

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate January 16, 2020

**HUGHES:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventh day of the One Hundred Sixth Legislature, Second Session. Our chaplain for today is Pastor Albert Longe from the 44th District, my district. Please rise.

**PASTOR LONGE:** Let us pray. Gracious and loving God, we are thankful for this day, thankful for the gift of life, thankful for the countless blessings. We are thankful for the state of Nebraska and all the blessings you continue to bestow upon us. As the senators gather here today, we pray for your wisdom and your knowledge to guide all the deliberations. May your wisdom continue to guide and your knowledge to inform all that will be debated to the interest of your people for prosperity and success across the state. We pray that indeed you protect them, their staff, and everyone else who contributes to this wonderful work that you have called each and every one of them. May you continue to guide us and bless us through all the days to come. We pray. Amen.

**HUGHES:** Thank you, Pastor Longe. I call to order the seventh day of the One Hundred Sixth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, for items.

**CLERK:** Mr. President, thank you. I do have a quorum present, first of all. I have series-- I'm sorry, I have two reports: Enrollment and Review reports, LB206 and LB230 to Select File. I have the Lobby Report as required by state law to be inserted in the Journal and acknowledgment of receipt of reports on the legislative website. That's all that I have, Mr. President.

**HUGHES:** Thank you, Mr. Clerk. Senator Wishart, for what purpose do you rise?

**WISHART:** Thank you, Mr. President. I rise today with a point of personal privilege. Early this week, a mom and her daughter walking to Prescott Elementary School noticed a swastika and racial slur on the door and steps of the South Street Temple. When I read about the police report in the paper, my heart sank. My friends and I grew up a few blocks from this beautiful synagogue. I was that girl. We were those girls on our way to elementary school and this beautiful building was a welcome landmark every morning and afternoon on our walk. We attended services and parties here. And I have dear, dear friends who are members. They're like family to me. I am deeply,

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deeply saddened and disturbed that this has happened to a beautiful place of worship in our community. We are better than this, Nebraska. I spoke with members of the South Street Temple yesterday, and they said that this is not the first time they have experienced hate or vandalism. But the amount of hate they have experienced comes nowhere near to the amount of messages of love they have received, especially this week. I encourage every member of this body to reach out to them with your support. The South Street Temple is currently working with law enforcement to find the vandal. Fortunately, they have video footage of him that will help. The damage is significant and it will take more resources than they have budgeted this year to repair. So they anticipate an upcoming fundraiser that will be made public soon for all of us to pitch in and help. I think about that young girl on her way to school and me as a young girl taking that same journey by this beautiful Lincoln landmark filled with idealism about the future. I think about all the members of the South Street Temple, many whose ancestors experienced one of the darkest periods of our history. And I think what am I doing and what are we all doing to ensure that all the young girls and boys in this world grow up with a world with less hate in it? Thank you.

**HUGHES:** Thank you, Senator Wishart. Senator Pansing Brooks for what purpose do you rise?

**PANSING BROOKS:** A point of personal privilege, Mr. President. 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, we want you here. You are loved. That preamble is especially meaningful today when we know about what Senator Wishart just spoke of, the, the hate crime that occurred on the, on the South Street Temple, which is in my district. I went there periodically as a child because one of my best friends was Jewish. And so she'd sometimes come to my church and I'd sometimes come to the youth group at her church. So I feel it personally as well. I wanted to give you just a little bit of history on that Temple, which I think is interesting because it relates to our Legislature. When Lincoln was chosen as the Nebraska state capital and the Legislature met for the first time in early 1885, one of its first decisions was to set aside city lots for all-- for religions of all denominations. Think of that. Would we do that today, my friends? For \$50, Congregation B'nai Jeshurun obtained a provisional deed for two lots on the northwest corner of 12th and D Streets and-- however, lack of finances held back construction till 1893, when the membership of 28 determined that a

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formal synagogue would give them both a place of worship as well as a building to attract Jews from the surrounding area. Just think, they were trying to attract people, just like we are trying to attract people to our state. Ultimately, they built the building at 12th and D Streets. That building was later burned, and arising like a Phoenix from the fire in 1922 they built on their new site at 20th and-- I'm spacing out, it's 20th and South Streets. So it was dedicated in 1926 and is still active in service. Another little interesting highlight is the doors that were-- that, that are at the front of our Chamber-- this Chamber were, were carved by Keats Lorenz, and before that Keats Lorenz carved the Ark to hold the Covenant, the Torah, in that church. It is absolutely beautiful. I hope you get a chance to go by and see that beautiful place and, and what Keats Lorenz carved before he carved here in our Capitol. So I, I just want to say today that it's especially important to be resilient, to rise from the flames. I, I want us to consider the fact that we need to love one another. We have to fight hatred with love. That's the only power that's stronger and more resilient and more powerful. That church has one other-- or that congregation has one other piece of really interesting history. Cantor Weisser befriended a Grand Dragon from the White King-- he was the Grand Dragon of the White King of the Ku Klux Klan and it had been-- his name was Larry Trapp. He was sending hate letters and calls, calling them all sorts of hideous names. And instead of just shunning that person and treating him as most of us probably would, that congregation reached out to him and brought him in and told him he is loved and, and talked about how he can be a better person and find ways to live in this world better. That man died. He renounced the Ku Klux Klan and died with, with the Jewish Star, the Star of David on his grave. He renounced it all and became a Jew. So think of that as we talk about what we are doing for the good of Nebraskans and for the love that we need to promote every day in this, in this body. Yes, we're working for business. We're working for agriculture, but we are working for the hearts and the souls of Nebraskans as well. So I want us to all consider the fact that that congregation has shown brotherly love and eviscerated hate by an act of kindness, bringing in the enemy, and we must stand with them. I ask all of Lincoln, as you hear more about it, to stand with this congregation, to show them love, to meditate for them or pray for them or whatever your preference, but please surround this congregation and show those who want to show hatred that we will not stand for it in this city. Thank you, Mr. President.

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**HUGHES:** Thank you, Senator Pansing Brooks. Senator Chambers, for what purpose do you rise?

**CHAMBERS:** Point of personal privilege, Mr. President. I concur with what has been said. And I'm in a position for a number of reasons to view this from a different perspective. First of all, these things have been happening to black people forever. There's never been any general outrage about that because we don't count. But because of that understanding of what this stuff means, I'm probably more offended than anybody else. It's new to you all. I said a number of reasons. Also, I'm not religious, but I understand that when a cowardly act like this is done and it's always cowardly, they do it under cover of darkness or under the protection of a pillowcase and a bed sheet. These cowards are-- religion means nothing to me whatsoever. I think the world would be better off with no religion, but people who do these things are deliberately attacking what they feel means the most to the people who will be involved. It is just brick and mortar, wood, stained glass. But sometimes symbols have much greater meaning and durability than those substances from which they are constructed. So if a coward wants to really strike you where it hurts, he, she, or they will find what they think means the most to you. And since most people who are religious talk about a soul and a God, those are the things that mean so much. So the coward wants to hit you in that very vulnerable spot. Your house could be burned down if they know you're a Jew. But so what, houses burn all the time. There's something different about a place of worship no matter whose religion that place of worship is to accommodate. Not many weeks ago a young Muslim woman, not her car, not her house, but her person was attacked by some white, cowardly males in Lincoln, in this town. People who are going to do the wrong thing will sharpen their tools of oppression on those who are the outlier-- outliers, the unpeople, the nonpeople. Then they start moving from the outer edges closer and closer to the center. Black people were always the ones they practice on from the police to the Ku Klux Klan. Now Muslims, thanks to your President, are fair game. Latinos, Latinas, and there was a woman who deliberately ran her car on the sidewalk to run over a little girl because she saw her as being what she called Mexican. She did it for that reason. And she was a white Christian. You all have a responsibility. When I say you all, I mean you white people. If it doesn't come right to you, it doesn't matter. See, Jews are Brand X white people. But it's getting closer now to the center, and it causes alarm. If Jews were indeed respected in this country, there wouldn't be the number of insulting terms. I

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won't express any of them that have been coined to designate Jews, whether they're being viewed as a Jew because of race, ethnicity, religion, or being from Israel. Once the label Jew is attached, that is something evil. You all may not know it, but Jews were supposed to be carrying on secret ceremonies where they took Christian children, kill them, and use their blood in their secret rituals. And if you read history, you know about that. Wherever Jews have gone, they have been hated, they have been hounded, they have been killed. And these things happened with impunity. And I know how some of these things can affect a person. You know, it has happened to me in Lincoln. The name Trapp was used. He used to write racist things and stick them on my door in the Capitol Building, slide things under my door on the Capitol Buil-- in this building. But I'm in the Capitol Building, why didn't he put this-- why didn't he stick it on me? I'm not bigger than a minute. I might be as weak as cream, maybe I can't lick my lips. But why do these big, brave white men not come to this little wizened, probably tired, old black man and do to me what they will threaten other people with? I'm not hard to find. I'm an easy target. I tell people, if you want to see me somewhere, tell me where and when and I'll come and whatever you want to do. You might win, but I'll do the best I can in the meantime. When the Nazi Gerhard Lauck was in this town, his swastikas appeared on my door. The same thing slid under my door. I know what these cowards do. So I hope, but I don't have an expectation that the people on this floor would take whatever a moment like this causes you to feel and think about and apply it all the time across the board for everybody. One thing and then I'm through. I've mentioned it before, but you all understand it if I put it like this, Cain killed his brother. God asked Cain where his brother was. Cain said, am I my brother's keeper? And the question was not answered. That question is left for each one of us to answer. Are we our brothers' and our sisters' keeper? And that's the question I ask of you all. I set a better example than you all because I'm hated by people in western Nebraska. But I've got articles where they've said editorially, I'm the best friend they have. You know why? Because anybody who is suffering will get my help because I'm not comfortable in the suffering of anybody. I don't care what their race is, their religion, or anything else. If they are ganged up on, then I become their keeper to the extent that I can. But mine is not saved for special occasions. You all's is. And it's wrong. And I'm more angry at you all than I am with the coward who did what he did to that temple. What he did can be erased just like what he did effaced. Brick and mortar is nothing, but the damage done to the people is what we should

be trying to rectify. And that's why I will not-- that's not the only reason, I will not waste my time when these people pray. You had a black man up there praying. His prayers don't mean anything as far as you all are concerned. And I'm deliberately lecturing you, not from a position of moral superiority, but apparently greater intellectual perception. I can perceive without feeling the pain physically, what the pain must be that you would feel if somebody lifted this desk and dropped it on your toe. I understand why you would say ouch, but I would also feel an obligation to take that desk off your toe. And if I saw somebody in a position trying to do it to somebody else, I would intervene to see that it didn't happen. You all don't intervene. We have the wherewithal in this body to alleviate every problem that people in this society, and I'm just talking about Nebraska now, we'll confront, but we won't do it. I was waiting yesterday to hear the Governor say after praising people for helping where there was a flood, that we now are going to do something to dam the diseases that are flooding certain of our brothers and sisters who cannot afford medical care. And my intent, among other things today, is to announce that we immediately are going to begin to act in accord with the will of the people as expressed by that vote to expand the reach and embrace of Medicaid so that our brothers and sisters who will become ill, as the members of our families will become ill, but their arms are not long enough to embrace their ill family members. So the state is going to do what they cannot do for themselves. And the public told us, as politicians, they want us to use the means at our disposal to do so. I waited. I waited. I waited. And just like now, there was silence. You all have no idea of the thoughts that I entertain every day that I come to this place because I am not like you all with a seared conscience that cannot feel, one to whom empathy is only a word that sounds like and means something like sympathy. I feel for those people whose temple was defaced, but that was just a building. I don't feel it for them because their building had something done to it, but for what might be in store for them just because of who and what they are. The who and what should not be words that separate them into a part of the human group which places them nevertheless outside the family. Are we indeed brothers and sisters? How many of you-- and then I'm through. How many of you consider everything born of a man and a woman your brother or your sister? I don't often have people do this. It's embarrassing, isn't it? And you're not going to do it because some of you believe in telling the truth. And when you keep your hand down, it means you don't believe that. But I hope that what has been said by my colleagues-- because you don't listen to me, hear what your

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kind said to you today, what they felt when they heard what happened to their brothers and sisters. And then as the Jesus that all of you who say you worship would tell you, go thou and do likewise. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Chambers. Senator McCollister, for what purpose do you rise?

**McCOLLISTER:** Point of personal privilege, Mr. President.

**HUGHES:** Senator, state your point.

**McCOLLISTER:** Yes, sir. The incidence of white supremacists doesn't only occur in Lincoln. It happens all over the world. The Southern Poverty Law Center reports a dramatic increase in the number of white nationalist, nationalist groups in the U.S. from 100 chapters in 19-- in 2017 to 148 in 2018. The Anti-Defamation League reports an 80-- 182 percent increase in incidents of the distribution of white supremacist propaganda and an increase in the number of rallies and demonstrations by white supremacy groups from 76 in 2017 to 91 in 2018. A study by the Center for Strategic and International Studies found the number of terrorist attacks by far right perpetrators quadrupled in the United States in 2016 and '17, and that far right attacks in Europe rose 43 percent over the same period. Among those incidents, the CSIS states the rise of attacks by white supremacist and antigovernment extremists is of particular concern. Of course, this isn't necessarily limited to those of the Jewish religion. Mosques have been attacked as well. The issue of white nationalism came into the forefront after a gunman opened fire at two mosques in New Zealand on March 15, killing at least 50 people. In a manifesto posted by the alleged shooter, he describes himself as an ordinary white man whose goal was to crush immigration and deport those invaders already living on our soil. My goodness, that is just absolutely awful. In Omaha, my church is part of the Tri-Faith Initiative where we have a synagogue, a mosque, and a church all located on essentially the same property. That effort is to eliminate some of this hate that seems to occur so often in our country and in Nebraska as well. Thank you, Mr. President.

**HUGHES:** Thank you, Senator McCollister. Senator McDonnell, for what purpose do you rise?

**McDONNELL:** Point of personal privilege.

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**HUGHES:** Senator, please state your point.

**McDONNELL:** Thank you, Mr. President. I'd like to thank Speaker Scheer. Yesterday on the floor he announced it was my birthday and all of the great birthday wishes. But also Speaker Scheer tried to help me become a better public servant, pointed out that there was no treats for anyone for-- that I should have brought for my birthday. So I started making donuts yesterday and I've made 100 donuts, and in reality I went to the good people at Super Saver in the bakery and they helped me out, and so there's donuts for everybody. And I just wanted to say thank you for wishing me a great birthday yesterday. I had a great birthday and enjoyed it. So thank you.

**HUGHES:** Thank you, Senator McDonnell. Mr. Clerk, we will proceed to General File, LB765.

**CLERK:** Yes, Mr. President, you're right, LB765, Senator Lindstrom would like to withdraw that bill, Mr. President.

**HUGHES:** Senator Lindstrom, you're recognized.

**LINDSTROM:** Thank you, Mr. President. I introduced LB765 on behalf of the Attorney General's Office to strike from statute the duty of the Attorney General's Office to act as an attorney for the state of Nebraska in the Nebraska Workers' Compensation Court. The Attorney General's Office met with the Nebraska Workers' Compensation Court, and both parties agreed to maintain the current statute. Therefore, LB765 is no longer necessary. I would ask for your green vote on the motion to withdraw. Thank you.

**HUGHES:** Thank you, Senator Lindstrom. Seeing no one in the queue, it's a machine vote, simple majority to withdraw. Have you all voted? Record, Mr. Clerk.

**CLERK:** 36 ayes, 0 nays, Mr. President, to withdraw the bill.

**HUGHES:** Senator John McCollister would like to recognize the Doctor of the Day, Dr. Steven Williams from Omaha. Please rise and be recognized by your Nebraska Legislature. Thank you for your service, Doctor. On to the-- moving on to the agenda, Mr. Clerk, we will proceed to General File, LB594.

**CLERK:** Mr. President, LB594 was a bill by Senator Blood relating to the Uniform Deceptive Trade Practices Act. It defines the terms and

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provides for deceptive trade practice relating to meat. Senator Blood presented her bill yesterday, Mr. President, pending our committee amendments as well as a priority motion.

**HUGHES:** Thank you, Mr. Clerk. Senator Blood, would you like to take a few minutes to refresh us on LB594?

**BLOOD:** I would. Thank you, Mr. President. Very briefly, the bill was in reference to protecting the meat industry and our consumers here in Nebraska. I did what I was asked to do, which was fight for this bill for the last 12 months, bring light to the bill through press releases, which I was asked to do by the industry, and took 12 months of abuse to try and push this bill forward. But with that said, there is something that pertains to this bill and what happened on the floor yesterday that I do want to address, and then I do have a special request. So when a senator uses homophobic statements in both the media and public forums against other senators and we do nothing, that makes us complicit. When a senator threatens others on the mike when they don't get their way on a bill and we sit silently, that makes us complicit. When a senator states that only certain senators can carry certain types of bills and we do and say nothing, that makes us complicit. When a senator puts his hands up to silence female senators in hearings or rush their questions and nothing is done, that makes us complicit. When a senator badmouths some of the same senators who give him strong support on this floor in public forums where videos are shared then on social media, and again nothing is done, that makes us complicit. When a senator gives out false information and I provide him with the correct information prior to a debate, and then he speaks with me and I put my hands on my hip because my back hurts and he makes fun of my body language, that's wrong. When a senator is a bully, it doesn't make him a statesman or well-spoken, it just makes him a bully. And I'm here to say that I'm not scared of bullies. I don't care when people disagree with my bills. That's part of the job. But when people stand at mikes and their only job is to be insulting, that is not our job. But with that said, my intent was to carry this bill in a manner that I was asked to again by the industry and to fight for this bill, which I have. And I've done that. And now we're going in a different direction. And I accept that because I support the greater good of this body, even when I don't agree with it and I don't need to stand here and insult others because of it. And so with that, I would ask that the Speaker please put a hold on LB594.

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**HUGHES:** Thank you, Senator Blood. Mr. Speaker, you're recognized.

**SCHEER:** Thank you, Mr. President. We will-- I will place a Speaker hold on LB594 and we'll move forward to the next item, LB305. Thank you.

**HUGHES:** Thank you, Mr. Speaker. Mr. Clerk, for items.

**CLERK:** Thank you, Mr. President. I do have some things. I have hearing notices, first of all, from the Health and Human Services Committee, the Education Committee, the Transportation Committee, the Natural Resources Committee, all signed by the respective chairpersons. Senator Brewer would like to withdraw LR285CA. That will be laid over. And, Mr. President, I have new bills. LB1022 is a bill by Senator Matt Hansen. It's a bill for an act relating to elections. It provides for election of election commissioners. It changes and eliminates provisions relating to official bonds, consolation-- consolidations, excuse me, of county offices, deputy county clerks for election, civil service commissions, chief deputy election commissioners, removal from office, and vacancies. LB1023 is by Senator DeBoer. It's a bill for an act relating to special, special education; adopts the Extraordinary Increase in Special Education Cost Act. LB28-- or excuse me LB1024 is by Senator Clements relating to Intergovernmental Risk Management Act. It subjects risk management pools to the Unfair Insurance Trade Practices Act, and changes provisions relating to the board of directors of a risk management pool. LB1025 is Senator Bolz. It's a bill for an act relating to the Nebraska Advantage Act. It creates the Tax Credit Buy-Back Program and it harmonizes provisions. And LB1026 is by Senator Bolz relating to appropriations; it appropriates funds to the University of Nebraska. That's all that I have, Mr. President.

**HUGHES:** Thank you, Mr. Clerk. Mr. Speaker, you're recognized.

**SCHEER:** Thank you, Mr. President, colleagues. It is the last day of the week, so I wanted to give everybody an idea of what we will be looking at for next week. We will continue to debate nonpriority, carryover bills on General File and any 2020 priority bill that may be designated and is ready for debate next week. On Friday, it would be my intention to schedule available Select File bills so that we can move those forward. A reminder that your hearings will be starting Tuesday afternoon. And so the Floor Debate will be limited to mornings only, only for the next 30 days or so. Start time next week will be 9:00 as usual, other than Wednesday, in order to accommodate a

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briefing on Wednesday morning at 9:00 by the Health and Human Services Committee regarding the YRTC report. We will convene on Wednesday at 9:30 on the 22nd of January. Additionally, following that on Wednesday morning at 10:00 a.m., we will have Chief Justice, Chief Justice Heavican's State of the Judiciary Address as well. So that will sort of break up that morning somewhat. But we will have a briefing from Health and Human Services as well as the Chief Justice Address as well. So remember, every day other than Wednesday is a 9:00 start. Health and Human Services, I don't know where they're having their briefing. Senator, do you have a room for your briefing yet? They will send out an email informing everyone where that briefing will be had. We may have some poor weather this afternoon, tonight. So everyone be careful. Enjoy your long weekend and come back refreshed. Thank you very much.

**HUGHES:** Thank you, Speaker Scheer. Mr. Clerk, we'll proceed to General File. Next item on the agenda, LB305.

**CLERK:** Mr. President, LB305 is a bill offered by Senator Crawford relating to labor. It adopts the Health-- Healthy and Safe Families and Workplaces Act, introduced on January 15 of last year, at that time referred to the Business and Labor Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President.

**HUGHES:** Thank you, Mr. Clerk. Senator Crawford, you are recognized.

**CRAWFORD:** Thank you, Mr. President. Good morning, colleagues. I rise to present LB305, the Healthy and Safe Families and Workplaces Act. The act would require paid leave to be provided to employees to use for sickness and for reasons related to safety or sick and safe leave for short. As Nebraskans, family and work top our list of priorities, yet almost half, 40-- about 46 percent of Nebraskans' work force does not have access to a single paid sick day to stay home when they or a child are sick. Again, almost half of Nebraska work force does not have access to a single paid sick day to stay home when they have a-- when they or a child are sick. Access to paid sick leave is more limited for our lower income families. Twenty-six percent of Nebraska jobs are considered low-wage jobs, and 70 percent of these low-wage workers do not have any paid sick days. LB305 creates the Healthy and Safe Families and Workplaces Act to ensure that Nebraska workers can earn up to a week of paid leave to care for themselves or a family member, or to deal with situations of domestic abuse, stalking,

without having to worry about losing their jobs. LB305 has two components: sick leave, which can be used for an employee's own or family member's mental or physical illness, injury, or health condition; and, safe leave, which can be used for reasons related to domestic abuse, sexual assault, or stalking. Safe leave provides victims of domestic abuse, sexual assault, and stalking the support and job stability they need to escape and begin to recover from violence. According to the National Partnership for Women and Families, survivors of domestic violence are at increased risk of harm during and shortly after separating from an abusive partner. It's essential that victims are able to find shelter, file restraining orders, attend court dates, or receive counseling to prevent further abuse while holding down a job. In addition to the obvious benefits paid sick leave afford to workers and families, sick leave is critical also to public health. According to a study conducted by NPR, quote, each week about one point five million Americans without paid sick leave go to work despite feeling ill. At least half of employees of restaurants and hospitals, two settings where disease is easily spread, go to work when they have a cold or the flu, end quote. Allowing employees to stay home when they are sick prevents them from infecting others. Employees also reap a number of benefits when providing paid sick time. Studies show that offering paid sick days saves employers money by reducing turnover, increasing productivity and work force stability, preventing the spread of illness, and lowering healthcare costs. Ten states have passed laws requiring paid sick leave, and studies conducted in those states are showing that these laws have worked for both employees and employers. Connecticut was the first state to enact paid sick days law in 2011. A survey of employers in Connecticut found that the law has had a minimal impact on costs, and the vast majority of employers have not reported making changes, such as increasing prices or reducing employees' hours because of it. Employers identified several positive effects, including improved employee productivity and morale, and more than three quarters expressed support of the law. So more than three quarters of the employee-- employers in Connecticut have expressed support for their sick leave law now that it is in effect. Further, data from the Connecticut Department of Labor showed job growth across industries since the law's implementation, including in its most affected industry, leisure and hospitality. A 2016 meta analysis of all states and localities with sick leave laws did not find any evidence that wages or employment significantly changed after the laws were implemented. Under provisions of LB305, employers with four or

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more employees are required to provide staff with access to sick and safe leave. Employees accrue a minimum of one hour of paid sick leave and-- sick and safe time for every 30 hours worked up to 40 hours on a calendar year. Employers who provide an amount of paid leave that meets the standards of LB305 are not required to provide any additional time, though the bill does not prevent them from providing additional time if they so choose. Employees can start using this leave after 60 days of employment. LB305 also provides protections for employers. Employees requesting leave must include the expected duration of the absence if possible. When the absence exceeds three days, the employer may compel reasonable documentation that the time is being used for the permitted purpose. Documentation for safe leave could include a police report, a court protection order, or documentation affirming that the individual or their family member is a victim signed by law enforcement, a health professional, a social worker, or a member of the clergy. Further, LB305 specifies that employers are not required to reimburse employees who quit or are fired for unused leave. Because LB305 gives the Commissioner of Labor enforcement and investigatory powers, it does have a fiscal note. The Department of Labor has estimated they will need three FTEs to create a complaint system and process such complaints. LB305 will ensure that Nebraska workers have the ability to earn a week of sick and safe leave time to care for themselves or family members. Colleagues, during my time as Chair of the Economic Development Task Force, I heard over and over again that investing in our people, investing in our work force is key to getting them to stay and work in the state. Nebraska needs to think critically about investments and how investing in ways to grow our work force will be key to economic prosperity in the coming year. LB305 advanced from committee with no no votes with a committee amendment. I urge your support for LB305. Again, I want to remind you that almost half of our workers do not have a single paid sick day. And our low-income workers, 70 percent of our low-income workers in the state do not have access to a single paid sick day to take care of themselves or to take care of their family members. And colleagues, I have all kinds of evidence from other states that have had paid leave-- paid sick leave in place, in terms of its positive impact on employers and employees and its positive impact on public health and costs in the state. And so I urge your support for LB305. Thank you, Mr. President.

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**HUGHES:** Thank you, Senator Crawford. Senator Lowe, you're recognized. Pardon me, we have committee amendments from the Business and Labor Committee. Senator Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. And good morning, colleagues. The Business and Labor Committee held a public hearing on LB305 on February 4, 2019. The committee voted the bill to General File with committee amendments, LB-- sorry, AM592 with four members voting yes and three members present, not voting. The committee amendment, although it's presented as a white copy amendment, makes one specific change, the AM592 removes the term "domestic partner" from the definition of family members covered by the Health and Safe Family Workplaces Act. The reason for this amendment is there was concerns raised in committee discussions that the term "domestic partner" was not well-defined and could be too burdensome for employers in administering sick and safe leave to determine. Senator Crawford agreed to remove the term and Bill Drafters created the white copy amendment so you can read the entirety of the bill. I urge your adoption and advancement of the committee amendment, AM592, and the advancement of LB305. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Hansen. Discussion is now open on the bill. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. President. LB305 takes into effect small businesses, very small businesses, I might add. I've owned many small businesses and I think the fewest employees I had was nine. That's a small office building and I had five part-time people that would pull staples. They were college students. They did this for extra money. Now if they had a sick day, we worked it out. They talked with each other. And that's what we do in small business. This takes into effect those people. They were all happy. They were glad with the job that they had. We paid them well. And we never had a problem. None of them had a problem with sick days. If they were sick, we would allow them to stay home. If they wanted to come in extra, we allowed them to come in extra. That's what we do with small businesses. I also had a little frozen yogurt shop. And yes, those employees during the wintertime would often catch the sniffles and want to stay home. And I was not an ogre. I didn't make them come into work. I pulled their shift for them. That's what we do with small businesses. When an owner is sick, we don't have sick days. We don't get time off. Either we come in when we're dragging ourselves into work, coughing and wheezing and sneezing and trying to stay away from everybody so that we don't contaminate

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our employees because we need them to work. But this is a bill that is not needed. It will kill small businesses. It will hurt the employees because when a business goes away, the employee is no longer hired. They no longer have a chance to have a sick day. We're doing enough now with the Internet to kill the small businesses in Nebraska. Everybody's buying on-line and they're not considering the businesses and the employees that those businesses hire when they buy on-line through some big box company. We need to do everything we can to support our businesses, our people of the state, so that we can all have good jobs, we can all pay taxes, and we can all afford our families. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Lowe. Senator Vargas would like to recognize a new intern in his office, Gadiel Salinas. She is seated-- they are seated under the north balcony. Would you please rise and be recognized by your Legislature. Senator Halloran, you're recognized.

**HALLORAN:** Thank you, Mr. President, colleagues. I concur with Senator Lowe. Small business has enough challenges the way it is. As a former, and I repeat, former restaurant owner, the restaurant business is very conscientious about employees not being sick when they're serving food to their guests, to their customers. And as Senator Lowe said, it's not uncommon for-- in the restaurant business, when someone calls in sick, part of what we ask them to do, and this is again not uncommon, is we ask them to look for someone else on the employee list to help fill that vacant spot while they're getting better and, and hopefully getting over their illness quickly because we don't want them serving food, naturally when they're ill. This is, is an unnecessary burden, I believe, on small business and, frankly, goes way beyond the federal Family Medical Leave Act. For example, the Family Medical Leave Act applies to employees who have worked at least 1,250 hours for the employer during the 12-month period of time immediately preceding the leave for approximately 24 hours per week on a 52-week basis. I guess I have some questions. I would ask Senator Crawford to yield, please.

**HUGHES:** Senator Crawford, will you yield?

**CRAWFORD:** Yes.

**HALLORAN:** Thank you, Senator Crawford, and thank you for bringing the bill and allowing us to discuss it on the floor. On page 5, line 18, "Absence necessary due to domestic abuse, domestic assault, sexual assault, or stalking, regardless of whether a charge has been filed or

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a conviction has been obtained, if the leave is" due-- is "to allow the employee to obtain any of the following for the employee or the employee's family member" and then there's a list. I guess it's a challenge for most employers to quantify whether or not, in fact, something like this has occurred and it is at the word of the employee that it has occurred and they can take leave. Is there, is there an opportunity possibly to wait until there is a charge at least filed so that the employer has the opportunity to know that it is a qualified leave?

**CRAWFORD:** Well, I, I think one of the concerns about putting that provision in is that sometimes one of the things that the business that a person who's been a victim has to take care of is getting to that point of a charge being filed. So being able to actually file court papers and get the help they need to get to that point of the charge being filed. And so I'm afraid that they would-- that it's very possible that they would need some time during business hours before the charge is filed to, to try to get to that point where they can press the charge.

**HALLORAN:** OK. Thank you. On page 6, line 2, "Paid sick and safe time shall be provided upon the oral request of an employee as soon as practicable after the employee is aware of the need for such paid sick and safe time." How do we, how, how do we determine as soon as practicable? Whose determination is that?

**CRAWFORD:** In the end, that would be the determination of the Department of Labor because they are in charge of enforcing this law. So if there was a complaint, that would be-- it would be the Department of Labor who would determine that.

**HALLORAN:** So there would be that delay to wait for the Department of Labor to determine that?

**CRAWFORD:** Sure.

**HALLORAN:** OK. Again, I reiterate-- I mean, it's, it's-- it, it may be unbelievable, it may be incredible to think that, as Senator Lowe said, small businesses accommodate--

**SCHEER:** One minute.

**HALLORAN:** --keeping, keeping their employees and allowing for them to have sick leave or leave for other instances, such as are listed in

this bill, without the coercion or requirement of mandate of a law to do that because work force is short. We all know that and we want to keep our labor force that we've spent some time, some capital in, in training. And so I would suggest that this is going further than it needs to go. But thank you for your time. Thank you.

**SCHEER:** Thank you, Senator Crawford and Senator Halloran. Senator Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I have-- I'm probably going to speak a few times on this particular bill this morning I anticipate. Before I'd say anything about the bill in particular, I would like to thank Senator Crawford for bringing the bill. In my time in the Legislature, I think Senator Crawford has been a leader in bringing these types of bills forward and really focusing on the role-- in the critical role that businesses of all sizes, but in particular small businesses play, in the health and well-being of their employees. As a small business owner myself who's walked along the entrepreneur-- the journey of an entrepreneur from a startup to a company that now has over 30 employees, I understand that and I appreciate her challenging small business owners, business owners to up their game and bring their A game because it is very important. That being said, I do have a number of questions about this bill in the way that it's drafted in a number of different places. I'm gonna start on page 8 of the white copy amendment. And I'm gonna start on Section 2. And so there-- it is not unusual, colleagues, to have a provision of statute that the violation of that provision would provide a private right of cause of action for someone to file a lawsuit. That's not unusual. I wouldn't say it's incredibly common throughout all our statutes, but certainly the idea of having a private, private cause of action is, is, is fairly common. So-- but there is-- there are two provisions in this particular right of action that would be put into law if this passed that I think was a little-- are a little unusual. So I'm on lines 19 through 25, which are-- is the section that deals with this cause of action. And first, I'll note that if a violation of this statute, if proven, would allow for the parties to recover their attorney's fees. Now you may know that in Nebraska-- or in the United States and in Nebraska, we follow the, the American rule of fees, which means that the prevailing party generally does not get their attorney's fees unless specifically required or are provided for by statute. So this is, this is an exception to the American rule and would provide attorney's fees so I want to highlight that. That's not what makes this unusual. There are two things that

make this unusual in my view: one is the, the person that's defined that could bring the suit. In other words, the person who has standing to bring the suit is not the employee. The way that it's drafted on line 2 is: Any person aggrieved by a violation of this act. Now I actually when I read that I had never seen a statute or bill that had ever used that language that I had seen. I didn't encounter before, aggrieved by. And it was a little unusual to me. I actually looked it up. There are, there are other statute where this aggrieved by language actually does exist. And in Chapter 1 of the Nebraska Revised Statute, there is actually a definition of aggrieved party and that is-- means a party entitled to pursue a remedy. If you import that definition into line 19, it's sort of tautological. In other words, it just says anyone-- an aggrieved party is a person who can bring a suit, which doesn't tell me much, but it does tell me is it's something more than the employee themselves because employee is defined. And if we intended to just give the employee the right of action, we would-- we could have just said for any violation of the statute the employee can bring a suit. So whatever aggrieved party means is something broader than employee. And I'm concerned by using that kind of language that's not defined that is very broad, and, frankly, abstract and tautological, it could be anybody. And I-- so I think if we're gonna put a private right of action into a small-- an employer, especially a small business, we ought to be very narrowly and clearly defining who it is that can, that can bring the suit. The other unusual-- that's unusual, point number one. The other point is there's this sort of membership standing piece on lines 20 and 21. So there is, there is a concept, and we've actually had bills in the Legislature before where you can sort of allow for an association to have standing. Usually it's for, in the instance where that association has an interest, say, in a constitutional right. So for instance, we have had a bill in the Legislature-- in fact, it's a bill that I brought that, that had a provision that allows on gun rights. So you can have a gun right organization, for instance, or a free speech organization--

**HUGHES:** One minute.

**HILGERS:** --who can bring a lawsuit on behalf of a member of that organization. So-- and the idea is, hey, you know, if we've got one individual can't bring a cause of action, a lawsuit to protect their constitutional rights, but we want to give an organization the ability to defend their constitutional rights, that makes sense. There's, there's a similar concept here, but it's much broader than that

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because what it says is, any person aggrieved by the-- a violation of the statute can bring suit or a-- any entity or a person aggrieved by or an entity, any entity of any kind, right? It could be a business. It could be an association. It could be a nonprofit. Any entity, which is very broad, a member of which is aggrieved by a violation of the act. So it's not tied or tethered to some association or some narrow constitutional right or something. It is a met-- any entity at all, a member of which. So for instance, if I'm an aggrieved party, I couldn't necessarily be-- doesn't necessarily be the employee-- under the way this is drafted, if I'm aggrieved and I'm a member of some kind of some other entity--

**HUGHES:** Time, Senator.

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

**HUGHES:** Thank you, Senator Hilgers. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. President. I have a couple questions for Senator Crawford if she'll yield, if she'd yield to questions.

**HUGHES:** Senator Crawford, will you yield?

**CRAWFORD:** Yes.

**BOSTELMAN:** Thank you, Senator Crawford. Thank you for bringing this bill. Looking through it, a couple of questions I have is-- with part-time employees, sometimes with full-time employees on sick leave and that it's transferable. So in the case of my brother had cancer, so when he got to a point in time and the city they trans-- some employees were able to transfer some sick time to him for him to be able to receive payment at that time. He passed away while he was still employed. But my question is, do you-- does this allow if it's a part-time person, do they-- can they transfer-- you know, if I was sick and you were sick, we're both employed, can I transfer any time to you?

**CRAWFORD:** The bill does not specifically address that question.

**BOSTELMAN:** OK. Next question I have kind of comes back to-- I was looking at the-- I think the committee statement says paid sick and safe leave cannot be interfered with and relative-- and retaliatory

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action or adverse action against an employee is prohibited. Could you speak to that a little bit more--

**CRAWFORD:** Sure.

**BOSTELMAN:** --so I understand it better?

**CRAWFORD:** That basically means that someone cannot be retaliated against for requesting sick time or safe time. So that's basically just a protection to say that someone cannot retaliate, retaliate against or treat someone poorly because they've asked for sick time.

**BOSTELMAN:** That's reasonable. So if I-- if, if you have a-- we'll call it a chronic individual that has maybe rightfully so chronic illness or seems to be someone who's taking time that may not be-- fit into that chronic illness, how does an employer-- does the employer have the opportunity to investigate that, if you will, or ask for documentation to substantiate that time, that sick time, the time they're asking for time off?

**CRAWFORD:** Yes, thank you for that question, Senator Bostelman. Actually in the-- on the white copy amendment on page 5, line 18, it, it refers to the documentation that an employer may require. So if someone is missing more than three days, the employer can require documentation.

**BOSTELMAN:** And then I guess a question I'd go back, maybe Senator Hilgers talked on just a couple of minutes ago, the documentation or substantiation for if a person, and not saying this is something that is inappropriate, but feels like they've been-- they're stalked or some other type of thing that interferes with their ability to come so they, they need to be able to have time away to get some assistance of some type or maybe it's a family member that's ill that, that to, to properly document that, to properly justify that with the employer, because if I have five employees, four more employees, if I lose one employee for 40 hours, and that's a pretty tough-- that took a pretty tough hit to my business. So I'm curious about that, if you could talk about that just a little bit.

**CRAWFORD:** Sure. Thank you. The documentation section of the bill is-- continues on page 5. And so it does indicate that the employer can require documentation if there's, if there's any-- three or more days. And it includes required documentation for sick time or it includes

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the required documentation that can be offered in terms of safe time. And so the document-- so the documentation in, in terms of safe time--

**HUGHES:** One minute.

**CRAWFORD:** Thank you, Mr. President-- includes things such as a police report or a court order or a document signed by, by a clergy in terms of some of those kinds of documentation that may be provided for the safe time that needs to be taken.

**BOSTELMAN:** And this would apply to a, to a close relative and as a parameter as to what that [INAUDIBLE]

**CRAWFORD:** The bill defines family members. And so the family member definition in the white copy amendment is on page 2. And so the family is, is pretty close family. It's a foster child. It's a, it's a biological, adopted, or foster child, stepchild, legal ward, the employee's spouse or the person to whom the employee's spouse stood in loco parentis when such person was a minor child. And so it-- and a-- or a biological, or adoptive, foster parent, stepparent or legal guardian of an employee, the employee's spouse, or the person who stood in loco parentis to the employee when the employee's spouse, when the employee and the employee's spouse was a minor child or an employee's spouse or a grandparent.

**HUGHES:** Time, Senators.

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

**HUGHES:** Thank you, Senator Bostelman and Senator Crawford. Senator Howard would like-- wishes to recognize Roberta Pinkerton and the Leadership Nebraska Class 12, sponsored by the Nebraska State Chamber. They are from all across Nebraska. They are seated in the north balcony. Would you please rise and be recognized by your Nebraska State Legislature. Thank you for coming. Next in the queue, Senator La Grone, you're recognized.

**La GRONE:** Thank you, Mr. President. Would Senator Crawford yield to a question?

**HUGHES:** Senator Crawford, will you yield?

**CRAWFORD:** Yes.

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**La GRONE:** And Senator Crawford, I'll give you time to find this, but I'm starting on page 3, line 1, it's the start of Section 3. Essentially, I understand this part, but I'm going to have a question about how it relates to the accrual of sick time. Let me know when you found the section.

**CRAWFORD:** I have it, I have it. Thank you.

**La GRONE:** OK. Perfect. OK. So I understand what this is saying about how an employee will know-- will not accrue more than 40 hours in a calendar year. My question is something I didn't find in the bill, which I may have just missed. And so my question if it's in there and I missed it is let's say that sick time accrues-- so you've got 40 hours in that year. Does that carry over to another calendar year? For example, if it's not used would it carry into the next calendar year?

**CRAWFORD:** We-- I'll have to look at the-- to find the exact place where that's referenced in the bill. So I apologize that I can't answer--

**La GRONE:** That-- that's, that's, that's--

**CRAWFORD:** --your question right this minute, but I will look-- find that and, and get to you.

**La GRONE:** --that's fine. And what I'll do is I'll hit my light again and--

**CRAWFORD:** OK.

**La GRONE:** --ask you that again so you have time to find it. But that-- that's something I didn't see in there and so I was just kind of confused about how that process would work after the 40 hours are accrued in a year, whether or not that time would continue--

**CRAWFORD:** Oh, I did just find it, excuse me.

**La GRONE:** Yes. Where is it at?

**CRAWFORD:** So it's on that same page-- page 3, line 16. It says: so it can be carried over, but it doesn't accumulate for more than 40 hours.

**La GRONE:** Got you. OK.

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**CRAWFORD:** So it carries over, but it still retains that 40-hour limit. So there's no more than one week of paid sick time that's required even if you're carrying time over.

**La GRONE:** So it wouldn't be 40 hours one year and 40 hours the next that you don't use is then 80 hours, it's just 40.

**CRAWFORD:** Right. It, it remains a total of only required of 40 hours.

**La GRONE:** OK. Thank you, Senator Crawford. I yield the remainder of my time to Senator Halloran.

**HUGHES:** Senator Halloran, 2:50.

**HALLORAN:** Thank you, Senator La Grone. Some of the definitions in the bill are-- do, as I mentioned a little bit earlier, do substantially exceed the Family Medical Leave Act. One of those is the definition of family member in LB305 far exceeds a family member covered by the Family Medical Leave Act. Other than for military based leave, a covered family member under the Family Medical Leave Act only includes a child, spouse, or parent. Those terms are further limited under Family Medical Leave Act in that a child is one who is under 18 absent physical or mental disabilities. This act has no age, no such age limit. Under LB305, a 35-year-old who is otherwise mentally and physically capable is entitled to the same benefits as a 12-year-old. Would Senator Crawford please yield to a question on that?

**HUGHES:** Senator Crawford, will you yield?

**CRAWFORD:** Yes.

**HALLORAN:** I guess I'm curious why some of the definitions of family exceeds the definitions in the Family Medical Leave Act at the federal level.

**CRAWFORD:** Well, we had conversation in the, in the committee about family definition. And that's part of why we have the white copy amendment that did restrict the family definition a bit more than what we had originally created for the family definition. We were talking about what we thought were the most relevant family members that would-- that for which an employee would be wanting to take paid sick time off. So it-- I think it, it does go beyond paid Family Medical Leave Act. I think--

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**HUGHES:** One minute.

**CRAWFORD:** Thank you, Mr. President. Primarily, I believe in term, in terms of, of allowing a few, a few extra categories. But I think we kept it pretty narrow still in terms of the most close family, that family members that someone would consider those are people who are close family members for which you might need to take sick leave.

**HALLORAN:** OK. Thank you, Senator Crawford. I should look at the amendment closer. Does it satisfy the expansion of beneficiaries to parents-in-law, grandparents, grandchildren, and siblings?

**CRAWFORD:** So it goes to grandparents, grandchild, and sibling. It goes to a spouse. And I forget which other category you were asking about.

**HALLORAN:** Sibling possibly.

**CRAWFORD:** It does not include a sibling in the definition.

**HUGHES:** Time, Senators.

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

**HALLORAN:** Thank you.

**HUGHES:** Thank you, Senator La Grone, Senator Halloran, and Senator Crawford. Those in the queue are Senators Clements, Hansen, Albrecht, Crawford, Friesen, and others. Senator Clements, you are recognized.

**CLEMENTS:** Thank you, Mr. President. I'm pleased-- as a small business owner, I'm pleased to comment about this. My business has nine employees in a small town. In 2019, we did have a employee who was sick and got cancer. As a business, we purchased a long-term disability policy that if we have a long-term disability with a employee, we-- the insurance would pick that up. But it doesn't pick it up until they've been sick for 90 days. And so we had to decide what we wanted to do. We did decide to continue to pay this employee wages for 90 days. It was a valued employee. We were hoping they would recover and be able to come back to work and didn't want to create a hardship. But I, I don't really want a mandate to have to do that. Our business earnings were adequate that we were able to do that. And other people, other employees stepped up and filled in the gap. But there are some businesses that could not afford to do this. And the mandate, I think, would be burdensome for them. A cutoff of only four

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employees is very small, very small business. And I know that many of them really wouldn't be able to subsidize the employees because of the small nature of their income and not being able to fill in. We were fortunate in my case, the disability was able to kick in after 90 days. But in the meantime, it was up to us. And I think we have a lot of good-natured Nebraskans that are going ahead and going to pay employees if they can afford to, but I'd rather not mandate that. I'd like to yield the rest of my time to Senator Lowe.

**HUGHES:** Senator Lowe, 2:40.

**LOWE:** Thank you, Senator Clements. I appreciate that. In this bill, it states that: Employee means any individual employed by an employer who receives compensation from such employer and includes recipient-- recipients of public benefits who are engaged in work activity as a condition of receiving public assistance. Employee includes both full-time and part-time employees. Employee does not include a minor child employed by his parent. Now the "Employer includes any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or any organized group of persons employing four or more employees at any one time, excluding any employees who work no more than twenty weeks in any calendar year." So that means any very small business, whether you are hiring high school kids, college kids or young adults that are on their own or living with a parent and don't have other costs, that would affect a whole lot of businesses in this state.

**HUGHES:** One minute.

**LOWE:** Thank you, Mr. President. And probably put many businesses out of business. Like I said before, we are fighting the Internet right now with our local businesses trying to keep them open. And one more burden on their back is not what they need at this time. What they need is us as citizens of Nebraska to buy our things from them, to work with them, to be employed by them, and for us to own those businesses, to keep our Boy Scouts going and our Girl Scouts going because we're the ones that sponsor them. The businesses buy their popcorn, the people buy their popcorn, their cookies and so forth. The Internet businesses from other states don't support our local baseball teams and such like that. So small business is very important to this state.

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**HUGHES:** Time, Senator.

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

**HUGHES:** Thank you, Senators Clements and Lowe. Senator Ben Hansen, you're recognized.

**B. HANSEN:** Thank you, Mr. Speaker. I always like to start off-- of course, every year I have to mention one of the great economists that I, that I really like to read about. Mr. Milton Friedman said one of the greatest mistakes is to judge policies and programs by their intentions rather than by the results. I think that pertains to this bill a little bit. And good intentions are important, but not enough on their own to produce positive policy outcomes. The temptation for policymakers such as us and the public to support policy ideas based on their perceived intentions makes critical real-world evaluations of the effectiveness of such policies all the more important. Laws requiring employers to provide paid time leave for employees are a timely and increasingly popular example, such as the senator mentioned. I feel like I have a little bit of a unique perspective being a small business owner myself. I have three small businesses that this law would directly affect. Mandatory paid sick leave laws-- because in my opinion, that's what this bill really is. It's sick time, people can use it for pretty much whatever they want, in my opinion, are type of employment regulation that requires some or all employers to provide some or all employees with designated amounts of paid time off each year. And when we have been talking about unintended consequences with some of our most recent bills we have voted on here last few days, I believe laws such as these that force business owners to alter how they can do business, hire more employees, and increase pay for their current employees are some of the unintended consequences I believe happen when government decides to take control of how we do business and how business owners can do their job. It is difficult to imagine a more well-intentioned sounding policy than requiring employers to provide paid sick leave for employees who feel they are not safe at home or in the workplace. And the declaration that no person should have to choose between not feeling safe and losing their job appeals directly to a sense of fairness. Furthermore, supporters of mandatory paid sick leave contend that the economic benefits are universal. Workers will no longer have to come up-- will no longer have to come to work sick or distracted, producing benefits for public health, and profiting businesses through decreased employee turnover. And so everybody benefits. It is my

opinion that such laws are actually a burden on employers causing them to, causing them to reduce staff and benefits while making it harder for businesses such as mine to start or even expand. Businesses which benefit for offering employees paid sick leave benefits do so voluntarily, as we do in my business. Consequently, government mandates tend to have larger negative consequences. In the end, the net costs outweigh the benefits. And we have to remember mandating laws such as these can potentially result in the closing of a small business on Main Street or the mom-and-pop store that's already getting beaten down by the big box stores and Amazon. This is more of a burden on them when they already have a burden themselves. We see it all the time in our small towns. And you know, we tend to think of the victims of circumstances, conditions, and situations that we feel the government, meaning us and our well-intentioned, empathetic goals and objectives, can do better and fix such circumstances. However, I think we need to think heavily on the victims of the laws we are creating that sometimes don't have a voice after a bill is passed. This is a time we need to make sure our well intentions aren't creating more victims than we are trying to help. Thank you, Mr. Speaker.

**HUGHES:** Thank you, Senator Hansen. Senator Albrecht, you're recognized.

**ALBRECHT:** Thank you, Senator Hughes, and good morning, colleagues. I'd like to just stand in opposition of LB305 and the AM592. I want to draw attention to the committee statement. While Senator Howard did-- or excuse me, Crawford did open with four ayes out of the Business and Labor Committee, but there were three present not voting. Yes, there were no noes, but there were three present, not voting. And I want to draw attention to the opponents that did come to speak at the committee, which is the Department of Labor-- the Nebraska Department of Labor, Lincoln Independent Business Association, State Chamber of Commerce, National Federation of Independent Business, Nebraska Grocery Industry Association, and the Nebraska Retail Federation, and the Nebraska Restaurant Association. This is truly not a one-size-fits-all bill. When you look at LB305, it far exceeds the current provisions of federal law. Executive Order 13706 provides for paid sick and safe leave to certain federal contractors and subcontractors. No federal law provides for sick leave with regard to private employees-- employers who are not federal contractors. The federal Family Medical Leave Act applies to businesses with 50 or more employees, but does not mandate that employees provide paid leave. In contrast, LB305 is exceptionally broad in who may be a beneficiary.

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Example: the Family Medical Leave Act applies to employees who have worked at least 1,250 hours for employer during a 12-month period immediately preceding the leave, or approximately 24 hours per week on a 52-week basis. Further, an employee must work at a location where the employer has at least 50 employees within a 75-mile radius. None of these limitations exist in LB305. And another example, the definition of family medical-- member in LB305 far exceeds the family members covered by the Family Medical Leave Act. Other than for military based leave, a covered family member under the FMLA only includes a child, spouse, or parent. Those terms are further limited in LB-- or in FMLA, in that, number one, a child is one who is under 18, absent physical or mental disabilities. This act, as such, has no age limit. Under LB305, the 35-year-old who is otherwise mentally and physically capable is entitled to the same benefits as a 12-year-old. LB305 further expands beneficiaries to parents-in-law, grandparents, grandchildren, and siblings, categories excluded by the FMLA. These are meaningful additions given that employers-- or employers often employ people of the same household or family. Under LB305, an employer could lose several employees at one time or consecutively due to an illness of one family member. Also, LB305 applies to small businesses that may not have full-time employees. Again, from the rural aspect of this, small businesses are most impacted when employees take a second leave of absence and are there-- and are least likely to be able to cover the gaps created with the other workers. Under this bill, all the employers who have at least four full-time or part-time employees who work at least 20 weeks a year are covered. An example of an employer with only four part-time employees who work mid-April through mid-September, the heart of construction season, is covered by this act during the entirety of the year.

**HUGHES:** One minute.

**ALBRECHT:** Again, I believe LB30 provides limited protection for the employer. Under this bill, employees have limited obligations to timely notify the employers of a need to leave to work with the employer to minimize the impact of the leave on business or to timely provide documentation supporting the need or the use for the leave. Under the Family Medical Leave Act, certain forms must be completed and medical certifications can be requested to ensure the leave is being appropriately requested. Very few of those protections exist here. For example, the FMLA requires that certification of a serious health condition be provided within 15 calendar days if requested. LB305 gives the employee 30 days to provide a basic

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doctor's note, and the bill does not require the same type of information as the FMLA's medical certifications. It's not always easy for an employer to cover an employee missed shift--

**HUGHES:** Time, Senator.

**ALBRECHT:** Thank you.

**HUGHES:** Thank you, Senator Albrecht. Senator McCollister would like to recognize Deb Neary, a constituent of his. She is seated under the north balcony. Would you please rise to be recognized by your Nebraska Legislature. Thank you for attending today. Senator Crawford, you're recognized.

**CRAWFORD:** Thank you, Mr. President. And good morning again, colleagues. And I thank everyone for contributing to this debate and clarifying what's in the bill, and I, I appreciate the words that so many people are saying about why the, the purpose of the bill is valuable. And I think that is true. And I hope we can agree on that, that-- and the general principle that people who work hard deserve a paid sick day. And, and again, I want to-- there's some confusion, I think, about the difference between this bill and paid family leave. And I just wanted to clarify that confusion. When we're talking about the federal Paid Family Leave Act or the paid family bill that we debated last year, when we talk about paid family leave, we're generally talking about a leave of multiple days. And so the standards of who qualifies for that leave and what kind of fall-- family member qualify for that leave are generally tighter than what we're talking about here when we're talking about just a paid sick day. And, in fact, the-- we don't allow employees to accumulate any more than five paid sick days. So we're talking about taking a one of your possible five paid sick days in a year. And that's all we're talking about in this bill is one of-- is taking a paid sick day up to five paid sick days in a year. And so the definition of family is a bit broader and with expectation, but these are people who are part of our family. And I want to correct the record. I did misspeak when I said a sibling is not included. A sibling is included in our bill. A sibling is someone who is part of your family. And you might decide that you want to-- or be in a position where you really need to help take care of a sibling. And we felt that was an important part of your, part of your immediate family that needs to be covered in the bill. I do want to also speak to concern that was raised earlier about losing jobs. And again, I want to point out one of the great things about policymaking at the

state level is that we have evidence from other states that have tried some of these things before. And so we do have ten other states who have had paid sick leave bills in place. And we know from an analysis of those states that they-- a meta analysis of research on those states and local-- and localities. We have some cities that have paid sick, paid sick leave ordinances as well. We know from a meta-analysis of those states and localities with sick leave laws, they did not find any evidence that wages or employment significantly changed after the laws were implemented. So again, there was often quite a bit of worry, wringing of hands about what may happen, but what we found in other places is when these laws are put in place, we have not found changes in employment. We have not found jobs lost. We have not found drops in wages after these bills have been implemented. That has simply not been true. And also sometimes and often when we see these bills at the state level and the initial introduction of the bill, the chambers of commerces and businesses are often opposed to the bill. However, what we often find is that after the bill is in place, there's a recognition of its merits. And we found that also in our research in Connecticut, which is one of the earliest bills to pass-- one of the earliest states to pass this bill. I'm gonna repeat what I said in my opening, that employers identified several positive effects and more than three-quarters of the employers, the business owners, even including those small business owners in Connecticut, expressed support for the law now. Now that they've seen it in place, they see it's-- what benefit it provides to them in terms of reduced turnover, increased morale. And so now they see it and support the law. And I suspect many of those same employers, again, when the law was introduced in Connecticut, probably came out in opposition.

**HUGHES:** One minute.

**CRAWFORD:** But now that it's been in place-- thank you, Mr. President, now it's been in place, then they can see the positive benefits of the law and see that it does make an impact. And again, we have not seen that it has reduced the number of jobs or wages in those states and localities in which it has been put in place. So we have all this evidence from the existing states and localities that have paid sick leave to tell us that we do not need to be worried about these concerns. We do not need to be afraid of lost jobs or lost wages. We do not-- and that it can be a very positive benefit, not only for employees, but also for employers, for employers. And so we know that we can move forward and, and do what people are saying they want to see, which is they want to be-- see that members are able to take care

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of themselves and their family members. And we know we can do that and we can do that and make--

**HUGHES:** Time, Senator.

**CRAWFORD:** --a positive impact on our businesses and our employees and families. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Crawford. Those in the queue are Senators Friesen, Slama, McCollister, Hilgers, and others. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. I stand in opposition to AM592 and LB305, and I'll try and outline my-- some of my concerns. In, in rural Nebraska, small businesses over the past ten years have had their health insurance costs triple. They've had-- in ag's case their taxes tripled. We can't afford any more mandates. The one thing I've, I've noticed with businesses and what I appreciate about businesses that are looking for employees is they find ways to come up with programs that attract good people and that's to me is what differentiates businesses is their ability to choose whether they want to offer this program or that program or if they're short of employees, how do I attract good people? What do I need to do? Is it, is it the family leave? Is it more vacation time? Is it a flexible schedule? But the more we mandate, we just make all companies the same and we don't leave that flexibility there. We just make them do it. It raises costs and in small business, those costs are too hard to overcome. So I-- to me, it looks like the more things we mandate, the more we all become the same, and there is no more unique opportunities out there. So if I was looking for work somewhere and my goal was to have a flexible schedule, I will look for a company who is offering a flexible schedule to let me work when I want on the time that I want. If I am wanting other options, that's what kind of determines where I might go. But if all of our companies are slowly but surely requiring all these different options, then they're all the same. So I think we're mandating too much. This is something that companies can choose to do if they want. When you look at small business in, in rural Nebraska, I have three employees and some part-time help, so I would fall under this category. This isn't affordable. So with that, I'll yield the rest of my time to Senator Hilgers.

**HUGHES:** Senator Hilgers, 2:45.

**HILGERS:** Thank you, Mr. President. Thank you, Senator Friesen, for the time. I think that it's important to take a step back here. Last time I was on the mike, I did talk about the breadth, what I think is an incredibly broad cause of action, standing provision, one which would allow a plaintiff to recover attorney's fees that I haven't seen any sort of similar analog anywhere in Nebraska statutes. And that gives me a great pause for concern. But I want to take a step back partly on Senator Friesen's comments, partly on Senator Clements' comments, and sort of say, look, many small business owners, especially at the threshold at which this bill kicks in. So we're talking about a mandate that kicks in at just four employees, that's a very small threshold. We're not talking about major companies. We're not talking about even companies with 20 employees or 30 employees. We're talking about four employees. And they might not even be full-time employees. And I think it's important to remember the perspective of those small business owners. I, I am one and I was one at, at that, that stage of, of development of, of being an entrepreneur where you're just starting. And I'll tell you the problem with mandates is it does not take into account the individual business, that the situation, the month-to-month situation of an individual business. Businesses don't just operate and get a consistent cash flow and just say, OK, I'm gonna start, I'm gonna start making money and everything's off to the races that I can, I can support whatever mandate government tends to hand-- wants to hand down to me. Businesses especially at that stage, many of them fail. The number one stage of business failure is at the beginning stage because it's very, very difficult. And one of the problems you have is, among other things, is a cash flow problem and that is one of the things I think that keeps business owners up at night more than anything else, and I've been there. The stress and anxiety of thinking of whether or not you'll be able to make it the next month, is it keeps a lot of business owners up at night and it can be very stressful. And so I think we need to take into account--

**HUGHES:** One minute.

**HILGERS:** Thank you, Mr. President. I think it's important to take into account, yes, we, we want to push the envelope and encourage our businesses to be able to offer these types of benefits to take care of their people. But in my experience, the business owners want to do that, not just because in a labor market like we have today, you know, it's a competitive labor market, you want to take care of your people. But my experience, the vast majority of business owners truly do care about their people. At the same time, they can't do anything for them

if they don't have a business. And when we have a mandate that kicks in at this level, this low of a level, it gives me great pause and great concern that we're not taking into account the small business owners' experience. Now I'm going to come back on the mike and talk about some other ways that I believe that this bill is incredibly broad. I think some of-- I'd be curious to see the actual scope of the bills that Senator Crawford referenced that are in other states. I'm, I'm gonna guess, I could be wrong, but I'm gonna guess they don't quite look like the breadth of this bill, both from the mandate itself, the rights given to the employees, really the way that employers are restricted and the potential for employers to be sued. I don't think--

**HUGHES:** Time, Senator.

**HILGERS:** --we've seen anything like that in other states. Thank you, Mr. President.

**HUGHES:** Thank you, Senators Friesen and Hilgers. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. Given that I'm the only member of the Business and Labor Committee who was present, not voting on LB305, I wanted to provide my input as to why-- although I am thankful that Senator Crawford has brought this bill and this concept to the floor for discussion, why I still have concerns. And they echo what has already been said by several of our current small business owners on this floor. But just for everybody's reference, it's worth noting that Arizona, Connecticut, California, Massachusetts, Oregon, Vermont, Maryland, New Jersey, Washington, and Rhode Island, those are the ten states that currently have the paid leave laws that Senator Crawford is referencing. You'll notice that the furthest one from the coast there is Arizona. And I think that really highlights a challenge that small business owners in the Midwest face. We have extremely low unemployment and a very small pool of potential workers to work from. So yes, while Senator Lowe and Senator Halloran were very good about making sure that their employees who needed time off could find someone else to cover their shifts, a lot of our small business owners simply don't have that pool to choose from. So this bill would further tie their hands. I'd also like to continue with Senator Albrecht's quoting of some of the concerns that were raised in the committee by a representative, Erin Ebeler Rolf, who at the time was representing the Lincoln Independent Business Association, you may also know them as

LIBA, the Nebraska State Chamber of Commerce, and the National Federation of Independent Business in opposition to this bill. To continue the quote where Senator Albrecht left off: Further, it's not always easy for an employer to cover employees' missed shifts. Temporary workers are not always available where the work requires special skills or in smaller communities or in an environment such as Nebraska that has a very low unemployment rate. Many smaller employers have never worked with a temp agency, and workers may not be willing to travel from urban centers to rural communities for a temporary position if they don't have temporary housing options or travel available to them. Then there were some questioning. One question that I wanted to highlight was Senator Matt Hansen's question to Erin, saying I guess, I guess, I think I know the gist of your testimony. Sorry, I have a question as well, is that you describe a lot of ways that Senator Crawford's proposed bill differs from current federal law and kind of that's the point. I believe the intent of her bill is to expand to cover things that aren't already covered. So I take it your kind of fundamental position is that it is too burdensome to employers the new additions that Senator Crawford is proposing. Erin responded, I think it's extremely broad and extremely burdensome on a large number of employers. Again, the very definition of what employers are covered. It's not just employers who currently have four employees. It's employers who currently have four full-time or part-time employees in at least 20 weeks in the current year or the prior year, she believed. And so, again, you have an employer who maybe ramps up during the summer months, but they only have one employee the rest of the time. They're still covered by this bill the entirety of the year.

**HUGHES:** One minute.

**SLAMA:** Thank you, Mr. President. And so that one employee leaves that employer who may be in a small community that doesn't have a temp service that's 60 or 70 more miles away for them from an urban center. What exactly is that employer supposed to do? Because most employees or most applicants in such a situation aren't going to be willing to take on a temporary position when they have a full-time option over here because, again, Nebraska is fortunate that we have a low unemployment rate. That's a great position to be in, but it makes it very hard for this bill to actually be implemented from an employer's perspective. Thank you, Mr. President.

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**HUGHES:** Thank you, Senator Slama. Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Good morning, colleagues. Wondering if Senator Crawford would yield to a few questions.

**HUGHES:** Senator Crawford, will you yield?

**CRAWFORD:** Yes.

**McCOLLISTER:** Thank you, Senator Crawford. I noticed in the bill that state of Nebraska isn't subject to this particular bill. Can you explain why that's the case?

**CRAWFORD:** Yes. Well-- so the state of Nebraska is not covered. The state of Nebraska already has a paid sick leave policy in place. And so-- and we were modeling the bill off other states as well. And I think that's why we have the language in there that excludes the state.

**McCOLLISTER:** Thank you. Do you have any idea how many companies would be subject to this, this legislation in Nebraska?

**CRAWFORD:** So it's any company that employs four or more employees. And it's important to note that it excludes employees who were only working for a short time. So it does need to be an-- so just to clarify from what was just said, it is anyone who has four or more employees at any one time, excluding employees who work no more than 20 weeks. So if somebody is only hiring seasonal workers, it doesn't include them, but somebody who has four, four employees at any one, at any one time--

**McCOLLISTER:** Thank you.

**CRAWFORD:** --excluding seasonal work.

**McCOLLISTER:** I'll just mention that I worked for a small company before I became a state senator and we had paid time off as well, although it included sick leave, bereavement, and other reasons that take time off. So I don't think that what you're suggesting, Senator Crawford, is, is that unusual. And I think most-- even small companies can support it. So I would hope that everyone would support this bill. I would yield the balance of my time to Senator Pansing Brooks.

**HUGHES:** Senator Pansing Brooks, 3:00.

**PANSING BROOKS:** Thank you, Mr. President. And thank you, Senator McCollister. I just rise in support of LB305 and, and AM592. This is economic development. This is taking care of our workers. It's about keeping people in Nebraska. Remember all this work we're talking about and trying to do exemptions for businesses because we want businesses to come. We want people to come. We want people to stay here. But then when we want-- you know, put a little push towards taking care of our Nebraska people and taking care of the people who work at the businesses we're trying to bring. Oh, no, we don't-- we really don't want to do that. Nearly one in four workers has reported either losing a job or being threatened with job loss for needing to take a sick day. That doesn't help our state to not have these sick days available. This is, this is information from the National Partnership for Women and Families. In addition, the vast majority of people working in food service, 81 percent, and at child care centers, 75 percent, lack access to paid sick days. So the people preparing our food, the people taking care of our children do not have that access. Service workers who have certain illnesses, including flu and norovirus, are required by the Food and Drug Administration to work on a restricted basis until 24-- they're required to work on a restricted basis until 24 hours after the symptoms subside. Yet, these workers generally can't take-- afford to take unpaid sick time. My daughter was working at a restaurant. She got sick and they said, don't come back. But did they offer any help or sick leave or pay while she took that time off? Of course not. So think of, if she had been a single mother, somebody trying to take care of children and pay for the bills.

**HUGHES:** One minute.

**PANSING BROOKS:** Thank you. Nearly 60 percent of food service workers surveyed at the Center for Disease Control reported working while sick. So I have a cold right now and you wonder what's happened? Nearly half, 40 percent-- 46 percent of restaurant-associated illnesses-- illness outbreaks have-- involve an infected food service worker. In addition, a recent study found that the general flu rate in jurisdictions with, with paid sick days laws decreased by 5.5 to 6.5 percent after such laws took effect. Already 32 districts-- jurisdictions nationwide have adopted such paid sick days laws. This

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isn't unreasonable. This is a way to encourage young people to come and stay.

**HUGHES:** Time, Senator.

**PANSING BROOKS:** Thank you, Mr. President.

**HUGHES:** Thank you, Senators McCollister, Crawford, and Pansing Brooks. Senator Hilgers, you're recognized.

**HILGERS:** Thank you, Mr. President. Good morning again, colleagues. I appreciate the conversation this morning. I do think it's an important issue to talk about these types of ways that employers can help their employees. I just don't think this is the right vehicle. I don't think we ought to be trying to mandate what I think is a pretty broad, onerous, and uncertain, and fairly ambiguous right onto employers that are as small as four-- that are only have as few as four-- as four employees even-- and not even full-time employees. Businesses that are just starting to go, have the highest degree and highest rate of failure and we're gonna put another mandate on them irrespective of how-- what-- how they're doing in a given year, what kind of revenue they got, what their profits, forget it, we're gonna put a mandate on. We-- I understand the intent. We want to help employees. We want our employees-- employers to do that. But they can't do that if they're not around. So I want to talk about-- let's talk about what I see as the breadth and the standing provision in this and the ability to sort of allow a whole host of potential people to file suits under this act and, and, and obtain, among other things, attorney's fees. But I also want to talk about, I think, some of the breadth of the rights here that I-- that in a practical perspective can really hamstring employers, in my view, so that there is the definition of what could qualify as sick and safe leave. There's a multi-- there's three different provisions here. And I believe there are on page, there are on page 4 of the act and there's, there's some on the safe leave side, some of the sick leave side. But the definition in particular on the sick leave-- and by the way, all these-- these are all disjunctive. So the way-- the provisions A, B, and C are-- it's either, either/or it doesn't have to be all of. So it's-- whenever you've got disjunctive it's gonna be broader. But it is fairly broad. It includes, among other things, preventative medical care or any kind of health condition. And so without any kind of definition and without any sort of limiting factor, that could be a whole very broad spectrum of things. And now what's interesting is that only in certain

circumstances, any kind of documentation required to show that there's a health condition or preventative care might be necessary. And that's only if there's actually, as I understand the bill, if there's only-- if you're going to have three consecutive days. So if you're, if you're not going to be gone for three consecutive days, you can trigger your rights as an employee. You can trigger your rights under this act if you want to-- and if you want to go have preventative care of some kind. That's not defined. It could be anything. I'm not sure if there's a list in statute that says what preventative care is. There are many things. I think, you know, if you're gonna get a diabetes check or a heart scan or a calcium scan, those are good things, we want to encourage that. But does it include, for instance, going to the gym, going on a run? Are those the types of things that would fall under preventative care? It's not defined. I'm not sure. But what's important is the employee doesn't have to provide any documentation for that and could just say, hey, orally I'm-- as soon, as soon as practical after they have-- they know that there's an issue, they can just tell their employer, I got to go and they have to go. And the employer can do nothing at all about it. They can't require you to get a replacement. They can't require any kind of documentation. In fact, if they even try, if they try to interfere in any way, they could be sued under the act. A cause of action could accrue to not just the employee, but anyone who's aggrieved by the violation, whoever that might be, because the language that, that restricts the employers is very, very broad. It's on page 7 of the white copy amendment and it's 6-- at the end of page 6 on line 31, "It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected." So in my example of someone who might want to go to the gym, they were attempting to exercise their right. Maybe they failed because they didn't have a doctor's note, or maybe ultimately at the end of the day it wasn't preventative care. But there's nothing the employer can do. And even by, by attempting to interfere with those rights, the employer could be sued. So if we're gonna do-- as a matter of principle, I don't think we ought to be trying to-- we ought, we ought not to be looking at these types of mandates for businesses, especially businesses that small. But if we're going to do one, and I don't think we should, we ought to be, in my view, a little more narrow or significantly narrower in how--

**HUGHES:** One minute.

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**HILGERS:** --we're defining some-- thank you, Mr. President, how we are defining these rights and, and how are we-- and how we are and be more narrow with the types of acts and circumstances that could give rise to a cause of action. We're putting an employer in a very uncertain place that if they do anything-- and under this, the way that I read this bill, almost any action they might take, even looking-- you know, give them a little side eye after they come back, could give rise to a potential cause of action. I just-- if we're going to do mandates, we ought to be a lot more narrow than we currently are I think in this bill. And there's a couple other provisions I may point out if there's time left this morning. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Hilgers. Those in the queue are La Grone, Lowe, Halloran, Hansen, and Cavanaugh. Senator La Grone, you're recognized.

**La GRONE:** Thank you, Mr. President. There's a couple issues I want to cover this time on the mike. Would Senator Crawford yield to a question?

**HUGHES:** Senator Crawford, will you yield?

**CRAWFORD:** Yes.

**La GRONE:** Thank you, Senator Crawford. So I've got a question as it pertains to the level of employees that a business has to have in order to fall under this. And I understand that we have to draw a line somewhere. And so I totally get that, that a number has to be chosen for the amount of employees. I'm just wondering why was four employees where you chose to draw that line?

**CRAWFORD:** I'm guessing that it was based on other states. We researched other states in drawing this bill together. So I'm guessing that's where we decided to draw that line at four.

**La GRONE:** OK. So is there any difference between around the four-employee threshold, do you think really makes a difference as it pertains to why we would apply it at that time and not at three or, or why not at five? Do you get my point of why, why would we be applying the line there and not others? And I-- again, I understand it has to be drawn somewhere.

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**CRAWFORD:** Well, I think it just has to be drawn somewhere. I think the question is whether you draw it at 4 or-- I mean, another common line we draw is 15. And I mean, that could be a point of discussion.

**La GRONE:** OK.

**CRAWFORD:** But I think that at 4 or 15 are two kind of common lines that get drawn in law.

**La GRONE:** OK, totally understandable. Thank you, Senator Crawford. Would Senator Matt Hansen, yield to a question?

**HUGHES:** Senator Hansen, will you yield?

**M. HANSEN:** Absolutely.

**La GRONE:** Thank you, Senator Hansen, and sorry, I just saw this as I was about to come to the mike, so I'll give you a moment to pull it up. I'm on page, excuse me. I'm on page-- last page, page 9 in the-- so sub (2), so lines 1 through 6. I'll give you a moment to pull that up.

**M. HANSEN:** In the bill or the committee amendment?

**La GRONE:** Of the white copy amendment.

**M. HANSEN:** Page 9?

**La GRONE:** Yes. So it reads, "The act provides minimum requirements pertaining to paid sick and safe time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, rule, regulation, requirement, policy, contract, or standard that provides for greater accrual or use by employees of sick and safe time." Would this affect contracts in existence at the time of its passage that had less beneficial terms than this requires?

**M. HANSEN:** Could you say the question again?

**La GRONE:** So if I have an employment contract that provides less beneficial terms than this statute would. It's in existence at the time of its passage. Would this mean that I had to up those standards?

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**M. HANSEN:** It is my understanding, no. We would not be able to preempt that existing contract. However, you would not be able to renew or do an existing contract after the passing of this act.

**La GRONE:** OK. That was my question. I wanted to get that on the record because obviously we can't impair any contracts in existence at the time of this. So I would be-- I would think just as a practical matter that probably should be made clear in the text because otherwise it could be-- the whole act could be construed as unconstitutional in that situation. And we don't usually want to pass bills that are unconstitutional. So I just wanted to point that out as a technical matter. I saw it right as I was coming to the mike so I apologize for not having a chance to speak--

**M. HANSEN:** No, of course. Thank you.

**La GRONE:** --to you beforehand. And with that, I'll yield the remainder of my time to Senator Lowe. Thank you, Senator Hansen.

**HUGHES:** Senator Lowe, 1:20.

**LOWE:** Thank you, Mr. President. And thank you, Senator La Grone. You know, as a small business, you hire the proper amount of employees it takes to run your business. You don't hire extra employees in case somebody gets sick and have them just sitting--

**HUGHES:** One minute.

**LOWE:** --on the sidelines-- thank you, Mr. President, have them sitting on the sidelines waiting to work. So as a small business, you hire six employees. You run two shifts. That's three per shift. Or maybe you hire eight employees because not everybody wants to work every day. And so now you have two employees that call in sick. And so now you have to pull somebody either to do a double shift or you pull in somebody that had a day off and was planning on spending time with their family. That doesn't accomplish what I think we want to do in this bill.

**HUGHES:** Time, Senator, but you're next in the queue.

**LOWE:** Thank you, Mr. President. We need to take a look at that because we do only hire the proper amount of employees and we like our employees and we treat them very well. Because if we don't, they do have the option to leave and go someplace else to work. We have very

low unemployment, and employers are begging for employees. So we do treat our employees very well. I had a business where it took about two weeks to train employees on one of my machines, so I can't just hire somebody for a temp job to come in and run that machine because somebody called in sick. What we do when somebody is sick is normally I would take over or we find somebody else within the company to do it. And normally I ask that person who is going to be sick or who is asking to have time off to find somebody because I'm doing other duties also at that time. That is not a big problem for almost any of my employees that I've had. And when you consider that some of the employees that a lot of these small businesses have are high school kids or young college kids, and you have a staff of maybe six people working and three of them all of a sudden want some time off because there might be a football game on that they want to catch a couple hours for and they've accrued some sick time. And so they call in and say, we're not coming in, we're sick. Am I supposed to send a doctor over to make sure that they're sick? No, we can't do that either. I just have to run short three people that day. Is that fair to the other employees? No. The-- LB305 is not a good bill, AM592 does not make it any better. So let's vote no on LB305 and on AM592. Let's keep people employed, let's keep our businesses running, and let's keep Nebraska chugging along the way it's doing now, doing great, doing great business. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Lowe. Senator Halloran, you're recognized.

**HALLORAN:** Thank you, Mr. President. Oftentimes, more often than maybe sometimes necessary, we pass legislation that paints a broad brush across a broad state of Nebraska, which is a very diverse state from the urban east side of Nebraska to the more rural, greater Nebraska, the western three-fourths of the state. And sometimes that broad brush is, is hard to apply in smaller populated areas. It goes back to our previous conversation, Senator Crawford, with the expansion of the family to parents-in-laws, grandparents, children, and siblings. Sometimes in rural Nebraska with the, with the smaller population, small businesses may very frequently hire two or more people from the same family. And so consequently, I believe, if I understand the bill correctly, if there's an issue with one of the members of the family, they all may take a leave of absence for sick leave because they qualify under the bill. But then suddenly that goes from not just 5 percent of their employment, but it might be half of the employees that they might have. And so I think that's kind of an example of how in a heavily populated area this may be more practical-- more

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practicably applied than it would be in, in rural Nebraska. And so I guess in line with that also, it's good, it's good, and we all do it. We all look at other state's legislation and we try to draw comparisons, analogies of how well it might work in other states. But-- and I may have been guilty of this in the past myself, but other states aren't necessarily Nebraska. I mean, this is not New Jersey, it's not Connecticut, it's not Washington State, denser populated states. And so I guess I'd caution passing a bill that does paint a broad brush and, and, and that broad brush may apply to businesses that it's very impractical to apply a bill such as this. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Halloran. Senator Ben Hansen, you're recognized.

**B. HANSEN:** Thank you, Mr. Speaker. I do appreciate the debate and the discussion that we're having here today. It's refreshing to have clarity and of thought and reasonable discussion about making a law, which is what we should probably do for almost everything we do. And so I appreciate, Senator Crawford, the discussion we're having here and answering all the questions, but I have a-- maybe just a couple of questions to hopefully clarify a few things, if you would, please.

**HUGHES:** Senator Crawford, will you yield?

**CRAWFORD:** Yes.

**B. HANSEN:** And so if I'm reading the bill right, it does say this sick leave and safe workplace leave would pertain to all employees no matter how many hours they worked a week, or is it just like 20 and above?

**CRAWFORD:** So it applies to part-time employees as well. Yes.

**B. HANSEN:** OK.

**CRAWFORD:** Many of the employees who do not have paid sick leave are part-time employees.

**B. HANSEN:** OK. And I think that was kind of leading me into like when you had your opening statement talking about how half of employees in the state of Nebraska do not have any kind of paid time off.

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**CRAWFORD:** About 46 percent do not have any paid time off.

**B. HANSEN:** And so those reasonably could include those working 20 hours or less.

**CRAWFORD:** Yes. Yes.

**B. HANSEN:** OK. And that's kind of where a little bit of when you talk about some of the statistics about how many employees have paid time off and how many do not. We're also talking about the grocery store who hires a high school kid for ten hours a week. We're also talking about the landscaping business who hires a college kid over their Christmas break or their summer break working, working 20 hours a week who typically would not get PTO and probably shouldn't because it is part-time work, because it is temporary work, typically. And so I think that's where sometimes some of the numbers get a little bit skewed when we start talking about how many have PTO and how many do not. I would like to reasonably believe that most employers, which they should and I think this is where we agree when you said people who do work hard should and, and are good, loyal employees do deserve benefits such as PTO. And I totally agree with that. And that's typically how I like to run my businesses, those who are deserving, those who, who work a certain amount of hours per week are deserving of certain benefits such as paid time off. I think the difference that you and I might have here with this bill is I believe it should not be mandated. I believe it should be up to the employer to determine when they get the paid time off. And I-- because I think that is good business sense. I think-- you know, when you have good communication between employer and employee, I think I would reasonably like to believe that the employer, if an employee was feeling unsafe, was not able to make it to work, the employer would allow them time off no matter if they had PTO or not. But I understand there's some circumstances where that's not the case. And one, one other question I'd like to ask, too, is any time we pass a law that mandates people to do something, I always like to try to understand is it needed? So one question I might have, if you would, is, you know, are we currently seeing an increase or a surge in complaints to the commissioner that would necessitate a law such as this?

**CRAWFORD:** Thank you for the question. Actually, there, there would be no justification or purpose for somebody to make a complaint to the commissioner now because there is no right to sick leave now. So there's no, there's no ability to complain to the commissioner about

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an absence of an ability to take paid time off because there is no right to paid time off.

**B. HANSEN:** OK, that makes sense. Thank you. And is, is-- it's my understanding, did you, did you--

**HUGHES:** One minute.

**B. HANSEN:** --have a listening session over the summer to try to discuss this topic among employees or employers, both big and small? Did you have a listening session over the summer?

**CRAWFORD:** This summer, we had multiple listening sessions actually, more geared toward paid family leave. But-- so we had those listening sessions with businesses about leave. But it was more focused on paid family leave as opposed to paid sick days.

**B. HANSEN:** OK. How did you feel those went? What, what, what did you feel the reception was from employers about the idea of mandating paid sick leave?

**CRAWFORD:** Well, again, those discussions were really much more about paid family leave. And I think we had mixed conversations in different parts of the state. And, and some employers talking about how valuable it was and-- but then other employers concerned about the mandate and not wanting to see a state mandate.

**B. HANSEN:** OK. And one more question, if you would. Sorry--

**HUGHES:** Time, Senators.

**B. HANSEN:** OK. Thank you.

**HUGHES:** Thank you, Senators Hansen and Crawford. Senator Cavanaugh, you are recognized.

**CAVANAUGH:** I call the question.

**HUGHES:** Do I see five hands? I do. The question has been called. There is one person, person in the queue that has not spoken yet. I overrule. Senator Groene, you're recognized.

**GROENE:** I am that one person. I understand what you're saying about poor people need benefits. I gave you a handout, Nebraska-- urban Nebraska, about the declining populations in the counties in rural

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Nebraska. Senator Hansen made a good comment about Milton Friedman: The great mistake is to judge policies and programs by their intentions rather than the results. I call it bleeding hearts equal broken hearts. You gave us the \$9 minimum wage. You killed Main Street, small Nebraska. You can't find a cafe out there anymore. Yeah, you can pay a short-order cook in Lincoln \$9 an hour. A restaurant down at the Haymarket does more business in an evening than a small town cafe does in a week. You make more money per hour. I'm wondering if there's a conspiracy by urban Nebraska. You take away our jobs, you kill small business, and you get our employees to move to the east. Where do you think all those people went who lost-- that we lost in rural Nebraska? They went after jobs in urban Nebraska because we couldn't afford to keep them as employees. The way it works in rural Nebraska, it's a second job at the Kwik Stop. They're all part-time jobs. When somebody is not gonna come in, they call one of the other people, they're all friends and say, can you do my shift? And they do. And then when they need to be off, they call the other person, can you do my shift? It works. I didn't look at who testified, but did any minimum wage employee come to the hearing and testify that they wanted this? Or is this bleeding heart doing things for somebody that didn't even ask you? What is this, feel good? You're killing rural Nebraska with your bleeding hearts. You're closing Main Street. What about the farmer who has three part-time people? Is he gonna have to keep track of this? I didn't hear that one. Are they exempt? He's got a harvest crew. He's got a roundup crew. He hires some local guys that come in and they help him. One of them calls in sick, you got to keep-- somebody's got to keep the payroll records that he gets one hour off for every 30 or something like that. You're killing rural Nebraska. Leave us alone. Is anybody stopping a major corporation employee to, to have this program on their own? Is there a law against that? I haven't seen it. If you want to kill rural Nebraska, keep this stuff up. I'll take you around rural Nebraska. I traveled the whole area for 35 years in western Nebraska. And then when you say, where can we go have lunch? I'll say, well, not in this town. Minimum wage killed it. The small owner tried to keep it open because they couldn't afford help. So they were working 24 hours a day trying to keep the restaurant going. They had to lay off the help. Well, that didn't work because they wanted a day off, so they closed the place. The little shop on Main Street where a farmer's wife had a curio shop, giving some high school kids a job, that's closed. They maybe sold a dress or

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piece of antique furniture maybe once a week or once a day, giving a high school kid a job. No, you killed it with \$9 minimum wage.

**HUGHES:** One minute.

**GROENE:** This needs to go away, keep it in eastern Nebraska. If you want to do it for the three big counties, fine, but leave us alone. Thank you.

**HUGHES:** Thank you, Senator Groene. Senator Bostelman, you're recognized.

**BOSTELMAN:** Thank you, Mr. President. A couple comments before, I guess, we specifically get-- ask some questions on this bill. The handout that was given out on the population growth from the census in 2010. Of those that are losing populations, I've got two suggestions that we work on I think that would have a greater impact on increasing populations, increasing work force, increasing job opportunities, increasing employment across the state of Nebraska, especially rural Nebraska, broadband. Plain and simple, broadband. We need fiber. We need fiber across the state. We need fiber into the small towns. We need fiber at the farm. We need fiber at the ranch. Opportunity for jobs will grow then because people need to be connected. And if they're not connected, they can't run their businesses and they fail. The other question, the other comment I have-- I guess before I get on that, back to the bill is-- there's an incentive package coming up. How much of that is going to go into small counties? Where's the incentive for our small communities, our small towns to move industry back out? I grew up in Superior, Nebraska, about 3,000 people when I, when I grew up there. Ideal Basic Cement Corporation closed. Mid-America Creamery, cheese plant closed. Where's the incentives to have to bring those type of businesses back to rural Nebraska, to small community Nebraska? If we want to grow and provide opportunity for people in the state of Nebraska, I would say those two places are our best starting point to do that. There's a lot of businesses out there that are startups that want to go, but they're not going to because they're not connected. They have no incentives. So let's look at that incentive program and let's make sure it addresses those issues for our small communities, our small businesses, our manufacturers to move out away from the large metropolitan areas and get them moving back out into the rural areas. So broadband and, and incentives I would encourage. Now back to the bill and what we're

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talking about today, I would ask Senator Clements if he would yield to a couple of questions?

**HUGHES:** I'm Senator-- I'm sorry, Senator who did you ask for?

**BOSTELMAN:** Senator Clements.

**HUGHES:** OK. Senator Clements, will you yield?

**CLEMENTS:** Yes.

**BOSTELMAN:** Senator Clements, I understand you're a small business owner.

**CLEMENTS:** Yes, I am.

**BOSTELMAN:** And you mentioned earlier about an employee you had that you on your own initiative as a business owner, a small business owner, took it upon yourself to provide for that employee that met the needs of that individual of time. Could you talk about that again?

**CLEMENTS:** Yes, we did. We were fortunate that our other employees were able to pick up the work duties that that employee had. So we didn't have to replace those wages and start paying them to someone else. And so since we were able to manage the workload while that person was sick, we decided our income was adequate to continue to pay the wage. Now if we had had to replace that person immediately and started paying those wages to a new person, that may, may not have been possible economically for us, it would have hurt the bottom line of the business. And so it was-- our circumstance was the--

**HUGHES:** One minute.

**CLEMENTS:** --our circumstance was positive enough where we could continue to pay that person. I was not wanting to be mandated, though, in a case where I was hiring another person to fill that position and having to pay double wages. And I know a lot of businesses that are smaller margin would not be able to afford that.

**BOSTELMAN:** So what I hear you saying as a small business owner, you would rather have the opportunity to provide your employees and give them a good place to work and provide for them rather than being required to by the state to maybe not be able to fill that position or

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having to trade cost you more money, you're not able to work through that yourself. You'd rather have that opportunity yourself?

**CLEMENTS:** Yes. And I think if you had just one week that you had to give people, they might just hide behind that and say--

**HUGHES:** Time, Senators.

**CLEMENTS:** OK.

**HUGHES:** Thank you, Senators Bostelman and Clements. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. I think Senator Bostelman raised several outstanding points, Senator Groene did as well, when speaking about the unique challenges that our rural small businesses face. In my experience in District 1, some of the biggest challenges that our small businesses are facing to keep their doors open are high taxes, lack of broadband access to Senator Bostelman's point, skyrocketing healthcare costs for employees, and a lack of a qualified work force. This bill would only put another burden on those small businesses who, bless them for doing this, are going up against the likes of big box stores, against the Amazons of the world, but keep their doors open to serve their communities. I wanted to read the Executive Summary of a report from a group called the Small Business Majority, entitled Report: Small Business Owners Face Unique Challenges. This is from Tuesday, February 12, 2019. "Small employers say they need greater access to capital, struggle to maintain a qualified workforce, and are concerned about healthcare cost. Washington, D.C-- A new report released today found rural small business owners play a key role in all facets of life within rural communities, but they often face different challenges than those in metropolitan areas, including geographic isolation, spotty broadband services, a reluctance among major companies, banks and healthcare providers to serve the area, difficulties in hiring and retaining qualified workers, and barriers in accessing capital to build their businesses. Unfortunately, little research has been done previously to try to understand the unique strengths and challenges faced by rural small business owners, which is particularly problematic given the economic challenges rural communities continue to face as they struggle to recover from the Great Recession. To better understand the state of rural small businesses, Small Business Majority conducted a three-pronged research project to explore the unique needs and challenges of small business

owners in rural communities. This report contains the results of focus groups with small business owners in Georgia, Mississippi, New Mexico, and Texas," though, I wish they would have included Nebraska in this, or at least some states from the Midwest, "findings from roundtable discussions in the same four states with key stakeholders such as representatives from local chambers of commerce, economic development organizations and local officials within rural communities, as well as a national opinion poll of rural small business owners. Key findings from the report include the following: Across all focus groups, participants stressed that good employees are difficult to find and they can't compete for more educated or experienced employees, and the poll found more evidence to support these beliefs, with 73 percent of respondents saying a lack of economic opportunity forces people to leave their community; Small business owners in focus groups and stakeholder roundtables identified access to capital as a major challenge for rural small business owners, and 4 in 10 poll respondents said accessing capital is a personal problem for them; and Small business owners and their employees nationwide routinely struggle with access to affordable health coverage, and this challenge is especially acute for rural small businesses; in fact, roughly 1 in 3 rural small businesses rated healthcare costs as...the top issue facing their business. I don't think the majority of people working in the federal government know what it's like to" run 'to be a small business in a rural town,'"--

**HUGHES:** One minute.

**SLAMA:** --"said Laurie Wenner," Thank you, Mr. President. "'co-owner of a private medical practice in Roswell, N.M. 'My husband, who is a physician, studied and put blood, sweat, and tears into this business because he loves to help people. And the people we serve really need our help because residents of areas like Roswell can't always make a three-hour trip to the closest city hospital.'" Now this quote, even though it's from a small business owner in New Mexico, is applicable in the state of Nebraska because our small business owners fill a need, especially for people who can't travel to the next large town over to shop at big box stores. In particular, one of my hometowns of Auburn saw its Shopko close. So now clothing options are very limited, especially for senior citizens who can't make the trip up to Nebraska City, to Omaha or Lincoln to shop for clothes. These small businesses serve a critical need in our community, and we should not be further burdening them with excessive regulations such--

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**HUGHES:** Time, Senator.

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

**HUGHES:** Thank you, Senator Slama. Mr. Clerk, for items

**CLERK:** I do, Mr. President. Thank you. New bills: LB1027 is by Senator Lathrop. It's a bill for an act relating to civil procedure. It adopts the County Court Special Proceedings Act. LB1028, Senator Lathrop, relating to small claims, changes provisions relating to commencement of actions in Small Claims Court. LB1029, Senator Lathrop, relates to court records. It changes provisions relating to preservation of court records. LB1030, Senator Lathrop, relates to criminal procedure, changes provisions relating to forfeited recognizances, fines, and costs. LB1031 is Senator Lathrop relating to decedents' estates. It changes provisions relating to applications and proof and findings in informal probate or appointment proceedings. LB1032, Senator Lathrop, relates to civil procedure. It changes provisions relating to civil judgments. LB1033, Senator Friesen. It's a bill for an act relating to revenue and taxation. It changes the distribution of certain sales and use tax revenue as prescribed. It creates a fund to authorize the use of funds for certain infrastructure projects. LB1034, Senator Friesen, relating to the Nebraska Advantage Act. It extends application deadlines, it changes provisions relating to certain tax credits, and provides for applicability of changes. LB1035, Senator Friesen, relates to the Legislature, changes the number of legislative districts, and repeals the original section. LB1036 is Senator Morfeld. A bill for an act relating to the age of majority. It allows persons 18 years of age and older to make healthcare decisions as prescribed. It allows persons under 19 years of age who are committed to the Department of Correctional Services to consent to mental health services, medical care, and related services. LB1037 is by Senator Hunt relating to public assistance. It changes provisions relating to eligibility for participation in Supplemental Nutrition Assistance Program. LB1038 is Senator Hunt relating to public assistance. It changes provisions relating to eligibility for Supplemental Nutrition Assistance Program benefits. LB1039 is Senator Cavanaugh. It's a bill for an act relating to schools. It restates legislative findings, eliminates provisions relating to reimbursement for school breakfast programs, and repeals the original section. LB1040 is Senator Vargas, a bill for an act relating to agriculture, provides for state food insecurity nutrition incentive grant program, provides duties for the Department of Agriculture. LB1041, Senator Pansing Brooks, relates to

criminal procedure, changes provisions relating to grand jury transcripts, provides for rules, it harmonizes provisions. LB1042 is Senator La Grone, a bill for an act relating to the Nebraska educational savings plan trust, changes the provisions relating to Department of Revenue Miscellaneous Receipts Fund and the College Savings Plan Expense Fund, and provides tax deductions for certain contributions to the Nebraska educational savings plan trust. LB1045 [SIC--LB1043], Senator Ben Hansen, relates to healthcare facilities. It changes provisions relating to receivers and receivership. LB1046 [SIC--LB1044] is by Senator Ben Hansen. It's a bill for an act relating to the Medical Nutrition Therapy Practice Act. It provides for the independent provision of a therapeutic diet order. LB1045, Senator Gragert [SIC] and others. It's a bill for an act relating to tax incentive programs. It changes provisions relating to the disclosure and confidentiality of information on a tax incentive program. It changes the Taxpayer Transparency Act, requires the posting and reporting of information relating to tax incentive programs, and harmonizes provisions. LB1046 is by Senator Friesen, a bill for an act relating to community antenna television service. It changes provisions relating to certain taxes and fees on community antenna television service. LB1047 is Senator Friesen. It's a bill for an act relating to counties, changes and eliminates provisions relating to semiannual statements of county treasurers, and repeals the original section. LB1048 is by Senator Quick. It's a bill for an act relating to child care and neglect, provides for notification regarding child abuse or neglect to the Commissioner of Education when the subject is a school employee, defines terms. It creates the offense of sexual assault by a school employee, and provides penalties. LB1049 is Senator Bolz. It's a bill for an act relating to social services, provides for participation in the federal Child Care Subsidy child care assistance program, provides for termination of participation, and states intent. LB1050 is by Senator Vargas. It's a bill for an act relating to appropriations. It appropriates funds to the Coordinating Commission for Postsecondary Education for the Nebraska Opportunity Grant Program. LB1051 is Senator Williams. It's a bill for an act relating to nursing facilities, creates a fund, and provides for grants, and provides powers and duties. And is that Williams? Senator Wishart, LB1052. I'm having trouble with your signatures. LB1052 is a bill for an act relating to the Medical Assistance Act. It amends Section 68-955. It changes provisions relating to prescription drugs not on the preferred drug list, and repeals the original section. Notice of hearings from the General

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Affairs Committee, from the Revenue Committee. And communication with the Speaker regarding referral of LR282 to the Reference Committee. Senator Howard would like to add her name to LB534 and Senator Cavanaugh to LB748. And Mr. President, finally a motion, Senator Brandt would move to adjourn the body until Tuesday, January 21, at 9:00 a.m.

**HUGHES:** Senators, you heard the motion to adjourn. All those in favor say aye. Opposed, nay. We are adjourned.