt Hansen and Senator Wayne. Senator Walz, you are recognized.

**WALZ:** Thank you, Mr. President, and good morning. You know, we've heard a lot from many senators this morning, and I really appreciate the fact that we're bringing this important issue to light and that we're having conversation about it. We do need to get this policy right. We do need to protect our teachers, and we need to protect our students. But we need to get the policy right. At this point, I have some concerns, and I've addressed those concerns in AM280-- AM2086, which I don't think we're going to get to today. But as an educator and as a person who has had at least a ten-year career in working with people and serving people who have disabilities, and as a parent, I am concerned with this bill, as it is, not because I've had any group of people telling me that I have to have these concerns. My concerns are purely based on my personal experience as a teacher and as a direct care staff. AM2-- AM2086 does five things: number one, it makes the same references to I-D-A-- I-D-E-A in Section 504 of the Rehabilitation Act of 1973 to be included in Section 3, which is the

restraint piece of the bill. It's already included in Section 4, but it needs to be included, also, in Section 3. The second thing it does is that we talk about prior to any, prior to any physical intervention, every effort must be made to try and de-escalate the situation. Now I'm not saying that's always going to happen, but we need to make sure that we're making every effort to de-escalate any situation, whether you're a child with a disability or not. Number three, prone restraint should only be used as a last resort, and every effort must be made to change that position as often as possible. Prone restraint would be defined as any manual method, physical or mechanical device, material or equipment that immobilizes or reduces the ability of an individual to move freely in either a face-up or face-down position. And the last thing that I feel is so important and that's missed is that an incident report must be written and submitted to NDE, describing the incident, describing what happened prior to that incident, describing what was done to try to de-escalate any situation. And again-- important-- how was the incident resolved? What happened to the student after the incident? We had several meetings over the last summer with teachers and administrators, and every single conversation pointed to the fact that mental health supports were needed in schools and that teachers and administrators needed to be trained. Nowhere in the bill does it address training--

**SCHEER:** One minute.

**WALZ:** --or in accordance to training. So I'm afraid that, even if you have been trained 1,000 times, you would not have to use what you learned in training, according to the bill. I want teachers protected. I want our kids protected. We all want that. But more important, you guys, we need to make sure that we are doing everything-- everything in our power to prevent any violence from occurring in the first place. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Walz. Senator Groene, you're recognized. And this is your third time at the mike.

**GROENE:** Thank you, Speaker. Address a couple of questions that were on the floor about-- Senator Hunt referred back to the social workers and the Governor vetoing that. I made it clear back then, as Education Chair, my duty is to protect education dollars for the classroom. That bill was going to have outside influence of individuals donating money, have an undue influence just because of their wealth, about the, about the policy on social workers. It was going use-- take

education dollars away from the classroom to fund these social workers. I repeatedly said it is the responsibility of the Department of H-- Health and Human Services when it comes to health issues; it is not the education dollars to do that. I have nothing against social workers. I've told the Governor I think we ought to have social workers from HHS stationed in the, in the school buildings where their clients exist, but their wages and their funding should come from HHS dollars, to clear that fact up. Senator Vargas, I have in front of me-- and to Senator Wayne-- the political subdivision tort claim reads: If the incident arises from a battery, a government employee is immune unless the employee is acting outside of the scope of their employment, including acting contrary to policy. This bill doesn't change that. Doesn't change that at all, just reaffirms it. But it gives the teachers protection from being fired or administrative action, if they do the right thing, which isn't in statute. That's where we're at on this. Also, training about removal from the classroom: following the use of physical intervention, pursuant to this section, a teacher or other school personnel shall contact and notify the parent or guardian or of the use of physical intervention. I was told by administrators, we got some parents that aren't real reliable. You tell us we got to get ahold of them in 24 hours? Good luck. You tell us we got to do it immediately? Good luck. They will contact that. You've got to trust them to do the right thing, and they will do their best to contact the individual. If they have to send them a certified lever-- letter-- what if it doesn't show up in 24 hours? Folks, are they liable? Let's think through this. Let's think through this. You start defining what is in law so narrowly, you cause more problems. This is well thought out, very well thought out. Policies shall be in place. And the policy shall-- will reflect common sense to training. The two will coincide. It's not happening now. You've got them all over the place with what people consider training. The training bill, by the way, will, will use an idea brought for us from Senator Walz last year. There will be a school-appointed contact where a parent can be notified by a teacher that, after that teacher took awareness-- behavioral awareness training-- goes to the parent and says, I believe what I've seen fits some of the what-I-was-trained traits of certain behavior. And then they go to the point of contact in the school, that will be mandated. And that individual will be trained. And then we'll give them a list and help them contact an appropriate agency outside of the school. Or if the school has a school psychologist and the parent agrees, it will be-- that will happen. Senator Walz, we took one of your ideas. This isn't Groene's

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bill, this isn't Murman's bill. This is a complete, tear-apart, put-together, great ideas from legislation that came together last year.

**SCHEER:** One minute.

**GROENE:** Senator Murman hopefully gets his bill out today from bill writing and he can drop it today, but he has guaranteed he will drop it immediately and you will be able to see it. You will be able to-- hopefully the committee works quickly on the lottery funding, and we get it on the floor, and there isn't the political stomping of feet that the bipartisan, which I've read in the articles in the Omaha World-Herald goes on both sides of the aisle. 'Cause I'm there; I want this done. Are you? Do you want it done? Do you want to protect children? Senator Vargas said, what about protecting the children? They aren't protected now. Johnny defeats-- decides to punch Susie, that teacher stands there. This bill protects that child, protects the child who is doing the damage, who has lost their temper, from doing more damage and haunting them the rest of their life because they hurt Susie. This bill protects those children.

**SCHEER:** Time, Senator.

**GROENE:** Thank you.

**SCHEER:** Thank you, Senator Groene. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. And good morning again, colleagues. You know, there's a lot to unpack here. And I think there are several kind of key components to think about. You know, one of my hang, hang-ups-- and I know it's not necessarily the focus of everybody else-- but is the, kind of the phrase "criminally or civilly liable." And I know Senator Wayne has already touch, touched the Political Subdivisions Tort Claims Act. And I think, when we're here in an education statute, meddling with both criminal and civil procedure, it's really a key area that we make sure that they know how they all go together. Hearing Senator Wayne's explanation, I am actually curious how this is supposed to play out, how this is envisioned to play out, because we're either just saying something that's already in current law 100 percent and nothing changes, or we're drastically upending the Political Subdivisions Tort Claims Act. There's really not an in-between. And, and if we're not changing



anything, it's just current law. There's no harm in maybe taking it out or amending it to be clear that we're just stating it for a second time to really make our sense. Or if we are kind of completely changing how political claims against subdivisions happen, we should know that and we should be clear, as a body, when whatever final version we ultimately pass, how that works. The same with the, the same with the civilly liable-- sorry-- the criminally liable for the use of physical intervention. Right now, right now, you know, you-- everyone in the state has the right to self-defense. It is an affirmative defense. You know, you can use reasonable defense for-- to protect yourself and others. So if all we're doing is saying you can defend students or defend yourself with reasonable force, that's just restating current, as I understand it at least, restating current self-defense law that any of us, as private citizens, any of us, regardless of an occupation, would have. So if we're really emphasizing and we're really insisting upon it, it must be a new step above affirmative defense. At least that's in my mind; that's how I'm interpreting it. So then that gets into an issue of immunity. So an immunity is when you can't even necessarily bring charges to begin with, 'cause an affirmative defense is a defense that the defendant gets to raise at trial of, yes, I hit so and so, but it was in self-defense. I had a reasonable fear for my own safety. And the fact-finder, whether it's a judge or jury, gets to weigh that and decide whether or not it's credible or it's believable. That's how it happens. With an immunity, depending on how it's structured, typically, the prosecutor is barred from even bringing trials to that phase. We just say if this, if this fact pattern fits, you don't even necessarily get the trial. You don't even necessarily get to that point. We stop moving charges forward. And that's my concern here is that it's an outright bar where you're going to not let juries. It may be an edge case. You know, somebody's going to raise this. There's going to be an injury, and it's unclear what happened, but a student all of a sudden has a broken bone. And the, and the teacher says they were disciplining him and the student says it was something else. And we're just going to say, statute's clear, they have immunity. We can't, we can't investigate, we can't do anything; and nothing can go forward. And the parents are then barred, the student is then barred from asking for or seeking either criminal or civil damages because we've had this immunity provision. Now I'm OK. I definitely want to make sure teachers are empowered. I definitely want to make sure people are safe. But that's kind of the nuts and bolts we have to deal with. We have to, as 49 of us, whether or not we support the final

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bill or not, we should at least all agree on what it does. And then we could take the next step to decide whether or not we like it and we support it. Right now, I don't even think we can agree on what this bill does, because I'm hearing it's some changes, but not really, or the description of what we want seems really close to current law, but no, it's different. You know, if all we're saying is like, hey, teachers, we support you, we want to affirm the protections you have in current law, we can, we can have that conversation and maybe look at language that very clearly does that. But as it stands--

**SCHEER:** One minute.

**M. HANSEN:** -- thank you, Mr. President. But as it stands right now, it seems like we're wading into, you know, both criminal law, we're wading into civil law, we're wading into, you know, education policy and discipline, all in the same sentence, all in the same line. And right now, I think we need to make sure, between now and the next time we debate this bill, really make sure we hammer out what is clear in terms of, you know, professional liability, bringing professional sanctions, criminal liability, civil liability. That's just something-- we owe it, as a body, that whatever final version we agree upon and move forward with, I think we all agree on how it works. And then we can take a step back, as a body, and then, as 49 of us, decide whether or not we support that. But we should be, at least, agreed on what the language means before we decide how we support it or not. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Hansen. Those waiting to speak: Senator Wayne, Arch, Chambers, Linehan, and others. Senator Wayne, you are recognized. And this is your second, which leaves you your close as your last.

**WAYNE:** Thank you. Thank you, Mr. President. So, again, what we're talking about, I think, is the unintended consequences of this bill. And what we heard earlier is basically from Senator Groene that parents have no recourse. We also hear from Senator Groene, who from my exchange earlier, is we don't know what reasonable is, that reasonable is defined by courts. Well, if you ever understood contract law, if you talk to any professors, reasonable minds differ. That's why you have reasonable, as standards, one of the worst standards you can put into the legal system. So what we define for police officers is, a ordinary, prudent person, standing in the exact same shoes as that person, knowing the exact knowledge that police officer had at

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that time. That's literally how case law on how we have defined when it comes to excessive force. We have a clear-cut standard. But what's more disheartening and more confusing is when we talk about removal from class. Removal from class doesn't mean long-term suspension, but could mean short-term suspension. It doesn't mean expulsions, 'cause those are separate areas of law. But what's ironic, Senator Arch, is we're offering more services to the kid who is removed from class than we are from the kid that is expelled. Think about that. The kid who is suspended probably needs more resources and supports than the kid who is just pulled out of class for a day. But we're doing the exact opposite. And we hear a lot about training dollars, and that, and that's great. But there's one other section of the bill and the unintended consequences that is a unfunded mandate-- and I wish Senator Erdman was here so we can chat about this where it says in the bill you must provide interventions and support. Now think about that, my rural colleagues. Crete, Nebraska-- 1,900 students-- roughly suspends about 10 percent, whether out-of-school or in-school suspension. That doesn't include the kids that are at the high school level that are just removed for a period, 'cause it doesn't say remove equals suspension. It says removed from a class. So if that kid is removed from a class, you have to provide supports and intervention, including behavior interventions, before that student is returned. How many psychologists does Crete have? If there is 1,900 students and 900-- roughly 90 to 100 students are suspended, and then you got to add probably another 10 percent for the kids that are just removed from class-- so you're talking 20 percent of the population. And what if one of the interventions and supports is therapy? No longer does the family have to provide therapy because it says "shall;" the school district has to. Who's going to carry that cost? Who's going to carry the cost of 15,000 students in Omaha Public Schools that are either removed to in-house or removed from a class? Where is OPS going to find that money? That is a unfunded mandate that is not clear. We're going to provide training for teachers-- great. But this bill also requires you have to implement support. So let's talk about implementation. I know in Omaha, in Omaha, it'll take a week for somebody to see a psychologist, at least in the juvenile system. So now that that kid can't come to class until they find a psychologist or a therapist to talk to him for a week. And it gets more complicated. At high school level, you have seven to eight classes. This says removed from a class. So let's say I don't want to do home ec that day, and I get removed from a class. Now am I removed from school for the whole day? Underneath this bill, I am. So I have one

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teacher-- the rest of my six to seven classes I am doing wonderful in-- removes me because this one teacher and I had a conflict for one day, 'cause it says removed from a class. That is the unintended consequences of what I'm talking about in this bill. So we can provide all the training dollars to teachers.

**SCHEER:** One minute.

**WAYNE:** But we're forgetting the bill is open to other school personnel. So that means we have to provide training for lunch attendants, security, the maintenance people, 'cause all of them underneath this bill have carte blanche immunity to, to intervene. And again, the training is going to come after we already establish the immunity. You can't provide training immediately. It's impossible. Logically, it's impossible. So I am telling you, today is going to, two things are going to happen. And I'm going to get to the second one in my closing. We're going to create a system of distrust, a government system of distrust, which I have seen played out in my community over and over and over again. And two, schools are going to have to find ways to pay for the interventions. And that, my friends, are going to be a property tax increase. This is a unfunded mandate to schools, which, by the way, I'm OK with, but I'm just letting all my rural senators know, if therapy is a issue that has to be addressed, you have, you got to have enough therapists.

**SCHEER:** Time, Senator.

**WAYNE:** Thank you.

**SCHEER:** Thank you, Senator Wayne. Senator Arch, you're recognized.

**ARCH:** Thank you. I think most of you know that I do not sit on the Education Committee. But before I came to the Legislature this past year, one of the issues that was concerning me was behavioral challenges that we're finding in our schools across our state. A personal experience: my wife is a substitute teacher in the Papillion-La Vista school district, and she comes home and she explains some of the challenges that the teachers are facing on a regular basis. And as I hear the debate this morning, I think that there is a general consensus that we have challenges, that the teachers are, are, are challenged with how best to address the behavioral issues that they're experiencing in the classroom so that education can go forward. As I said, I was concerned about this

because some of the anecdotal stories that my wife communicated to me in the evenings when she came home after substituting, but also because I have been working at Boys Town for 26 years now, and have also been in meetings where the, the challenges that the well-managed classroom program that Boys Town has implemented nationally, the challenges that they're seeing in, in the schools. Boys Town has been involved in this for many years now, nationally implementing and training teachers across the United States. They actually have a randomized clinical trial now that they're involved in, in, in evidence, in evidence-based research on, on the impact of this, of this particular model. So when this discussion began, I did-- I facilitated Boys Town coming to the table and, and in being in part of the discussion with many other agencies and other associations. As to this issue of training, how, how do we best train our teachers? How do we provide them with the resources? And of course, that can range from anything from on-line training. And in one of the hearings I sat in, in HHS, we even--- it even broached the subject of behavioral issues in classrooms. And, and one of the questions that I asked-- and the response given was-- well, there's, there's resources available to teachers now in, in on-line webs, websites that, that have some of this available to them, if they go out there and get that. And, and it does-- that just doesn't appear to be enough. Resources are available. There, there is, there are some of those on websites. But so when the issue of how do we intervene-- and to, to Senator Walz, she is-- she's correct. We-- it isn't physical intervention that we desire. It isn't that, it isn't that hands-on intervention. It's the early, it's the de-escalation. It's the, it's that early intervention where we can prevent the physical intervention from occurring. And so yes, I did facilitate Boys Town coming to the table. And I know Senator Murman has been working on, on language that will have behavioral awareness, and awareness training, and, and then intervention. What are those-- in the discussion of the associations and Boys Town at the table, the discussions there have been-- although Senator Groene said it correctly, the senators weren't in the room; these were the associations and Boys Town. But the discussion was, what are those, what are those key elements that need to be in all training, allowing the local, local authorities to determine how best to provide that training? But, but what are those key elements that need to be involved? And I think that's the language that they've been working on. It is a very complex issue. There are many elements involved in helping teachers manage--

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**SCHEER:** One minute.

**ARCH:** --behavior in the classroom and addressing that. And I'd like to yield the remainder of my time to Senator Slama.

**SCHEER:** Senator Slama, 50 seconds.

**SLAMA:** Thank you, Senator Arch. And good morning, colleagues. I rise opposed to Senator Wayne's motion to indefinitely postpone, and in support of LB147. Like many of my colleagues in this body, I share experience in the classroom, as I was a paraeducator. My support for LB147 is based on that experience, along with the experiences that have been shared with me from educators in my district. Folks, modern classrooms do not look like the ones you grew up with. Our teachers are asked to take on roles that they never had before, from that of a parent to a psychologist to a referee when violence breaks out in the classroom. I can confirm that Senator Linehan's assertion that the policy with many school districts in Nebraska is that, if a student becomes physically violent, the policy is to remove all other students from that classroom until the disruptive student has calmed down.

**SCHEER:** Time, Senator.

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

**SCHEER:** Thank you, Senator Slama and Senator Arch. Colleagues, Senator Hunt, Wayne, and Chambers would like to welcome the group in the north balcony representing the Malcolm X Memorial Foundation. Would you please stand and be recognized by the Nebraska Legislature? Thanks for coming and visiting. Senator Chambers, you're recognized, and this is your third time at the mike.

**CHAMBERS:** Thank you, Mr. President. And the mention of Malcolm X's name emphasizes the importance of education. If you are a trained educator, you know that your job is to engage the mind of your student. And if you engage the student's mind, you don't have to be talking about violence and all these other things that are going on here now. When the teachers speak, they never speak about improving the quality of education that is offered. I had said some things about the qualifications that I would want to have, were I the Chairperson of the Education Committee. Education would be the primary means by which to judge my suitability. My problem is that I listen to my colleagues, and when some pontificate, like Senator Groene does, wants to give the impression they know more than they do, as he has

demonstrated many times, and has been brought out by Senator Wayne's questioning, the rest of you all just go along. But I listened to Senator Groene. He talked about people coming around and saying how bad things were in the schools and all this violence. And then he said, and it increased, increased ex-- "exponently." "Exponently"? I learned something from Senator Groene this morning. I didn't even know there was such a word as "exponently." Now, I having only a degree from Creighton University, a degree from Creighton Law School, having lectured at various universities in the East, such as Vassar and MIT, am familiar with "exponentially." Don't play like you know what you don't know. And if you're going to play that game, be aware of who you're playing it with. And I said this morning at the outset, if Senator Groene wants to play that game, I will play that game with him and I will outdo him. And I've said, in the past, I had not been mean. And I have not been mean. But with some of the nonsense you all are talking here today about allowing these teachers to do to students, indicates that it's time for me to show you how to be intellectually mean. Or if you want me to demonstrate it another way, then just tell me you want to meet me somewhere else and we'll do it a different way. But I'm not going to take low for anybody. I handed you this material about how many of these young girls are sexually assaulted in the classroom. Groene didn't say anything about that. Senator Slama said nothing about it. Senator Arch said nothing. Senator Murman said nothing. Senator Clements said nothing. We're talking about little girls being sexually assaulted in classrooms, in computer labs, in the lunchroom, taken to a classroom and the lights turned down, and they are sexually assaulted. And you all Christians who pray every morning can be made aware of that and you don't raise your voice at all. You think I'm as crazy as you are stupid? Senator Groene talks about loving children. How can you say you love children when you know little girls, as young as 7 years old, having been groomed from the time they were in kindergarten, being sexually assaulted and it doesn't raise or turn a hair? And you say you love children?

**SCHEER:** One minute.

**CHAMBERS:** I'm going to show you something this session, and I'm going to ridicule you. I'm going to make you show me how much you know. I'm gonna make you demonstrate your white superiority over me. And if you don't, then I'm going to mock you. I'm going to ridicule you. I'm going to satirize you-- not sodomize-- that's what teachers do to your little girls in school. And you don't say anything about it. You shouldn't have another preacher stand up here another morning when you

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know that's happening in your classrooms, in the labs, on the school grounds. And it was written about in the Omaha World-Herald, so you cannot gainsay or deny what they say. You can pretend that what I say is not so. But I'm going to start reading from--

**SCHEER:** Time, Senator.

**CHAMBERS:** --those articles, not just today.

**SCHEER:** Time, Senator.

**CHAMBERS:** Time for what?

**SCHEER:** Your time is finished.

**CHAMBERS:** I understand. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Chambers. Senator Linehan, you're recognized.

**LINEHAN:** Thank you. I will yield my time to Senator Groene. Thank you.

**SCHEER:** Senator Groene, 4:50.

**GROENE:** Thank you, Speaker and Senator Linehan. Yes, Senator Chambers, what happened with these disgusting individuals that we entrusted our children to, will be handled by this Legislature. There is legislation coming to do that, but we will wait to debate that then. And I doubt you will find one individual in this body who will vote against it. But to debate it here is not the place. To use disgusting terms, is not the thing to do. And I've made a pledge to all that I will not sink to the level of somebody who brings me down to their level. I live at a higher level and I will remain there. If you want to debate me any day on issues, on wordage, I will do it. On intellect, I'll take you on. We'll compare IQ scores. You might lose. But that's not here nor there. This is about protecting children now. Maybe if we start here, we will make a division where I grew up, of who the adult in the room was. And maybe if we define what physical intervention is, these guys putting their hands on little girls, acting like they want to be their best friend instead of being the disciplinarian in the room, might stop. If we create training, maybe the training could be incorporated into it, which should be, for identification of these individuals to keep them out of our schools. But we need to start somewhere. This does it. This defines it. Just let the teachers be the



adult in the room instead of to use this tool of friendship, which is not why they're there. They're to be the adult to make sure that children behave. They set a boundary that every child understands. There are boundaries in life, in a civilized society, that Johnny can't do that. There are consequences. He will be removed from the classroom. The administration will discuss with the child about boundaries, what's expected of his behavior. He will be helped by a team of teachers. We leave that to the school district to set up, and it doesn't cost money. If you ask a teacher to do something, ask her that extra, to help a child who needs some guidance, they will do it. So those types of interventions and instructional-- appropriate instructional behavior needs to be done. It is not being done now. The process needs [INAUDIBLE] that every administrator needs to understand if a teacher calls and followed the process and the policy of the school and wants that teacher-- child removed, that administrator will know, I have to sit Johnny down, have to calm him down. I have to give him instruction on what is expected. I think the Boys Town model asks the basic question: Johnny, what'd you do wrong? And they keep asking it until he admits it calmly. That's training. It's not there now, folks. It's not there now. We can reverse this trend, and we can start today. We could pull the motion. We could vote on this. We could go to the amendment. Then we go to the next step of, of training. It's as simple as that. That's where we're at. This is good language, crafted well. The training will be crafted well, is crafted well by Senator Murman. The lottery funding is-- works; it works. Creates a commitment that we are going to help the school districts pay for this training.

**SCHEER:** One minute.

**GROENE:** As I said, this perversion that's going on, this abuse of these children can be incorporated by a school district in the training. Clear lines: you're the adult, you teach, you set boundaries. The child goes home, you go home. That's what teaching is. That's what it should be. And that's what we're gonna do with this LB147, amended by AM1803. It needs to be done for every child across the state, every teacher across the state. We could set a huge example for the nation. I had a congressman call me, heard about it. He said, boy, if you're successful, this wit-- with this, we might look at it in a federal law. I hope they don't because we don't need the feds screwing things up. I think we can take care of it ourselves. Think. Read it. Read the training, put them together. Read the funding. It's well crafted. Not my idea--

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**SCHEER:** Time, Senator.

**GROENE:** Thank you.

**SCHEER:** Thank you, Senator Groene and Senator Linehan. Mr. Clerk for items.

**CLERK:** Mr. President, new bills. LB938, by Senator La Grone. It's a bill for an act relating to the Nebraska Uniform Power of Attorney Act. It, it provides immunity for reliance upon an acknowledged power of attorney. LB7-- or excuse me-- LB939, by Senator Williams. It's a bill for an act relating to collection agency. It authorizes licensees under the act to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. LB940 is by Senator Pansing Brooks, relating to the Nebraska Juvenile Code. It changes provisions relating to sealing of juvenile records. LB941 is Senator Hunt, relating to infants and juveniles, defines terms, state's intent, creates the Nebraska Youth in Care Bill of Rights. LB942 is by Senator Hunt, a bill for an act relating to motor vehicles. It provides for Support of the Arts plates, creates the Support of the Arts Cash Fund. LB943, Senator Hunt, relating to the Nebraska Arts Council, provides powers and duties related to establishment and certification of creative districts and funding competitive grants. LB944, Senator Geist, relating to the Department of Motor Vehicles. It changes provisions relating to certain motor vehicle fees imposed by cities and villages, provides for a refund or credit of fees for a loss of possession due to natural disaster; changes provisions relating to the International Fuel Tax Agreement Act, and authorizes temporary license stickers, as prescribed. LB945 is by Senator Cavanaugh, relating to sexual assault. Requires cities of the primary and metropolitan class to make an annual report on the number of untested sexual assault evidence kits. LB946 is by Senator Briese, a bill for an act relating to revenue and taxation. It changes the sales tax rate and defines and redefines terms. It imposes sales and use taxes on additional services. LB947 is a bill by Senator Erdman. It's a bill for an act relating to motor vehicles. It provides for the crossing of a controlled-access highway by an all-terrain vehicle or utility-type vehicle. LB948, Senator Crawford, relating to insurance, changes a provision relating to coverage for mammography, and repeals the original section. LB949, Senator Bolz, a bill for an act relating to insurance. It limits the cost of prescription insulin drugs and provides a termination date. LB950 is by Senator Murman, a bill for an act relating to postsecondary education. It changes the eligibility

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requirements for the Access College Early Scholarship Program Act. LB951 is by Senator Bolz. It's a bill for an act relating to Nebraska Claims for Wrongful Conviction and Imprisonment Act. It changes requirements for recovery under the act. LB952 is Senator Wishart, a bill for an act relating to revenue and taxation. It provides for new homestead exemption, as prescribed. LB953, Senator Wishart, relates to Commercial Dog and Cat Operator Inspection Act, prohibits certain public entities from charging a fee for adoption or purchase of a dog or cat. LB954, Senator Lindstrom, relates to insurance, changes provisions relating to fees for dental services. LB955 is Senator Walz, relating to medical assistance. Changes provisions relating to discontinued eligibility for modification, medical assistance. LB956 is Senator Walz, relating to the Med-- Nebraska Medical Assistance Act. Provides duties for managed care organizations regarding provider agreements. LB957, by Senator Walz, a bill for an act relating to cities of the first and second class. It changes provisions relating to quorum requirements for the city council. LB958 is by Senator Cavanaugh. It's a bill for an act relating to protection orders. It changes order-- provisions relating to the possession or purchase of a firearm by any person convicted of a misdemeanor crime of domestic violence or subject to a harassment, sexual assault, or domestic care protection order. That's all that I have, Mr. President. Thank you.

**SCHEER:** Thank you, Mr. Clerk. Returning to the queue, those waiting to speak: Senator McCollister, Cavanaugh, Murman, and others. Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Colleagues, it appears to me that we're going to go the full three hours on this bill. And I know that Senator Groene has been amenable to constructive changes in this bill. And I'm happy to hear that, because I would hope that we would continue to improve this bill as we move to the next stage, where Senator Groene is looking for 33 votes to move this bill back on the agenda. In my last time on the mike, Senator Groene and I talked about the red and green sheet that you all received this morning. And I would wish to continue some questions to Senator Groene. Would he yield?

**SCHEER:** Senator Groene, would you please yield?

**GROENE:** Yes.

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**McCOLLISTER:** Yes, sir. We, we talked about the last three issues that this, this sheet indicated. Twenty-four notice, restraint was used, sets conditions for class removal, and protects due process. Let's go through those three items. And you can respond, if you would, to why we have or have not dealt with those issues in this bill.

**GROENE:** Well, I think I addressed the 24-hour notice. As administrators told us, some parents aren't reliable. It's hard to find them in 24 hours. If you send a certified letter, it's gonna be more than 24 hours. It's just reasonable, and understand that they are going to attempt to contact them. They might be out of town. It might be a weekend. And something happened. And they tried to contact. It was a lot of reasons why. We just got to rely on the administration to do it. They have to do it. They know they could get-- we'll get in trouble because, in most communities, the word gets back to the parents. And if they haven't been notified, there's going to be a problem and a lawsuit.

**McCOLLISTER:** A question.

**GROENE:** That, that takes care of itself.

**McCOLLISTER:** Let me ask you: how would that notice be provided, generally? Does the, the statute or your bill indicate how that notice is to be provided?

**GROENE:** A phone call, a letter, teacher meets the parent on the steps and talks to them. They will be notified of what happened.

**McCOLLISTER:** Would a note sent home with a parent-- with a child-- be sufficient?

**GROENE:** How many times have the dog ate the note? I mean, that, that probably is impractical. It would have to be direct contact with the parent. But your second one sets conditions for class removal. It's clear that the school system will set up a policy about class removal, when and returned, in the statute. The teacher will have to follow policy before the removal, so they can ask for removal from the administrators-- administration. It's clear. What is gonna-- policy going to be? Well, you took MAT training, you took Boys Town training. Did you intervene? Did you try to-- did you try to follow up with a de-escalation? Did you? Is this a matter of a de-escalation or the child is just absolutely out of control and the, and the, and the

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superintendent says yes or principal says yes, the child is being removed?

**McCOLLISTER:** Thank you.

**GROENE:** Simple as that.

**McCOLLISTER:** Principals--

**GROENE:** It protects due process. It's protected, period.

**McCOLLISTER:** Would you repeat that, sir?

**GROENE:** On due process, it's in place now. The--

**McCOLLISTER:** How so? How so?

**GROENE:** Well, you have the-- the local government legislation-- I'm trying to remember too many "acronisms" right now-- but the Political Subdivision Tort Claim Act is already there. The children-- special education children are respected by the I, I, the federal IDEA laws and the IEP. If the IEP for students says they disrupt the class and it says everybody just stay calm, they will settle down, it's been--

**SCHEER:** One minute.

**McCOLLISTER:** Yeah.

**GROENE:** That's the IEP.

**McCOLLISTER:** If I could--

**GROENE:** But if they attack the teacher-- attack the teacher-- you--

**McCOLLISTER:** One last--

**GROENE:** --cannot allow the teacher to be attacked because they happen to have the-- nobody has the right to harm anybody. There is no defense for that.

**McCOLLISTER:** Thank you. Senator Groene, one last question. If for some reason this bill should fail, you will encourage Senator Murman's bill to move forward, the training bill?

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**GROENE:** My heart won't be in it because it doesn't match up. We need all three.

**McCOLLISTER:** Thank you, Senator Groene.

**SCHEER:** Thank you, Senator McCollister and Senator Groene. Senator Cavanaugh, you are recognized.

**CAVANAUGH:** Thank you, Mr. Speaker. I believe this is my last time to speak on this motion this morning, and I just want to reiterate--

**SCHEER:** Excuse me, but you are correct; this is your third time at the mike. Thank you.

**CAVANAUGH:** Thank you. I just want to reiterate a few points. First of all, I'd like to say that one of the primary reasons that I was moved to run for this position was when the Governor vetoed funding for Nebraskans with disabilities. It was something that was a line-item veto, and I found it extremely disheartening when that happened. And I said to my husband at the time that, if we're not fighting to protect the most vulnerable populations, the most vulnerable children, then we are failing. And that's really what brought me to run for office-- run for office, pregnant and with a newborn. This is-- this is where I'm at on this issue. It is my solemn duty. And I believe it's everyone in this Chamber's solemn duty to do everything that we can to protect our children. And I value our teachers, I value our administrators, I value those that take care of our children every single day. But this is not-- this doesn't do it. This doesn't take care of our children. Every child matters, not just the good little boys and girls, not the white boys and girls, not the smart boys and girls. Every single child matters. And that is hard, that is really hard to do. But it's the reality. A disruptive child is just as important as the most well-behaved child. Since we've heard some personal stories, I'll share one of my own. When I was in grade school, I went to a parochial school. We had a small class; there were 12 kids in my class. And there was one kid in my class, and-- I didn't know this at the time-- he was the bully, picked on everybody. And I found out when I was older that his-- he had a parent in prison, his mother was deceased, and he lived with his grandparents, and they were very poor. And he had a small class size and he had a community around him. And while he was a bully, he had people showing him, every single day, that they cared about him. He had adults showing him, every single day, that they cared about him because it was a small class, so they had the

capacity to do that. These are the conversations we should be having. How can we show these kids that we care about them? And this-- we're not showing kids that we care about them. We're not showing parents that we can-- they can trust us with their children during the day. This is their constitutional right to be educated in public school in a safe and secure setting. We're not talking about kids coming to school with guns. We're talking about kids coming to school, ready to learn and being physically harmed because we're not giving teachers the tools that they need to learn how to de-escalate. We're not giving teachers and schools the resources they need to have small enough class sizes and to have extra support in their classrooms and investment in special education. This is the wrong conversation that we are having today. And I am heartsick over this conversation because I know that Senator Groene cares about kids. I've never questioned that he cares about children. I just don't agree that this is what we should be doing to serve our children. This might help our teachers in the short term, in the immediate, in that moment. But this does not answer the question; this does not address the issues. And we already have policies in place that do what Senator Groene is trying to do--

**SCHEER:** One minute.

**CAVANAUGH:** --but doesn't make it so systemically acceptable to discriminate and to lay hands on children. You can lay hands on children if they are hurting one another. You can physically defend yourself. That is OK, and anyone who says that it isn't is lying. Read the statute that we already have. Read the school policies that are already in place. I have a copy of the North Platte Public Schools policy on restraint and seclusion. There is a policy in place. Lincoln Public Schools has a use of restraint and seclusion policy in place. We already allow teachers to defend themselves and to defend other children from violence and harm. This is not necessary. This hurts the children of Nebraska. Thank you.

**SCHEER:** Thank you, Senator Cavanaugh. Senator Murman, you are recognized.

**MURMAN:** Thank you, Mr. President. I'll just give you a little bit about background that I've been hearing from. I do have several in my family that are teachers, both in the immediate family and the extended family. I hear situations from them and also from emails and, being on the Education Committee, the hearings-- some really extreme circumstances, both, both extreme circumstances and just some minor

things that, that shouldn't have developed into something that is disruptive to the class. But one of the things that shouldn't develop that way-- I've got a nephew that's a teacher. And, and the first year he taught-- and it's happened, I think, every year since then, he's been in several years now. But he noticed that the whole classroom and the teacher were standing out in the hallway sometimes, and he, he didn't know what was going on. And at first, the first time it happened-- but he realized that when someone is, for no other term to use, I guess, acting up in the classroom, the first thing they do is just clear the classroom, the teacher and everyone, and call the administration. And sometimes that might take a couple of minutes. Sometimes it might take five minutes or even more, I think, for someone to show up to take care of the situation. So he thought that's very bad, very disruptive to the learning environment because, to clear the classroom, be out in the hallway, get, get an administrator to come, and then get back in the classroom and start over again, that can take quite, quite a bit of time out of the school day or the school class situation, to really continue learning. I've also been on the school board and I've heard of situations in the school where students have pretty much run roughshod over the class, and the situation isn't taken care of immediately. Just to tell you a little bit about the training bill that will be coming, it does have input in it from-- you know, it's, it's-- through the committee process, we had input from teachers, administrators, and school boards. So that all went into developing LB147 and the behavioral modification and, and funding bill. And also, also, I should include the ESUs. We had a lot of input from, from everyone on that. And the bill will be, all employees of the school will be trained, at least on a basic level. And that's-- and, and the trainer that trains will be trained at least every three years, so it will be continued training. And the training will include at least six steps. You know, I've heard concerns about, well, the first reaction will be to physically--

**SCHEER:** One minute, Senator.

**MURMAN:** -- physically intervene. Thank you, Mr. President. But the first step will be recognize, recognizing the detrimental signs. So it is, it is not just-- it'll include all of the steps. And the second step will be positive behavioral support and proactive teaching strategies, including expectation and-- expectations and boundaries. And number three, verbal intervention and de-escalation techniques. So, so these will all be done first in the, in all-- going through all the steps. And then number four, clear guidelines on removing and



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returning students to the class. And number five, behavioral interventions and supports that will take place when the student is outside of the classroom. And then number six, and only as a last step--

**SCHEER:** Time, Senator.

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

**SCHEER:** Thank you, Senator Murman. Senator Matt Hansen, you're recognized. And this is your third time at the mike.

**M. HANSEN:** Thank you, Mr. President. And good morning again, colleagues. So part of the reason I have decided to speak on this, and part of the reason this keeps coming up is, this is one of those bills that I feel like I fundamentally get the intent and I fundamentally get the goal. But we have to both deal with kind of the floor speeches, the positioning, the statements, the goals, the ideals. But what, at the end of the day, we vote on is, word-for-word, what's in the bill, what's in the amendment, what's in the green copy. And that's the hang-up I have on this bill. I didn't get a chance to read it, but I saw Senator Groene had a guest column or an editorial that was something along the lines of, teachers deserve an ability to control their classroom, teachers-- a bill-- deserve the ability to, you know, manage disruptions. I know I'm paraphrasing, not getting it quite right. That's something I absolutely agree. That, that's something they should have, and that's something that they should do. The question is, does LB147 actually do that? Does LB147 actually get there to accomplish that goal? And in the way, if it does-- if it doesn't, that's its own problem. If it does, does it get there with trade-offs we, as a state, are willing to make? And that's one of the things that I'm not sure I am. I know I keep bringing it up, but this liability shield, whether it's a defense or an immunity, it's still, I still-- looking at it still-- looking at it, it's a pretty big hang-up. You know, earlier it said nobody-- it was a reference to students-- you know, nobody has the right to harm another person. I genuinely am concerned that if we pass LB147 with the most recent amendment, that teachers might have the de facto ability, the de facto right to hurt a student, in that sense that there's no viable option to recovery because they will have an immunity as long as they allege it was reasonable. I don't think that's the-- anybody's intent, but I think, as written, that's something we have to be vigilant of and have to be work-- focused on. You know, it's my concern that, with this

current amendment, you know, we're going to have litigation, we're going to have concerns, Supreme Court case-- who knows--arguing over what this means. As has been stated, we already have an abundant amount of case law that, in my mind, does give teachers a fairly clear right to protect their students, protect themselves, protect their classrooms. And that's what we, we need to kind of figure out is, how does this change this? How does this upend it? Because if it's just a minor tweak, I think we can clarify it, I think we can focus. And I think that's-- or is it more substantial, whether that's intentional or unintentional? So that's something I really think we, as a body, need to focus on, think about, look at, consider, and so on. Another thing I just kind of wanted to bring up-- and I think it's interesting-- is we keep hearing stories, we-- we keep hearing, specifically, the example of everybody has to leave the classroom while there's a disruption. I'm really interested why people think that's a bad thing. I think it's a bad thing that a disruption happens. And I think it's a bad thing, you know, that we clearly have, you know, behavioral needs and other things that are really affecting our students, enough that it comes to us as the state. But kind of fundamentally, if somebody is maybe being a physical threat, why is leaving the room seen as so unreasonable? Instead, we have to physically restrain them? Well, why would we physically restrain them when just walking out the door makes sense? I mean, short of most situations-- again, this is children we're dealing with. Most situations, that's kind of like the expectation is you don't get to use self-defense if walking out the door is good enough to solve the problem. And that's kind of the concern here is where, OK, well, we wanted just to have students, you know, if-- if a student brings a knife in, the teacher should be allowed to tackle him. OK, you're like, yeah, no dispute. But then we have the other end of the spectrum of, and the teacher shouldn't have to walk out of the room if the student is, you know, throwing a book around. It's like, well, what should they do in that situation? That seems like the pretty reasonable response. And it's all of that spectrum in between--

**SCHEER:** One minute.

**M. HANSEN:** -- I think we-- thank you, Mr. President. It's all that spectrum in between that I think we need to kind of continue to suss out, continue to focus, continue to learn, continue to study. You know, I think we're gonna have an opportunity to probably debate several amendments at some point. And I've been kind of tracking the different ones that have been filed today. You know, at the end of the

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day, I do want to make sure we support teachers. And from it sounds like it, we may be really struggling as a state, but I'm struggling to make sure we don't have the trade-offs of the students' rights, the parents' rights, and those opportunities, in order to kind of do kind of a blanket quick fix, when this is an area that clearly needs or, in my mind at least, clearly needs some more focus, some more understanding, some more study, and some more technical changes. Thank you, Mr. President.

**SCHEER:** Thank you, Senator Hansen. Senator Vegas-- Vargas, you're recognized.

**VARGAS:** He said, "Senator Vegas." So you like that better? OK. OK, thank you very much, Mr. President. Colleagues, I, I do want to thank Senator Groene. He's right about one thing. He does like to debate on policy. We cannot test this IQ issue or debate on whether or not he's smarter than everybody in the Legislature. But I think the policy debate is a good thing. It's healthy for us. It's part of what the Legislature is all about. So I'm really thankful that we have that, that spirit. You know, I've already made some of my concerns, and I'm really talking specific to his amendment that he's introduced. I think there are ways to improve it. I understand that there's a training aspect, and Senator Murman's bringing. I would have preferred, and I still think it's possible to just bring a clean amendment with the training included in it, and then some of the provisions that make sure that there is a little bit more due process, notification to parents and families. Not once am I getting up here think-- saying that there isn't a need for, for teachers to intervene. But if there is ambiguity on the definition for what reasonable is, or if there's some more need to provide some more clarity on training, I think we can do that and probably get to a place where most of us might be either OK or potentially "yes" on an issue like this. I'm not thinking this is something that we need to then support or pass right now, at this moment. So I'm more than willing to work, and I have two amendments on there: AM288 and AM287-- AM2087 and AM2088, which I think will help improve the bill. I'm happy to work with Senator Groene, and I do appreciate him working on this, and particularly the Education Committee that's gone through a lot of different versions of this. With that being said, I will yield the remainder of my time to Senator Wayne, and thank everybody for this debate today.

**SCHEER:** Senator Wayne, 3:10.

**WAYNE:** Thank you. Colleagues, I know we're going to come up here in the next four minutes on adjournment here pretty soon. But I do want to talk a little bit about this culture we will be creating if this bill moves forward, as is, and we don't deal with the student side of things, not just the teacher or, in the bill, other personnel side of things. So to me, a vote for this bill endorses a systematic, disproportionate contact with minority students. And people say, well, how does that happen? Well, the reality is it's already there. The data is already there that, if you are in Nebraska and you are a minority, you are five times more likely to be a part of the student discipline process than if you're not a minority. That is the data. So if you think about that data and now you add intervention-- physical intervention-- disproportionately, minority students will be physically intervened with. That's just logic. There's no debate about it; that's just logic. Even those who believe in alternative facts can't believe in that alternative fact, because there's already a number of kids who are involved in a discipline process. Physical intervention to those kids involved dis-- disproportionately affect minority students. But I want to think about what we talked about: there is no recourse for a parent or a student. So what we are doing is we are increasing the ability for physical intervention without any accountability. Think about that from a government perspective and from the community that I represent. Now this is a example, but I want you to think about it. It may be a little extreme, but I think we're walking there. Now think about police and community relations in the city that I represent. Think about that, on New Year's Eve, I had to leave a party because a cop was shot, and I had five or six kids that I mentor. One of them was driving my truck. And I had to leave and play dad to make sure every kid understood if they were pulled over 'cause of heightened security of a cop being shot, here's what could possibly happen, because the fact is--

**SCHEER:** One minute.

**WAYNE:** --that is a reality in my community. It's the history and the unfettered authority of what this word "reasonable" is, or excess force caused throughout the history of my community. We are setting that same foundation within the school system. Our school system is supposed to be a place where students are safe, where they can go there and feel safe. But we are creating the same dichotomy, the same circumstances that 20 years from now my community could be facing, not just with police, but with their own school system, 'cause we're not putting the supports attached to this bill. We're talking about

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training for teachers. That's great. But we're not talking about the supports for the student. We're not talking about the interaction for the student. So at the end of the day, you're talking about disproportioning minority contact, you are talking about a unfunded mandate, and you are talking about a bill that is not comprehensive. There is no reason for this bill to move forward. Go back to the drawing board, and let's figure out a better bill. Amendments won't fix that issue. Training dollars for teachers do not solve the bigger issue.

**SCHEER:** Time, Senator.

**WAYNE:** Thank you.

**SCHEER:** Thank you, Senator Vargas and Senator Wayne. Mr. Clerk.

**CLERK:** Mr. President, new bills. LB959 is by Senator Vargas. It's a bill for an act relating to crimes and offenses. It amends Section 29-2221. It changes provisions relating to habitual criminal enforcement. It defines terms and repeals the original sections. LB960 is by Senator Friesen. It's a bill for an act relating to the Municipal Proprietary Function Act. It amends Sections 18-2806 [SIC]. It changes the provision relating to accounting of income and provides a requirement for use of proprietary function funds. LB961 is by Senator Friesen, a bill for an act relating to motor vehicles. It adopts the Peer-to-Peer Vehicle Sharing Program Act, and provides for collection of sales and use tax on certain vehicle rentals, and it harmonizes provisions. LB962 is a bill by Senator Hunt. It's a bill for an act relating to the postsecondary education-- institutions. It amends Sections 48-2610 and 48-2614. It adopts the Nebraska Fair Pay to Play Act. It changes the Nebraska Uniform Athlete Agents Act, and provides an operative date, provides severability, and repeals the original sections. Mr. President, a reminder: the Reference Committee will meet, upon recess, in Room 1507-- Reference, upon recess, in Room 1507. Name adds: Senators Brewer and Murman to LB147; Erdman, Murman to LB153; Clements, LB744; McDonnell, LB752; Briese and Dorn, LB814; Gragert, LB904; DeBoer, LB934. That's all that I have, Mr. President.

**SCHEER:** Thank you, Mr. Clerk. Colleagues, we've reached a three-hour threshold for this bill on General File and we will pass over it for this afternoon. Mr. Clerk for a motion.

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**CLERK:** Mr. President, Senator Geist would move to recess the body until 1:30 p.m.

**SCHNEER:** Colleagues, you've heard the motion. All those in favor say aye. All those opposed say nay. Ayes have it; we are in recess.

RECESS

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

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

**FOLEY:** Thank you, Mr. Clerk. Are there any items for the record?

**CLERK:** I do. Thank you. I have a Reference report referring LB904 through LB937. An amendment to be printed, Senator Matt Hansen, LB147. That's all that I have, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Members, Senator Brewer would like to announce that we have a large contingent of veterans with us up in the north balcony from all across the state of Nebraska. If those veterans could please rise, we'd like to welcome you to the Nebraska Legislature. Now proceed to the first item on the afternoon agenda, LB153. Mr. Clerk.

**CLERK:** Mr. President, LB153 was a bill introduced by Senator Brewer at the request of the Governor. It's a bill for an act relating to revenue and taxation. It changes provisions relating to taxation of Military Retirement Benefits. The bill was introduced on January 11 of last year. At that time was referred to the Revenue Committee. The bill was advanced to General File. I have no committee amendments, but I do have an amendment to the bill from Senator Brewer, Mr. President.

**FOLEY:** Senator Brewer, you're recognized to open on LB153.

**BREWER:** Thank you, Mr. President. Good afternoon, colleagues. LB153 has been a three-year process. We started in the first year in an attempt to get 100 percent reduction in military pension. We realized that was a bridge too far and that's how we got to LB153 today. I'd like to start by first off thanking all the Nebraska veterans for their service. Like to thank the senators that have cosponsored the

bill. I'd like to express a special thanks to Senator Lowe for using his priority so that the bill that we have could be here today. And I want to thank the Governor for his support on this important legislation. I'd also like to recognize all the veterans here in the body. If you would just take the time that Senator Gragert, myself, and Senator Bostelman have wore the uniform, that would be 96 years. Now I know that makes us seem old, but I'm sure if we were to take and tally what's in the balcony, you would see that was a fairly low number. But some of our veterans in the body, some don't even realize are veterans. One of them is Senator Chambers and him and I have had a chance over the years to talk about his service. And he is very quiet about his service, sometimes quieter than he should be. Some of you have heard me share a little of his experience in the military. First off, he is an Army guy. Nothing against the Marines or the Air Force. But his service in the Army was in the infantry, which most will tell you can be a pretty miserable way of life. The other thing is there are certain jobs in the infantry you don't want. One of them is a guy who mans a flamethrower. Guess where Senator Chambers was? He was a guy manning a flamethrower. That flamethrower, when it was used effectively, changed the tempo of the battle and decided many battles. And so it seems appropriate that he would be the guy manning the flamethrower for obvious reasons. Because if you have a bill that's not a very good bill or one that he doesn't like, more than likely that training that he got with the flamethrower is replicated in how he's going to treat you and that bill here on the floor. So, Senator Chambers, thank you for your service. Please don't roast me today. We have an opportunity here today to-- to right some wrongs. Nebraska is blessed to have what's called a MAJCOM, a major command. That's what STRATCOM is. Offutt Air Force Base has been a key contributor to the economy of Omaha, Bellevue, and generally this area. And sometimes people don't realize that it is rare to have a four-star command in your state, but we have that command and we want to keep the command. And one of the ways we could do that is make Nebraska a veteran-friendly state. Right now, there are not that many benefits that we can offer or have offered to make Nebraska that veteran-friendly state. That's why, right now, the majority of those that retire out of Offutt Air Force Base move to Iowa, Missouri, Kansas and other places. There was a flier that was on your desk that kind of showed how we're surrounded by states who do not-- or that do provide benefits as far as taxing of pensions. So if you understood how hard this has been to get here, you'd understand that we didn't take the 50 percent lightly, that it was originally 100 percent, but

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we were living in times that would not allow us to do that. So here today, we have a chance to change that. Now you say why? Well, the ones that we lose are normally relatively young, late 30s or into their 40s. They're going to come back into the work force in some capacity. They're going to own homes. Their kids are going to go to school. They're going to pay sales tax, income tax, and property tax. So that fiscal note is not included in this. So I would ask you that you remember that that's the hidden part here. If you look at just a fiscal note, that's not being very honest in what the impact is on Nebraska. I don't know that we can afford not to have opportunities for this talented group of individuals who have served their country and now simply want to find a place that they can call home where they can be competitive. And Nebraska right now with no benefits for the pension limits that. And don't limit this just to Offutt. Remember that anyone who retires with a pension, the Army, Navy, Air Force, Marines, all would be impacted by this. And those numbers are larger than one might realize. We're grateful to have that economic development for Nebraska, but we lose too much of it not to let this bill go forward. There has been some that came up to me and said this is a pretty self-serving act on your part because you're going to directly benefit from this. And I agree. But someone has to be the champion for all of those that you see in the balcony. And so that's my job. I will be their champion as best I can, as some of the other veterans here, I'm sure, will come, stand and speak on. Why give them a break over anyone else? They have taken the time, the energy and the effort and part of their life to wear the uniform, the cloth of our country, go to places and do things that we ask of no one else. In many cases, come back changed. Changed physically and mentally. After 36 years, I spent two years getting rebuilt at Madonna, and so, you know, when you say why do we treat them different, you treat them different because they paid a more severe price than we ask of about anyone. So today I would ask you to just remember that, yes, this is self-serving, but it's also serving every veteran who has served Nebraska and now are just simply asking to have their pension treated fairly compared to other states so that they can come here and have a life. Because of some of the concerns about the fact that we would directly benefit from this bill becoming law, I have decided that I would contribute whatever I have to gain by this law becoming-- or this bill becoming law to the Tunnels for Towers. Tunnels To Towers is simply a nonprofit that helps both military and first responders, the families of those that are lost to provide homes and other resources.



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So now there is no direct benefit to this. It's simply doing what's right. With that, thank you, Mr. President.

**FOLEY:** Thank you, Senator Brewer. Mr. Clerk.

**CLERK:** Mr. President, Senator Brewer would move to amend his bill with AM2064.

**FOLEY:** Senator Brewer, you're recognized to open on AM2064.

**BREWER:** Thank you, Mr. President. The AM simply updates from last year to this year, the language in the bill. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Brewer. Debate is now open on LB153 and the pending amendment. Senator Blood.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I rise today in both support of the amendment and the underlying bill, LB153. If you reviewed the information that came from LRO in November, you noted that 18.9 percent of my district is population that-- 18.9 percent of my population in my district is made up of veterans, and that doesn't even include those who are currently serving that also live in my district. We are ranked number one for the population out of 49 districts and have more than twice the veterans percentagewise than the state average. And because of this, veterans and their families have continually been a priority for my office. And the nine bills that I brought forward that have been passed will help lift up these Nebraskans as we continue to push toward making Nebraska even more military friendly. Now working with this demographic over the last three years, it is clear in my mind that we understand that those who serve in the Armed Forces and make this career decision, that it requires years of challenging and dangerous assignments, great sacrifice, and meager pay. And as always, remember that our military families also served. This is why I cosponsor LB153. When these men and women make a choice to have a life of service and sacrifice, we offer a benefit at the time of recruitment. That benefit is their pension, be it a final plan, a high-36 or a REDUX, it is not income. It is their just reward, a promise that for their sacrifices, their loneliness, their tears and sadness as well as their families, the separations, the cost on their personal relationships, the nightmares and the grief that comes from the loss of a comrade who died in battle, the loss of camaraderie you had with your fellow service members, sometimes your identity as a member or your physical and

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mental ability. We made them a promise. Now, yes, this will have a powerful impact on Nebraska when it comes to economic development. And the statistics are very clear that it will be a benefit to our jobs market and our population. But for me and those in District 3, this is about the people, the people you see sitting up there, the people who serve across the state of Nebraska and the benefit that they were gifted because they stepped up to the plate to protect home and country. And I ask all to support LB153 and to continue to move Nebraska forward, not only with LB153, but others that support all who have served, be it 2 years or 20. Let's do more today than sing their praises and let our actions speak louder than our words by voting to pass LB153. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Blood. Senator Lowe.

**LOWE:** Thank you, Lieutenant Governor. I just wanted to say a few brief words on LB153. This bill is my priority bill leftover from last year. And I'm thankful for all the work that Senator Brewer has done on it. LB153 exempts 50 percent of the retired military pensions. There are two major arguments to be made as why we should vote to approve LB153. The first one I would like to touch on is pretty simple. We ask a lot of our military as Carol Blood has just said, excuse me, Senator Blood. They have tough, tough jobs and do those jobs with great pride and honor. Those individuals chose to potentially put their lives on the line, often for less compensation than they would have received in another chosen career. When the time comes for these individuals to retire, the very least we can do is to allow them to have half of their retirement pay tax free. Now, of course, I would prefer that we could go up to 100 percent. But I realize that that is not a possibility in our current financial situation. Senator Brewer has come up with the best possible solution given our current restrictions with our fiscal challenges. And those are-- those fiscal challenges are another reason I hope you will join me in supporting this bill because our veterans live with fiscal challenges too. I'd like to welcome all the members of the military that have shown up today in support of LB153. Many of those above live in the eastern part of the state, as that's where they want to remain to live. But where are they most likely to live-- in Nebraska, where they are taxed on their retirement or right across the river in Iowa, where they pay zero percent on their retirement? Like to pull up a quote from the hearing. It was talked about somebody who was in the military. He moved from Papillon to Glenwood, Iowa, because the difference in taxation of his military retirement is an immediate \$5,000 pay raise to him annually.

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Think about that. That's a car. You could afford to buy a car and make the payments without doing anything if you stayed in Nebraska. His comment was that unless you have kids who can use the excellent schools in our state, it becomes a no-brainer for his decision to look at living in Iowa. And with the new Highway 34 bridge from Glenwood, Iowa, to Bellevue, it makes the commute easier. It's easy to live in Iowa and work in Nebraska now. It's cheaper to live in Iowa than Nebraska. Let's make it possible for our veterans to retire in Nebraska where they want to live, not because of taxes, but it's because that's where they want to live. Let's give them that extra bonus that they worked for. Let's let them keep half the retirement pay. I urge all of us to come together on this bill. And I believe you'll be surprised that those who are going to vote today, many of us never served in the military. And many of us will vote yes on LB153. The veterans have waited a long time for this moment. It's finally time that we deliver it for them. Thank you, Mr. President.

**FOLEY:** Thank you Senator Lowe. Senator Crawford.

**CRAWFORD:** Thank you, Mr. President, and good afternoon, colleagues. I stand in support of LB153 and the amendments and urge your support. I want to thank Senator Brewer for bringing the bill and Senator Lowe for prioritizing the bill so that we can have it up for debate. And I want to thank those who are in the balcony with us for their service and for being here to advocate for the bill. Colleagues, I also want to thank all of you here, because all of you here have been parts of approving other bills to support our veterans in the state. And we've done a great job as a state, I think, in the past 8 years of really focusing on trying to address issues that help our veterans in our state. We're privileged to be able to house Offutt and SAC. And also to have so many other veterans who live in our state as well. And it's a privilege to serve, to do what we can to make Nebraska a great place for them to serve when they're in active duty. And this bill is part of making Nebraska a great place for them to retire. And there are so many other benefits we have in Nebraska for them to retire that this really helps to sweeten the deal, to make sure that we have this last benefit that's really important. This-- excuse me, this benefit that's very important for our veterans in terms of making their retirement here in Nebraska a more-- a more attractive one to them. I am pleased to have so many veterans who reside in my district and pleased that we're offering this benefit through LB153. And again, I want to thank you for all of your-- all of your votes for other issues that we worked on to really try to make life better for our military while

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they're in our state and for our retirees in our state. And this is just one of those. When I look at the list of-- of veterans issues that we've been working on, this has been just on-- a long time on the list and not checked off as done. And so it's really an important piece of the package that we need to provide in our state to make sure that we're being great hosts and great-- a great place for our military and veteran families to live and a great place for them to retire. So I urge your full support of LB153. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Crawford. Senator Gragert.

**GRAGERT:** Thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM2064 and LB153, which proposes to exempt 50 percent of military retirement benefit from the income tax. I see this bill as a win-win, a win for the retired veterans and a win for the state of Nebraska. Passing this bill means our military veterans will be more apt to stay in Nebraska after retirement. Providing them with greater source of income will make Nebraska more competitive with surrounding states that have already exempt military pensions from their state income taxes. Three of our surrounding states: Iowa, Kansas, and Missouri don't tax military retirement pay. Two more, South Dakota and Wyoming, don't have state income tax. And in Colorado, those 54-- 55 to 64 can exclude up to \$20,000. And those 65 and older, up to \$24,000 of military retirement pay from their state income tax. We need to become more competitive with our surrounding states to attract and keep military retirees. Providing this incentive will keep the work force of very talented individuals in Nebraska helping solve our work force shortage issue. I can and will serve-- it can and will serve as a buffer as we continue to grow a younger work force class in Nebraska. The number of veterans in Nebraska is decreasing by approximately 2 percent annually. Nebraska is the only state among our surrounding states that saw the decrease in military retirees, which clearly illustrates that Nebraska needs to take action to become more competitive with other states. Military members can retire after 20 years, providing us with a pool of highly skilled workers at a height of their career. Furthermore, economic benefits such as increased consumer spending, employment taxes, and business sales of additional persons moving to or staying in Nebraska could easily outweigh the cost. Nebraska currently-- Nebraska's current tax benefits of allowing military retirees who retire after July 18 of 2012 to elect to exclude 40 percent of their retirement benefit from the income tax liability for 7 years or exclude 15 percent for all years beginning at age 67 is

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somewhat confusing and excludes many retirees. Although this was an important first step, I believe we can do better and LB153 take-- would take that significant step. As I stand in support of this bill for the reasons given, I also want to inform Nebraskans that I stand to benefit from this bill financially after serving 40 years in the military. Therefore, any increase this bill would provide me personally will be donated to St. Jude's Children's Research Hospital for at least as long as I am serving in the Legislature. This legislation will enhance the retention of military retirees in Nebraska, provide needed skilled workers, increase economic activity, and certainly not least, honor their service to our country and recognize their sacrifice. Please vote in favor of AM2064 and LB153. Thank you.

**FOLEY:** Thank you, Senator Gragert. Senator Bostelman.

**BOSTELMAN:** Thank you, Mr. President. Speaking as the youngest of the three retirees, the opportunity we've had to serve is-- is our pleasure, our duty. But what we've heard about is something to give to us because of our service, and I want to look at another angle, speak of is to-- to think of those. I was stationed at Offutt as well as Senator, Colonel Brewer was. I was stationed at headquarters there as well. There's a lot of highly intelligent, highly gifted people there in that-- in that venue and in that organization, but the entire state and the entire base as well and the different military organizations we have here. You have electricians, you have plumbers. You have lawyers. You have doctors. You have dentists. You have people that pave the roads, that lay bricks. You have people in administrative contracts. We have people in environmental world. We have the people in global weather and weather. You have individuals that are stationed here that form a relationship or a family or a bond here in our state that would like to stay. And they can give back tremendously to our state. I could go to South Dakota-- when I was stationed in South Dakota I could have filed there as a South Dakota resident, not paid sales tax, vehicle tax in Nebraska, I chose not to. I chose to come back because this is where my family's from. But not everyone is in that same place. We have people that come from Florida, Maryland, California, Texas, Kansas. They're stationed here, and find a reason to stay here, that they like to stay here, but they're offered a job someplace else or they find another place they would like to go. Maybe they want to-- I talked to a person this weekend who retired out of the military and started his own business. Those people are here. Those people exist. They'll want to stay here and with AM2064 and

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LB153, both are-- are bills-- amendment and a bill that I feel is important to Nebraska, is important to our veterans. Yes, to say thank you in a sense, if you want to go there, but also to recognize the great opportunity that they provide our state in what they bring to our state and work and families, what they give to our communities through the American Legion, through the Veterans of Foreign Wars, for the Order of the Purple Heart and they give a tremendous amount to our communities. And this is an opportunity as well that I guarantee you that the money that a little bit that they may take it's going to get reinvested into our communities very quickly that this bill gives those veterans that are here in the state. It's something that-- that resonates with me deeply, obviously. And I, too, will benefit from this. But I think it's something that we need to do. It's not-- we have a lot of challenges within the state to fund, to meet on a budgetary side, but this will give-- give an opportunity for a lot of people, I think, to stay here, to contribute to our economy, to contribute to what we have in our communities. So I would encourage you to vote green on AM2064 and green on LB153. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Bostelman. Senator Brandt.

**BRANDT:** Thank you, Mr. President. Thank you, Senator Lowe, for prioritizing LB153. One hundred thirty thousand one hundred and twenty-six. This is the total number of veterans in the state of Nebraska estimated by the Veterans Administration in 2017; 66,970 or 52 percent live in Omaha and 13,712 in the state of Nebraska received Department of Defense retirement benefits, 10 percent of all Nebraska veterans. Today, Nebraska ranks 25th nationally as the best place for veterans with military benefits to retire. LB153 would allow Nebraska to move up in the rankings through an increase in the amount of deductible benefits to 50 percent for this subset of our state veterans who receive retirement benefits from the Department of Defense. I am proud of all the men and women who have served. My three uncles who served in the Guard, my uncle who served as a Marine, my dad who spent two years in Germany as an army artillery battalion during the Cold War. This tradition is being carried on by my daughter, who is in the Air Force. I am proud to represent the 2,500 veterans who live in Legislative District 32. My dad was typical of the 90 percent of the veterans in the state. He served his country for three years, then returned to his hometown to start a family and begin farming. He was always grateful for the opportunity the military gave him to see the world and to work with some great people. Upon his

return, he took advantage of the G.I. Bill to the extent possible in small town Nebraska. My dad passed away in 1991, paid his taxes every year and did not expect anything special from the state or nation because he did his duty. This bill is being promoted as work force development. We are told if we do not increase the benefits to our military retirees, they will move out of Nebraska. Maybe so, but what of the 90 percent of our veterans who received no military retirement? They are our work force. When they came back to Nebraska, they received no economic benefit from the state, paid their taxes every year. What if we as a state reduce the amount of state tax on Social Security for veterans that do not receive military retirement? I think that would be a great way to help all veterans in the state and recognize those who came back to work or start businesses in the state, or if we had meaningful property tax relief to reduce the tax burden on veterans' houses, businesses and farms. The Pew Trust just ranked Nebraska as having the second highest property tax burden in the nation. What is the current state of affairs for veterans in the state? We have a new veterans home in Kearney with empty beds and a long waitlist because we cannot find enough staffing. We have veterans who are at risk because they are homeless or face mental health challenges. We have veterans who cannot find a job that fully utilizes the training they received in the military. All of these challenges can be met by the state, but will require resources-- money. Why do we as a state still tax active military? These kids are just starting out and quite often live in another state and do not use any state services. I will be voting for LB153, but I challenge Nebraska's veterans listening today, whether draftee or volunteer, to use the training and talents you learned during your military service to improve our state. We want veterans to move to Nebraska to work or retire, whether they have a military pension or not. Thank you.

**FOLEY:** Thank you, Senator Brandt. Senator Chambers.

**CHAMBERS:** Mr. President, members of the Legislature, when somebody back there was speaking and mentioned that people came from Florida and a couple of other states, I was going to tell them, well, they come to Nebraska because they're probably in the Witness Protection Program. However, it seems that my colleagues want to provide a different basis for that. In all seriousness, I want to address something Senator Brewer said. I think it is preposterous that things have reached a turn where a man or a woman could feel that because he or she led the charge to bring about justice where there had been injustice, he or she is thereby disqualified from participating in the

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new justice regime. I would advise Senator Brewer to participate in this program. It's not done because Senator Brewer brought it. Anybody who thinks that Senator Brewer brought this bill because he's gonna benefit from it doesn't know Senator Brewer at all. And if Senator Brewer could show me somebody who would say that to him, I don't care how big the person is, I don't care how young the person is, I believe I'd give him a good go for his money until he took back that sentiment. Not one person in here thinks that Senator Brewer brought this bill because the relative peanuts he would derive by way of this pension is-- it boggles my mind. Now I'm going to offend him. I concentrate on the people who are voiceless so that I can be a voice; the people who are friendless so that I can be a friend; the ones who are weak so that I can offer or share a measure of strength. And to cover the waterfront, I self-described myself as defender of the downtrodden. There are people who to all outward appearances, may be up-trodden and a "trodder-upon", rather than being downtrodden. But that term, like others in this society, is a chameleon term. You cannot always tell the nature of something by looking at it and going strictly by the appearance. I would be very remiss in my job as a member of this Legislature, as a person who has the title State Senator, thereby indicating that everybody in this state, whether a citizen, a noncitizen, is a member of my constituency. This state is my district and I have an obligation to look out for the best interest of those in this state. Senator Brewer is more than capable of standing up for himself, speaking for himself, fighting for everything he feels he's entitled to. But sometimes a man can be in a position where he feels his hands are tied and the forces that he has at his disposal are not available. That's the time when we need some people who can look below the surface and see what is going on beneath the water, not just what is floating on top of it. Senator Brewer is not begging anybody for anything. He's not asking anybody for anything, but there is a demand that he can make on me, an obligation he can repose on me because he is a man as I'm a man. He lives in this state as I live in this state. If I got legislation that provided a benefit, I do not feel that I cannot participate in that benefit because I was the one who brought the legislation. Nobody will see him as a self-seeker. He said somebody has to step forward and do a job that needs to be done, and he did it. And when you do that, you should not be punished or made to suffer before-- because of it. I'm not going to ask Senator Brewer a question and put him on the spot, but if I would ask such a question, I would say, Senator Brewer, in order that I can



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respect myself and this state, will you retract what you said and take that to which you're entitled? If you don't--

**FOLEY:** Time, Senator.

**CHAMBERS:** You said time?

**FOLEY:** Yes, sir.

**CHAMBERS:** Probably--

**FOLEY:** Senator La Grone.

**LA GRONE:** Thank you, Mr. President. I fully agree with all the comments that have been said today about how important veterans are to our state, so I don't need to go into repeating those. But I do think there's another point that it's-- why this bill is so important, so important and that is the fact that we have a work force crisis in Nebraska. So when we have these skilled laborers who have served in the military, a lot of times who then are looking for a place to stay after, this gives-- gives them another reason to stay. This is another thing that can assist in the work force development issues that we're having. So I wanted to posit that as another reason this is such a great bill. With that, I will yield the remainder of my time to Senator Brewer.

**FOLEY:** Thank you, Senator La Grone. Senator Brewer, four and a half minutes.

**BREWER:** Thank you, Mr. President. Thank you, Senator La Grone. Well, I think I probably need to answer Senator Chambers' question, even though he didn't ask the question, I'll just give an answer. And after listening to you, I-- I agree. If-- if we're going to vote on property tax, probably everybody in this room will benefit from property tax improvements. So I'm not saying you're right. What I'm saying is I'm going to donate money to Tunnels For Towers because it's the right thing to do. And after-- after hearing you, I think that it needs to be a conscious decision to help a 501(c)-- a nonprofit rather than it being directly correlated to voting on this bill. So for that, I thank you. There has been some questions about this impacting the National Guard. I think we need to probably help everyone to understand that there are a number of categories within the National Guard. You have those that are just what we call an M-Day and they-- they drill on the weekends and they do their two weeks at whatever time during the year

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they're asked to do it. And then you have those who are federal technicians and they also drill on the weekends and do their annual training. And then you have what we call AGR. AGR is active Guard and Reserve. Those are active duty. And at 20 years they're allowed to retire. The others--

**FOLEY:** One minute.

**BREWER:** --can still retire when they have 20 years of service, they will receive their retirement upon hitting age 60. So there are different categories there. But for this bill, it would affect all the Army, Navy, Air Force, Marines who have a pension or retirement, but would also affect the Guard and Reserve the same. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Brewer. Speaker Scheer.

**SCHEER:** Thank you, Mr. Lieutenant Governor. Hadn't thought much about Senator Brewer's decision, if he was going to utilize his funds in one manner or another. I've got to tell you, if I'm ever fortunate enough to have four lanes on 275 from Norfolk to Omaha, believe me, I would vote for it and I would utilize it. I wouldn't drive around, just not because I was gonna have a personal benefit from having that highway from Norfolk to Omaha. The fact that you benefit from any legislation, we all do that. And I think if I were you, I don't know that I would specify. If you want to donate something to somebody, that's your own business. I don't think it should be part of the record. I don't think you should tie yourself into something. You know, one year from now or 10 years from now, you know, your personal determination is without question. And I believe that whatever you do in the future with your funds is your business. It's not that of the floor. What I had-- however, what I put my light on for was I-- I've had other folks that have asked me in regards to this legislation, why them? Why service? Why not a fireman? Why not a police officer? Why not a State Patrol? Why not a teacher? Why not a lot of things? And so as I sort of pondered that over a period of time, it finally dawned on me that when you enlist in the service, you are taking an oath to defend the United States. But it doesn't mean that you're going to defend the United States. If you were stationed in Omaha, your initial station, if they decide to send you someplace else, you don't get the opportunity to say, gee, that's a little warm for me or that's too cold up there or my family really wouldn't like to go there, you go. It's not a choice. It's an order. Therein lies the difference between the military and

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most of the others that put their lives at risk on a daily basis. At some point, if they choose not to, they can simply resign and move on. They also have the opportunity if they are a patrolman, state patrolman here, and if it was more lucrative to be a state patrolman in Colorado or Oregon or Florida, they could simply move to those states and start providing that service there on their own accord, not because they were ordered to do so. So as I look at this bill, I will support this bill, because to me, these folks have served the nation. They've all served it proudly and they've served it knowing that they did not control their destiny. And at some point in time, they would be told to put themselves in harm's way without having the opportunity of deciding are declining that invitation. They made the obligation to serve the nation. They've done so. They've retired. And I think part of this is a competitive basis to make us competitive with other states, that it also is out of respect for those individuals and the services they provided every constituent, every member of this body, every resident in the state of Nebraska and the United States. And to that, I thank our three veterans that have spoken and would proudly say that I will support this legislation. Thank you.

**FOLEY:** Thank you, Mr. Speaker. Senator Friesen.

**FRIESEN:** Thank you, Mr. President. As most of you know, last year I voted against this bill coming out of committee. And back then my thinking was, and I'm not giving away a penny of revenue until we've solved our property tax issue problem. We do have a little extra revenue to work with this year. What I just want to remind everybody is that there are lots of veterans out there who have served numerous tours. They put their lives on the line and they're not going to get benefited by this. In fact, the majority of them that have done that will receive no benefit from this. And as we heard testimony during committee hearings, we were reminded by one veteran who would have benefited by this. I think it was a veteran that would have benefited, but it was a veteran. But he said, you know, he chose to retire in Nebraska because of the good things that were here, and it costs money to have those good things. And his point was that his family was settled here. His grandkids were here. And they were going to have to pay a little more so he could stay here. He was staying regardless. I'm going to vote to support the bill. But I think everybody needs to keep that in mind, that there's a lot of veterans who have served and put everything on the line that will get no benefit from this. And it does cost money to have the good things that we have in Nebraska. And so there is a cost to providing those services to families that want

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to stay here and I hope everybody realizes that we do have one of the better states in the country to retire and that we don't always need to entice people. We will never keep all of them here. Being that Offutt is located here, there's never a chance of 100 percent retention. People are going to move-- moving back to their communities for whatever reason. And I know they've been forced to move all over the country. And I do think it is a service they provided that a lot of us probably wouldn't have been willing to do. So I do appreciate everything the veterans have done and I especially appreciate those veterans who have served their time and probably didn't get the benefits that we're giving some of these others. So with that, I thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Senator Groene.

**GROENE:** Thank you, Mr. President. I stand in support of LB153. I, like Senator Friesen, originally came to this body and said nobody gets a tax break until everybody gets a tax break. And I opposed this on that purpose only. I jokingly-- I'm on the Revenue Committee when they testified, some of the folks that were retired veterans testified. I jokingly told them, I said, well, I'm afraid of this. We're all standing on a hill with the castle below us and we all got our pitchforks and we-- and we want tax relief. And I got a commitment from them that if they get their tax relief, they won't take their pitchforks and go home, that they will help us with property tax relief because their property taxes are high, too, with income tax relief because their income taxes overall are high too. Our retirees leave this state in droves. I'm talking all retirees. You can go to a lot of states and not pay sales-- income taxes on your Social Security benefits. You can go to some states and you don't even pay income taxes on your 401(k)s or anything else. Those folks are going to leave. The difference here on an economic rationale is these are younger individuals. They can go back into the work force. I know my railroad, if you show up as a veteran, not talking a 20-year veteran, just a veteran, you've got a good chance of being hired immediately because you know how to get up in the morning. You know how to show up for work. You know how to work. And we need veterans of all types in this state to stay here because they have been vetted by the system. They know how to pass a drug test. They don't take drugs. As I said, they're good workers and we need to keep them here. But we need to keep a lot of people here. We need to keep our farmers in business. We need to keep our small town businesses, main streets open too. A lot of problems we're addressing here. This is just a small part of it.

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And the ones that are gonna stay are going to stay. The ones that are gonna take-- look for tax relief are still going to leave because they can go to Iowa or some other states and get 100 percent of their benefits and their Social Security not taxed. So the ones that are here love Nebraska. And Senator-- the Speaker said a lot of folks don't move far from home. Veterans have lived anywhere in the world. They're used to creating a new home. Moving is not a big thing to them. There's probably five places they've lived that they-- they'd like to live. They could go back to those places, but they decided Nebraska was where it was at. So we'll give you a tax break, convince more of your friends an extra 50 percent in Iowa ain't worth it and stay here. And-- and Senator Brewer, I never even dawned on me that anybody would think you did this for personal gain. You don't know the man if you think that's the reason he would even bring something like this up. He knows what's right and he knows what's wrong. And when he knows it's right, better be on his side because he's going to get her done. So thank you. And I support LB153 and I will vote aye.

**FOLEY:** Thank you, Senator Groene. Senator Lowe.

**LOWE:** Thank you, Lieutenant Governor. My wife told me before I even brought the bill up today, she says be brief. So I'm going to take that. And-- but I did want to mention, I just wanted to thank everybody because I believe I'm one of the last people in the queue or I was a few minutes ago and I wanted to allow the senators who have gone back to their offices to study because they thought it was gonna go another hour, or half hour, to get back here so that they can register their vote in favor of all these veterans that have come down today and the veterans across the state of Nebraska. When we go for touchdowns, we don't win on the legislative floor. And by including all veterans and teachers and anybody with a retirement, this bill would not pass because we don't have the funds to do it. So we must go by first downs. And I believe that's what we're doing here today. We're including one group, the veterans with military pensions, to allow them to show us the way to keep the money in our state, to buy things, to make that money circulate. And thank you to all of you that showed up today and all of you across Nebraska. We appreciate you. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Lowe. Senator Vargas.

**VARGAS:** Be brief. I do stand in support of this bill, and I'm lucky to be Chair of the Planning Committee and Vice Chair, Senator

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McCollister, along with several others on this committee, and one of the recommendations coming out of this last year was to do a little long-term planning and we came up with five general recommendations and one of them was rural development. Now there's a lot of ways to materialize and identify what that means to each person. But one of the ways that we identified this is we need to figure out a way to prioritize strategically how we invest in rural Nebraska. And I think this is one strategy to go about doing that. So I do want to thank everyone for this discussion. The only other thing I'll say is I'm encouraged by this conversation because, you know, I came into the Legislature and we came in, we talked about all the money we did not have. Now I know we're talking about money that we [INAUDIBLE] have and how we can invest it. But this is one of these times where we are talking about the bill and the policy on its own and then evaluating how it fits in strategically with the priorities and how we spend within the state of Nebraska. I think that is critical to this conversation. I don't think nobody, including myself, is going to dispute that this specific subgroup is not only important to our state. My-- my brother was a veteran and he served in the Navy. But it's also important that we continue to evaluate policy rather than only whether or not we have the revenue, and I think this is one good example of that. And I just thank everybody and I thank the introducers and Senator Lowe for prioritizing the bill. So thank you, everybody.

**FOLEY:** Thank you, Senator Vargas. Senator Bostelman.

**BOSTELMAN:** Thank you, Mr. President. Won't take long, but it's something I-- through the conversations have been had today I think something needs to be said along the lines of our spouses and what we do. We're talking about military retirement pay right now. Not all of us, not all those sitting up in the balcony volunteer. Some may have been drafted. They didn't have a choice. They served their country because the country called, required them to serve. Myself, what I'm getting-- the point I want to get out is on the economic development side things we're talking about. Many of you know my wife is an engineer. My wife had a very-- senior management job when I was stationed at Offutt. I got orders. We had to leave. My wife left that job, lost the pension, lost the retirement, lost what she had from 20, 30 years of experience in that company because of my military duties, my-- my obligation that I had. And I'm not complaining about it. I'm just saying fact. So we have a lot of spouses of active duty people who come to this state from another-- from someplace else in the world

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and they'll get into a senior management position. They don't want to leave from here, go back to some other state, and whatever else, but one of the things that helps that family-- or a job, period. Maybe it's in real estate, they have that job. But one thing that helps them stay is that military members' retirement. And if we can do anything, especially that this bill can do to help-- to keep them here, to give them that opportunity to stay, that's what we need to do. And I hope this makes sense to you, to what I say, because not only do we sacrifice by being deployed or-- or living around the world, but our families do too. Our families oftentimes give up their careers. They give up what their goals are. And that's something we just need to remember. And with this with those military members that are here and their spouses, if those spouses are starting that career, whatever that is, and this helps them, that helps that family to stay, this is the right thing to do. I encourage you to vote green on AM2064 and LB153. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Bostelman. Senator Linehan.

**LINEHAN:** Thank you, Mr. President. I rise in support of LB163. I think Nebraska is a great place to retire. This is where I came. This is where I'd like to spend the rest of my life. My grandkids are here, but we need to pay close attention to these things because we are, for retirees, a high-tax state. And this is one step that we should take to make it more welcoming to keep those retirees in Nebraska. It's not the only step we should take, but it is definitely one thing we should do. So I just want to go on the record as supporting this bill. Thank you.

**FOLEY:** Thank you, Senator Linehan. Senator Brewer, you're recognized to close on the amendment.

**BREWER:** Thank you, Mr. President. Well, I think I probably need to start by answering Senator Friesen and Senator Brandt's comments. I would love to write a bill that was a be-all, end-all that took care of everyone. But if I did that, it would go nowhere. I am trying to fix, through the process that we have, something that will allow us to retain as many veterans as possible. The ones that served two years, three years, four years, I understand they come back and they go to their farm and they pay their taxes, and I never said anything against that. My issue is this. I cannot do a bill that would cover everything. I am trying through different bills to give relief. One is to not tax Social Security. I think that is-- is-- is something that

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we have done that is wrongheaded. But we consciously make a decision whether to serve 1-- a 3, 4 or 5, however many years. If you don't make that conscious decision for state-- to stay for 20 years, then it makes it very difficult to have a mechanism to compensate the veterans besides what the VA and the Veterans Affairs can do for them. That was never the issue with this bill. But today, I can't help but swell with pride to see this balcony full of veterans, many of whom I've served with. And I guess they had a chance to kind of see in a microcosm of what happens here on the floor of the Legislature. I'm getting to the point where I feel like we're gonna love the bill to death, so we need to bring this to an end. But just understand the cost if we do nothing. The risk of losing STRATCOM and Offutt is a real-- a reality. I understand we just built a new building there, but just keep in mind it's also a base that's flooded. And if the Air Force needed a reason to move that facility somewhere else, they have it. And us not trying to do what we can to help them is gonna directly impact decisions that are made at the four-star level. This is not asking for a handout. This is simply rewarding individuals who have spent a lifetime paying taxes and not living in Nebraska. And now they're going to come back and have another job, own a home, buy items here and pay taxes. So with that said, I would ask for your support and a vote green on LB153. And Mr. President, I'd do a call of the house and a roll call vote.

**FOLEY:** There been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

**CLERK:** 33 ayes-- excuse me, 34 ayes, 1 nay, to place the house under call.

**FOLEY:** The house is under call. All members, please return to your desk and check in. The house is under call. Senator McDonnell and Hilkemann, if you could return to the Chamber and check in. The house is under call. All unexcused members are now present. The immediate question is just the adoption of the amendment. Senator Brewer, can we just take a machine vote on the amendment, then take the roll call on the advancement of the bill? Thank you. That's how we will proceed. So the immediate question is the adoption of AM2064. Those in favor vote aye; those opposed vote nay. Record, please.



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**CLERK:** 45 ayes, 1 nay, Mr. President, on the adoption of Senator Brewer's amendment.

**FOLEY:** AM2064 is adopted. I see no further discussion on the bill. Senator Brewer, would you like to close on the bill or have you already done so for us?

**BREWER:** Closed.

**FOLEY:** He's closed. All right. The question before the body is the advance of LB153 to E&R Initial. A roll call vote has been requested. Mr. Clerk.

**CLERK:** Senator Albrecht.

**ALBRECHT:** Yes.

**CLERK:** Voting yes. Senator Arch.

**ARCH:** Yes.

**CLERK:** Voting yes. Senator Blood.

**BLOOD:** Yes.

**CLERK:** Voting yes. Senator Bolz.

**BOLZ:** Yes.

**CLERK:** Voting yes. Senator Bostelman.

**BOSTELMAN:** Yes.

**CLERK:** Voting yes. Senator Brandt.

**BRANDT:** Yes.

**CLERK:** Voting yes. Senator Brewer.

**BREWER:** Yes.

**CLERK:** Voting yes. Senator Briese.

**BRIESE:** Yes.

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**CLERK:** Voting yes. Senator Cavanaugh.

**CAVANAUGH:** Yes.

**CLERK:** Voting yes. Senator Chambers. Senator Clements.

**CLEMENTS:** Yes.

**CLERK:** Voting yes. Senator Crawford.

**CRAWFORD:** Yes.

**CLERK:** Voting yes. Senator DeBoer.

**DeBOER:** Yes.

**CLERK:** Voting yes. Senator Dorn.

**DORN:** Yes.

**CLERK:** Voting yes. Senator Erdman.

**ERDMAN:** Yes.

**CLERK:** Voting yes. Senator Friesen.

**FRIESEN:** Yes.

**CLERK:** Voting yes. Senator Geist.

**GEIST:** Yes.

**CLERK:** Voting yes. Senator Gragert.

**GRAGERT:** Yes.

**CLERK:** Voting yes. Senator Groene.

**GROENE:** Yes.

**CLERK:** Voting yes. Senator Halloran.

**HALLORAN:** Yes.

**CLERK:** Voting yes. Senator Ben Hansen.

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**B. HANSEN:** Yes.

**CLERK:** Voting yes. Senator Matt Hansen.

**M. HANSEN:** Yes.

**CLERK:** Voting yes. Senator Hilgers. Senator Hilkemann.

**HILKEMANN:** Yes.

**CLERK:** Voting yes. Senator Howard.

**HOWARD:** Yes.

**CLERK:** Voting yes. Senator Hughes.

**HUGHES:** Yes.

**CLERK:** Voting yes. Senator Hunt.

**HUNT:** Yes.

**CLERK:** Voting yes. Senator Kolowski.

**KOLOWSKI:** Yes.

**CLERK:** Voting yes. Senator Kolterman.

**KOLTERMAN:** Yes.

**CLERK:** Voting yes. Senator La Grone.

**LA GRONE:** Yes.

**CLERK:** Voting yes. Senator Lathrop.

**LATHROP:** Yes.

**CLERK:** Voting yes. Senator Lindstrom.

**LINDSTROM:** Yes.

**CLERK:** Voting yes. Senator Linehan.

**LINEHAN:** Yes.

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**CLERK:** Voting yes. Senator Lowe.

**LOWE:** Yes.

**CLERK:** Voting yes. Senator McCollister.

**McCOLLISTER:** Yes.

**CLERK:** Voting yes. Senator McDonnell.

**McDONNELL:** Yes.

**CLERK:** Voting yes. Senator Morfeld.

**MORFELD:** Yes.

**CLERK:** Voting yes. Senator Moser.

**MOSER:** Yes.

**CLERK:** Voting yes. Senator Murman.

**MURMAN:** Yes.

**CLERK:** Voting yes. Senator Pansing Brooks.

**PANSING BROOKS:** Yes.

**CLERK:** Voting yes. Senator Quick.

**QUICK:** Yes.

**CLERK:** Voting yes. Senator Scheer.

**SCHEER:** Yes.

**CLERK:** Voting yes. Senator Slama.

**SLAMA:** Yes.

**CLERK:** Voting yes. Senator Stinner. Senator Vargas.

**VARGAS:** Yes.

**CLERK:** Voting yes. Senator Walz.

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**WALZ:** Yes.

**CLERK:** Voting yes. Senator Wayne.

**WAYNE:** Yes.

**CLERK:** Voting yes. Senator Williams.

**WILLIAMS:** Yes.

**CLERK:** Voting yes. Senator Wishart.

**WISHART:** Yes.

**CLERK:** Voting yes. 46 ayes, 3 nays--or excuse me, 46 ayes, 0 nays on the advancement of the bill.

**FOLEY:** LB153 advances. I raise the call.

**CLERK:** Do we have bill finals?

**FOLEY:** Items for the record, please.

**CLERK:** Mr. President, new bills. LB700-- LB963. It's a bill by Senator Brewer relating to workers' compensation. It changes provisions relating to personal injuries of first responders and frontline state employees. It provides a means for demonstrating a prima facie case of personal injury. It provides duties for the Critical Incident Stress Management Program and the Department Health and Human Services. LB964 is by Senator McDonnell, a bill for an act relating to birth certificates. It acknowledges-- provides for acknowledgement of maternity as prescribed. LB965 is Senator McDonnell relating to education. It establishes a language assessment program for children who are deaf or hard of hearing as prescribed; it defines terms; provides duties for the Commission of the Deaf and Hard of Hearing. LB966, Senator DeBoer. A bill for an act relating to decedents' estates, adopts the Uniform Wills Recognition Act. LB967 is Senator DeBoer, a bill for an act relating to schools. It changes provisions regarding bullying prevention and education. LB968, is Senator McCollister. It's a bill for act relating to the Nebraska Treatment and Corrections Act. It provides duties for the Board of Pardons relating to hearings, a report and decisions. LB969 is Senator Wayne relating to criminal procedures. Changes provisions relating to video depositions of child victims and child witnesses. LB970, Senator

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Wayne, a bill for an act relating to insurance; limits the costs of prescription insulin drugs. LB971 is Senator Wayne. It's a bill for an act relating to gambling. It redefines the lottery. Includes wagers made on the outcome of an authorized sporting event under the Nebraska Lottery and Raffle Act and the Nebraska Small Lottery and Raffle Act. Mr. President, in addition to those new bills, I have a conflict of interest statement by Senator Bostelman and I have a hearing notice from the Agriculture Committee. That's all that I have, Mr. President. Thank you.

**FOLEY:** Thank you, Mr. Clerk. We'll proceed to the next item on the agenda, General File, LB287.

**CLERK:** Mr. President, LB287 is a bill by Senator Quick. It's a bill for an act relating to the Games and Parks Commission. It defines terms. It changes and provides duties for the Games and Parks Commission relating to dissemination of promotional items, reduce rate permits, stamps, replacement permit fees, and adopts promulgation of rules and regulations. It changes annual permit fees and temporary permit fee minimums; provides for resident and nonresident fees for preference points or bonus points in lieu of applying for certain permits for random drawings. Bill was introduced on January 15, Mr. President, at that time referred to the Natural Resources Committee, advanced to General File. There are committee amendments as well as an amendment to the committee amendments, Mr. President.

**FOLEY:** Thank you Mr. Clerk. Senator Quick, you're recognized to open on LB287.

**QUICK:** Thank you, Mr. President, and good afternoon, colleagues. I'm introducing LB287, which would provide for several changes in statute that have been requested for the Nebraska Game and Parks Commission. The Game and Parks Commission is largely supported by user fees and grants, which supply 88-- 88 percent of their budget. Because of this, Game and Parks takes seriously how they meet the needs of their customers and ensure they continue to be able to access grant funds. Many of the changes in this bill are focused on taking a customer-centric approach, both trying to meet customer needs and have flexibility to help recruit new customers to outdoor recreation activities. LB287 would make the following changes. It would merge the aquatic invasive species fee on boat registrations into the registration fee. The net impact on boat owners would be neutral with the removal of the separate \$5 AIS fee and a \$5 increase to the boat

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registration fee. This essentially allows Game and Parks to continue to receive Coast-- Coast Guard grant funds for boating enforcement and boater education. The bill would increase-- number two, the bill would increase the fee caps on nonresident park permits to \$55 for the-- for the annual permit. Currently, the nonresident fee for an annual park permit is at the \$45 cap. And the request is needed so that nonresident park permit fees could be increased within the limits provided in statute 37-327. Without the change, permit fees would be increased on residents, but not on nonresidents. LB287 would add language to several sections of statute to allow Game and Parks the flexibility to offer permits or-- or combinations of permits at temporarily-- temporarily reduced rates for specific time frames for-- for events in conjunction-- in conjunction with other permit sales. As an agency that relies heavily on user fees, this flexibility from marketing and cross-promotion is needed for Game and Parks to be more businesslike and have the flexibility to entice new participants and gain new customers. The bill makes changes to allow an option for hunters and fishers to sit out a draw for a permit, but still allow them to purchase a preference point. This option would be for hunters and fishers who wish to gain a point in the draw, but do not want to put in the draw for an actual permit that year. The bill would give Game and Parks Commission the authority to determine by regulations the application of hunter orange requirements for other hunting seasons. LB287 also broadens the Game and Parks options to include promotional materials or items in addition to information to inform the public of the outdoor recreational opportunities in Nebraska. Lastly, the bill would allow for elimination of several fees charged for replacing lost or damaged permits. With the development and implementation of electronic and mobile device delivery systems for permits, the need for replacement paper permits has diminished. LB287 had no opposition in committee. I've worked with the committee and Bill Drafters on an amendment that Senator Hughes has to the committee amendment. The amendment is needed to reflect changes that were made to statutes this past year that affect sections of the current bill. I want to thank Senator Hughes and the Natural Resources Committee for working with me on the amendment and for advancing the bill. And I would appreciate your green vote to make these changes and support Nebraska's outdoor resources and recreation opportunities. Thank you, Mr. President.

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**FOLEY:** Thank you, Senator Quick. As the Clerk indicated, there are amendments from the Natural Resources Committee. Senator Hughes, you're recognized to open on the committee amendment.

**HUGHES:** Thank you, Mr. President. Colleagues, AM386, which was adopted by the committee, strikes the original bill's change of annual park permits for residents from \$35 to \$45-- to \$40, leaving it at the \$35 level. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. Mr. Clerk.

**CLERK:** Mr. President, Senator Hughes would move to amend the committee amendment with AM2076.

**FOLEY:** Senator Hughes, you're recognized to open on AM2076.

**HUGHES:** Thank you, Mr. President. Due to a bill passed last session, we must amend this existing committee amendment. Last session, we adopted Senator Friesen's LB270, which made several changes to state statute 37-1214, including motorboat registration and fee amounts. The bill included an implementation date of January 1, 2020, which has obviously passed. This amendment removes the outdated section and adds the new section we adopted last year in LB270. I would appreciate your green vote on this amendment, the committee amendment. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. Mr. Clerk. Debate is now open on LB287 and the pending committee amendment and amendment to the committee amendment. Senator Hughes.

**HUGHES:** Thank you, Mr. President. Colleagues, if you'll look at the committee statement, you'll see that I was the lone member of the Natural Resources Committee that voted against this bill. This is certainly nothing against Senator Quick. The Game and Parks Commission has had some challenges and I'm working very hard to try and help them do a better job. The Natural Resources Committee had a couple of hearings this summer, one in Scottsbluff and one in McCook, and there are over 300 pages of testimony, mostly from landowners in those areas and park users who were unhappy with the way Game and Parks is handling their responsibilities, their duties of managing the lands and wildlife and park situation. I intend to visit with you extensively about that. I carried a bill last year for Game and Parks. It was a license plate bill. I think we added the bighorn sheep and maybe the Sandhills crane, so I'm not anti-Game and Parks. I think



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some of those employees are some of the hardest working employees we have and they do a good job with the resources they have, but they can certainly do better. The big problem we have is managing their land and managing their wildlife. You've probably heard me talk before about the challenges of deer populations. We have got new information that's going to come to light on elk populations and the damage that that has caused. And quite frankly, some of the way that Game and Parks has sought to remedy that has been less, less than helpful. I think they have been trying to-- I don't want to say play politics, but inflame the base against those of us who are trying to help them do a better job. I've had multiple conversations with Game and Parks commissioners. I think we're on the same page and I hope that that dialog can continue to help us do a better job. But at this point, giving them additional money and fixing the things that they see wrong is something that I'm going to have to oppose. I do have several bills that I've introduced. I think I've got them all introduced at this point, or I think there's one more coming, excuse me, that we're going to talk about several of the issues that I think will help Game and Parks do a better job of managing the property that they do have in the state of Nebraska. Recently, there was a-- an issue before the Executive Board that came that Game and Parks had the opportunity to acquire a pretty significant chunk of land up next to-- just to the south of Fort Robinson. It was very prime habitat for deer and elk. And the lady that owned that was not willing to give that to Game and Parks, she wanted to sell it to Game and Parks. Game and Parks went out and solicited a whole bunch of money from the Elks Forever and Deer Forever and Turkeys Forever and every other ever that they could find to give them money. And that's, that's great. That's what they were going to do. But I opposed that because what I heard in the testimony in Scottsbluff and McCook that they are not managing what they have now. I don't know, some of you who've been following in the paper, they have just come down with a edict for Lake McConaughy, the second largest tourist attraction in the state of Nebraska. And they're-- the locals are very unhappy.

**FOLEY:** One minute.

**HUGHES:** They're up in arms. Thank you, Mr. President. You know, they're trying to make a living with that lake out there and there's been some-- some significant problems. I was at a stakeholder meeting this summer at Lake McConaughy. And quite frankly, the first responder said, we will not go to a call at Lake McConaughy on one of the big three weekends unless we have law enforcement. This is Game and Parks'

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jurisdiction. They're supposed to be managing this property and they're not. And when you have first responders who are afraid to go into a situation to render aid and they will not go in without armed protection, something is wrong. We need to find a better way to manage what they've got and giving them more land is certainly not--

**FOLEY:** Time, Senator.

**HUGHES:** --in the best interest. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. Continuing discussion. Senator Erdman.

**ERDMAN:** Thank you, Mr. President, Lieutenant Governor. Thank you, colleagues. Senator Hughes, I appreciate your comments and as you know, those comments about the way Game and Parks manages their recreational areas as well as the wildlife has been perplexing to me. We seem to have come to the place in Game and Parks management where we manage by crisis. We don't seem to be able to make a decision as to what we should do before it gets to the crisis. The issue at Lake McConaughy has been brewing for years. They knew that. So what has happened in Lake McConaughy is the local taxpayer is picking up a large portion of the law enforcement and those people who respond to the lake in for-- in case of an emergency. They're picking-- picking that up. Then the county is paying for the judicial costs when someone gets ticketed out there. And they get no revenue, the county doesn't from any of the stickers or parking permits that are issued. So the solution, I believe, is to have Game and Parks, the local business people, the local people there and everyone concerned, the county and all those who pay property tax have a discussion about how many people can we sustain at McConaughy, what is the safe number and how do we go about doing the job that we should have been doing all along? And Senator Hughes mentioned that Game and Parks purchased another 1,520 acres in Sioux County. That donation that they received, the \$650,000, came first to the Building and Maintenance Committee. Because the Legislature was not in session, the Building and Maintenance Committee voted whether to accept the donation, and the vote was 3 to 3. So it did not advance. Senator Hilgers was gracious enough to hold a hearing with the Executive Committee to talk about the donation. And at the donation hearing, Director Douglas from the Game and Parks was there as a testifier, a proponent, and I was there as an opponent. Those people who live near that site have enough wildlife and they don't need any more. And Game and Parks does a poor job of making

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restitution for the damages caused by these animals. And when Game and Parks does make a decision on depredation and I don't have probably enough time to go ahead and explain the whole thing, so I'll put my light on again. When they make a decision that is inappropriate, when they make a decision and I won't use the other word I was thinking of using, they need to find somebody to blame it on. And so what does Game and Parks do? They blame it on Erdman. It's his fault. He forced us to do that. And then when you contact Game and Parks and you reveal to them who it was leaked that information to the public, they say, oh, no, he couldn't have done that. He wouldn't have done that. But that's not the case. And so we will continue to try to work and bring some commonsense approach to the Game and Parks agency, whatever that takes. And so we're not done talking about Game and Parks yet. But we are going to make a difference in how the wildlife are managed and how the recreational sites are managed because we can't keep doing and continue doing what we've been doing. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator Hughes.

**HUGHES:** Thank you, Mr. President. Continuing on, I guess I wanted to visit with you a little bit. I know I had-- I do have a bill on General File, LB126, I believe. That all of you got a letter from Bob or Robert Forch from Stratton, Nebraska. He's the gentleman that came to me and wanted to make some changes in Game and Parks and kind of got this ball rolling; that he had complained to Game and Parks several years ago and had been basically blown off. That he had a lot of deer problem, damage in his crops and fences and those type of things and had called Game and Parks to complain and, yes, sir, yes, sir, and nothing happened. So he called me. And that's how I kind of got involved in this. There is a letter that came out this summer-- well, maybe in September, but he made a very good case. One of-- one of the things that he wanted to do was at least give the landowner a little something for feeding the state's wildlife all year long. We drafted the bill and Game and Parks not only said no, but you know what no, and we're off and running. The bill would give the landowner a few days of hunting ahead of the regular rifle season. Once-- and the rationale behind that, if the landowner was able to get his deer, was able to take his kids or grandkids hunting when he didn't have to worry about policing his property to keep the other deer hunters that were-- did not have permission there, and did not have to worry about being shot by some other hunters, he would be more likely to open his property up during the regular rifle season, and that would help on a couple of different ways. It would help eliminate the numbers. We

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would harvest more animals and it would certainly provide more area for the hunters with which to hunt. So I think it's a good idea. I hope at some point LB126 does make it to the top of the-- top of the heap and we'll get to talk a little bit more about that. But-- at this point on this bill, and I don't want to say I'm filibustering, but we're going to have an extended discussion on Game and Parks, because there's a lot of things where I think they could improve the way they handle their responsibilities. As my staff is trying to find that letter from Mr. Forch, I've got testimony from the McCook and Scottsbluff hearing, and it's quite compelling. We have a gentleman who showed up and he had documentation about how much it cost him on his farm to feed the elk herd, you know, and it was over \$100,000 just out of his pocket. Is that right? Should an individual landowner have an expense of over \$100,000 just on one field to feed the state's animals? I don't think so. And that was just one small herd of elk. And there are huge amount of deer and turkey and antelope that do the same thing. I know I talked to you last year about the amount of deer that are in the state and it costs about-- and I did some rough math about what deer eat and the deer were about \$60 million a year, what it costs to feed that deer herd.

**FOLEY:** One minute.

**HUGHES:** That's coming out of the landowner's pocket. And they're not-- the only thing that the landowner is getting is maybe a reduced rate on a hunting license. That's not very much. You know, I have wildlife damage on my place, but it's not enough that I'm going to complain about it. But there are those individuals who have significant, significant damage on their property and they do need some sort of reimbursement from the state. The state of Nebraska, i.e. Game and Parks Commission, is the one who is profiting, who is benefiting from these large animals that belong to the state. And the state needs to step up and make some sort of comproma-- com-- compensation for that or at least give them something so they do feel somewhat appreciated.

**FOLEY:** Time, Senator.

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

**FOLEY:** Thank you, Senator Hughes. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. I was wondering if Senator Quick would yield to a question or two if he would.

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**FOLEY:** Senator Quick, would you yield, please?

**QUICK:** Yes.

**ERDMAN:** Thank you, Senator Quick. Senator Quick, in your bill, it talks about raising the out-of-state fee for entering the permits-- entering the-- the recreation areas and that goes to how much? Sixty bucks, is that what it was? Is that what you put in your bill?

**QUICK:** \$55.

**ERDMAN:** \$55. So have you done any research or do you know what they charge in Colorado for a Colorado person to go to a Colorado site?

**QUICK:** No, I have not done any research.

**ERDMAN:** Well, a couple of years ago, '18, I bought a annual-- I bought an annual fishing permit for Colorado and it was \$56. Last year I was going to do the same thing, it was \$96. In '18, I took my boat to Colorado because I had a license in Nebraska. It didn't-- they didn't charge me anything to enter their water. This year they charged me 50 bucks. The point is, the majority of the people who come to Lake McConaughy are from out of state. And what it costs us to manage that recreation area is basically because we have an overabundance of visitors, which is a good thing, it's tourism, we get some of their money. I would like you to see-- I'd like to see you to raise that to 80 bucks, because currently someone who lives in Colorado can go to a Nebraska recreational area cheaper than they can go to one in their own state. And so consequently, I don't think that that is a significant number; that if we're going to make a change in the way we charge people to come here, we ought to make it significant. So I'm thinking that that ought to be a higher number. So what are the things, if you know, are you trying to fix with this bill? Did Game and Parks bring this to you?

**QUICK:** Yes.

**ERDMAN:** OK. So they're trying to get more people to wear orange or wear more orange, and they're trying to change some of the other provisions on aquatic parasites that stick to your boat and some of those things, is that their intention?

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**QUICK:** No, well, I think on the hunter orange, it's just to allow them if they're-- if there's a need to have someone wear hunter orange for another sport--

**ERDMAN:** Oh.

**QUICK:** --I think, you know, they already have the certain sports. And then for the aquatic side, it's just to make sure that they get the Coast Guard grant funds and so they're just taking that \$5 that was for that, AIS or that aquatic species permit and they're just making it part of the-- their current fees. So that's just to make sure they get that Coast Guard money otherwise there's a danger that they might lose that Coast Guard grant.

**ERDMAN:** OK. Very good. Well, let's talk about the aquatic hitchhikers, as they say. I go to Box Butte Reservoir, which is in northern Box Butte County, several times in the summer. Four years ago when I went there, there was a young man inspecting the boats as we drove in and he was there inspecting for aquatic hitchhikers that may have come in from South Dakota. I have been there numerous times since that date and I have never seen anyone inspect my boat. So if they're charging a fee to inspect for aquatic hitchhikers, then maybe we ought to have somebody there looking at the boat to see if I have it. It's very similar to the State Recreation Area in Bridgeport, Nebraska. Game and Parks has always said they don't make any money at the Bridgeport Recreation Area. So a few years back, our local sheriff went out to that area to see who has park stickers and who has paid their camping fees, and he ran across an individual from Colorado who didn't have a park sticker. And he asked him, why do you come all the way from Colorado to Bridgeport? And he said, because it's free. He said, what do you mean it's free? He said, I've been coming here for five years, I've never paid a dime, I've never had a sticker, and I've never paid for any lodging.

**SCHEER:** One minute.

**ERDMAN:** And so consequently, if you don't send somebody out there to collect the fees, if you don't police who comes in and goes out, I'm quite confident you're going to lose money. So the only way that you can make that work and have it be profitable is you've got to go out and collect the fees. So several years ago, they wanted-- the city wanted to grade the road out there because it was rough and they volunteered to do that for the diesel fuel, but Game and Parks said,

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no, we'll haul our motor grader from North Platte up here to do that. So those are the kind of things in the way they manage their recreation areas, and then you wonder, why am I upset about the way they do things? And I'll have more to say later. Thank you.

**SCHEER:** Thank you, Senator Erdman. Waiting in the queue to speak, Senator Friesen and Hughes. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. I will stand in support of Senator Hughes because I think when I look back at some of the things that's been going on with management of property, they've got a long ways to go. Recently at Grand Island-- well, not recently, about three years ago, they were putting in some pads there for campground and they poured concrete and got everything ready, but then didn't provide any hookups for the next two years after that or three. Management is something where you start a project, you work through it, and you get it finished. You don't just dangle that carrot in front of the public and not finish up on your job. And that's what happened there. They must have too much to do that they can't handle what they have. I don't know why we'd add to it. The farm ground that's owned by Fish and Wildlife and Game and Parks around me is lacking in maintenance. It seems as though their attention is drawn elsewhere in the state. And I know there's considerable problems at Lake McConaughy that they have chose to ignore over the years and turn that into something other than it was intended. So I do think it's time for Game and Parks to step up and kind of take care of what they've got and do a better job. And with that, I'll yield rest of my time to Senator Hughes.

**SCHEER:** Senator Hughes, 3:35.

**HUGHES:** Thank you, Mr. President. Thank you, Senator Friesen. I do want to, as I mentioned earlier, talk about the hearing that we had in McCook this last summer. And I want to-- I'll paraphrase just a little bit to take out the stuff that's not necessary to the subject, but we had a testimony from an Anton Spilinek. I think he goes by Tony. He says, I've been a lifelong resident here in McCook and just wanted to stop by and talk to you a little bit about Game and Parks Commission. His wife-- and I'll para-- I'll quote here, My wife and I actually went out to Red Willow the other day and had supper out there. We were the only people at the lake. It was the greatest thing in the world. You can't beat that. You mentioned Lake McConaughy. I've said this for two years to the people at the State Fair that are there. My wife and I went there two years ago and I was afraid for my life. Let me get

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your attention. This is a gentleman who came from McCook, went to Lake McConaughy. My wife and I went there two years ago and I was afraid for my life. This is Game and Parks managed property. When we pulled into the campsite, there were a group of people-- we pulled into there and I didn't think we were going to get out of there. It scared the you-know-what out of me, and we finally found a campsite. I used to go there back in the '80s when it was Big Mac races and everything else. And it literally scared me. I went and talked to them this year at the State Fair and they said they only had three people out there watching, taking care of the crowd. If I'm gonna go there, I've got to be crazy. This was testimony from a gentleman who used to take his family out there and won't go anymore because he had an incredibly bad experience. This last year, there was a death at Lake McConaughy of Fourth of July weekend and there have been several assaults. The property that Game and Parks has to manage is not being handled.

**SCHEER:** One minute.

**HUGHES:** Another gentleman who came to the McCook hearing was a gentleman who had called me complaining about Game and Parks management at Red Willow Lake. He lives on the west end. He has to travel across their property to get to his property on the other side and they won't maintain the road. They won't trim the trees so he can get his equipment through there to get to his property and he has complained and nothing happens. There was a campground on his-- on the west end of Red Willow Lake, and it's been abandoned. He said there was-- used to be a lot of people there. There were outhouses there and it was a beautiful picnic area. It's no longer being maintained. He said there are some unsavory elements beginning to show up there and it's not that far from his house. And he's concerned and he's complained to Game and Parks multiple times and--

**SCHEER:** Time, Senator.

**HUGHES:** --nothing has happened.

**SCHEER:** Thank you, Senator Friesen and Senator Hughes. Senator Hughes, you're next in the queue, you're recognized.

**HUGHES:** Thank you, Mr. President. Senator Erdman, would you yield to some questions?

**SCHEER:** Senator Erdman, would you please yield?



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**ERDMAN:** Yes, I would.

**HUGHES:** So after the Scottsbluff hearing, we heard from Mr. Schuler, I believe--.

**ERDMAN:** Yeah.

**HUGHES:** --was his name at the Scottsbluff-- that's someone you are familiar with?

**ERDMAN:** Yes, it is.

**HUGHES:** And he discussed, I think you encouraged him to come to the hearing to lay out his challenge that he has with elk on his property.

**ERDMAN:** That is correct.

**HUGHES:** Would you be able to expand a little bit on that?

**ERDMAN:** OK. Thank you, Senator Hughes. The gentleman in reference there had come several times to a county commissioner meeting when I was county commissioner, and he first back in about '10 shared with me that he loses more dollars to elk damage than he pays in property tax. And he has a significant operation. And I questioned him about that statement because it sounded like it couldn't be true. And as we discussed what he was trying to tell me, he showed me, black and white as he showed the committee that day on the 18th of September, the losses that he sustains in corn being knocked down and not being able to harvest, as well as losing cattle from putting them on that field that has all the corn in it and it was equivalent to \$110,000. So he has a significant contribution to feeding and taking for the elk and that's just the elk on his property. He has other wildlife on his property as well.

**HUGHES:** Thank you, Senator Erdman. And I'm glad you brought up the amount of damage that he suffered. During that hearing he had some handouts for us that were excellent. And for those of you who aren't involved in today's agriculture, when we harvest a crop, we have yield monitors on our-- on our combines and we can get printed out some very nice maps that will tell us what the yield is as each pass as we go through the field. So if you're harvesting 20 feet or 30 feet at a time, it's taking a sample of the yield as we go through the field. Mr. Schuler provided us with a yield map from this pivot. And it's quite obvious of-- you can tell the damage that's done to the field

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because there is certainly less production there. He also provided pictures of the crop before it was harvested and you could see vast areas where the corn was no longer standing. So he had documented proof both from harvesting and from visual, from drone footage that indicated that there was a big problem. He estimated, I think, that there were 100 elk in that field. And I'm kind of-- if Senator Erdman would like to pick up the story from there of what Game and Parks' response to this gentleman was of, you know, handling the elk in that-- in that process. Senator Erdman, would you yield?

**ERDMAN:** Yes, I would.

**HUGHES:** Would you-- would you care to-- care to pick up the story there of what happened after you contacted Game and Parks about the elk problem in Mr. Schuler's field?

**ERDMAN:** Yes, I will. Thank you, Senator Hughes. May I start back at the day after the hearing in September the 18th, Game and Parks was at you're hearing that you held in Scottsbluff and I appreciated that Rev-- the Natural Resources Committee coming out for that hearing. There were 12, 14 landowners came and made a presentation and this gentleman was one. And I called the Game and Parks director the next day and asked if he was at the hearing. He said that he was. And I asked, what are your ideas on going forward to solve the problem? And the answer was we, Game and Parks, are going to kill some elk.

**SCHEER:** One minute.

**ERDMAN:** Thank you. And we're going to increase the antelope permit double and we're gonna capture some mountain lions and put collars on them to see if they're actually killing livestock. That was the 19th day of September. On the 26th of September, this gentleman sent me a video from his drone showing the elk running through his corn. I forwarded that video with an email that said, here is pictures of the elk damage in the corn. This gentleman needs help today, not next year and not tomorrow, but today. Do you want him to kill some? That was a Thursday. On Friday, the next day, I started getting Facebook posts that wanted to see the email that I sent to Game and Parks forcing them to issue 50 depredation permits to this gentleman to shoot elk.

**SCHEER:** Time, Senators.

**ERDMAN:** Thank you.

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**SCHEER:** Thank you, Senator Hughes and Senator Erdman. Senator Erdman, you're next in the queue and this is your third time at the mike.

**ERDMAN:** Thank you, Mr. Speaker. So let me continue. So on these Facebook posts, one of the gentlemen left his name and his number. So I called him and it was peculiar to me to understand how I could send an email only to Game and Parks. I did not tell my wife. I didn't tell the landowner. I copied no one else in. But the next day, the general public knew that I sent an email to Game and Parks and that email said that they had to issue 50 depredation permits and that was Erdman's idea. That was not the truth. The truth was I was encouraged them to do what they said they were going to do on the 19th day of September. So I spoke with Game and Parks about the issue. I found out from the gentleman who left his name and number on the Facebook post who told him that I sent an email to force Game and Parks to do that. And he said, hang on a second, I wrote down the name. He was gone for a moment. He came back. He said, the guy's name was Luke. I said, OK. So I'll call Game and Parks and I said, I know who leaked the information about my email forcing you to make the decision on the 50 depredation permits, it was Luke. And they told me, no, Luke wouldn't do that. So I asked them if they would release a press release saying that I had nothing to do with those 50 permits, and I'm still waiting. So they realized that that was not the most wise decision-- that's the words I'm going to use today-- wise decision to issue 50 depredation permits at one time. So instead of owning up to it, they said, you know what? Let's blame Erdman. Worked out real good. I got a lot of requests from people about, they want me to die or they want my never to have any more crops or whatever their reason was. That was uncalled for. I did not make the decision to issue 50 depredation permits. I didn't tell them what to do. I reminded them to do what they said they were going to do. So that's how this works. So the point is this. There are many, many locations and I'm sure in your districts, the rest of you that are here in this room that have a Game and Parks recreational area or have wildlife in your area, are experiencing the same thing I am, Senator Hughes is, or Senator Friesen or anyone else. So lest you get concerned or upset with the people who are on the commission, the board members, what generally happens when you serve on a board is you only get information from management they want you to have so that you make the decision that they have made. And so they don't give you all the information. They just give you what you need to make the same decision they did. So I'm not blaming the board members that serve on the Game and Parks Commission because they're functioning under the

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information that they're getting from management. And we cannot continue to allow Game and Parks to take from people things that are theirs. And the Constitution says there should be no taking of private land for public use without compensation. And when they come in and eat your corn or they destroy your hay or they ruin your fences or whatever else they do, you tell me that's not taking private property for public use, I don't know what it is. And so in the hearing that we had with the Executive Committee, they were asked about how many mountain lions do we have in the state. And the answer was after--

**FOLEY:** One minute.

**ERDMAN:** Thank you. After several questions finally said they think we have 59 in the Pine Ridge area. Well, let me tell you what. We have way more than 59 mountain lions in the Pine Ridge area. All right? And we have-- they claim 2,500 or 3,000 elk. On any given day I can call six or seven people and find out where there's 1,500 to 2,000. So don't tell me there's 2,500 in the state when I know six or seven people that have three-fourths that many. This is an issue that we're going to have to deal with and we're going to get to the bottom of this problem if it takes all session. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator La Grone.

**LA GRONE:** Thank you, Mr. President, I yield my time to Senator Hughes.

**FOLEY:** Senator Hughes, 5:00.

**HUGHES:** Thank you, Mr. President. Thank you, Senator La Grone. I want to relay a story. We had a mechanic out at our farm just this fall whose folks lived up in the Sandhills and he related-- and he was-- he said, I wanted to tell you that we really appreciate what you and Senator Erdman are doing trying to get Game and Parks to be more responsible for the animals that they're in charge of. Says, my folks have a pivot up in the Sandhills and it's about eight miles from anything else. There's no other pivots around. It's just grass. He said the deer damage was so bad that they ended up having to put a fence around their field. Said they had to build an eight-foot high barbed wire fence around their pivot just to keep the deer out. Because, as you know, corn-- deer like corn better than they like grass. It provides cover and the food's right there. So at what expense did this farm and ranch family have to have on that one pivot and no help from Game and Parks at all? If you talk to Game and Parks,

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they'll say, oh, we've done surveys and, you know, we've got a great approval rating. You know, people really love us. Well, they're surveying the people that are coming out of the parks. I've thought about doing a survey in my district, talking to the landowners and the people who run into the deer on the highway. And I think you'll hear a very, very different story about the opinion of how well Game and Parks is handling their charge. They have a big job, there's no question about that, trying to manage a herd of wild animals with no fences, but-- but there is a possibility of doing a better job. Part of the-- part of the challenge that I've got is when I first got elected most of what I heard complaints other than property tax were deer damage. My district is the Republican River Basin across the Colorado-Kansas border area. And I've received a lot of calls about too many deer, deer eating my crop, you know, cutting a path through my cornfield to get to the river. And for four years I got, we have depredation permits. We can handle it. We have public meetings, we can handle it. And nothing happened. Nothing changed. I kept getting the complaints, so I started introducing legislation. That's the two bills that I introduced last year. And we've had some movement. So I introduced even more bills this year. We'll have some more movement. In the discussions I've had with some of the commissioners who've taken the time to meet with me, Game and Parks hangs their hat on depredation. Depredation will issue depredation permits. That's what they've been doing for 30 years. And the problem doesn't-- doesn't go away. So my comment to the commissioner was, it's not working. Depredation permits do not work. You know, you should try something different. Let's try something different. Let's try and get my constituents off my back complaining about the damage that's coming from deer, and now elk, in my country, and antelope, and wild turkeys. We need to get a handle on this. We need to have better cooperation between the hunters, the landowners--

**FOLEY:** One minute.

**HUGHES:** --and Game and Parks. We have an opportunity to make significant change in how operation is. And I think I've got several bills that will help us do that as we go through this session. I know it's gonna be a short session and we'll just have to see which ones I prioritize. There may be a bundle of Game and Parks related bills coming out of Natural Resources with a priority. We'll see, but this is a serious issue. If you live in the country, these animals are eating us out of house and home and for whatever reason, they're doing well. And that's great. You know, I've often thought about the-- I saw

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a Facebook post from one of our colleagues, I think, that had a picture of a doe, a female deer bedded down in her backyard. And that's great. She was very happy about that. And one or two is fine. But if there were 100 bedded down in her backyard--

**FOLEY:** That's time, Senator.

**HUGHES:** --there would be a problem. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. Senator Hughes, your light to speak is on but I'm informed that you've had your three opportunities at this level of debate. You still do have a close remaining, but I've got two other people in the queue. Senator Brewer, you're recognized.

**BREWER:** Thank you, Mr. President. Well, this has been a interesting conversation since many of the same things affecting both Senator Hughes and Senator Erdman's districts affect me, but I am going to yield some time to Senator Erdman to share some more on this topic. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Brewer. Senator Erdman, 4:40.

**ERDMAN:** Thank you, Lieutenant Governor. Thank you, Senator Brewer. I wonder if Senator Hughes would yield to a question.

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

**HUGHES:** Of course.

**ERDMAN:** Senator Hughes, at one time last year you had shared with me that at a public meeting Game and Parks had recommended to people how to prevent the deer from eating their corn. Can you share with me what was shared at that hearing, at that-- at that meeting?

**HUGHES:** Yes. Last winter there-- after I had introduced some bills and Game and Parks, I got their attention, and so they held some hearings in my district. One of them was in Wauneta, I believe, and one of the comments at that hearing was from a Game and Parks employee that, you know, if the deer were eating your corn, you should plant deer-resistant corn. There is no such thing as deer-resistant corn.

**ERDMAN:** Had anybody at that meeting challenged him with that?

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**HUGHES:** The only-- the account that I have of that came out of the newspaper so I did not see the transcript. I have not got the transcript from Game and Parks to see what that discussion was.

**ERDMAN:** So follow up on that, when I heard that-- my brother is in the seed and chemical business in Scottsbluff, and so I called and asked if there had been a new seed developed that I didn't know about that was deer-resistant. And he said, can you repeat that? And I said it again. And he was as taken back by that as I was when you told me they said that. Thank you for helping out. So you see, we have an understanding in the Game and Parks organization that needs a little help and so Senator Hughes and I we're gonna try-- we're going to try to bring some commonsense application to what they do. And I believe the answer to some of these wildlife management problems is the following. We get Game and Parks, we get the landowners in those regions, and the people who like to kill and shoot and hunt wildlife in one room together to discuss how many animals do we have in this region. Second question, how many can we sustain without causing major damage to those individuals who farm and ranch here? Thirdly, we then decide how do we get from the number we currently have to the number we want to have? And then more importantly, how do we maintain that number? For you see, if we just had 5,000 elk in the state, which is significantly less than we do have, and 60 percent of those were females because most people shoot the bulls, that would be 3,000 females. And if half of those had a calf and raised it, that would be 1,500 more this year than we had last year. And they issue 387 permits. It's my understanding 387. Well, there seems to be a little bit of a disconnect. If we have 1,500 more and we only shot 387, we may be gaining in numbers every year. Doesn't take long before you have twice--

**FOLEY:** One minute.

**ERDMAN:** --as many as you had before. And so consequently we have to first develop a mechanism to figure out how many we have. And I got a call from an American Elk board member, American Elk Foundation board member, that told me that we don't have enough elk in Nebraska. And when I ask him the question, how many do we have? He said, I don't know. I said, well, if you don't know how many we have, how will you know when we have enough? He didn't have an answer for that believe it or not, and that's the way we manage Game and Parks. How many do we have? We don't know. How many do we need? I don't know. How do we get there? Huh? I don't know. We'll do 50 depredation permits. It's not

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working. So we've got to bring some resolution to what we do and make some commonsense applications. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator La Grone.

**LA GRONE:** Thank you, Mr. President. I yield my time to Senator Hughes.

**FOLEY:** Senator Hughes, 5:00.

**HUGHES:** Thank you, Mr. President. Would Senator Bostelman yield to some questions, please?

**FOLEY:** Senator Bostelman, would you yield, please?

**BOSTELMAN:** Yes.

**HUGHES:** Thank you, Senator Bostelman. So you're on the Natural Resource Committee, correct?

**BOSTELMAN:** Yes, I am.

**HUGHES:** OK. I know when you attended the hearings in Scottsbluff and McCook, you had some issues, I believe, with Lake Wanahoo and the way Game and Parks was managing that.

**BOSTELMAN:** Well, wasn't necessarily Game and Parks, it was a-- it was an overall flood management challenge that the landowners have on downstream from Wanahoo because how the Wanahoo dam was built between the NRDs and all the other groups that came in on how they-- manage that water level for flooding.

**HUGHES:** OK.

**BOSTELMAN:** So at that time, Game and Parks managed the campground on that. But really, the issue, I think really rested back with the NRDs as far as the water level and the conservation groups that contributed to it.

**HUGHES:** So, but Game and Parks no longer manages that campground, is that correct?

**BOSTELMAN:** Correct.

**HUGHES:** And why? Why-- why aren't they managing that anymore?



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**BOSTELMAN:** The NRD took it over.

**HUGHES:** Pardon?

**BOSTELMAN:** The NRD, Lower Platte North took over management of the campgrounds on Lake Wanahoo.

**HUGHES:** OK. So Game and Parks has given up property management to date?

**BOSTELMAN:** Yes. Game and Parks no longer manages Wanahoo.

**HUGHES:** OK. Thank you.

**BOSTELMAN:** Uh-huh.

**HUGHES:** So the precedent has been set that they don't have to manage all the property that they're responsible for. They can liquidate or relieve-- I don't want to say ownership, but management of properties. I wanted to visit a little bit about some of the bills that I'm talking about. We have LB859, changing of relating to the quantifi-- qualifications and terms of Game and Parks commissioners. I, if memory serves, I want to change the district boundaries that they have. Currently and that's been probably 20, maybe 30 years ago, those boundaries were drawn based on population. Game and Parks doesn't manage people. They manage land and they manage animals. So I would like to see those boundaries redrawn, basically making each commissioner's district an equal size so they have an equal amount of land to manage and roughly the same amount of wildlife. There's certainly not going to be as much wildlife in the district that encompasses Omaha or Lincoln as there is in, say, Senator Brewer's district or my district. But the point being that Game and Parks does not manage people. They manage parks and land and wildlife. One of the other bills that I'm going to intro-- or have introduced, we're gonna change the qualifications to be a Game and Parks commissioners, commissioner. Those of you who've had the opportunity to be wined and dined by Game and Parks, the first thing you hear is--

**FOLEY:** One minute.

**HUGHES:** --I went hunting with-- I took my grandson to Alaska and we went big-- or Dall hunt-- Dall sheep hunting. Or, you know, my wife and I are going to Colorado and we're going elk hunting. They're not talking about things that are happening in Nebraska. It's a good old

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boys club. The Governor appoints those people and I've had conversations with the Governor. We're going to try and figure out a way to get some people or close-- a little closer tied to the land, make the requirement that two or three of those individuals have to have a significant portion of their income derived from agricultural production, not just own land, not just own land that you can go hunting on, but actually be part of the land. I think that will bring a very different perspective, a little more on-hands management of Game and Parks and not just allow the administration to handle everything for them and just show up every once in a while for a meeting and figure out--

**FOLEY:** That's time, Senator.

**HUGHES:** --where you're going to go hunting next. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. Senator Lowe.

**LOWE:** Thank you, Lieutenant Governor. I was going to yield my time to Senator Hughes, but since he just got off the microphone, I yield my time to Senator Erdman.

**FOLEY:** Senator Erdman, 4:50.

**ERDMAN:** OK. You can turn yours off. Thank you. Thank you, Lieutenant Governor. Thank you, Senator Lowe. I appreciate that. So, Senator Hughes, I'm listening to your comments about the bills you're considering or you have introduced, and I appreciate that. I was wondering if you would yield to a question. I have a question about a bill you had introduced last year.

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

**HUGHES:** Of course.

**ERDMAN:** Senator Hughes, last year I think you had introduced a bill that would allow landowners an opportunity to hunt a week early before the open season. Is that true?

**HUGHES:** Yes. Last year I introduced LB126 that would have given landowners the opportunity to hunt one week before rifle season. And in exchange for that, they had to open up half of their property for hunting to the public. And I got quite a little feedback of nobody

liked that bill. The landowners didn't like it because they didn't want to have to be forced to open up half of their land for public hunting. And the hunters did not like that because they did not want the landowners out there hunting a week ahead of time. So there is an amendment that has pared down that bill. Like I said, it is on General File. It's giving the landowner a Tuesday, Wednesday, Thursday to hunt ahead of the regular rifle season. And there is no requirement for them to open up their land for public hunting.

**ERDMAN:** OK, very good. I thought your bill last year made sense. Many landowners in my district don't hunt deer anymore. They don't feel safe out there during deer season because people are shooting off of the road and they're driving on to their property without permission and it just-- they've just stopped going out to hunt because they don't feel like they can do it safely. So when the hunters are so concerned about the wildlife and I understand that is a significant portion of our tourism and it brings in money, but there is a significant difference between those who hunt this wildlife and those who feed the wildlife. Those who are hunting do it for recreation. Some do it for the meat and I understand that. But it's not like it used to be. That's what you got your meat source from. But those feeding them, it is their livelihood that these animals are eating. So it's a whole different scenario depending on which side of the fence you're on. And so when I got those emails from the hunters and the texts and all those Facebook posts about the 50 depredation permits that I supposedly granted, those people should have been on my side because I don't believe there are enough elk permits issued on an annual basis. I think they need to issue more. I don't think there is enough deer permits. I know for a fact there's not enough antelope permits. They ought to give you when you get an antelope permit, they ought to make it at least six or seven or don't get any. There are thousands of them. And we're gonna double-- used to give 50, now we're gonna do a hundred, but you only got 800 on a quarter of land. It doesn't work. And so when they come out and they have depredation permits for one person--

**FOLEY:** One minute.

**ERDMAN:** -- and he shoots some animals or Game and Parks comes out and shoots some, it doesn't solve the problem because what happens is they move to the neighbor. They're not eliminating them. And so when you issue 50 depredation permits, nobody on this God's green earth can shoot 50 elk. It's not possible. You shoot the first one, pretty easy;

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second one, little more difficult; third one, pretty hard. You get down there five or six, all of a sudden they're pretty leery and they're gone. OK? But where did they go? They went to the neighbor, he don't have depredation permits. So the issue is too many animals. So just chasing them from my farm to somebody else's farm is not being a good neighbor. And so those are the issues we have to deal with. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator Brandt.

**BRANDT:** Thank you, Mr. President. I am opposed to LB280 or, yeah, LB287, and I farm in southeast Nebraska, and we have a lot of hunters come from the south specifically to our part of the world because the deer are corn fed. They will tell you that deer down in Louisiana and down there about the size of dogs and when they come up here, we've got big deer. The question is, whose corn fed those steers? Was it the state of Nebraska? I think not. Some landowner spent a lot of time and investment on that deer and some guide, local guide is gonna come in and make a lot off that hunter from out of state and the landowner is sort of left holding the bag. With that, I would cede the rest of my time to Senator Hughes.

**FOLEY:** Thank you, Senator Brandt. Senator Hughes, 4:00.

**HUGHES:** Thank you, Senator Brandt. I appreciate you chiming in on the challenges of a ag producer with the wildlife population. I had happened to remember. Usually our banker comes out and rides with us in the combine during corn and wheat harvest and this past fall he showed up and we, of course, we talked about a lot of different things. Once we get through the farming aspect and whether or not we're gonna be able to pay him off, we do get around to the Legislature and talk about bills that I'm going to introduce. And I did mention Game and Parks and he said, you know, funny you should mention that because I've done this with other of my clients. I've gone out and kind of the-- with a chuckle he says, some of my clients say, you know, people come and ask me if they want to go pheasant hunting, if they can go pheasant hunting, and the rule is you have to shoot two deer before you can go pheasant hunting because the pheasants don't cause a problem, but the deer are truly a challenge out there. And, you know, with the-- the conversations that I've had, you know, for some of you have heard me talk about the red cedar problem. It's an invasive species and it's taking over some of our grassland and especially some of our rougher grassland. And that is

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prime, prime habitat for elk. You know, when they have trees that they can hide in and have access to cornfields and grass and water, you know, all the things are there for, you know, population expansion. So they're not doing anything wrong. We just need-- we're not keeping up. I don't think we have a good handle on how many animals there are in the state and we certainly aren't issuing enough hunting permits. I've talked to Game and Parks and they say, well, we can issue you, you know, 50 depredation permits, you know, in August to take care of the deer problem. Nobody wants to go shoot 10, 20, let alone 50 deer, gut them out, field dress them, and try and find somewhere to take them in the middle of August. It's too hot and it's too much work and we have jobs that we're trying to make a living farming. So the depredation issue that Game and Parks has as a solution isn't a solution. We hear a lot about, well, farmers, they have crop insurance, you know, that should take care of it. That's not the way crop insurance works. If you're an ag producer, you do take crop insurance because you have to cover your-- your exposure. And crop insurance, you can cover up to 75 percent of your proven yield. And what that means is if you have a 200 bushel proven yield on corn, you can insure up to 150 bushel. So anything-- if you have production under 150 bushel--

**FOLEY:** One minute.

**HUGHES:** --you can make a collect, you can collect on your policy. But anything between 150 and 200, there's no insurance. So when Game and Parks will tell you that, well, farmers have crop insurance, they're covered for their damage, that is absolutely not true because that's not the way crop insurance works. And it's the same for, you know, whatever the crop is, you have to have a proven yield and you can only insure up to 75 percent of that. So I talked earlier about Mr. Schuler, Mr. Butch-- Butch Schuler. And I do want to read through his testimony because he did an excellent job of presenting what he did for us at the Scottsbluff hearing. Thank you. My name is Butch Schuler. I am a third-generation rancher in Morrill and Banner County, as is my son is the fourth-generation rancher.

**FOLEY:** It's time, Senator.

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

**FOLEY:** Thank you, Senator Hughes. Senator La Grone, this is your third opportunity.

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**LA GRONE:** Thank you, Mr. President. So we can hear the rest of that testimony, I yield my time to Senator Hughes.

**FOLEY:** Senator Hughes, 4:55.

**HUGHES:** Thank you, Senator La Grone. And we have coexisted for many years with wildlife on a ranch extending from waterfowl, pheasants, turkeys, deer and more recently, elk. There are also wildlife, prairie dogs, rattlesnakes, porcupines. There's less pleasant to be around. They-- they do present a threat to our livestock and well-being, but it's usually localized. And one advantage of that is they can be displaced legally on-site. But the bigger problem is the deer and the elk population. We've had deer for years. And he has some handouts that he showed that I referenced earlier. And I specifically addressed the damage to the crops and the harvested fields. The first handout you have is a yield map and you can see where they grazed along the edges of the circles of center-pivot. And I think it's mostly that that is the deer and you see reduction there. And they also get out into the fields. But as you see the bigger bare spots in that yield map and some of the pictures we actually took this morning with a drone, you can see that the elk are out there and they're knocking down that corn. And as time goes on, as that corn becomes more mature, as they are moving around these fields, they drop the ears everywhere they go. They're not consuming that-- the corn, all of it. They're just eating, consuming a lot of it. But the damage they're doing is more the fact of how much is going on the ground. Most corn is planted in 30-inch rows and you see-- a deer can get down that pretty easily and you get a big buck with a-- his spread will be up in excess of 30 inches. But if you get an elk in there, their bodies are considerably wider, considerably bigger, and their rack is much, much bigger. So they're taking out two rows when they walk down between the rows because their-- their body and their antlers take out that much more. And I'll continue quoting. And this presents a very big threat to our livestock that we graze on these circles after we harvest. And you cannot pick up those ears that are on the ground. And the threat is that when you turn the cows out, they're not adapted to that corn and they get acidosis and they can bloat. We try to put our younger cattle out there. I think the term is dumb calves, if you will, and we will with condition, figure out and try to get them some grain in their diet so they can keep feeding as they go out there, try to condition them. But we still, once we stop feeding them, we've got some death losses because of all the corn on the ground. And we've got to go out there and treat those calves, those young cows. So the cows-- and the

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cows are a bigger problem when they're schooled and they're very well-trained to go out there and harvest and those ears are lying on the ground. Last year we conditioned our cows. We didn't have the calves put out to-- to put out there because our logistics didn't work out that way. We went with the cows out there, so we conditioned those cows before they went out. I have a handout on my notes and I figured out what the cost of feed to us each day. It was \$1.55 per head per day to condition. We got them out-- we got them up to roughly 10 pounds of grain and you assume \$3.75 per bushel cost. We did that roughly for two weeks and we cross-fenced the pivot, which is an additional expense of time and labor so we would be able to minimize access of those cows to that grain and to limit the corn in their diet.

**FOLEY:** One minute.

**HUGHES:** We took grain out of the ration and we still felt we had to fill them up with some lower quality protein, lower quality rush-- roughages. And so that's where they were and the next number came to us, a little higher yardage for maintaining a lot of electric fences out there, and I don't really include the cost of construction of those fences. But as you can see, there were 800 head of cows. It costs about \$75,000 just to get those cows transitioned to those cornfields so they don't die as is evidenced. We had some young cows and put on another field and a couple of those fields were too far so we didn't suffer the same kind of damage as the ones where the elk were. But all that said, the cornfield suffered damage from the elk population. But some of the worse than others because they decided they're going to have their favorite or it is closer to a water source.

**FOLEY:** That's time, Senator.

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

**FOLEY:** Thank you, Senator Hughes. Senator Brewer.

**BREWER:** Thank you, Mr. President. All right, as the saga continues, I'm going to yield one more time to Senator Erdman to continue the study.

**FOLEY:** Thank you, Senator Brewer. Senator Erdman, 4:50.

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**ERDMAN:** Thank you, Lieutenant Governor. Thank you, Senator Brewer. I was wondering if Senator Quick would yield to a question.

**FOLEY:** Senator Quick, would you yield, please?

**QUICK:** Yes, I will.

**ERDMAN:** Thank you, Senator. Senator, we spoke off the mike about Section 13, what it amends. Let me read that. And then if you would, share with us the answer that you gave me so that everyone understands, because there are several sections that are amended in exactly the same way as this one. And so it'll answer the question for the rest of those. But anyway, 13 says that it provides for elk hunting permits and fees by authorizing preference points for a fee of not more than \$24 for residents and not more than \$72 for nonresidents that would be issued in lieu of entering the random drawing for an elk permit. Can you explain that?

**QUICK:** Yes. So what happens if a hunter doesn't want to hunt that year, but they still want to remain in the draw for the following year, they can buy that preference point. They can buy-- so if you're a resident, it would cost you \$24 for that, to buy that preference point. And if you're a nonresident, it would cost you \$72 and then you remain in a draw for the following year that way.

**ERDMAN:** OK. So do you know-- if you know, do you know what it cost to make an application to get an elk license the first time?

**QUICK:** I-- no, I don't know. I could find out for you, but I don't know that.

**ERDMAN:** That's OK, I did. I'm not intending to embarrass you or whatever. I just was curious to see. So, in other words, if I understand correctly, if I'm a resident hunter and I didn't draw an elk permit in '20 or '19, I can pay the Game and Parks \$24 and my name will stay on the list where it was as if I had not dropped out. I didn't miss out on the drawing, so it moves me up in the order. Is that correct?

**QUICK:** Well, and it's not that you would-- you wouldn't-- you didn't get a permit, it's so your name-- your name stays in there, but you're just buying that preference point so that your name, your name wouldn't be drawn that year. But it would still-- you would buy a



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priority point because you gain priority points and then you have to stay in that standing--

**ERDMAN:** OK.

**QUICK:** --in order for the draw the next year.

**ERDMAN:** OK, I understand. All right. That make-- that makes sense. Thank you for clearing that up. I appreciate that. You know, Senator Hughes was commenting about the testimony at the hearing in Scottsbluff and the gentleman that he referenced is not the only one that testified there at that hearing. And I read the transcript of that hearing because I wasn't able to attend. I had a Building and Maintenance Committee at YRTC that day. And so I read the transcript. I think it was like 132 pages of testimony and I appreciated the chance to see what folks testified about. And there were several-- there were several that testified about elk damage. And there was also some people talked about mountain lion damage and they mentioned the antelope. And so it's not just a one-species problem. It's a wildlife problem in general with different species. And so consequently, what happens many times as Senator Hughes had alluded to that is people will file a complaint, they will notify Game and Parks they have an issue, but nothing seems to happen. And so as of late, since the incident on September 26, they have been somewhat more responsive than they were before. So we are making some progress. And as we go forward, trying to come to a commonsense solution to this--

**FOLEY:** One minute.

**ERDMAN:** --I believe that we need to all sit down at the table and figure out how we manage these better and have a discussion about how we manage them proactively and not manage by crisis. And we have an issue that's as big as the elk issue, and that is the antelope. And the same gentleman that had the elk damage that testified at the hearing in Scottsbluff showed me a video last week of 500 antelope running through his fence. He said the good news is, they're not staying, they're moving on to my neighbor. The bad news is they're moving on to my neighbor. So there's still 500 antelope. They're just not on his property. And so that's the problem is an overabundance of wildlife that these people cannot continue to feed. Thank you.

**FOLEY:** Thank you, Senator Erdman. Senator Hughes, you're recognized to close on AM2076.

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**HUGHES:** Thank you, Mr. President. I would urge a red vote on AM276 [SIC].

**FOLEY:** Question before the body is the adoption of AM2076. Those in favor vote aye; those opposed vote nay. Senator Quick. Senator Quick, did you--

**QUICK:** Call of the house, please.

**FOLEY:** There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

**CLERK:** 15 ayes, 4 nays, Mr. President, to place the house under call.

**FOLEY:** The house is under call. All unexcused senators please return to the desk and check in. The house is under call. All unexcused personnel please leave the floor. The house is under call. Senator Wayne, Senator Briese, Lindstrom and Groene, please return to the Chamber and check in. The house is under call. All unexcused members are now present. The question before the body is the adoption of AM2076. We'll do a roll call vote. Mr. Clerk.

**CLERK:** Senator Albrecht.

**ALBRECHT:** Yes.

**CLERK:** Voting yes. Senator Arch.

**ARCH:** Yes.

**CLERK:** Voting yes. Senator Blood. Senator Blood.

**BLOOD:** No.

**CLERK:** Voting no. Senator Bolz. Senator Bostelman.

**BOSTELMAN:** Yes.

**CLERK:** Voting yes. Senator Brandt.

**BRANDT:** No.

**CLERK:** Voting no. Senator Brewer.

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**BREWER:** Yes.

**CLERK:** Voting yes. Senator Briese.

**BRIESE:** Yes.

**CLERK:** Voting yes. Senator Cavanaugh.

**CAVANAUGH:** Yes.

**CLERK:** Voting yes. Senator Chambers. Senator Clements.

**CLEMENTS:** No.

**CLERK:** Voting no. Senator Crawford.

**CRAWFORD:** Yes.

**CLERK:** Voting yes. Senator DeBoer.

**DeBOER:** Yes.

**CLERK:** Voting yes. Senator Dorn.

**DORN:** Yes.

**CLERK:** Voting yes. Senator Erdman.

**ERDMAN:** No.

**CLERK:** Voting no. Senator Friesen.

**FRIESEN:** No.

**CLERK:** Voting no. Senator Geist.

**GEIST:** Yes.

**CLERK:** Voting yes. Senator Gragert.

**GRAGERT:** Yes.

**CLERK:** Voting yes. Senator Groene.

**GROENE:** No.

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**CLERK:** Voting no. Senator Halloran.

**HALLORAN:** No.

**CLERK:** Voting no. Senator Ben Hansen.

**B. HANSEN:** No.

**CLERK:** Voting no. Senator Matt Hansen.

**M. HANSEN:** Yes.

**CLERK:** Voting yes. Senator Hilgers. Senator Hilkemann.

**HILKEMANN:** Yes.

**CLERK:** Voting yes. Senator Howard.

**HOWARD:** Yes.

**CLERK:** Voting yes. Senator Hughes.

**HUGHES:** No.

**CLERK:** Voting no. Senator Hunt.

**HUNT:** Yes.

**CLERK:** Voting yes. Senator Kolowski.

**KOLOWSKI:** No.

**CLERK:** Voting no. Senator Kolterman.

**CLERK:** Voting yes. Senator La Grone.

**LA GRONE:** Not voting.

**CLERK:** Not voting? Thank you. Senator Lathrop.

**LATHROP:** Yes.

**CLERK:** Voting yes. Senator Lindstrom.

**LINDSTROM:** Yes.

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**CLERK:** Voting yes. Senator Linehan.

**LINEHAN:** Not voting.

**CLERK:** Not voting. Senator Lowe.

**LOWE:** Not voting.

**CLERK:** Not voting. Senator McCollister.

**McCOLLISTER:** Yes.

**CLERK:** Voting yes. Senator McDonnell.

**McDONNELL:** Yes.

**CLERK:** Voting yes. Senator Morfeld.

**MORFELD:** Yes.

**CLERK:** Voting yes. Senator Moser.

**MOSER:** Yes.

**CLERK:** Voting yes. Senator Murman.

**MURMAN:** No.

**CLERK:** Voting no. Senator Pansing Brooks.

**PANSING BROOKS:** Yes.

**CLERK:** Voting yes. Senator Quick.

**QUICK:** Yes.

**CLERK:** Voting yes. Senator Scheer.

**SCHEER:** Not voting.

**CLERK:** Not voting. Senator Slama.

**SLAMA:** No.

**CLERK:** Voting no. Senator Stinner. Senator Vargas.

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**CLERK:** Voting yes. Senator Walz.

**WALZ:** Yes.

**CLERK:** Voting yes. Senator Wayne.

**WAYNE:** Yes.

**CLERK:** Voting yes. Senator Williams.

**WILLIAMS:** Yes.

**CLERK:** Voting yes. Senator Wishart.

**WISHART:** Yes.

**CLERK:** Voting yes. Senator Briese changing from yes to not voting.  
Just a second, please. Senator Kolowski, how--

**KOLOWSKI:** Yes.

**CLERK:** Senator Kolowski changing from no to yes. 29 ayes, 11 nays, Mr.  
President, on the adoption of the amendment.

**FOLEY:** AM2076 is adopted. I raise the call. Senator Bostelman, you're  
recognized.

**BOSTELMAN:** Thank you, Mr. President. I want to make sure people  
understand. It looked like there's a lot of confusion on this last  
vote. So what-- what the last amendment did was basically bring online  
last-- because of last year, I believe what we did in Transportation  
and Telecommunication on some issues on license plates and increase  
those fees, this just harmonize, if you will, or what this did was--  
was raise the boat fees to what's required that we did last year in  
Transportation. OK, so this had nothing to do with land and nothing to  
do with Game and Parks on that side. It had everything to do with  
motor boat vehicle registration to 28 and the Class 1 boats to 51, the  
class boats. And that was because of some things we did last year in  
Transportation. So this did not change anything with powers of Game  
and Parks and that, but this does-- what that did provide was to make  
sure that we updated the statutes to match what we did last year.  
Thank you, Mr. President. Thank you.

**FOLEY:** Thank you, Senator Bostelman. Seeing no other members in the  
queue, Senator Hughes, you're recognized to close on the committee

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amendment. Is Senator Hughes on the floor? Senator Hughes, you're recognized to close.

**HUGHES:** Thank you, Mr. President. And I do apologize to my colleagues, I know this has been somewhat painful on our first day of debate. But regardless of where you go with this amendment, I do have a recommit to committee amendment, so we are not finished for the day yet. You can vote on this however you want. I will be voting no. Game and Parks needs to come to the table to do some negotiating about how they do things in the future and this is a step in the process. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. The question before the body is the adoption of committee AM386. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 28 ayes, 7 nays, Mr. President, on adoption of committee amendments.

**FOLEY:** The committee amendment is adopted. Mr. Clerk.

**CLERK:** Mr. President, Senator Hughes now has a priority motion. He wishes to recommit LB287 to the Natural Resources Committee.

**FOLEY:** Senator Hughes, you're recognized to open on your motion.

**HUGHES:** Thank you, Mr. President. And I do apologize again to my colleagues. But this is something that I feel very strongly about. For four years, Game and Parks gave me lip service and did not address my concerns to my satisfaction so I began introducing legislation and I've got their attention and we're going to continue on that. There are several things that they do-- are doing an exceptional job on, but there are certain areas where I think they've got some real challenges, specifically in the big game animal area: elk, deer and antelope. Their solution for control is depredation permits and that's been their answer for quite some time and it's not working. As I stated before, the-- for whatever reason, the conditions are excellent for reproduction of these animals. The habitat is much better. We're hearing stories of, you know, it used to be the white-tailed deer would have a single or a double. Now they are having twins or triplets. Mule deer were having one, now we're seeing some-- several instances where mule deer are having twins. That is a testament of to the environment that they are doing well. They're getting plenty of food. They're getting plenty of nutrients. So the reproduction system

is kicking in and telling them when you've got more room to grow, things are going well, you can have more. The Game and Parks answer is depredation. And I've gone through that, but I'm going to reiterate that. Trying to kill even 5 or 10 deer in the middle of August when you've discovered that they're chomping through your cornfield, is not the answer, because trying to find someone who's willing to take the meat and quite frankly, the time to go shoot them, field dress them, and get them somewhere takes a lot of time. And most landowners are busy trying to make a living off of their property without having to go shoot deer and field dress and find a home for them. I talked a little bit about the bills that I'm going to introduce. One that I've got quite, quite a bit of feedback on was limiting the number of acres that Game and Parks can own. I talked about the acquisition that they made up next to Fort Robinson. My bill says, you know, the-- basically, in essence, the land that they own now, they cannot exceed those acres. I'm getting a lot of feedback. Actually, some positive feedback from people who've bothered to email me and saying, we think they need to manage what they have better before we give them any more. You know, I would probably think about an amendment if they would be willing to-- if they have a prime property that would be truly beneficial to them, they can have that, but they have to eliminate the same number of acres somewhere else in their land holdings. I do know Senator Erdman has a bill that's going to require them to pay in lieu of property taxes on all property that they have, not just what's been acquired since 1973, I believe. So there's a lot of issues that we're going to talk a lot about Game and Parks this year. My amendment to recommit to committee, I think is very appropriate. After going to the two hearings that we had-- our interim study, the one in Scottsbluff and the one in McCook, are very appropriate because the individuals, we came to them. You know, the Natural Resources Committee came to those areas in order to hear from those individuals. I do know that the Game and Parks personnel and commissioners felt that they were ambushed. And that is absolutely not true. There was only one gentleman that I asked to make sure that he came to McCook to talk about the challenges that he has and I referenced him at the west end of Red Willow Lake about his challenge of-- of crossing Game and Parks's property to get to his land on the other side from a public road. And he also had a lot of challenges with maintaining their fence. They've got a three-wire barb-- three-wire barbed wire fence that used to be maintained by him, his father, and Game and Parks. He said he hadn't seen a Game and Parks personnel there for years to help keep that fence up, to keep his



livestock off of Game and Parks's property. So there's just been-- there has been a lot of changes that have happened. And the two interim hearing-- interim hearings that we had certainly reinforced that. And I think this is something that needs to be brought back to the Natural Resources Committee to talk about. We need to have an extensive look at all of the operations that Game and Parks is doing. We're looking at changing the way they manage the big game because it's costing the landowners of the state of Nebraska millions of dollars. I'd mentioned, you know, the deer costs was about \$60 million. You add elk and you add antelope. And then if you add the-- probably vehicle damage, you're north of \$100 million out of the state of Nebraska's economy. You know, those are dollars that we could be collecting income tax on. Wouldn't that be nice? There's a lot of areas that we would like to cooperate to try and come to some sort of resolution with Game and Parks to figure out how we can do a better job of managing the big game wildlife in the state of Nebraska so it's not resting on the shoulders of a few landowners. As I mentioned, my district is the Republican River Basin. And if you own land along the river, the deer population has exploded. The environment is very conducive to more deer. And they all eat and they all eat every day. And they have paths that they like to travel. The short they're-- you know, they're like people, their path of least resistance. So if your cornfield happens to be on the way between where they bed down at night and they go get a drink and whatever else they do, you're gonna have a significant loss in your field. And putting up a fence around your field, as I mentioned, the eight-foot tall barbed wire fence to keep them out is not an option. If it's an isolated pivot, maybe. One of the other issues that this gentleman was telling me about his folks putting a fence around their pivot, you know, when you fence your haystacks, you know, if you've got hay that's been put up for livestock feed in the wintertime, Game and Parks says, yeah, we'll-- we'll give you some fencing material to fence out that, that haystack. Well, if you have snow fence and it collects snow, it's kind of hard to get your hay out from underneath that snowbank because it does pile in there. He said that's a little frustrating when you get a fence like that. So there's just a lot of challenges. We need to bring Game and Parks to the table and talk to them about being a little more proactive, a little more agricultural landowner friendly, and not just being the one who benefits from selling hunting licenses. You know, if they need to-- one of the things that I've been struggling with on

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this bill is it does raise some fees and they need additional funds to--

**FOLEY:** One minute.

**HUGHES:** --help take care of the landowner. But currently, there's no mechanism that allows them to do that. We've looked at other states of how they reimburse individuals for life-- for wildlife damage, and there are other states that do that. We need to find a way to help keep our landowners whole, you know. And I hesitate to bring up property taxes in this discussion, but this is just wet-- yet one more burden on the landowner in addition to high property taxes that's making it really tough to make a living out there on the farm. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. Senator La Grone.

**LA GRONE:** Thank you, Mr. President. I yield my time to Senator Hughes.

**FOLEY:** Senator Hughes, 5:00.

**HUGHES:** Whoever would've thought carrying on a filibuster would be so hard? I do-- I can do it. There's no question there, but it would be painful for all of us, so I'm not going to do that, but I'm going to continue to discuss Game and Parks. That's why we're here. I did mention that Lake McConaughy has been in the paper. Game and Parks has come down with recommendations as to how they're going to manage that property. And it's got a lot of the local people very concerned of the impact on the local economy. When you have something that is the second largest tourist attraction in the state, that has a huge economic impact. And if all of a sudden you're looking at throttling that back, which there needs to be controls put on, I'm not going to argue that fact. I went to the stakeholders meeting and listened to the first responders of, you know, we need flak jackets before we're gonna go into-- or into those situations. That does get your attention. I think part of the challenge that we have at Lake McConaughy is the lake level. When you have very high water level, that does eliminate a lot of the beach area and it makes it more problematic to squeeze everybody in at that point. But it can be done. There needs to be more facilities. You know, we need more restroom facilities. There need to be some serious money spent. And this is not just at Lake McConaughy. I mean, there are some other very large lakes, recreation areas that have beautiful beaches in western

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Nebraska that are heavily attended, especially on the big three weekends: Memorial Day, Fourth of July, and Labor Day. It's very close to the front range of Colorado. There are a lot of Colorado individuals who make it a point to come to Nebraska, and we're happy to have them. And we want to make sure that we keep everyone safe. And that's a big job, no question about that, and my hat is off to the Game and Parks personnel who are out there trying to do their job. The local first responders, you know, county sheriff and deputy, and especially the EMT individuals who respond to emergencies. But that doesn't mean we can't do a better job to keep people safe in the state of Nebraska. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hughes. Items for the record, please.

**CLERK:** Mr. President, I have hearing notices from the Transportation and Telecommunications Committee. That's signed by Senator Friesen. Education Committee signed by Senator Groene. Priority bill designation: Senator Brewer selected LB582 as his priority bill. Amendments to be printed: Senator Crawford to LB322; Senator Wayne, LB93. (Also LB381, Senator B. Hansen.) New bills, Mr. President. LB972 is by Senator Brandt. It's a bill for an act relating to the Nebraska seed law. It changes provisions relating to percentage of germination seed testing. LB973 is a bill by Senator Kolowski. It's a bill for an act relating to real estate. It adopts the Homeowner Association Act; provides for contracts with county boards. LB974 is a bill by the Revenue Committee. It's signed by its members. It's a bill for an act relating to school funding. It changes the valuation of property for taxes levied by school districts and multiple-district school systems; changes provisions relating to levy limitations, base limitations. It changes the Tax Equity and Educational Opportunities Support Act, and it changes provisions relating to certain school taxes and special funds. New resolution: LR295CA is proposed by Senator Wayne. It proposes an amendment to Article III, section 24 of the state constitution. Name adds: Senator Hunt, Slama, Halloran, McCollister, Quick to LB153; Senator Matt Hansen, LB942 and LB943; Senator Hilkemann to LR292CA. Mr. President, Senator Wishart would move to adjourn the body until Tuesday, January 14, at 9:00 a.m.

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