

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 30, 2021

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

**MURMAN:** Let us pray. Dear Lord, thank you for every seat that has been filled here today, for each mind and heart that fills this Chamber. We thank you. Only you truly know what we are setting out to accomplish today. We have an idea, a vision, hints, and daily instructions. We have talents, abilities, and time to work. However, however, only you can see in perfect detail the end of every beginning, every project, every season, every life. Nothing is ever in vain, for even mistakes and missteps are used for good. Your righteousness transcends all our efforts and understanding. Forgive us for our pride, the pride that puffs up and the pride that threatens to unqualify us. Strengthen our confidence in you-- our confidence you have made in-- us to be. Set us free from comparison in order to work together efficiently. Bless our work today and all those present, as well as the lives of those that what we do will affect. In the name of my risen Lord Jesus Christ, amen.

**FOLEY:** Thank you, Senator Murman. I recognize Senator Gragert for the Pledge of Allegiance.

**GRAGERT:** Please join me in the Pledge of Allegiance. I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**FOLEY:** Thank you, Senator Gragert. I call to order the fifty-second day of One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

**ASSISTANT CLERK:** There is a quorum present, Mr. President.

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

**ASSISTANT CLERK:** No corrections this morning.

**FOLEY:** Thank you, sir. Are there any messages, reports, or announcements?

**ASSISTANT CLERK:** Mr. President, I have no messages, reports, or announcements this morning.

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**FOLEY:** Thank you, sir. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following five legislative resolutions: LR29, LR68, LR74, LR75, and LR77. Senator Geist would like to recognize Dr. Rob Rhodes of Lincoln, Nebraska, who is serving us today as family physician of the day. Dr. Rhodes is with us under the north balcony. Doctor, if you could please rise, we'd like to welcome you and thank you for being here today. We'll now proceed to the first item on the agenda, General File appropriations bill. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, first bill this morning is LB70A offered by Senator Wayne. It's a bill for an act relating to appropriations; to appropriate funds to carry out the provisions of LB70.

**FOLEY:** Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr.-- thank you, thank you, Mr. President. This is just an A bill to catch up with LB70 that we already advanced dealing with kickboxing and bare-knuckle fighting. It's a expenditure of \$4,000, but it's a net of positive \$4,000. So it's a net of eight-- or it's \$8,000, a net of positive \$4,000. I also found out since yesterday there are actually-- two of the best bare-knuckle boxers in Nebraska are actually two of the best in the country and I think this-- we'll get a lot more money because they actually travel all across the country and do a big show, so they're excited about this. So I ask you to vote green on LB70A.

**FOLEY:** Thank you, Senator Wayne. Any discussion of the bill? I see none. You're recognized to close. He waives closing. The question before the body is the advance of LB70A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 31 ayes, 0 nays on the advancement of the bill.

**FOLEY:** LB70A advances. Next bill, please.

**ASSISTANT CLERK:** LB156A, offered by Senator Wayne. It's a bill for an act relating to appropriations; to appropriate funds to carry out the provisions of LB156.

**FOLEY:** Senator Wayne, you're recognized to open on LB156A.

**WAYNE:** Thank you, Mr. President and members of the Legislature. LB156A is a A bill for LB156, which the body advanced to Select File last

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week. With the amendment to LB156 we adopted on General File, the A bill was necessary to transfer funds to the port authorities for the Site and Building Fund-- Building Development Fund and the Department of Economic Development. I'd ask for a green vote on LB156A.

**FOLEY:** Thank you, Senator Wayne. Any discussion on the bill? I see none. Senator Wayne, you're recognized to close. He waives closing. The question before the body is the advance of LB156A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 34 ayes, 0 nays on the advancement of the bill.

**FOLEY:** LB156A advances. Mr. Clerk, next bill.

**ASSISTANT CLERK:** LB320A offered by Senator John Cavanaugh. It's a bill for an act relating to appropriations; to appropriate funds to carry out the provisions of LB320.

**FOLEY:** Senator John Cavanaugh, you're recognized to open LB1-- LB320A.

**J. CAVANAUGH:** Thank you, Mr. President. LB320A is the cash fund appropriation to carry out the Supreme Court reporting provision of LB320. It is to appropriate \$25,000 from the Automated Cash Fund [SIC] to update the Justice Case Management System in order to provide the reports under LB-- LB402 section that was amended into LB320 on General File. I'd ask for your green vote on LB320A.

**FOLEY:** Thank you, Senator Cavanaugh. Any discussion on the bill? Senator Erdman, you're recognized.

**ERDMAN:** Good morning, Lieutenant Governor. Welcome back. Good morning, Nebraska. Senator Cavanaugh, would you yield to a question or two?

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

**J. CAVANAUGH:** Yes.

**ERDMAN:** Senator Cavanaugh, this \$200,000, what exactly is that going to be used for?

**J. CAVANAUGH:** It's \$25,000, Senator.

**ERDMAN:** \$25,000, excuse me.

**J. CAVANAUGH:** So the-- one of the portions of this bill has a reporting requirement for the Supreme Court and in order to comply

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with that, they will have to update the justice system, which is the court reporting system, to allow for the data to be captured.

**ERDMAN:** OK. All right. You know, this bill, as, as it worked its way through General File, changed somewhat and I have gotten several emails from people that have rental businesses. This is extending the period for which we can remove someone and this seems to be the attitude here over the last year or so or more that we have put a lot of pressure on those people who have rental properties. And if we continue to prevent them from running their businesses they need to run their business, we may not have people in the rental business and then those people who will rent may be out of luck. And so we continue to put stipulations on what a landlord can do and how they can run their business and this is, this is troublesome to me and so I'm not so sure that LB320 is a good bill to be advanced when you're looking at the people who run a rental business. And so I'll have to be more considerate on the next round, on, on Select, when we get to LB320, but I'm still-- I'm not convinced this is the right bill. Thank you for answering the question.

**FOLEY:** Thank you, Senator Erdman and Senator John Cavanaugh. Is there any further discussion on the bill? I see none. Senator John Cavanaugh, you're recognized to close. He waives closing. The question before the body is the advance of LB320A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 37 ayes, 3 nays on the advancement of the bill.

**FOLEY:** LB320A advances. We'll proceed now to legislative confirmation reports, the first of which is from the Retirement Committee. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the report from the Nebraska Retirement Systems Committee this morning is to Keith Olson to the Nebraska Investment Council.

**FOLEY:** Thank you, Mr. Clerk. Senator Kolterman, you're recognized to open on your confirmation report.

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. The Nebraska Retirement System Committee held a confirmation hearing on March 3 for Keith Olson. The Governor has reappointed Mr. Olson to the Nebraska Investment Council. He was originally appointed in 2016. This will be his second five-year term. The Nebraska Investment Council manages the investments of 30 different entities for the state,

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including our pension funds and endowment funds. Mr. Olson received a bachelor of science degree in 1981 in business administration and economics from the University of Nebraska-Kearney and his master of business administration degree in 1986 from the University of Nebraska at Omaha. In 1986, he received his certification as a chartered financial analyst. Over 30-- for over 30 years, Mr. Olson has worked in the field of investments throughout the world, including Hong Kong, Montreal, Tokyo, and New York. He currently, currently works and resides in Omaha. He has and will continue to bring real-world business and investment experience to Nebraska Investment Council and is well qualified to make decisions regarding the investment of public funds. The Retirement Committee unanimously voted to move Mr. Olson's appointment to the Legislature for confirmation. I ask for your support in confirming this appointment to Nebraska Investment Council.

**FOLEY:** Thank you, Senator Kolterman. Is there any discussion of the Retirement report? I see none. Senator Kolterman, you're recognized to close on your confirmation report. He waives closing. The question before the, the body is the adoption of the confirmation report from Retirement Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 39 ayes, 0 nays on the adoption of the report.

**FOLEY:** The confirmation report from the Retirement Committee has been adopted. Next report, Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, the Health and Human Services Committee would report favorably on Dennis Roop to the Stem Cell Research Advisory Committee.

**FOLEY:** Thank you, Mr. Clerk. Senator Arch, you're recognized to open on the confirmation report.

**ARCH:** Thank you, Mr. President. Good morning, colleagues. Health and Human Services Committee held hearings on March 3 on the appointments of Dr. Dennis Roop and Dr. David Owens to the Stem Cell Research Advisory Committee. First, Dr. Dennis Roop. Dr. Dennis Roop is a reappointment to the committee. He has been a professor of dermatology at the University of Colorado School of Medicine since 2007 and has served on the Stem Cell Research Advisory Committee since it was created in 2008. His research has focused on studying rare skin diseases. At his confirmation hearing, Dr. Roop expressed his admiration for the committee's collaboration, bringing together stem cell biologists and engineers to evaluate applications for state-funded research. He expressed a desire to continue to help

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select the best projects to move forward to help benefit the citizens of Nebraska. I would urge your support for Dennis Roop's confirmation.

**FOLEY:** Thank you, Senator Arch. Is there any discussion on the confirmation report? I see none. Senator Arch, you're recognized to close on the confirmation report. He waives closing. The question before the body is the adoption of the confirmation report from the Health Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 35 ayes, 0 nays on the adoption of the report.

**FOLEY:** The confirmation report from the Health and Human Services Committee has been adopted. Mr. Clerk, next report.

**ASSISTANT CLERK:** Health and Human Services Committee would report favorably on David Owens to the Stem Cell Research Advisory Committee.

**FOLEY:** Senator Arch, you're recognized to open on your second confirmation report from the Health and Human Services Committee.

**ARCH:** Thank you, Mr. President. Our second confirmation is for Dr. David Owens. He's a new appointment to the Stem Cell Advisory Committee. He has a Ph.D. in molecular and cellular toxicology and is an associate professor in the department of dermatology at Columbia University in New York, where his research is focused on the contribution of stem cells to skin development. Dr. Owens expressed his desire to serve on the committee as a way of paying back some of the benefits he's received in terms of research funding. I would urge your support for Dr. David Owens as well.

**FOLEY:** Thank you, Senator Arch. Is there any discussion of the second confirmation report from the Health and Human Services Committee? I see none. Senator Arch, you're recognized to close. He waives closing. The question before the body is the adoption of the second confirmation report from the Health and Human Services Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 33 ayes, 0 nays on the adoption of the report.

**FOLEY:** The second confirmation report from the Health and Human Services Committee has been adopted. And proceeding to our final confirmation report, Mr. Clerk.

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**ASSISTANT CLERK:** Mr. President, the Business and Labor Committee would report favorably on Johnie Girmus to the Boiler Safety Code Advisory Board.

**FOLEY:** Senator Ben Hansen, you're recognized to open on the confirmation report from the Business and Labor Committee.

**B. HANSEN:** Thank you, Mr. President. So good morning, colleagues. I got four appointments to the Boiler Safety Code Advisory Board I'll go through here, starting with Johnie Jason Girmus, who goes by Jason. He is a current member of the Boiler, Boiler Safety Code Advisory Board serving from 2017 to 2021. Mr. Girmus is a lifelong Nebraskan that graduated from Wahoo Public Schools and then ventured a few miles south and graduated from the University of Nebraska-Lincoln. After graduation, Mr. Girmus returned to Ithaca, Nebraska, to work for the family business alongside his father as a boiler technician. In 1992, Mr. Girmus purchased the family business and continues its work to this day. At the public hearing, Mr. Girmus expressed his expertise as a hands-on technician that can supply the advisory board with an experienced technician that's in the trenches every day. He was voted unanimously out of the Business and Labor Committee and today I ask for your green vote for the appointment of Mr. Girmus to the Boiler, Boiler Safety Code Advisory Board.

**FOLEY:** Thank you, Senator Ben Hansen. This is the first of four votes from the committee. Discussion is now open. Senator Blood.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I'll make this really quick only because we do have one of the nominees that is from my district, Gerald "Mike" Whitlock, who was an Air Force kid who came and stayed in Nebraska and then served in the Navy on the USS Pasadena. When he left the Navy, we were lucky enough to have him come back and stay in Nebraska. He became a boiler inspector in 2005 for the Hartford Steam Boiler Inspection and Insurance Company. He continues to do good deeds and is an excellent nominee. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Blood. Senator Ben Hansen, if you could just clarify for us which of the four nominees you're going to take the first vote on?

**B. HANSEN:** Which of the four?

**FOLEY:** We're going to do four separate votes.

**B. HANSEN:** Yes, we have to do four separate votes.

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**FOLEY:** Yes, so which, which nominee are you putting forward at this point?

**B. HANSEN:** Johnie Jason Girmus.

**FOLEY:** Very good, thank you. Members, you've heard the discussion on the report. Those in favor of adopting the first of four confirmation reports from the Business and Labor Committee, please vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 37 ayes, 0 nays on the adoption of the report.

**FOLEY:** The first of four confirmation reports has been adopted. Senator Ben Hansen, if you could introduce the second nominee?

**B. HANSEN:** The second nominee is Aaron L. Jazyuka. Mr. Jazyuka is also a current member of the Boiler Safety Code Advisory Board. Mr. Jazyuka grew up in Omaha, Nebraska, and graduated from Omaha Creighton Prep. After high school, Mr. Jazyuka attended John Carroll University in University Heights, Ohio, where he attained a bachelor's degree in philosophy. He then moved back to Nebraska and decided to attain his boiler certification and spent-- and has spent nearly 15 years working as a boiler project manager in the Omaha area. At the public hearing, Mr. Jazyuka was adamant about his appreciation of the advisory board, stating that public service is something everyone has a duty to fulfill and his occupation-- in his occupational industry where there aren't many opportunities. He was voted unanimously out of the Business and Labor Committee and today I ask for your green vote for the appointment of Mr. Aaron Jazyuka to the Boiler Safety Advisory Board.

**FOLEY:** Thank you, Senator Ben Hansen. Any discussion on the second report? I see none. Senator Ben Hansen, you're recognized to close. He waives closing. The question before the body is the adoption of the second confirmation report from the Business and Labor Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 39 nays, 0 nays on the adoption of the report.

**FOLEY:** The second report has been adopted. Senator Ben Hansen, if you'd like to introduce the third nominee?

**B. HANSEN:** Thank you. The third nominee we have is Mr. Martin Kasl, who goes by Marty [PHONETIC] and he is also a current member of the Boiler Safety Code Advisory Board. Mr. Kasl is an engineer by trade



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that grew up in McCook, Nebraska, and graduated from the University of Nebraska-Lincoln. After graduation, Mr. Kasl went to work for the Nebraska Boiler Company here in Lincoln as a mechanical engineer. In 1997, Mr. Kasl began working for Engineering Technologies Inc in Lincoln as a mechanical engineer, where he works to this day and is currently principal of the firm. Mr. Kasl will bring the engineering aspect to the advisory board, along with a wealth of experience in the industry. He was also voted unanimously out of the Business and Labor Committee and today I ask for your green vote for the appointment of Mr. Kasl to the Boiler Safety Code Advisory Board. Thank you.

**FOLEY:** Thank you, Senator Hansen. Any discussion of the third report? I see none. Senator Hansen waives closing. The question before the body is the adoption of the third confirmation report from the Business and Labor Committee. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 38 ayes, 0 nays on the adoption of the report.

**FOLEY:** The third confirmation report has been adopted. And finally, Senator Ben Hansen, if you'd like to introduce the fourth nominee?

**B. HANSEN:** Yes, thank you. All right, last but not least, Mr. Gerald Whitlock, who is our fourth nominee for the member of the Boiler Safety Code Advisory Board. Mr. Whitlock cut his teeth as a nuclear propulsion engineer in the United States Navy for six years. Upon completion of his service, he went to work as an operating engineer at the United Cold Storage in Omaha, Nebraska, before landing at his current employer, the Hartford Steam Boiler Inspection and Insurance Company in Omaha, Nebraska. Mr., Mr. Whitlock's current role at the company is field service supervisor that requires him to be fully qualified and experienced in conducting quality jurisdictional boiler and pressure vessel inspections, property surveys, claim investigations, and risk assessments. Mr. Whitlock will bring an abundance of different experience to the advisory board. From engineering to technical to management, he's done it all. And he is also a current member of the Boiler Safety Code Advisory Board. So Mr., Mr. Whitlock was voted unanimously out of the Business and Labor Committee and today I ask for your green vote for the appointment of Mr. Whitlock to the Boiler Safety Code Advisory Board. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Hansen. Any discussion on the fourth report? I see none. Senator Hansen waives closing. The question before the body is the adoption of the fourth confirmation report from the

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Business and Labor committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 38 ayes, 0 nays on the adoption of the final report, Mr. President.

**FOLEY:** The fourth confirmation report from the Business and Labor Committee has been adopted. Proceeding on the agenda now to General File 2021 Speaker priority bill. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, LB9, offered by Senator Blood, is a bill for an act relating to real property; change provisions relating to the annexation of land and special valuation of agriculture and horticultural land within cities and villages; to repeal the original sections; declare an emergency. This bill was introduced on January 7, referred to the Urban Affairs Committee. That committee placed the bill on General File with committee amendments attached.

**FOLEY:** Thank you, Mr. Clerk. Senator Blood, you're recognized to open on LB9.

**BLOOD:** Thank you, Mr. President, and thank you to Senator Hilgers for making LB9 a Speaker priority bill. Fellow senators, friends all, today I bring forward LB9, a bill to change annexation requirements and property tax special valuation provisions for first-class cities. All Nebraska incorporated communities have authorization to annex property. State law and case studies note that property being annexed shall be adjacent and contiguous to the corporate limits. While villages and cities of the second class may jump up to 500 feet of open land to annex an established subdivision, first-class cities and larger are only allowed 200 feet. State statute also clarifies that land must be urban and suburban in character, but not necessarily use. To simplify that definition, a city may annex property that is being used for agricultural purposes. This does not make the property rural in character because it is the nature of the location plus, plus its use that determines if the property is urban or rural in nature. Requirements for annexation depend on the size of your municipality. They are broken down by municipal class, primary class, cities of the first class, cities of the second class, and villages. Today we are addressing the part of the statute that refers to cities of the first class. Nebraska's third-largest city, Bellevue, has the unique problem of being landlocked. It's blocked by the land owned by the federal government where Offutt Air Force base is located and so there is land that is needed for Bellevue to grow where we would like to utilize. Offutt is our stepping stone to garner these properties, but are unable to do so because of the 500-foot rule in state statute for the

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first-class cities. If the federal government wasn't the property owner, that land would be adjacent or contiguous to a parcel of land that could potentially have been annexed. Offutt Air Force Base and Rising View military housing are in the center of Bellevue, but not within our corporate limits. This land is owned by the United States and Bellevue lost a federal case in the 1970s regarding an attempt to annex this federally owned property. There were concerns at the time about federal property such as the base being annexed into a city, as local ordinances could contradict that of federal rules and regulations, which create-- could create many issues. Bellevue now seeks a different solution, which is amending Nebraska Revised Statute 16-118 to account for federally owned property or property owned by natural-- a natural resources district. However, I'm going to add that after speaking with representatives of the NRDs, we've brought an amendment that would remove them from this bill that will be brought forward by the Urban Affairs Committee next. Offutt Air Force Base and Rising View sit in the middle of Bellevue and hinders the city, city's ability to grow and develop. They are landlocked to the east and have boundary agreements regarding territories to the west and north and the Missouri River is to the east. Excuse me, that's redundant. They're locked to the west and have boundary agreements regarding territories to the west and north and the Missouri River is to the east. Bellevue's future growth and expansion can only occur to the south of the base. To be clear, while AM231 is worded in such a way that LB9 only applies to Bellevue for now, if legislation is passed amending the statute, allowing the ability to pass over only federally owned property and/or installations, in the future, should we want to revisit it, it could help other first-class cities affected by the same dilemma to continue with their growth and development. I have brought a handout for you that shows both the areas here in Bellevue and demonstrates why it's definitely needed for Bellevue to lay out other areas around-- and other areas around the state that are near federally owned parcels that might come into play in the future. So if you look at the handout that was passed out yesterday, you have a very clear description of what's going on in Bellevue. And I'd also like to note for Senator John Cavanaugh that the first page is not the ship that's stuck in the Suez Canal. Unfortunately, these properties are-- also hold special challenges if the properties that may be developed are in flood zones or subject to Air Installation Compatible Use Zone regulations. The purpose of the Air Installation Compatible Use Zone Program is to protect the health, safety, and welfare from noise and safety hazards through compatible development in the airport environment. It's a program of the DOD to address the development of land surrounding military air installations. And so we're asking for your consideration when it comes to special evaluations, asking that

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it also applies to flood plains and Air Installation Compatible Use Zones. Now you might wonder what Bellevue is doing to mitigate flood risk moving forward. So there are two major focal points where they have been reinforcing Bellevue's levee systems and also studying the feasibility of installing a permanent pumping station that would help alleviate some groundwater and flooding concerns. The pump would be placed in the waterway that removes all of the rainwater and groundwater out of Bellevue and dumping it into the Missouri River. Bellevue has been working with Omaha's HDR on a study analyzing the feasibility and associated costs of that project. The project should start this year. Also other flood mitigation action consists of the city's two major levee structures along the Missouri River and Papillion Creek being elevated by three feet or more by the Papio-Missouri River NRD. So it's Bellevue's hope that you consider these unusual circumstances and see them as what they are, which are hurdles that can easily be addressed with a small change in state statute. I'll also add that the committee amendment that follows was a compromise we brought forward to the committee. In addition to narrowing the focus of LB9, it touches down on the NRDs and also includes language we worked out with the NREA that would help-- that would keep a noncontiguous piece of annexed land under the purview of the electric utility that had been serving that parcel before the annexation with few exceptions. With that, I'd ask for your green vote for the committee AM231 and the underlying bill, LB9. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Blood. As the Clerk indicated, there are amendments from the Urban Affairs Committee. Senator Wayne, you're recognized to open on the committee amendments.

**WAYNE:** Thank you, Mr. President and members of the Legislature. The committee amendment, AM231, makes several changes to the annexation provisions of the bill. First, the amendment limits the applicable-- applicability of the new annexation provisions to the cities of the first class located in a county which has at least three cities of the first class are located, i.e., Sarpy County. Second, the amendment strikes the provisions of the green copy referencing natural resource districts so the bill only applies if property owned by the federal government lies between the newly annexed area and the corporate limits of the city. Finally, the amendment provides an annexation of territory deemed contiguous under the bill would not result in any change of the service area of any electrical utility without the express agreement of the electric utilities serving the newly annexed area at the time. This amendment was voted out 7-0. And colleagues, this is truly about allowing one of our fastest areas in Sarpy County

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to be able to grow and because of Offutt Air Force Base, there's just no way for them to strategically grow, without this bill, to the south. So this is truly about helping that community and that area with economic development and the ability to grow. I would ask you to vote green on AM231. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Debate is now open on LB9 and the pending committee amendments. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. I appreciate that. I am having a difficult time-- and maybe that's, you know, not a surprise to some of you-- understanding why we need to annex and so if Senator Blood would yield a question or two, I'd appreciate it.

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

**BLOOD:** Yes, I'd be happy to yield.

**ERDMAN:** Senator Blood, help me understand why it's important for Bellevue to annex more land into the city.

**BLOOD:** I'm sorry. I didn't hear the last part of your sentence.

**ERDMAN:** Say that again.

**BLOOD:** You said why is it important to annex and then I didn't hear the last part of your sentence.

**ERDMAN:** --the, the extra land. Why is it important for Bellevue to have more land within the city limits? Are these people not being served now? Is that the purpose of annexing?

**BLOOD:** So the purpose of annexing is actually multiple. There's multiple issues. It can be to expand services. It can be to allow for additional businesses to come to town. It can be to bring neighborhoods into your fold. In this case, we over and over again have people who come and want to bring their businesses to Bellevue, but because of the size of the business and the fact that we're landlocked, we can't bring these new businesses to town. In fact, we currently now with this bill in, in the queue, have somebody interested in taking that land and placing a business there--

**ERDMAN:** OK.

**BLOOD:** --because there's rail and water service.

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**ERDMAN:** OK. I know for TIF financing, they're able to do-- skip annexing. Is not a-- is skip annexing not available to the city?

**BLOOD:** This-- and that's a really good question. This is not an area that would fall under the description of what would be a good TIF property.

**ERDMAN:** Oh. Well, I know in some areas, they do skip annexing for several miles from the city--

**BLOOD:** Right.

**ERDMAN:** --and that's not something you can do?

**BLOOD:** This is, this is not something-- and we researched this intensely-- is not something that would meet that criteria. And what we're trying to do is to do it under state statute and to do it without breaking the rules.

**ERDMAN:** OK. So I have a question about the handout that you submitted to us yesterday.

**BLOOD:** Sure.

**ERDMAN:** It would, it would be probably on page 3.

**BLOOD:** Front or back?

**ERDMAN:** Yeah, from the front. It's this one here if you can see this. It's the future land use on the bottom.

**BLOOD:** Oh, OK.

**ERDMAN:** OK? At the bottom, it says-- the black dash line indicates city boundaries and there's already a portion on the south side of Offutt Air Force Base that is included in Bellevue, is that correct?

**BLOOD:** You're talking on the right hand side there along--

**ERDMAN:** Yes.

**BLOOD:** --Harlan Lane? Yes.

**ERDMAN:** So you've already done this already?

**BLOOD:** No. So the property that we're talking about-- do you see where the-- right here, since you've got the map?

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**ERDMAN:** Yeah.

**BLOOD:** This is the area we're talking about. So this was contiguous. This is not.

**ERDMAN:** That dotted line on the south of--

**BLOOD:** Because there's a housing development right here. Do you see that?

**ERDMAN:** Right here?

**BLOOD:** Yeah, the-- I know--

**ERDMAN:** That's already been annexed--

**BLOOD:** --and I'm saying there's a housing development. So this meets the criteria right here, but this does not. There's too much space here.

**ERDMAN:** OK, so it's already been annexed in that part there, right here?

**BLOOD:** This part has. This part has not.

**ERDMAN:** OK. So then what you're saying is in the amendment, it used to say-- this included NRDs and those things in the amendment, is that correct?

**BLOOD:** I'm sorry. I'm, I'm having trouble hearing you, sir.

**ERDMAN:** The NR-- the amendment includes NRDs, land owned by NRDs?

**BLOOD:** No, we removed the NRDs from--

**ERDMAN:** That's what the amendment did.

**BLOOD:** --the bill.

**ERDMAN:** OK. Yeah, I'm not sure that-- you know, the other issue that I seen on the fiscal note, it said that this would result in a reduction of the tax base given for the counties and political subdivisions. So if it erodes the tax base, then that means those people are going to pay more taxes because if it takes away from the base for the county and the other subdivisions, then someone has to make up that tax base. And so is this a property tax increase?

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**BLOOD:** This is not a property tax increase. In fact, since we're almost out of time, I'll come over and talk to you about this because I also know that former Mayor Sanders is going to address some of these issues as well.

**ERDMAN:** Yeah, but it says under the LB9, under the fiscal note, it said more land will qualify for a special valuation. And when that happens, then it's going to reduce the tax base and, and it will be less revenue for the county and other political subdivisions.

**BLOOD:** Yes, but the county sees it as bringing in new business and so they know that that's going to be balanced out with income that comes in from, from other areas. So we're, we're worried about the special valuation because, as I said in my opening, many of that is agricultural-- agriculture. And you and I talked--

**ERDMAN:** Right.

**BLOOD:** --about this yesterday.

**ERDMAN:** Right.

**BLOOD:** It's farm area.

**ERDMAN:** Right.

**BLOOD:** So we don't want to punish anybody because we're allowing growth to come into their area. So I, I hear what you're saying, but what I'm saying to you is the type of corporations--

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

**BLOOD:** --that we're going to bring in--

**FOLEY:** That's time.

**BLOOD:** --will offset that.

**ERDMAN:** Thank you.

**FOLEY:** Thank you, Senator Erdman and Senator Blood. Senator Sanders, you're recognized.

**SANDERS:** Good morning, Mr. President. Colleagues, I rise in support of LB9. I want to thank Senator Blood for introducing this bill to change annexation and property tax valuation. This is a good bill. This area



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is in my District 45 and we will certainly help for positive growth and for all of Nebraska to benefit. Thank you very much.

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

**GROENE:** Thank you. Senator Sanders apparently hasn't learned to use five minutes yet, which is not-- which is probably good. But anyway, I'm confused on this because I look at that same map that Senator Erdman was discussing and I see the Air Force base, it's in white. That's the future land use. And then to the southwest, I see a blue, blue-green area, black and blue, along Fort Crook Road. Senator Blood, I, I was trying to ask-- visit with you earlier, but I-- could you ask-- answer some questions?

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

**BLOOD:** Absolutely.

**GROENE:** That area along Fort Crook Road is apparently not-- looks like it isn't in the city limits yet, but to the east of it and to the west of it is. Why hasn't the city annexed that area?

**BLOOD:** So the lower portion below the base there on the right-hand side, which is what I needed-- I think Senator Sanders has explained to Senator Erdman-- is that that's the E-- an area of ETJ. That's actually an area where we keep a lot of our equipment and whatnot, but it is not annexed into the city. So if you go to the left there, the reason that that hasn't been annexed is because it can't be annexed because it's more than 500 feet.

**GROENE:** It's more than what?

**BLOOD:** 500 feet-- excuse me, 200 feet-- 500 feet is villages, I apologize-- 200 feet.

**GROENE:** So the area that's directly east of, of that southwest corner of, of the city, that's-- why, why can't they just annex right up against that black dotted line?

**BLOOD:** OK, are you talking about the small area south of the base next to Harlan Lewis Road?

**GROENE:** Southwest of it.

**BLOOD:** OK, southwest?

**GROENE:** Yeah, the southwest corner.

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**BLOOD:** Because it is more than 200 feet away from the area-- were you looking at the Blackhawk area there?

**GROENE:** Yeah, along-- that whole Fort Crook Road area. I, I see no reason why you can't annex it. There's no government property in there or you, you can-- I guess I don't understand annexation. You can annex [INAUDIBLE] land. You can annex anything you want unless, of course, it's a government-owned property that isn't owned by the city. So I guess I'll visit with you over the-- off the mike.

**BLOOD:** And I'd be happy to do that, sir, I--

**GROENE:** And then-- but the area you're concerned about is directly south of the base, that gray area--

**BLOOD:** Right.

**GROENE:** --is that right?

**BLOOD:** We can go up to La Platte Road there.

**GROENE:** Up to which road?

**BLOOD:** La Platte.

**GROENE:** All right. South to La Platte. You mean down to La Platte? All right.

**BLOOD:** Yeah, up to.

**GROENE:** And the blue-green area to the east, what about that area, up the-- towards the Missouri River? That area doesn't interest the city?

**BLOOD:** That is not an area that we are discussing right now.

**GROENE:** All right. I, I just need the clarification. I mean, I'm not against the city doing this, but there's also-- there's two or three reasons why-- when I look at bills. One, they're a bad bill. Two, they're a good bill. Three, it's a bill that needs work. And then there's-- there comes the bill where we don't even need it. It's, it's, it's not necessary. It's just putting language in a statute that I believe are--

**BLOOD:** Sure.

**GROENE:** --after a little research you can do already.

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**BLOOD:** But I would say that area--

**GROENE:** And then my concern-- excuse me. I am concerned that this is a bill that if the city investigated they could do already what they wanted to do, instead of cluttering up--

**FOLEY:** One minute.

**GROENE:** --our statute-- so thank you, Mr. Speaker. I'll talk to Senator Blood off the mike.

**FOLEY:** Thank you, Senator Groene and Senator Blood. Senator Wayne.

**WAYNE:** Thank you, Mr. President. I just want to clear up a couple of things so people who don't understand or don't know because they don't deal with-- in the areas of annexation. So right now, there are actually two exceptions to annexation in a continue-- continuous [SIC] requirement. One is for rural Nebraska, which is second-class cities and villages may annex noncontiguous land-- that's Section 17-405.01-- for the purpose of implementing a redevelopment plan under the community development law for the purposes of agriculture processing facilities. That's the one that Senator Erdman was referencing, but had it slightly wrong is that's truly for agricultural purposes. And to Senators Groene point, we did that years ago for second class and villages is because we recognize that we didn't want them to have to annex a whole bunch of land just to develop a agricultural processing plant, so we allowed them to have a gap between that area to make sure they can develop it cost efficiently and their cities can, can function. The second exception is actually one that we passed a couple of year-- a year ago for Senator Walz's area, which is for-- to actually move a city or village due to catastrophic flooding. Those are the only two exceptions to annexation regarding that contiguous requirement. Those are truly just for areas who needed an exception. This body said for agricultural purposes and ethanol plants, essentially, we will allow this exception and because of flooding, a town had to move, we'll allow this exception. This is truly a unique situation because we don't have federal land that is prohibiting cities from growing or to Senator Groene's point, they may have to annex land that really is not good for the city, incurs liability, which is part of the cost benefit analysis that goes into annexation requirements. And it's truly limited to just this area, Sarpy County, to make sure that they can grow around Offutt Air Force Base. So I just want to put that in perspective, that when you go back and read the debate on agricultural processing facilities, there wasn't this huge concern in the body. It was more about these small villages and second-class cities need to be able to help develop the ethanol

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industry and agricultural businesses. In order to do so, TIF is one of the ways that we were able to help finance that and we have a boom right now in ethanol. Whether we like it or not or how it got there, it's, it's happening. So this is just one more exception to the two exceptions we have to deal with specific things for those communities in those specific areas. So I just wanted to make sure that it's clear that this community needs this to grow. We've narrowly drafted it in the sense that it can't apply anywhere else and that's what we do in this body all the time to make sure different parts of our state can grow the way they need to grow and have the tools that they need to develop their area. Thank you, Mr. President.

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

**BLOOD:** Thank you, Mr. President. I wanted to revisit Senator Groene's question because we didn't get to finish our conversation. So the green area on the right-hand side of your map, if you note on the furthest edge, it's the Missouri River. That's a floodplain. We aren't going to annex an area that consistently floods even with the safety precautions that we were putting into place because that makes zero sense. So the areas that we do want to annex, we want to make sure, first of all, that we're not doing any strip annexation because that's been considered under state statute an improper form of annexation. So the concern is that we have a 200-foot limit. We've looked at the areas where we have big companies that want to come in, provide jobs, provide tax dollars, and help Bellevue expand. They want to come in. We can't allow them to do that because we cannot annex this property without the state statute. Bellevue and the state of Nebraska has lost a lot of big companies because we are unable to annex. So we're always talking about economic, economic development. We're always talking about growing Nebraska. We're always talking about providing jobs. Bellevue is the third-largest city in Nebraska and it continues to grow, but because of how Bellevue is designed-- which happened decades ago. It happened before Senator Sanders was mayor, happened before I was on the city council. When the land grabbing was done, Bellevue basically screwed itself over. And because of that, we don't have what Papillion has, which is Amazon, and we don't have what La Vista has because they can continue to grow. We are landlocked. We have one area that we can move in because we're not going to be knocking down housing to bring in corporations. All I know is that we make exceptions for municipalities across Nebraska. This is no different. We're doing it in the way that the attorneys said was the best way to do it with the research that we had and we are asking that you please support LB9 and help us not only grow Bellevue, but grow Nebraska. Because we certainly want Offutt Air Force Base there because it also

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generates additional people to fill those jobs. But Bellevue is known for a municipality where people have to drive away from our municipality to go and work, with the exception of, of those who work on the base, Nebraska's number one employer. So please give us the opportunity to not only grow, but to provide jobs, to provide places for these corporations to come in and do business, and to help us build our tax base, not just for Bellevue, but for Sarpy County and Nebraska as well. With that, I would yield any time I have back to you, Mr. President.

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

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

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

**BLOOD:** Yes, I'd be happy to yield.

**FRIESEN:** So I, I just-- you know, I've looked at the maps yesterday. I-- I'm-- was trying to understand what the issue was. But just a couple of questions: are you, are you annexing some ag land when you get this accomplished?

**BLOOD:** We will be annexing some ag land and if you listened to the introduction, you saw that that's why we're asking for the exception.

**FRIESEN:** And so when, when that ag land is annexed into the city limits, do they lose their greenbelt status then?

**BLOOD:** Is there another name for greenbelt status?

**FRIESEN:** Yeah, once, once you're annexed into a city limits, I think you lose your ability to have that greenbelt status. Is that-- would that be true?

**BLOOD:** I, I'm asking if there's another name. Are you saying a special assessment?

**FRIESEN:** Yeah, special assessment.

**BLOOD:** No, they do not lose that, that if-- that was-- we said that in the introduction. So that was one of the things that's in the, the bill that we're asking that we don't want to punish them because they are farming there and so we have asked for that within the bill.

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**FRIESEN:** OK. I would, I would ask that you look into that further because I-- my understanding I think in previous discussions we've had that you do lose that greenbelt status, but I'll-- we'll look into that.

**BLOOD:** OK.

**FRIESEN:** So is the, is the issue here that you cannot cross a-- is there a narrow strip of federal property or something that you can't get certain water across or is it the issue is you just can't annex across those strips of ground? Is that-- that's the main issue here?

**BLOOD:** It-- the main issue is that the federal property is so large we cannot go over it--

**FRIESEN:** I'm sorry, it doesn't what?

**BLOOD:** --and it's not contiguous to Bellevue.

**FRIESEN:** Doesn't work to, doesn't work to go around it either? It's just--

**BLOOD:** No.

**FRIESEN:** --prohibited by boundaries?

**BLOOD:** Yep.

**FRIESEN:** OK. Thank you, Senator Blood. I'll, I'll continue to look at the bill, but I, I don't see an issue here other than if-- the greenbelt status and we'll look into that. Other than that, I don't see any problems that I have with it, so thank you.

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

**GROENE:** Thank you. I guess I just have a curious mind and want to learn here. Senator Wayne, would you answer a question? I'm--

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

**GROENE:** Perhaps he's not here.

**FOLEY:** I don't see Senator Wayne on the floor.

**GROENE:** All right. Well, Senator Blood, I didn't get a chance to come over, would you answer a question?

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

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**BLOOD:** I will yield.

**GROENE:** I'm still looking at this map and I'm looking at that chunk of gray area that is part of Bellevue now that's not connected to any other part of the city. It's more than 200 feet, as you said, from the-- any other area, a lot further. And the first question is how many acres are in that area and is it developed now?

**BLOOD:** It is not developed now and I don't know how many acres are in that area.

**BLOOD:** You're an old farm kid, aren't you, like me?

**BLOOD:** I am a very old farm kid, yes.

**GROENE:** All right. So then just a bird's eye view, what would you guess, 20 acres, 30, 40, 50, quarter, 160?

**BLOOD:** You know, Senator Groene, I got to be honest. I don't want to answer a question that I'm not really sure--

**GROENE:** All right, well--

**BLOOD:** --what the answer is, but I can find out for you, sir.

**GROENE:** Would you? Because--

**BLOOD:** Yes.

**GROENE:** --it's hard to vote on a bill when you-- I don't know all the information. And then again, is Senator Wayne back? Senator Wayne, would you take a question?

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

**WAYNE:** Yes.

**GROENE:** And I'm glad you stood up because I forgot that you are very knowledgeable of this as Chairman of the committee and being on that committee. On that piece of ground, on the future land use that's already annexed in that is not connected, two questions: how did they manage to annex that without this law and then why can't they annex to the south of there that abuts that-- their boundary? Could you answer that?

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**WAYNE:** So the first question is when-- after they annexed that, it was raised as the issue. So they incorrectly annexed that, which this bill will correct. The second question was-- I'm sorry.

**GROENE:** So the-- that line shouldn't be around that they, they, they were not able to that-- then overturned?

**WAYNE:** Nobody sued on that issue, so it has not been overturned. But as they studied the statute about annexing other areas, this issue was raised and that's part of why this bill was brought to correct those issues.

**GROENE:** All right, so you just answered my-- the second question, why they can't annex to the south. I fully understand. That explained it. That is a very good explanation and I will now probably support this bill. But the evidence before me, absolutely made no sense why you needed this bill. But if they did an inaccurate or illegal, I guess, annexation, we're going back in time and now making it legal, is that correct? I believe that's correct.

**WAYNE:** Yes.

**GROENE:** Thank you.

**WAYNE:** Well, we're not going back in time, but yes.

**GROENE:** Thank you.

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

**WAYNE:** I, I was downstairs real quick and so I, I heard Senator Groene ask me questions, so I just pushed my button to see if Senator Groene had any additional questions. I'll yield the rest of my time to Senator Groene.

**FOLEY:** Senator Groene, you've been yielded 4:50.

**GROENE:** No, I've really-- as I said, I'll probably support the bill now because now it makes sense. Before it made absolutely no sense by looking at that map why we needed this bill. Thank you, Mr. President and Senator Wayne.

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

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I did a little math here for Senator Groene and I believe that that gray area



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is around 300 acres. So had I known I was going to be asked that question, I would have done the math before. So thank you for asking that question, Senator Groene. I don't bring forward frivolous legislation. It's legislation that has been greatly researched and is definitely needed for Senator Sanders and my-- District 45 and [District] 3 because we share Bellevue and we both want to do what's best for our communities that we serve. And when it comes to the maps, Bellevue was kind enough to provide the maps for us. So I would like to say that I understand the maps, but I don't have great knowledge when it comes to things like how big something is because they didn't give us a key. So I'm happy to be able to provide additional information, but I may have to do a little additional math. But hopefully that answers Senator Groene's question. We've answered Senator Friesen's question. We discussed that we cannot develop into a flood zone because that would be just stupid. We want to make sure that if you still are in question when it comes to the, the special eval-- special valuations, that you look at page 3, line 7 and that will address Senator Friesen's question. But it really is a simple bill. It's not a complicated bill. We can't grow without this bill and you have to remember too being next to Offutt Air Force Base, being next to the airfield, we can't even grow up like Omaha can. And even Omaha has limitations because of Offutt Air Force base. So cut us a break, vote green. We'd be really appreciative. With that, I would yield any time I have to Senator Wayne.

**FOLEY:** Senator Wayne, you've been yielded 3:00 if you care to use it.

**WAYNE:** Thank you, Senator Blood. I'll yield the rest of the time back to the Chair.

**FOLEY:** Thank you, Senator Wayne. I see no other members in the queue. Senator Wayne, if you'd like to close on the committee amendment? He waives closing. The question before the body is the adoption of AM231 Urban Affairs Committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 38 ayes, 0 nays on the adoption of committee amendments.

**FOLEY:** The committee amendment has been adopted. Is there any further discussion on the bill as amended? I see none. Senator Blood, you're recognized to close on the advance of the bill. She waives clothing. The question before the body is the advance of LB9 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

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**ASSISTANT CLERK:** 42 ayes, 0 nays on the advancement of the bill.

**FOLEY:** LB9 advances. Proceeding now to the next Speaker priority bill.  
Mr. Clerk.

**ASSISTANT CLERK:** LB152, introduced by Senator Slama, is a bill for an act relating to fireworks; change provisions relating to classifications of fireworks and the sale and possession of fireworks; to update references to federal law; define and redefine terms; to harmonize provisions; and to repeal original sections. This bill was introduced on January 8, referred to the General Affairs Committee, placed on General File with no committee amendments.

**FOLEY:** Thank you, Mr. Clerk. Senator Slama, you're recognized to open on LB152.

**SLAMA:** Thank you, Mr. President, and good morning, colleagues. I'd like to begin by thanking Speaker Hilgers for providing a Speaker priority for LB152, which is a straightforward bill that does two things. It changes the definitions of consumer and display fireworks to the federal definitions and broadens what can be sold as consumer fireworks in our state. Currently, our state has a definition of consumer fireworks that departs from the federal definition, creating additional restrictions that limit the fireworks available to consumers, especially when analyzing our neighboring states such as Missouri and South Dakota. The difference in definition has economic implications. Fireworks sales in Missouri topped \$51 million in 2019, while Nebraska fireworks sales were a mere \$6.6 million in the same year. Thousands of Nebraskans are willing to travel out of state to get access to fireworks that they cannot purchase at home. The desire for currently illegal fireworks like bottle rockets directly impedes our economy and hurts our local fireworks stands. LB152 will increase the sale of fireworks in our state by broadening which fireworks can be purchased by consumers in Nebraska. By changing the definition of consumer fireworks to the federal definition, we can make our state more competitive in this industry. Safety considerations were at the heart of this bill as well. There is no evidence to show states which have adopted broader-- the broader federal definition of consumer fireworks have seen any statistical significant increase in fireworks accidents compared to more restrictive states like Nebraska. My office has worked extensively with the State Fire Marshal's Office to create provisions that will further ensure the safety of Nebraskans. For instance, this bill will still maintain the ban on wire sparklers, which have a disproportionately high rate of consumer injuries. It also allows the Fire Marshal to test fireworks in response to complaints and, if necessary, deem them unsafe. This bill would also

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not supersede local ordinances regarding fireworks. If passed, LB152 will boost our economy, economy by encouraging in-state purchases of fireworks while still ensuring the Fire Marshal's Office has the tools necessary to maximize safety. The State Fire Marshal actually testified in support of LB152, which advanced from committee unanimously. I'd ask for your green light vote on LB152 to help freedom ring on this year's Fourth of July. Thank you, President.

**FOLEY:** Thank you, Senator Slama. Discussion is now open on the bill. Senator Blood.

**BLOOD:** Thank you, Mr. President and thank you, Senator Slama, for bringing forward LB152. I am going to take some time on this bill. I am not going to filibuster it, but I definitely have some questions in reference to some unintended consequences this bill may have. And so I'm hoping that Senator Slama can answer them, but I'm not going to ask her to yield yet because I want to make sure I use my time effectively. So I'm just going to kind of express my concerns and then ask that she yield. So the first question I would have is that we're promoting that the Fire Marshal can test fireworks, but under state statute, the first question I would have is didn't he already have that ability to test fireworks? It was also said that we're going to boost the economy by increasing our sales. So I have nothing against fireworks, but my concern is, is unintended-- the consequence is going to be that now we're allowing additional fireworks to come into Nebraska and that our State Fire Marshal will not be testing them unless, of course, there is a complaint. Is that going to bring safety issues that maybe are going to need to be addressed and cost taxpayer dollars? And the reason I say taxpayer dollars is when it comes to accident and injuries that pertain to fireworks, when you have those-- based on the more dangerous fireworks and they start fires or they cause damage-- then ultimately it also raises insurance premiums in that area. So those are the questions that I had to start with and I'd ask that Senator Slama yield and I'll just keep going till we get all the questions answered. Mr. President, I'd ask that Senator Slama yield, please.

**FOLEY:** Yes. Senator Slama, do you yield, please?

**SLAMA:** Yes, I do and thank you, Senator Blood, for the extended discussion on LB152. I think it's a great bill, so I love that we're going to take some time to talk about how it's a great bill on the floor today. To answer your first question, yes, the State Fire Marshal tests fireworks. I worked with his office to ensure that those testing requirements stayed in our state statutes and moreover, we're increasing oversight in our state because the Nebraska State Fire

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Marshal doesn't test the fireworks that are coming in from Missouri, from South Dakota into our state every single year to be used on the holidays where fireworks are currently legal. So in my mind, this increases the State Fire Marshal's ability to test fireworks that they may see as unsafe. There is no fiscal note, as any anticipated increased costs seem to be very, very minimal. So I hope that answers your first two main questions. Thank you, Mr. President.

**FOLEY:** Senator Blood, 2:00.

**BLOOD:** Thank you. So I'm not sure it answers my questions. I'm glad that you feel it's a great bill and you're so enthusiastic about it. That's one of the fun things about being a senator is being enthusiastic about your legislation. But again, I'm not seeing in the bill that he didn't already have that ability, so that might be something we want to talk about in between General and Select. But I also spoke with the Fire Marshal this morning and he said that there is a possibility for unintended consequences because we are bringing in new types of fireworks into Nebraska that were previously not utilized. And so one of the questions and concerns that I have is that in terms of fireworks, when we work with individuals with PTSD as well as a lot of our combat veterans, they can be triggered or respond to this kind of stimuli with, with these types of loud, unexpected noises under the cover of darkness. So one of the projects I worked on this last summer was a distribution of signs for veterans who wanted to make their neighbors aware that they do suffer from PTSD and to please be aware of fireworks. So the concern that I have is bringing in new fireworks, broadening the ability for people to-- who suffer from PTSD to suffer even more and is that going to be one--

**FOLEY:** One minute.

**BLOOD:** --of the unintended consequences? And we don't know what that answer actually is. So with that, I'd ask again, Senator Slama, would you yield to another question?

**FOLEY:** Senator Slama.

**SLAMA:** Yes. Yes, is that-- just in response to your comments, just very briefly, since I'm running low on time here, LB152 does not supersede local ordinances. I appreciate your work with our veterans and being sensitive to the challenges they face with PTSD. LB152 doesn't supersede local ordinances, so I don't see that being any type of issue here. Thank you, Mr. President.

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**BLOOD:** So I am aware that doesn't supersede any local ordinances and that's not really what I was getting to. My concern is that we are still bringing in additional types of fireworks that could be ultimately noisier than what we already have in Nebraska and I do have concerns for our victims of, of PTSD, especially our combat victims. So Senator Slama--

**FOLEY:** That's time, Senators. Thank you, Senator Blood and Senator Slama. Senator Pahls.

**PAHLS:** Thank you, Lieutenant Governor. I'm going to speak a little bit from experience. I know a lot of the fireworks that the good senator is trying to allow the state to have in their possession, you might say the people, they're probably already there because a number of cars that go back and forth across the border. The question I have is-- and, and I understand it does not interfere with the local governing bodies, but having served on a city council and-- in fact, being in charge of fireworks was one of my-- in one of my committees-- because what we do, we allow nonprofits to be involved with the vendors and they do make a very good sum of money. And I must say every year, we award 50 of these nonprofits money-- not money, but the ability to work with the vendor. We have probably 125 nonprofits who, who want to become involved, but we've set the limit at 50 or 40. I think it went back to 40. The question that I have, you cannot believe the number of complaints that we get from the citizens dealing with-- not only with veterans, but with animals. It became so large that we cut down the number of days that the-- that people can utilize the fireworks and the number of days they can be sold. Not every community around Omaha does that. It is because, to be honest with you, I know some of the, in some of the cities around, they have a very close relationship with the vendors, which I find ironic, but we try to get them so we all could have the same number of days to fire the fireworks and the same number of days to sell the fireworks. Needless to say, politics always gets involved in decisions like that. The number of complaints over the years in the city of Omaha, you just cannot imagine the number. Like I said earlier, that's why we cut down on the days that you could fire them, but it still is a very, very big or large concern by the citizens. Whether we do this or not-- we're going to have fireworks, whether we approve this bill, even if we would eliminate fireworks and that's what I tell some of the constituents. Even if we eliminate fireworks legally, they still would be there. If you can recall-- many of you-- when we were younger and it was illegal, we still had fireworks. So we need to find the best way possible to corral the-- this issue and make it available. My only concern, Senator Slama, is more powerful fireworks will be involved if

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we allow to upgrade the quality, the quality. That's my only issue. I also recognize they are here. We're probably trying to legalize those people who go across the border because my understanding that some of them have been stopped by law authorities. Again, not against fireworks and I probably will go along with you, Senator, on this, but just be aware we are going to be causing problems in many of the cities around here. Thank you.

**FOLEY:** Thank you, Senator Pahls. In the speaking queue are Senator Kolterman, McCollister, Blood, Day, and Pansing Brooks. Senator Kolterman, you're recognized.

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. I would be remiss if I didn't stand up and discuss this bill. I come from Seward, Nebraska. It's the Nebraska Fourth of July capital and we are very proud of that. I will support this bill and would invite all of you to come to the Fourth of July celebration in Seward, Nebraska, this year and you're welcome to join me at my house if you want. So with that, let's vote green and get this done. Thank you.

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

**McCOLLISTER:** Thank you, Mr. President. Good morning, colleagues. As I read the bill, I saw there are two classes of fireworks, Class B and Class C, and they're differentiated by 1.3 grams of explosive versus 1.4 grams of explosives. I need to ask Senator Slama a few questions about those two classifications.

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

**SLAMA:** Yes.

**McCOLLISTER:** I have a-- in my childhood, we used some of these explosives. Of what class would a cherry bomb be? Would that be one-- the Class C or a Class B?

**SLAMA:** So we're actually classifying based on the federal standards and the federal definitions, so consumer fireworks and display fireworks fall under 1.3 g and 1.4 g. As for cherry bombs, I wouldn't anticipate they would be covered under either because I don't think they're commercially available for purchase.

**McCOLLISTER:** So it's-- it doesn't fit in either category, is that correct?

**SLAMA:** I, I couldn't imagine so, no.

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**McCOLLISTER:** M-80s, same, same situation?

**SLAMA:** That one I am, I am unsure. I'd have to get back to you.

**McCOLLISTER:** OK. How about bottle rockets?

**SLAMA:** Those would fall under the definition of consumer fireworks, yes.

**McCOLLISTER:** Would that be a Class C or a B?

**SLAMA:** Those would fall under the consumer section, so Class-- there's no Class 1B or 1C. It's 1.3g and 1.4g.

**McCOLLISTER:** I see. Artillery shells that you can buy, those fireworks in the tents that seem to populate Omaha during Fourth of July?

**SLAMA:** Yes, those are largely already legal in the state of Nebraska. It would depend on the size of the artillery shell that we're talking about, but those artillery shells that are available to consumers would fall under the consumer section. The larger ones that you typically see at the city-wide displays or at weddings, those are-- those fall under the display category and that's based off of the amount of powder in the artillery shell.

**McCOLLISTER:** Do the states of South Dakota and Missouri adopt similar language when they govern firework sales in their states?

**SLAMA:** Yes, they largely follow the federal definition, but like Nebraska, have some flexibility in there for their own state fire marshals to add additional regulations on potentially dangerous fireworks as they see fit like we're doing with wire sparklers here.

**McCOLLISTER:** So will Nebraska continue to test fireworks, the State Fire Marshal?

**SLAMA:** Yes.

**McCOLLISTER:** I see. Thank you, Senator Slama.

**SLAMA:** Thank you.

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

**FOLEY:** Thank you, Senator McCollister and Slama. Senator Blood, you're recognized.

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**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I, I still am worried about the unintended consequences this bill may have for consumers and Nebraskans. I look at the data and I always use Omaha because that's our biggest municipality. I know last year in Omaha alone, there were 60 fireworks-related injuries just in that municipality. I respect Senator Kolterman's enthusiasm for this bill. This bill will not change anything when it comes to Seward and Seward will continue to be the awesome city that it is. But with that said, when you broaden the ability for people to get additional fireworks that we have traditionally not had in Nebraska, that gives me pause for concern. Because what we're basically saying and what I hear being said is that, you know, they're crossing over to Missouri to get some of this anyway, so why aren't we making money off of it? Well, gosh, that argument didn't work with the casinos with some of you, so which is it? Do we allow people to cross the border and do things that we don't agree with or do we allow them to cross and then say hey, we want that money too? So I'm a little confused on that issue right now. And I just want to back up Senator Slama on the cherry bomb. When I talked to the Fire Marshal this morning, he was very clear that cherry bombs would still not be allowed here in Nebraska. So for Senator McCollister, I want to make sure that you knew that. So I look-- again, we're always worried about property taxes and overtaxing people, but, you know, one of the unintended consequences of allowing people to utilize fireworks and possibly increasing injuries and damages to home and damages to property is the unintended consequence of raising people's insurance rates. And I do believe that that was opposition in the hearing that there was no opposition-- that there was actually opposition from the Nebraska Federation of Insurance and so I find that concerning because more fires are reported in the United States on July 4th than any other day and that fireworks account for half of those fires. That's a lot of fires from fireworks. Now, is this going to change the fact that there's no fires? Absolutely not. But could there be an unintended consequence of there being more fires? Sure, because we're adding in additional fireworks that could potentially be more dangerous than what we currently allow here in Nebraska. So let's talk about homeowner's insurance. So say that you are utilizing fireworks and you have damage or injury. For our insurance people that are in the room-- and I know we have some of them-- we know that your homeowner's insurance will likely protect you, but it's also probably going to bump your rates on the first incident, approximately \$273 a year, according to statistics that, that I found, annually. Now, if there's a second claim, God forbid you didn't learn your lesson the first time, it could be at least double that. That's pretty staggering. So it's funny that we worry about taxes and well we should, because that's our job, but we never worry



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about how people's insurance premiums are going to be affected by bills like this. So I have a lot of concerns when I know that nationally, 4,900 people-- and this is an average-- in the United States go to emergency rooms during the first eight days of July every year. And those injuries are from fireworks-related injuries, not the awesome stuff that we're seeing in the sky in Seward, but the stuff that people are doing in your street when you're trying to sleep after midnight during that week in July. And I agree with Senator Pahls, fireworks is really important to our nonprofits. In Bellevue, we have nonprofits that are dependent--

**FOLEY:** One minute.

**BLOOD:** --specifically on the sales of those fireworks, so I don't want to take that away. What I question is why are we expanding it? I agree with harmonizing the language. That's something that we have to do, but why do we want to bring more trouble into Nebraska when it comes with the types of fireworks that we are selling, just based on the fact that we want to expand our economy at the potential expense of someone being hurt? I don't know if that's good policy. And so I'm going to keep listening to the debate and I may have more questions for Senator Slama, but again, I'm really concerned about the unintended consequences of this bill. Thank you, Mr. President.

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

**DAY:** Thank you, Mr. President, and good morning, colleagues. I agree with Senator Blood in that I have real concerns about the safety issues and the unintended consequences that the passage of this bill would raise. And as I understand it, the Nebraska Insurance-- excuse me-- Insurance Federation is in opposition to this bill partially because the National Fire Protection Association states that in 2018, an estimated 19,500 reported fires were started by fireworks, causing five deaths, 46 injuries, and \$105 million in direct property damage and I see obviously this bill is only exacerbating that problem. In addition to that, in 2020, 1,882 calls were made to law enforcement related to fireworks, which is an increase of 30 percent over 2019 and I again see that this bill would only exacerbate the issue of law enforcement having to waste time and taxpayer dollars on calls related to fireworks. And so in addition to that, I-- again, I go back to the issue of military veterans and PTSD. I don't think that that's an issue that we should take flippantly or lightly. I know that there is a man in the city of La Vista that's attended several city council meetings talking about the fact that he has to move out of the city for two weeks surrounding July 4th because he cannot handle the noise from the fireworks because of the issues that he struggles with, with

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PTSD and I think that's something that we need to take very seriously when it comes to bills like this. So I'm listening to debate and I'm going to continue to keep my mind open, but I would like to hear a little more so I will yield the rest of my time to Senator Blood.

**FOLEY:** Thank you, Senator Day. Senator Blood, 2:50.

**BLOOD:** Thank you, Mr. President. Thank you, Mr. President, and thank you, Senator Day. So I'm going through the bill and I just want to make sure everybody's really clear on this. So LB152 is going to expand the type of consumer fireworks that can be sold and used in Nebraska. It's going to eliminate the current restrictions on rockets mounted to a sticker wire, nighttime parachutes. Fireworks shot into the air and after coming to the ground is the issue because it causes automatic ignition due to sufficient temperature and firecrackers that contain more than 50 milligrams of explosive composition fit that ticket. So again, I agree with the harmonizing part of the bill, but I don't know if I agree with the fact that since people can go across state lines and buy this, that we need to amend our state statute to address that issue to build our economy. So we just had extensive conversation about whether we needed to annex to build our economy, which to me seems more like a no-brainer because we're not trying to commit any crimes and adjust that by changing state law because we're committing that crime and that's kind of what I feel like this is doing. So the people that vote for this bill today, I'm going to compare that with how they voted against gambling because a lot of the arguments that I heard when it came to the gambling issue was that, well, just because they can do it and it's legal there, doesn't make it ethical. Well, is it ethical, is it right to bring in additional fireworks when we have such a heavy concentration, especially in "Jenator"-- "Jenator"-- Senator Day's-- sorry about that-- district and my district and Senator Sanders' district? We have a lot of people that suffer from PTSD--

**FOLEY:** One minute.

**BLOOD:** --and there's nothing in this bill that's going to prevent them from being exposed to these additional noises. And you can control that and, yes, a local ordinance could control that, but again, why do we need to create more work for our municipalities because we're not doing our due diligence on this end? So my concerns are harmonizing, yes, expanding the ability to add fireworks that could potentially be dangerous, no. With that, I would yield any time I have left back to you, Mr. President.

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

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**PANSING BROOKS:** Thank you, Mr. Lieutenant Governor. I rise in support of Senator Slama's bill. I, I do feel really sorry for people with PTSD as we are thinking about it. Any community you live in, there are significant firework shows across the state and I-- you know, it's, it is a very difficult issue. And really probably the only way to handle PTSD is to make it so that there are no fireworks at all and that's not going to happen. I don't support that at all and in reality, my husband and I were married on July 3rd so that we would always have a celebration time around our anniversary. So I love fireworks. I love that we're cutting down penalties. Any time we can cut penalties, I'm in favor of it. The same argument applies for this as gambling, I guess, because they're going to go across the border and we have done so. I'm not saying that we shot them off here, but we have gone to Iowa to get our fireworks. So I just want to say, you know, I guess I'm not being consistent because I am worried about betting on in-state colleges, but I do think it's, it's a good way to, to help a little tiny portion of our overcrowding process, you know, dealing with, with those people arrested for shooting off some fireworks and, and it's also a really good way to celebrate my true love, Loel. OK, thank you, Mr. Lieutenant Governor.

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

**LATHROP:** Good morning. I don't know how to follow that. I have two things I wanted to bring up about this bill. First is I'm glad that Senator Pahls spoke because he used to be my city councilman and someone I care deeply about is not a fan of the fireworks. And of course, in Omaha, they're supposed to stop at 11:00 p.m. and they never do and I always told Karen she needs to call Rich Pahls and have a conversation with him. Apparently, she may have. I am glad that there is a provision in here that allows for local control. My biggest concern is when Senator Kolterman stood up and said that Seward is a capital of Fourth of July celebrations in the state. And I think most of you know that Ralston is the true independence city, that Ralston is where all of the dignitaries come to be in the best parade that happens on the Fourth of July. We call it Independence Day in Ralston, not the Fourth of July. It is complete with a dignitaries lunch. Every politician in any jurisdiction inside the state is there celebrating lunch and the parade, the best parade in the state, by the way, followed by the best fireworks in the entire metropolitan area, probably across the entire state. So this Independence Day, I hope you'll take the opportunity to stop by our parade, perhaps join in the dignitaries luncheon, and certainly you'll want to be there for the fireworks demonstration. So thank you, colleagues.

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**FOLEY:** Thanks, Senator Lathrop. Senator Ben Hansen.

**B. HANSEN:** Thank you, Mr. President. Well, I don't want to outdo Senator Lathrop and Senator Kolterman, but I am from Blair and we may not have the better fireworks than they do, but our town might be a little bit more awesome than theirs. But we have Gateway to the West Days and I would be remiss to say if on a non Fourth of July day, they are the best fireworks in the state of Nebraska in June. So I, I appreciate fireworks. I appreciate what Senator Slama is doing here and just to reiterate a little bit of what Senator Lathrop said, the idea of local control that's involved with this bill and I do appreciate and acknowledge some of the concerns that Senator Blood has brought up when it comes to PTSD, as well. And so I, so I like the idea of local communities being able to limit the time that they do certain things or if they even want to at all. I know Blair has done a pretty good job about that, limiting the time on there. So I, I did-- I had one actual question for Senator Slama if she would like to yield, please?

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

**SLAMA:** Yes.

**B. HANSEN:** So when we are trying to compare ourselves maybe to other states that have similar legislation in place, Missouri-- I know a lot of my constituents, a lot of people of the state of Nebraska travel down to Missouri to get fireworks and they bring them back here-- and this is in relation a little bit to Senator, Senator Blood's concerns about maybe insurance levels going up or injury rates. What are the levels like in Missouri compared to Nebraska when it comes to injury rates, etcetera?

**SLAMA:** Yes. Thank you, Senator Hansen. I appreciate the question and it raises a great point, a point at which Senator McCollister actually made a few years back when he was at the Platte Institute, which found that Missouri only had one firework-related injury for every 14,609 residents, while Nebraska had one injury for every 11,564 residents. So that means that Nebraska actually has a higher incidence rate of injuries related to fireworks than Missouri. So overall, we don't see much of a statistically significant difference in the amount of injuries or claims filed in states that legalize up to the federal level versus our state, which has a slightly more restrictive view of what is a consumer firework and what isn't.

**B. HANSEN:** OK, thanks for answering that. And it does sound like the, the, the essence of this bill is to codify kind of with, with federal

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law, but also maintain the idea that we do have a State Fire Marshal who can limit certain fireworks that are illegal. We have local control that can limit the time and amount-- perhaps the amount of fireworks they-- or type of firework that comes into their community. And so one other thing that we do in Blair, which I know a lot of communities do around Nebraska, is the organizations that sell fireworks typically are nonprofit. I know in Blair, we have only four and they all are affiliated with some kind of nonprofit and the proceeds go to them. And so not that that is a reason to ever make a law, like I mentioned before, to make money off of something, but I see what-- that will be a benefit in smaller communities that have nonprofits that are trying to raise money for certain organizations. So with that, I will yield the rest of my time. Thank you.

**FOLEY:** Thank you, Senator Ben Hansen. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Good morning, Mr. Lieutenant Governor. Nice to see you. I rise-- I, I suppose I'm not going to vote against this bill, but I will probably be present not voting. I had a discussion this morning with the other Senator Cavanaugh and we have diverging views on fireworks. So I, I'm not a fan of fireworks just to begin with. I, I find them problematic for the iss-- the reasons that we've already discussed here today around PTSD. I know that that is a really significant and impactful thing that happens every single year. I also, as a mother of small children, have had to deal with late-night fireworks and 11:00 p.m., even though that is the curfew, they, they never stop at 11:00 p.m., but my kids go to bed at 8:30 p.m., so from 8:30 p.m. to 11:00 p.m., that's, that's a lot anyways for young children to be scared and to have to deal with that. They usually sleep in our beds on those nights. And so anything that expands the opportunity for fireworks is not something that I'm particularly in favor of. But a bigger concern that I have is that this allows for fireworks that are currently illegal to be legal in the state. And this did not go through the Judiciary Committee and so this kind of goes back to our referencing. If we are decriminalizing something, it seems like it should have gone through the, the Judiciary Committee and I, I just question why we, we, we would decriminalize fireworks across state borders when we continue to have criminal penalties, penalties for other things across state borders. And the argument that I heard was the rev-- the lost revenue, the border bleed revenue, but I believe that's happening in other areas economically of things that we could legalize in Nebraska and get sales tax revenue here in Nebraska, but we are losing that to borders like South Dakota, which I think was mentioned, and Colorado. And so I find that problematic from a philosophical policy standpoint

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and I would like to see us putting more safeguards in. I do appreciate very much that Senator Slama has ensured that local control remains and I think if that hadn't remained, I probably would be voting no, so thank you for that, Senator Slama. But I just really-- I'm not a proponent of fireworks and so I don't think that this is something that I can support at this time unless we have a more robust conversation around the decriminalization of fireworks that are currently illegal because we are just as a body, if we vote for this, deciding that that's no longer a crime and at one point in time, it was a crime. And I think that that's an important conversation for us to be having, not just the revenue, but it is a crime to bring certain fireworks into the state and we would be deciding that it's no longer a crime. And we heard a lot yesterday about the importance of the committee makeup in this body and the committee makeup of the Judiciary Committee is important and we should be considering that when we're referencing bills. And if we're decriminalizing something, I would think that we would have put a premium on sending such a bill to the Judiciary Committee. Mr. Lieutenant Governor, how much time do I have left?

**FOLEY:** 1:15.

**M. CAVANAUGH:** I will yield it to Senator Slama if she would like to have it.

**FOLEY:** Senator Slama, you have 1:12.

**SLAMA:** Thank you, Mr. President. And just in response to Senator Cavanaugh's discussion, which I, which I do appreciate, there was a discussion in Referencing about this bill. I, I ask that if she's interested in having a say in referencing, that she run for Exec Board in the next biennium. I'm sure she'd be more than welcome to the team. But what's generally happened historically for fireworks-related bills, they have gone to General Affairs and I would defer to Chairman Briese to give a little bit more historical context on that, but in the past, by and large, fireworks bills have gone to the General Affairs Committee. Thank you.

**FOLEY:** Thank you, Senator Slama. Senator Blood, you're recognized for your third opportunity.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I don't stand in support of LB152 as written. I do support the harmonizing language. I think that's important and I thank Senator Slama for helping our State Fire Marshal harmonize that language, but the expansion of the sales has so many unintended consequences that I want

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to just keep addressing. So when it comes to fireworks, really few people in this room that are insured escape the economic damage that is caused every year by fireworks, no matter what type of insurance you have. So property and casualty insurance, you guys are going to face claims for fires and liability, which is going to raise your rates. Health insurance insurers, the more claims that, that come to the emergency room and to the doctors and to the hospitals and other medical care, such as physical therapy when they lose their hand and blow it up or whatever, that's going to raise your insurance rates. Life and disability insurers, again, when there's a claim, there's a cost to that disability, that dismemberment, that death. So when claims go up, we as policyholders face increased premiums. Now if I heard Senator Slama correctly, she said that we had a higher rate of injuries. Did I hear that? OK, she's shaking her head yes. I don't understand why we want to add to those injuries by, by expanding the types of fireworks that we allow into Nebraska and I am enthusiastically in support of, of Ralston's awesome parade and their fireworks show and Seward's and the Gateway of the West. And since we're comparing events, I mean, Senator Day and Senator Sanders and I should talk about Werner Park because not only do we have fireworks on the Fourth of July, but we have air shows throughout the baseball season as well. So it isn't that I'm against community events. What we're talking about is mostly consumer stuff and I have more veterans in my district per capita than any district in Nebraska and I deal with people that have serious PTSD, especially our combat victims, all the time. And we know that there are at least 20 suicides a day when it comes to our veterans and so I can't in good faith vote for something I know that is likely going to make it harder for them to survive the Fourth of July. And it breaks my heart when I work on this project in the summer and I hand out the yard signs and people come and tell me I have to go to my in-laws' house and stay in the basement for a week. I have to leave my home. I have to go and stay in a hotel. We plan our vacation. We go to a state where there isn't any fireworks. That's not right. And is this bill going to change any of that? No, but I do believe that the expansion of the fireworks could potentially make that worse and that's not a risk that I am willing to take. We talk so much about taxes. We talk so much about property taxes, but we never talk about some of these bills that make our insurance premiums go up. And I don't know about you, but I pay outrageous amounts of money for homeowner's insurance-- what I think is outrageous. Disability, health-- I mean, we have people that can't even afford health insurance. Why are we trying to make it harder on them by creating more potential deaths, more potential injuries, more, more potential for long-term care because they've permanently injured themselves and they're going to need physical therapy and help--

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occupational therapy and help? You know, we have this inflated patriotism thing going on--

**FOLEY:** One minute.

**BLOOD:** --on this floor and I believe I'm a patriot and I love America and I love Nebraska, but what's the gray area? The gray area is when we allow a bill that we say is about the Fourth of July and being patriots hurt the very people that fight for our right to have that ability here in the United States. And I am not willing to do that. And I'm not going to filibuster this bill, but I certainly, as is, will potentially not vote for it either because I love the veterans in my district and I'm not going to contribute to those that suffer from PTSD, let alone the other veterans here across Nebraska. Thank you, Mr. President.

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

**HUNT:** Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Good morning, Nebraskans. I want to use this bill and this time to make a few points about the bills that we've been debating in this body and the direction that we're going in. When I look at the bills that we've debated since we went into session here, this is a list of all the bills we've had for debate. This is our agenda. We talk about we don't want to hurt our fireworks stands. This is going to be really good for economic development because right now we're hurting our fireworks stands. Yesterday, we debated a bill on consent calendar, which is great, that says, you know, if somebody on a, on a city council or a county board is the only lifeguard or the only person with a snowplow in a city in Nebraska, that they can be compensated for the services they provide to their municipality. Or this bill about if there's only one veterinarian in a community and they die, that their prescriptions can still be filled by another technician or we're going to allow bare-knuckle boxing so we can pay to watch people hit each other. The level that we're talking about throughout this whole session to improve Nebraska is on the ground. It is so bleak. The things that we're talking about when we talk about wanting to improve economic success in Nebraska, if we want to improve the quality of life of people in Nebraska, we've had a really dry year here in the Nebraska Legislature after a really exciting year and a really, really impactful year, a really meaningful year in reality to the people outside this Chamber. We had a whole pandemic that we're still in. We had a nationwide movement against racial violence and police violence. Even in Alliance, Nebraska, and in McCook, Nebraska, they had Black Lives Matter marches. That's not something that we've ever seen probably in this state on such a large scale in terms of the



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demand from Nebraskans for action from their lawmakers. And people are being cute and silly about this fireworks issue, even though it causes quantifiable damages, quantifiable damages to property and that's why the insurance industry is concerned about it, even though it causes injury and death for kids, for people. And in drought years in Nebraska, we regularly and rightly hear from the rural senators about the consequences of that, yet here we are bolstering our statutes to provide for more fireworks and more powerful fireworks and greater fireworks, which are direct threats to ag property in dry years. But it's a tradition of explosions and power and fireworks and for whatever reason, it's related to notions of freedom and independence and so I have no doubt that this is going to sail through and it's going to be something that we have in our state. Some statistics I found is that fireworks started an estimated 19,500 fires in 2018. In 2018, U.S. hospital emergency rooms treated an estimated 9,100 people for fireworks-related injuries. Children younger than 15 accounted for more than one-third of the injuries. And I don't know if I care that we have fireworks. I am bored by this bill like I'm bored by so many other bills that we've debated so far this year when the people of Nebraska are asking us for more action, for more creativity, for more courage, for more imagination in the kind of legislation we're working on. So I don't know if I care about this bill. That's not the question. But the question I have is do we have consistency in this body to support people who suffer and are vulnerable in our state? No. We're passing a bill that will definitely lead to more suffering, that will definitely lead to more danger and injury. Is it people's freedom--

**FOLEY:** One minute.

**HUNT:** --to injure themselves and light off fireworks that cause injury? I guess so. A lot of you talk about your constituents traveling to Missouri to get fireworks. Well, a lot of your constituents are also traveling to Colorado to get cannabis, but we're not having a serious conversation about the economic benefits of cannabis. No, we're talking about saving our economy by making sure firework stands stay in business for, like, a few days in July. I don't blame the introducers of these bills. This is on all of us for failing to think bigger about how we can grow Nebraska and how we can improve the quality of life of people here who are suffering and who do tell us this and it's a failure of imagination and courage. People tell us they want LGBTQ equality. They want to raise the tipped minimum wage. They want to end the death penalty. They want medical cannabis. You know, passing medical cannabis in Nebraska, I joke it would finally bring Nebraska into 1996.

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

**HUNT:** Thank you.

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

**KOLTERMAN:** Good morning again, colleagues. I rise in support of this bill, but I want to-- I don't, I don't think I did my community justice last time I was on the mike, so I thought I'd read a little history about the city of Seward and the proclamation of Seward being-- their claim towards being the Fourth of July city. Originally in 1969, my community was in search of an identity, a claim to fame. Communities in the surrounding areas and throughout Nebraska were creating themes for the cities. We felt we should as well. And I'm proud to say my brother Clark had a tremendous impact in this. But think about Wilbur. They are the Czech capital. Wayne is the chicken capital. York is the egg capital. O'Neill is the Irish capital and Stromsburg is the Swedish capital. Syracuse is the German capital. Newman Grove is the Norwegian capital and Dannebrog is the Danish capital of Nebraska. So we in Seward decided that we would consider several possibilities, as we have a rich German heritage. We considered being the educational capital of the state because Concordia University and Southeast Community College, but it was pointed out that one of the real constituents' claim to fame was our annual Fourth of July celebration and we should capitalize on that. So the Seward Fourth of July committee, which my-- as I said earlier, my brother started, decided to name ourselves Nebraska's official Fourth of July city. And at that time, Governor Jim Exon was the Governor and so we wrote to him and he did proclaim us that. And we wrote a sample proclamation and on March 27, 1973, Governor Jim Exon proclaimed Seward as the Nebraska official Fourth of July city and presented the committee and community of Seward with a framed copy of the proclamation and that made it official. Well, that wasn't enough for us so in 1979, we wanted to go one step farther. So we asked to be named the national-- America's Fourth of July city. So former U.S. congressman and current Governor at the time, Charlie Thone, was the first to respond and he proclaimed us U.S.-- and then he had Senator Ed Zorinsky proclaim us as well in the Senate. All official proclamations hang in our community in, in our city's-- city civic center and our-- and the Fourth of July city theme is incorporated in many of our activities, logos, and banners. Now, while we celebrate over five decades promote-- of promotional effort, creating an atmosphere of united community and celebration, we are red, white, and blue 365 days a year, not just on the Fourth of July. And finally, in rebuttal to my good colleague right here sitting next to me, Senator

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Lathrop, there's a reason they come to Seward to finish up on the Fourth of July because our, our parade is a grand parade and it's the best way to end the day. So please vote green on this. I appreciate the opportunity to brag about my community. Thank you.

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

**McCOLLISTER:** Thank you, Mr. President. Good afternoon or good morning again, colleagues. I can't let some of these comments about the Ralston parade go unanswered. I participated in the Ralston parade a few times and the city-- in a way of saying it-- extorts money out of the politicians walking in the heat, 100-degree heat and it's, it's not that great a parade, I'll tell you that. We need to talk about that. Section 2 of this bill deals with enforcement and I'd like to ask Senator Slama a couple questions about that.

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

**SLAMA:** Yes, I will.

**McCOLLISTER:** Thank you, Senator Slama. Enforcement of firework laws, are they complaint driven or does the Fire Marshal have duties that-- under this bill that he will continue?

**SLAMA:** That's a great question, Senator McCollister. It is a mix of both.

**McCOLLISTER:** Can you repeat your answer?

**SLAMA:** Yes. That's a great question, Senator McCollister. It is a mix of both local law enforcement, complaint-driven enforcement and the State Fire Marshal also has duties outlined in statute as well. This would not change those duties.

**McCOLLISTER:** Thank you. What-- other than the sales taxes that occur at the locations for fireworks, are there any other fees associated with fireworks that the state would receive?

**SLAMA:** Not that I'm aware of, but we see big jumps in economic development. When those folks come to the local fireworks stands, they may stay in town for lunch or dinner. They may stop at the local shops on Main Street, so there's a lot of economic impact and economic benefit to the state that's not necessarily captured in increased sales tax revenues either.

**McCOLLISTER:** Does the Fire Marshal do inspections at, at all--

**SLAMA:** Yes.

**McCOLLISTER:** --with regard to fireworks?

**SLAMA:** Yes, yeah.

**McCOLLISTER:** How is that-- how does that occur?

**SLAMA:** I would have to get back to you on the specifics on that, but it is very common for the State Fire Marshal to inspect fireworks stands and ensure that everything is up to Nebraska statute standards.

**McCOLLISTER:** Great. Well, thank you, Senator Slama, and I endorse LB152.

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

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. I will be brief. I just wanted to follow up on some comments about the referencing issue. We did have a bill referenced to HHS this year that I also thought should have gone to Judiciary. And in fact, I asked our committee if we could hold off on Execing on that bill so that I could confer with the Judiciary legal counsel because I had concerns about the areas of expertise that we had within our own committee and so we did that. And it was Senator Ben Hansen's bill and he diligently worked on an amendment, which I appreciate, and we ultimately voted it out of committee. But this is something that I am concerned about that we need to take a close look at when we are referencing bills. And I appreciate Senator Slama's comments that fireworks bills generally go to General Affairs. My concern was that this particular bill removes something that is currently in statute as a crime and decriminalizes it. But with that said, that, that was my final comments I just wanted to follow up on. I will yield the remainder of my time to the Chair. Thank you.

**FOLEY:** Thank you, Senator Machaela Cavanaugh. Senator Slama, you're recognized to close on the advance of the bill.

**SLAMA:** Thank you, Mr. President, and thank you very much for the extended discussion today, colleagues. I'm not sure-- I'm just getting texts and emails from constituents and folks across the state expressing their strong support of this bill, so I am grateful that we did take some time on this this morning, even though I'm guessing a few of the senators that got up to speak today weren't entirely genuine in their discussion. So I would like to clarify some points that were raised during debate. Cherry bombs, M-80s, M-100s, and

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silver salutes are all illegal under the federal definition since 1996. We reviewed the stats on injuries. There's no real evidence to show-- especially when you look at our neighbor, Missouri, and even South Dakota, that fireworks-related injuries are not statistically significantly higher when you legalize up to the federal definition. And just with that, I'd like to add and hop into the fireworks Fourth of July wars. Our Fourth of July celebration, it's called the Freedom Day celebration in Brownville. We don't have a bunch of dignitaries there, but where we're short on politicians, we make up with, with a pretty good time. So I'd recommend anybody interested to come check it out. And with that, I'd like to ask for a call of the house, please, and a roll call vote in reverse order.

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

**ASSISTANT CLERK:** 28 ayes, 3 nays to go under call, Mr. President.

**FOLEY:** The house is under call. All senators, please return to the Chamber and check in. The house is under call. Senators Wayne, Bostar, and John Cavanaugh, please return to the Chamber and check in. The house is under call. Senator Slama has authorized us to proceed. The question before the body is the advance of LB152 to E&R Initial. A roll call vote in reverse order has been requested. Mr. Clerk, please call the roll.

**ASSISTANT CLERK:** Senator Wishart, voting yes. Senator Williams, voting yes. Senator Wayne. Senator Walz, voting yes. Senator Vargas, voting yes. Senator Stinner, voting no. Senator Slama, voting yes. Senator Sanders, not voting. Senator Pansing Brooks, voting yes. Senator Pahls, not voting. Senator Murman, voting yes. Senator Moser, voting yes. Senator Morfeld. Senator Morfeld, voting yes. Senator McKinney, voting yes. Senator McDonnell, voting yes. Senator McCollister, voting yes. Senator Lowe, voting yes. Senator Linehan, voting yes. Senator Lindstrom, voting yes. Senator Lathrop, voting yes. Senator Kolterman, voting yes. Senator Hunt, voting no. Senator Hughes, voting yes. Senator Hilkemann, voting yes. Senator Hilgers, voting yes. Senator Matt Hansen, voting yes. Senator Ben Hansen, voting yes. Senator Halloran, voting yes. Senator Groene. Senator Gragert, voting yes. Senator Geist, voting yes. Senator Friesen, voting yes. Senator Flood, voting yes. Senator Erdman, voting yes. Senator Dorn, voting yes. Senator DeBoer, voting yes. Senator Day, not voting. Senator Clements, voting yes. Senator Machaela Cavanaugh, not voting. Senator John Cavanaugh, voting yes. Senator Briese, voting yes. Senator Brewer, voting yes. Senator Brandt, voting yes. Senator Bostelman, voting yes.

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Senator Bostar, voting yes. Senator Blood, not voting. Senator Arch, voting yes. Senator Albrecht, voting no. Senator Aguilar, voting yes. The vote is 39 ayes, 3 nays, Mr. President, on the vote to advance.

**FOLEY:** Mr. Clerk, Senator Wayne--

**ASSISTANT CLERK:** Senator Wayne, you were voting yes, right? The vote is 40 ayes, 3 nays, Mr. President.

**FOLEY:** LB152 advances. I raise the call. Items for the record when you're ready, Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, amendment to be printed to LB507 from Senator Gragert. Your Committee on Enrollment and Review reports LB156, LB320, LB507, LB274A, LB324A, LB544A, and LB561A all to Select File, some with E&R amendments. Mr. President, next bill. LB583, offered by Senator Murman, is a bill for an act relating to prescriptions; to define terms; to require electronic issuance of prescriptions for controlled substances; to provide exceptions; harmonize provisions; provide an operative date; and repeal the original sections. The bill was introduced on January 19, referred to the Health and Human Services Committee. That committee placed the bill on General File with committee amendments.

**FOLEY:** Thank you, Mr. Clerk. Senator Murman, you're recognized to open on LB583.

**MURMAN:** Thank you, Mr. Lieutenant Governor, and good, good morning, fellow colleagues. I'd like to thank Senator Hilgers for making this bill a Speaker priority and thank Senator Arch and the Health and Human Services Committee for advancing it unanimously out of committee. I don't think I'm going to get the fireworks on this bill that the last one got. LB583 is a fairly simple bill. It essentially requires that prescribers utilize electronic prescription technology to prescribe controlled substances beginning January 1, 2022. All of you are aware the opiate, opiate-- opioid crisis in Nebraska as well as all across the country has been a real problem adversely affecting many individuals and families. Some of you may have personal experience or knowledge of these types of issues. As a result of this crisis, more than half of the states are requiring it or will soon require the utilization of electronic prescriptions for controlled substances. This is an essential step in curtailing abuse of overprescribing opioids and keeping individuals from shopping for doctors who would readily write a script. Additionally, I would like to point out that this bill would bring Nebraska law in line with federal law, which will mandate the use of e, e-prescribing for

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Medicaid Part D by January of 2022. Further rationale for this bill includes increasing safety and limiting errors. Electronic prescribing of controlled substances adds new dimensions of safety and security. As you would expect, electronic prescriptions cannot be altered, cannot be copied, and are electronically tracked. The federal Drug Enforcement Administration rules for electronic controlled substance prescriptions establish strict security measures such as two-factor authentication and reduce the likelihood of fraudulent prescribing. Notably, the state of New York saw a 70 percent reduction in the rate of lost or stolen prescription forms after implementing its own mandatory e-prescribing law. Second, studies show that electronic prescriptions are less prone to errors. According to a study conducted at Johns Hopkins Medication Outpatient Pharmacy, a large percentage of handwritten prescriptions failed to meet best practice guidelines or were missing information that would otherwise be prompted by an electronic prescribing system. With electronic prescriptions in contrast, the, the prescription is understandable and you do not see these types of errors occurring. I mentioned earlier that more than half of the states are requiring it or will soon require the utilization of electronic prescriptions for controlled substances. All of Nebraska's neighbors, with the exception of South Dakota, have enacted this type of legislation. Since the introduction of this bill, we, we received several concerns from affected parties and committee AM116, which Senator Arch will speak about, addresses all of those concerns. I would also like to point out that at a minimum, the committee amendment also substantially reduces the fiscal note. Cost factors in the fiscal note dealing with Health and Human Services reporting to the Health Information Exchange and the University of Nebraska Dental College acquiring new software go away. The bill was outed-- voted out of Health and Human Services Committee 7-0 and no one testified in opposition to the bill. I would appreciate your support of LB583 and I'll be happy to answer questions that anyone might have. Thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Murman. As the Clerk indicated, there are amendments from the Health Committee. Senator Arch, you're recognized to open on AM116, the committee amendment.

**ARCH:** Thank you, Mr. President. Good morning, colleagues. AM116 is the committee amendment to LB583. AM116 would strike proposed language on page 9 in the green copy of the bill stating that the prescriber's software vendor would report prescriptions to the statewide health information exchange in a format specified by the statewide health exchange. AM116 would also remove proposed exemptions to electronic prescription on page 9 of the green copy of the bill for prescriptions

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issued to out-of-state pharmacies, prescriptions dispensed by an out-of-state pharmacy, and mail-order prescriptions. Dentists would not have to electronically prescribe until January 1, 2024, according to this amendment. The committee voted to amend LB583 with AM116 unanimous, unanimously and LB583 as amended was voted unanimously out of committee. With that, I urge your green vote on committee AM116 and your green vote on the, on the underlying LB583. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Arch. Debate is now open on LB583 and the pending committee amendment. I see no discussion. Senator Arch, you're recognized to close. He waives closing. The question before the body is the adoption of the committee AM116. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 38 ayes, 0 nays on the adoption of committee amendments.

**FOLEY:** AM116 has been adopted. Any further discussion on the bill as amended? I see none. Senator Murman, you're recognized to close on the advance of the bill. He waives closing. The question before the body is the advance of LB583 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 41 ayes, 0 nays on the advancement of the bill.

**FOLEY:** LB583 advances. Next bill, Mr. Clerk.

**ASSISTANT CLERK:** LB500, introduced by Senator Geist, is a bill for an act relating, relating to crimes and offenses; change provisions relating to terroristic threats, stalking, harassment, child enticement by means of electronic communication device, tampering with a witness or an informant, and jury tampering; to define terms, repeal the original sections. The bill was introduced on January 19. It was referred to the Judiciary Committee. That committee reports the bill to General File with committee amendments.

**FOLEY:** Thank you, Mr. Clerk. Senator Geist, you're recognized to open on LB500.

**GEIST:** Yes, thank you, Mr. President and members of the Legislature. First, I want to thank Senator Hilgers for making this a Speaker priority-- I'm sorry. I should have said Speaker Hilgers-- for making this a Speaker priority bill and I'm pleased to introduce LB500. LB500 is a simple bill that was introduced to create clarity when crimes are committed with an electronic device. It clarifies that when a specific



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criminal offense is committed using an electronic communication device such as a cell phone, this violation is legally deemed to have been committed either at the place where the electronic communication was initiated or where the electronic communication was received, wherever that jurisdiction is that is in the state. And so in plain language, what that means is if someone uses a terroristic threat using their cell phone to a minor who may be in Omaha and the terroristic threat was originated in Scottsbluff, then either one of those locations, whether where it was received or whether it was originated, could be in the jurisdiction of where the crime could have been tried by the court. There is a Judiciary Committee amendment that will replace the bill with compromised language that Senator Lathrop will introduce. This bill was voted out of committee 8 to no-- 8-0 and I would ask for your support for LB500. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Geist. As the committee-- as the Clerk indicated, there are amendments from the Judiciary Committee. Senator Lathrop, you're recognized to open on AM633.

**LATHROP:** Thank you, Mr. President, colleagues. LB500 was heard by the Judiciary Committee on February 17, 2021. The committee voted to amend and advance the bill on an 8-0 vote. AM633 replaces the original bill. The amendment creates a new section that provides the venue, not jurisdiction, but venue for a criminal trial in which a person uses an electronic communication device to commit an element of the offense. The amendment applies generally to any offense as opposed to specific offenses in the original bill. The amendment also more clearly focuses on venue. This is consistent with the intent of the original bill, but avoids creating an ambiguity or a problem with jurisdiction. With that, I would encourage your support of AM633 and LB500. Thank you.

**FOLEY:** Thank you, Senator Lathrop. Debate is now open on LB500 and the pending committee amendment. Senator Clements.

**CLEMENTS:** Thank you, Mr. President. I stand in support of, of the amendment and the bill. I had a bill like this in-- I think it was 2018. I had a situation with a police force in my district had a woman being harassed by text message and the bill at-- the law at that time says intimidation or harassment by a phone call was illegal, but by electronic device was not. So at that time, we did change harassment and intimidation to add text message or electronic devices like this is doing. This is expanding the different offenses that could be added and I think it's very important. The bill that I had also specified that the venue could be either where the message was sent from or received and I believe this is just keeping-- getting Nebraska statutes up to date with technology and it's very necessary, getting

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us up to date, and I urge your green vote and thank you, Mr. President.

**FOLEY:** Thank you, Senator Clements. Is there any further discussion? I see none. Senator Lathrop, you're recognized top close on the Judiciary Committee amendment.

**LATHROP:** Community--

**FOLEY:** He waives closing. The question before the body is the adoption of AM633 Judiciary Committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 41 ayes, 0 nays on the adoption of committee amendments.

**FOLEY:** AM633 has been adopted. Any further discussion on the bill as amended? I see none. I apologize. Mr. Clerk.

**ASSISTANT CLERK:** Senator Geist, you had previously filed AM528, but I have a note to withdraw.

**GEIST:** Please withdraw that amendment.

**FOLEY:** The amendment is withdrawn. Now, Senator Geist, you're recognized to close on the advance of the bill. She waives closing. The question before the body is the advance of LB500 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 40 ayes, 0 nays on the motion to advance the bill.

**FOLEY:** LB500 advances. Next bill, Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, LB411 by Senator Lathrop. It's a bill for an act relating to designated health information exchange; to require provision of clinical information by health care facilities and health care payors; to repeal the original section; declare an emergency. The bill was introduced on January 14, referred to the Health and Human Services Committee, placed on General File with committee amendments.

**FOLEY:** Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB411.

**LATHROP:** Thank you, Mr. President and colleagues. I guess I'd like to start out by thanking the Speaker for making this a Speaker priority.

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LB411 seeks to improve healthcare across the state by making it easier for providers to access a patient's complete medical history at the point of care. It does this by requiring healthcare providers and medical insurers to share clinical information with the state's designated health information exchange, a system that facilitates the sharing of medical records. It achieves that at no cost to the providers. For decades, the U.S. healthcare system has been building toward the capacity for digital medical records to follow patients wherever they are receiving care. President George W. Bush created the office of National Health Information Coordinator in 2004 and doubled funding for these efforts. Every administration since then has sought to increase the capacity, capability, and integration of healthcare information systems. In 2009, Governor Heineman designated NeHII, now known as CyncHealth, to operate a statewide health information exchange. Thousands of providers and insurers across the state, including most of our hospitals, already participate in this system. We now have an opportunity to increase the value of this system for everyone by making it inclusive of all relevant health records. My interest in this matter is simply to benefit consumers of healthcare, which is all of us, by making sure our medical practitioners have ready access to a complete medical history when making important decisions about our care. Currently, if I get into a car accident and I'm taken to the emergency room somewhere in the state that hasn't treated me before and they don't participate in the health information exchange or my provider back in Omaha doesn't participate, then the doctors treating me may not have access to important parts of my medical history. If I'm unconscious and can't tell them about my ongoing health problems, I've got that-- I've got, that could impact the best course of treatment. They have no way of knowing and this bill would change that. The reason this is the time to do this is that there are currently federal grants to reimburse the cost of building software systems to translate a provider's electronic records into a form that can be important-- imported into the statewide system. This bill takes advantage of that funding, which is why there's a deadline. All this asks providers to do is to authorize CyncHealth to access their existing electronic records by July 1, 2021, and CyncHealth does the rest. We've already built the infrastructure we need to do this. Everyone is in agreement that this is in the best interest of patients. This bill won't cost providers anything and doesn't require them to do anything they aren't already doing. To ensure that that's the case, we've worked with all of the bill's opponents since the time of the hearing and I think we've been able to address all the concerns that were brought forward. The result is the committee amendment, AM584. This amendment achieves several things. First, it exempts from the participation certain providers and insurance that are unlikely to

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have any relevant medical records. Second, it clarifies that the bill does not require any participating organization to create electronic medical records that don't already have them, nor does it require anyone to alter their current recordkeeping practices. The bill as amended provides for a simple process administered by the Health Information Technology Board, whereby healthcare providers are included in the definition of this bill that do not have medical records can self-identify and be exempt from participation. Improving the quality of electronic medical records is clearly in the best interest of anyone receiving healthcare. This is the direction the country is moving and there is currently federal funding available. LB411 will ensure that Nebraska patients' healthcare records are complete and available wherever they may be receiving care and it does this at no cost to providers. Thank you for your consideration and I would encourage your support of LB411. Thank you.

**FOLEY:** Thank you, Senator Lathrop. As the Clerk indicated, there are amendments from the Health Committee. Senator Arch, you're recognized to open on AM584 committee amendment.

**ARCH:** Thank you, Mr. President. Good morning, colleagues. AM584 is the committee amendment to Senator Lathrop's LB411 and would replace the green copy and become the bill. AM584 would state that on or before September 30, 2021, each healthcare facility shall participate in the health information exchange through sharing of already captured, existing clinical information as permitted by law. Information shared with the Health Information Exchange, as determined by the Health Information Technology Board, must be provided in accordance with HIPAA and other law. If a relationship between the Health Information Exchange and the healthcare facility is established by July 1, 2021, there will be no cost to the participating healthcare facility. A healthcare facility, facility may apply annually to the Health Information Technology Board for a waiver based on technological hardship and all of that is on pages 2 and 3 of the amendment. AM584 would remove language in the green copy relating to healthcare payors and instead insert language relating to healthcare plans, which is page 3, subject-- subsection (4) (a). On or before January 1, 2022, each health insurance plan shall participate in the Health Information Exchange. A health insurance plan would include any group or individual sickness and accident insurance policies, health maintenance organization contracts, subscriber contracts, employee medical, surgical, or hospital care benefit plans, and self-funded employee benefit plans. A health insurance plan would not include accident-only disability income, hospital confinement, indemnity, dental, hearing, vision, or credit insurance. Coverage issued as a

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supplement to liability insurance, insurance as a supplement to Medicare, workers' compensation insurance, automobile medical payment insurance, insurance policies that provide coverage for a specified disease or any other limited benefit coverage, and no-fault statutorily required liability insurance. AM584 would also exclude assisted living facilities, nursing facilities, and skilled nursing facilities and specify that the Health Information Technology Board shall not require a healthcare facility to purchase or contract for an electronic records management system or service. The committee voted to amend LB411 with AM584 unanimously, 7-0, and LB411 as amended was voted out of committee unanimously, 7-0. With that, I urge your green vote on AM584 and the underlying bill, LB411. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Arch. Debate is now open on AM584. Senator Kolterman, you are recognized.

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. I rise in support of the bill and the amendment as it appears today. I had the opportunity to work with NeHII-- it was formally known-- it's CyncHealth today. I will tell you they're nationally recognized right here in Nebraska. They do a tremendous job in information technology. They're just a nationally recognized leader in that arena and I think that it's important that if we're going to continue to have medical records, that we can walk into a doctor's office and get pulled up from wherever they're at. It's important to have that at our fingertips. So with that, I would hope that we could move this bill forward and encourage you to vote green on both LB411 and AM584. Thank you.

**HILGERS:** Thank you, Senator Kolterman. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker. I appreciate that. As I read the comments on the committee statement, I see that there were a couple of agencies came in and testified against. I wonder if Senator Lathrop would yield to a question?

**HILGERS:** Senator Lathrop, would you yield?

**LATHROP:** I'd be happy to.

**ERDMAN:** Senator Lathrop, in the opposition in the committee, HHS came in and testified against the bill and so did Nebraska Health Care Association. Do you remember what their issues were and if so, does the amendment solve their issues?

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**LATHROP:** Let me address the second one first. So the, the Health Care Association was the nursing homes. They've been carved out. Most of them don't have-- part of their problem was that that included the assisted livings. They're not a healthcare facility. They're not keeping medical records. They're not even providing care. So they were carved out or exempted from this bill. I have to tell you that it's hard for me to understand what HHS's problem was. They came in and said it had something to do with a federal statute. We looked at the federal statute and it didn't appear to be even related to the concern they expressed, so I, I am puzzled by their opposition, Senator Erdman.

**ERDMAN:** Thank you very much. So it makes sense that, that he brought this bill forward. I appreciate that. I have another comment I think is important is in '17, when I first got here, we spent a lot of time getting bills passed and I had made a comment that I appreciated, in some regard, Senator Chambers' ability to slow us down. And as you've seen this morning and other mornings, we have moved quite quickly, quite rapidly through the agenda, and I, for one, am concerned about how fast we move through these bills. And so consequently, I said to Senator Chambers, when you were here, we passed half as many bills as when you're not here. And I, I may have been wrong on that. It may be three times as many bills when he's not here. So the deliberation and the discussion on most of these bills is lacking maybe-- is a good word to use. So we need to consider how quickly we're moving here and make sure that we're observing, understanding, and scrutinizing the bills that we're passing so that my three times more bills passed when Senator Chambers is not here doesn't come true. Thank you.

**HILGERS:** Thank you, Senator Lathrop and Senator Erdman. Senator Williams, you're recognized.

**WILLIAMS:** Thank you, Mr. President, and good morning, colleagues. And I certainly share those same types of concerns that Senator Erdman was just talking about. I would tell you this bill was considered very closely with the HHS Committee, which I have a chance to serve on, and Senator Lathrop worked very hard with the various parties to address those things. And, of course, as Senator Arch mentioned, this came out of committee, the amendment and the bill, 7-0. I would like to really thank a number of people, but first of all, as it was mentioned, clear back in 2004, Nebraska jumped in with, with NeHII and got involved with electronic records and putting together that system and we are now the envy of many states-- in fact, virtually all states-- with how we handle electronic medical records. So bringing this bill forward takes us the next step of meeting what I consider to be the

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expectations of consumers. And as Senator Lathrop said in his opening, when you have that, that accident somewhere that's not in your home base, with what we would be doing with LB411, we now have the opportunity for that doctor in Kearney, that doctor in, in Valentine, that hospital in Broken Bow to have access to those medical records that are so critical in, in treating people. Yes, there was some minor opposition to this in, in committee. The opposition of Nebraska Health Care and also LeadingAge were taken care of completely with the amendment and I agree with Senator Lathrop's comments when Kevin Bagley from HHS testified in opposition and made comments about some federal regulation. And that was researched at great length by the committee and also Senator Lathrop's office to determine that that was really not a, a concern that we should consider. So with that, to move Nebraska forward, meeting the needs of our consumers and in particular the expectations of our consumers, I would encourage your adoption of AM584 and the underlying bill, LB411. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Williams. Senator Hilkemann, you are recognized.

**HILKEMANN:** Thank you, Mr. Speaker. I'd like to know if Senator Lathrop would take a question, please?

**HILGERS:** Senator Lathrop, would you yield?

**LATHROP:** I'd be happy to.

**HILKEMANN:** Senator, this, this is where medicine is moving. I have no problems with the overall. I just have a question. There are a few, there are a few fossil physicians still out there that have not gone with all of the electronic records and everything else like that. Are-- on the list on, on LB41, it says a health clinic. Does that constitute, does that constitute some of these small, private practitioners that may be out there yet that are still trying to practice, but have not gone into the spending the investment into the, the EMR systems?

**LATHROP:** So what I can tell you about the-- you call them dinosaurs-- that aren't on the electronic-- haven't established electronic medical records, they can be exempt. All they got to do is send a form in that says I, I don't have a elect-- so we're not going to make anybody get electronic medical records or create medical-- electronic medical records in their clinic, but if they're not and they would otherwise be covered, they fill out a form, send it in, and they're exempt.

**HILKEMANN:** Did I just miss that in the bill?

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**LATHROP:** It's in there.

**HILKEMANN:** OK, OK. Thank you, Senator. That was my question, appreciate it. I'll yield my time back to the Chair.

**HILGERS:** Thank you, Senator Lathrop and Senator Hilkemann. Seeing no one in the queue, Senator Arch, you're recognized to close.

**ARCH:** Thank you, Mr. Speaker. I just want to speak for a second about the opportunity that's in front of us. This has been a long time developing. Over the years, NeHII/CyncHealth has, has evolved into what is now a national leader. We're in a very unique position. If you look across the United States at others-- at other states, you will see at-- many times, you will see multiple database in, in these types of health information networks that don't talk to each other, that really are opposing each other, in competition with each other to try to get more providers to sign up with them. We have one in the state of Nebraska and as a result of that, you know, these, these-- CyncHealth is only as good as the information that is in, in the system. And so this, this requirement that now providers need to participate is a big step forward because we are going to be able, I believe, in the near future to be able to answer the questions that have plagued the state. How do we get healthier? Are we getting healthier? Those are, those are difficult questions that require massive data. And so with CyncHealth, with the data now that is going to be captured by all providers, I believe that we'll have the opportunity to answer some of those questions and develop policies then that will improve the health of our citizens. So I encourage you to support AM584 and LB411 as well. Thank you.

**HILGERS:** Thank you, Senator Arch. The question before the body is the adoption of AM584. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

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

**HILGERS:** The committee amendments are adopted. Returning to debate on LB411. Seeing no one in the queue, Senator Lathrop, you're recognized to close.

**LATHROP:** Thank you, Mr. President and colleagues. I just want to make a couple of comments. I appreciate the, the comments that have been made on the floor this morning. I want to thank the members of the Health Committee, in particular Senator Arch, for the work that they did on the amendment that improved this, but also to, to reflect for a



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moment before we move this bill that working on NeHII and electronic medical records and this health information exchange has been a build. There have been many senators that have introduced bills that have been part of what we are amending today. I appreciate all the work that's gone into this, the willingness of this body and the recognition of this body of the importance of this important step in moving our health information exchange to a better place that will better serve our constituents and continue to be the envy of the country. And with that, I would encourage your support of LB411. Thank you.

**HILGERS:** Thank you, Senator Lathrop. The question before the body is the advancement of LB411 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

**ASSISTANT CLERK:** 44 ayes, 0 nays on the advancement of the bill, Mr. President.

**HILGERS:** LB411 advances. Mr. Clerk, next bill.

**ASSISTANT CLERK:** Mr. President, LB247 was introduced by Senator Pansing Brooks. It's a bill for an act relating to mental health; to create the Mental Health Crisis Hotline Task Force; to provide powers and duties and to declare an emergency. This bill was introduced on January 11, referred to the Executive Board. The bill was placed on General File with committee amendments.

**HILGERS:** Thank you, Mr. Clerk. Senator Pansing Brooks, you're recognized to open on LB247.

**PANSING BROOKS:** Thank you, Mr. Speaker. Good morning, colleagues. LB247 creates the Mental Health Crisis Hotline Task Force. Under LB247, this task force shall develop an implementation plan for Nebraska to integrate and utilize the 988 Mental Health Crisis Hotline, which was established pursuant to the National Suicide Hotline Designation Act of 2020 and signed into law by former President Trump. I want to thank Senator Hilgers for kindly and compassionately choosing this bill as a Speaker priority. It is-- I am very excited for the potential of this bill to help Nebraskans across our state. The task force established under LB247 shall identify a method to integrate local mental health crisis hotlines to help ensure people get connected to a qualified mental or behavioral health professional, regardless of the time, date, or number of individuals trying to simultaneously access a local mental health crisis hotline number. I decided to bring this bill after attending a National

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Conference of State Legislatures virtual event on the topic of law enforcement, where I learned how other states led by Utah were responding to new opportunities created by the passage of federal legislation. Utah has moved forward with legislation to take advantage of the federal law's new authorization to impose a fee on most wireless and wireline services to provide funding in a manner similar to the funding of 911 services. I thought about bringing a similar bill to get going and pass this and help our, our Nebraska citizens who are in significant need of mental and behavioral health. The, the mental health needs in our state are, are tragic, costly, and dire. However, then I decided it would be more prudent for Nebraska to start with a legislative task force, a bipartisan, multi-partisan task force to engage all relevant task-- stakeholders in a statewide plan. A number of these stakeholders offered testimony and letters of support at the hearing of LB247. These stakeholders include the Nebraska Hospital Association, Boys Town, NACO, the Nebraska Medical Association, the Police Chiefs Association of Nebraska, and the Nebraska Association of Behavioral Health Organizations, among others. I also talked to Mike Hybl and Dan Watermeier with the Nebraska Public Service Commission and they also significantly support these efforts. Moving forward is of utmost importance. According to the Center for Disease Control, on average, one person died by suicide every 32 hours, every 32 hours in Nebraska in 2018. Suicide is the second-leading cause of death for people between the ages of 10 and 34. Currently, many mental health crisis calls go through the 911, 911, 911 line, often taking up law enforcement time when what is actually needed is mental health assistance. The 988 line will provide an approach to crisis response that channels mental health calls to trained mental health professionals while allowing law enforcement to devote more of their time to law enforcement issues. LB247 will provide a process to ensure the Nebraska Legislature is informed and ready to act on any potential legislation that may be necessary or desired as a result of the National Suicide Hotline Designation Act and to ensure a more seamless system for crisis response. The Nebraska Department of Health and Human Services received a grant last month from Vibrant Emotional Health, the nonprofit administrator of the National Suicide Prevention Hotline. This grant will help DHHS with plans to address projected infrastructure needs and access to the 988 number in Nebraska. I want to thank DHHS for its leadership in securing this grant. Sheri Dawson, Director of Behavioral Health at DHHS, testified at the hearing for LB247 and said the establishment of this task force would complement the work they are doing. LB247 includes an E clause to allow the work to begin immediately. I can't think of very more important issues than the mental health issues across our state. I also want to thank the Public Service Commission

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for being an important part of this process. There were no opponents at the hearing for LB247 and we had a wide range of supporters. Stakeholders understand the opportunities and safety this new federal legislation creates for our state. I want to thank again, Speaker Hill-- Hilgers for recognizing the importance of this bill and making it a priority. I ask you to vote green on the advancement of LB247 and AM588, the cleanup amendment that Senator Hughes will be introducing shortly. Thank you all and please vote green.

**HILGERS:** Thank you for your opening, Senator Pansing Brooks. As the Clerk noted, there are committee amendments. Senator Hughes, as Chair of the Executive Board, you're welcome to open on AM558.

**HUGHES:** Thank you, Mr. President. Good morning, colleagues. L-- AM558 is very simple. There was a typo in the original bill that had 911 rather than 988, so it just traded those numbers out. I would urge your adoption of AM588. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hughes. Debate is now open on AM558. Senator Hughes, you're recognized.

**HUGHES:** Thank you, Mr. Chairman. I was wondering if Senator Pansing Books would yield to some questions, please?

**HILGERS:** Senator Pansing Brooks, would you yield?

**PANSING BROOKS:** Yes, I'm happy to.

**HUGHES:** OK. Thank you, Senator Pansing Brooks. So when this was in committee, we had the discussion of once we have funds to implement this and once those funds run out, then how do we pay for this 911 service?

**PANSING BROOKS:** Are you asking me how we're going to pay for it?

**HUGHES:** Yes.

**PANSING BROOKS:** OK. So thank you for that question. There-- the task force can recommend all sorts of funding opportunities. There is-- some states are putting on a fee like there is a fee on our wireless carriers for 911. So I don't know if that's what's going to happen. I don't know-- that seems like we're getting the cart ahead of the horse. The main thing is we need to figure this out. It seems like a simple way to take care of mental health in our state.

**HUGHES:** But you are fairly confident that they will come back with a recommendation to implement this system, would that be correct?

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**PANSING BROOKS:** I would hope they will.

**HUGHES:** And that's going to come with a cost to someone in the state or local wireless providers, wired providers, or some other tax that may fall on the county, the state, the municipality. Would you agree with that statement?

**PANSING BROOKS:** Well, I, I know that, that the issue of, of nine-- of fees on 911 came up for debate in LB215 and you, at that point, said that they may impose a fee, not shall. This bill doesn't even include a may. It's just maybe there is a possibility of a fee. Maybe there's other-- some other form. There are grants out there now. We don't know, but the whole idea is to have a task force to look at the best way to provide mental health across our state.

**HUGHES:** OK. Thank you, Senator Pansing Brooks. I just wanted to make sure everybody understands if we go down this path, at some point in the future, this body will be asked to implement another fee somewhere along the line and probably will be on cell phones and landlines. And I'm glad you brought up LB215. I did have enough votes to pass that had everybody been here and certainly looking for a vehicle to bring that back as an amendment. I thought maybe this might be one, but probably not going to do that today. But my point is that we make sure we understand if we begin down this path, what's going to be at the end of the path. Now, I'm certainly not opposed to having a 988 mental health hotline-- having a mental block there, sorry. But we just need to make sure we understand what's going to be at the end of this path and those of you who will be in the Legislature, whether that's next year or two or five years from now, there is going to be a fee increase of some sort to pass this. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Pansing Brooks and Senator Hughes. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. So when I signed onto the bill, I mean, I, I do recognize that there's a need for this to be out there. And when I talked to Senator Pansing Brooks, I did talk about how we might be able to incorporate this someday into 911's system because we've got so many numbers out there now already and I-- people in an emergency, the first thing you think of instantly is I call 911, you know, and we've got the Diggers Hotline. We've got some other different numbers out there. We got the weather serving-- you know, the roads. So it-- to me, I still look at this-- creating a separate number as, as something that I think we need to look at longer term and how we can put this into our 911 centers. Because I think with the next generation of 911, those operators, as we, as we get that program

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implemented, they're going to be more highly trained than some of the other operators. And these calls can-- if somebody is asking for mental health treatment, they can send them right to where they need and you don't need another phone bank of operators sitting there waiting for 911 or 8-- 988 calls and, and we can incorporate it in there and, and do it cheaper and maybe even do it better because I think the longer term-- and when you look at next gen 911, those operators are going to be highly trained in the, in the different technologies and stuff, so I think we need to look at that for the future. Now, whether or not you can do enough advertising to get a different number in people's heads-- but, you know, when you first talk to people and, and, and they're stressed and there's an emergency, 911-- we've taught kids since preschool to dial 911 and so that to me is a number that we should focus on more than trying to create another number, but the, the intent of it, I mean, is to provide help to those people who probably are reluctant to call 911 because they think they're going to send a police officer or, or they're going to send someone who's not trained or something like that. But if we could, if we could work on this, I guess more down the road, we could figure out a way to include this in our 911 system to where they could route those calls to the nearest provider and actually put them in touch instant, instantly, almost, because that, that fiber network will allow them to access providers all over the state. So I, I think it's something that we can say is probably necessary, but let's keep working on the bill and see if we can come up with a way that we can use our 911 system, but otherwise, I support the idea behind it. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Friesen. Seeing no one else in the queue, Senator Hughes, you're recognized to close. Senator Hughes waives closing. The question before the body is the adoption of AM558. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

**ASSISTANT CLERK:** 43 ayes, 0 nays on the adoption of committee amendments.

**HILGERS:** Committee amendments are adopted. Turning to debate on LB247. Senator Groene, you're recognized.

**GROENE:** Thank you, Mr. President. Quick question if Senator Pansing Brooks-- I'm trying to read the bill-- if she would take it?

**HILGERS:** Senator Pansing Brooks, would you yield?

**PANSING BROOKS:** You bet.

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**GROENE:** What's the term of this commission? Is it-- does it have a sunset in it or what's the--

**PANSING BROOKS:** Yes, it's, it's 20-- December 31, 2022.

**GROENE:** All right. I just found it. Thank you.

**PANSING BROOKS:** OK.

**GROENE:** I just have a-- kind of a distaste that we keep doing these commissions and we got people coming in-- it's becoming a year-round job for some of these chairmen, seems to be the same chairmen every time and the committees put on every one of those. The one the other day that we did on-- I forgot what it was-- same-- Judiciary Committee, Transportation and Telecommunications-- same senators are involved in all of these commissions. Sounds like a power group to me that has inside information over the other 49 senators on all of these system. They're not asking for it. They're being put on it and they're having to come into Lincoln more often they probably wish to in the interim. But I, I don't know why the state has to be involved in this if we had a bunch of, of existing nonprofits whose passion is to help people and they have hotline numbers that you can call. Senator Pansing Brooks, do you-- could you take another question?

**PANSING BROOKS:** Sure.

**GROENE:** You mentioned how many people committed suicide. Do you have any numbers on how many calls a year some of these existing hotlines handle in Nebraska?

**PANSING BROOKS:** I can try to look it up for you.

**GROENE:** All right, thank you. Another concern I have on some of-- not, not not this one "pacifically" is the only thing around here to find a way to pay for it. And we keep raiding existing, existing pot, pots of money-- mention was of the Public Service Commission and we got that Universal Service Fund. To me, that's to provide phone service. I see somebody could come up and say well, let's raid that pot and we're going to have another bill on Senator Bostelman's, which I'll support, but it looks to me like we're going to maybe raid the Universal Service Fund for broadband. I just want cell phone towers in western Nebraska so I can use my cell phone and I understand-- I talked to Senator Friesen, there's some, some barriers why that isn't happening. I'll sit and listen to this, but we're just studying things to death here, folks, with these commissions. I heard the other day, Senator Lathrop stand up about the jail-- criminal justice and the jail

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commission of Ebke's. After that was all done, a lot of newspaper stories and everything, then you find out you had two sides. One side wants to build a prison. The other one wants to make victims out of "crimicals" and let them out earlier. Nothing changed after that debate, after that commission. You still had your two sides, one built jails, one let them out, let them run. Don't worry about the victims, just create victims out of criminals. So I don't know what this is all about. I think it's just too much. We just do too much of this. We got too many commissions floating around. The Governor is going to have to spend two weeks of his year just making out appointments and we're going to have to drag people in to sit on these things because there's so many of them. I think the Governor now appoints 1,500 appointments in a little state of 1.9 million. Can't we get some of this done by just the Legislature itself and committees and--

**HILGERS:** One minute.

**GROENE:** --hearings and being brought into us by concerned citizens and create legislation in coordination with the federal government? But just got too many of these. Thank you.

**HILGERS:** Thank you, Senator Pansing Brooks and Senator Groene. Senator Panisng Brooks, you're recognized.

**PANSING BROOKS:** Oh, I'm waiving, sorry.

**HILGERS:** Senator Pansing Brooks waives the opportunity. Seeing no one else in the queue, Senator Pansing Brooks, you're recognized to close.

**PANSING BROOKS:** Thank you, Mr. Speaker. I, I, I agree with Senator Groene that, that we do have a lot of task force, but the reason I brought it as a task force is so that it could really be understood from a global and a universal viewpoint. We need to get DHHS involved. We need the Public Service Commission involved. We need healthcare professionals involved. It's, it's important in that regard. And I just-- you know, this-- it, it-- when this happens, it is going to happen nationally. So we can either be at the forefront of this and making really good decisions and legislation if necessary or we can wander along behind. I'm, I'm so excited about this potential to be able to provide some help with mental health professionals and there are other options for funding. States have a new option to provide community-based mobile crisis intervention services with 85 percent federal matching funds for the first three years. So there are other options. That's why I brought it as a task force. I want everybody to look at everything about this and determine how to move forward, how

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to adopt 988 because it is going to happen nationally and how we can do it in the best Nebraska way possible. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Pansing Brooks. The question before the body is the advancement of LB247 in our E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those who wish to? Please record, Mr. Clerk,

**ASSISTANT CLERK:** 41 ayes, 0 nays on the advancement of the bill, Mr. President.

**HILGERS:** LB247 advances. Mr. Clerk for items.

**ASSISTANT CLERK:** I do, Mr. President. Amendment to LB572 from Senator Halloran. That will be printed in the Journal. Name adds: Senator Albrecht to LB388 and LB549. Announcement: the Urban Affairs Committee will hold an Executive Session at noon in Room 1510, Judiciary will hold an Executive Session at noon in Room 1113, and the Appropriations Committee will hold their Executive Session at noon in Room 1301. Finally, a priority motion. Senator John Cavanaugh would move to recess until 1:30 p.m.

**HILGERS:** Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. We are in recess.

[RECESS]

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

**HILGERS:** Mr. Clerk, please record.

**ASSISTANT CLERK:** There is a quorum present, Mr. President.

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

**ASSISTANT CLERK:** I do. Your Committee on Health and Human Services reports LB569 to General File, as well as LB485, LB516 and LB626, all with committee amendments attached. That's all I have.

**HILGERS:** Thank you. Mr. Clerk. We will proceed to the first item on this afternoon's agenda.

**ASSISTANT CLERK:** Next bill is LB650 by Senator Flood. It's a bill for an act relating to carbon dioxide; to adopt the Nebraska Geological Storage of Carbon Dioxide Act; to create a fund; provide penalties.



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The bill was introduced on January 20, referred to the Natural Resources Committee. The committee placed the bill on General File with committee amendments.

**HILGERS:** Thank you, Mr. Clerk. Senator Flood, you're recognized to open on LB650.

**FLOOD:** Thank you, Mr. President. Members, good afternoon. It is my pleasure today to introduce LB650, which is the Nebraska Geologic Storage of Carbon Dioxide Act. I'd like to thank Senator Dan Hughes for making LB650 his personal priority bill. I'd also like to thank the Natural Resources Committee and its Chairman, Senator Bostelman, for probably the best legislative hearing, public hearing that I've been a part of. Just to see the amount of information that was shared and the attentiveness and questioning of the committee, it was really a moment for the Legislature and I think it speaks well for all of us. I'd also like to thank the Nebraska ethanol industry and leading ag organizations for their tireless efforts to support this legislation. I believe in bringing economic development opportunities to Nebraska, especially in our rural communities. The future success of our state lies in leveraging the best of Nebraska, its people, resources, work ethic, with innovative ideas and businesses. LB650, the Nebraska Geologic Storage of Carbon Dioxide Act, does just that. It employs the best technology in the world right here in Nebraska. We are creating and expanding markets for Nebraska products both nationally and internationally. Reducing carbon emissions from industries like electricity generation, ethanol production and manufacturing by capturing the carbon dioxide they produce and preventing its release into the atmosphere, has the dual impact of increasing market share for low-carbon products, but also addressing the climate issue in a proactive, quantifiable way. A critical piece of commercial carbon capture is the secure storage of the captured CO<sub>2</sub>. LB650 establishes the legal and regulatory framework in Nebraska for the sequestration of CO<sub>2</sub> deep underground. From the outset of today's debate, I would like to emphasize just a few key points. First, the authority for permitting and safety of underground CO<sub>2</sub> injection wells used for secure storage of CO<sub>2</sub>-- CO<sub>2</sub> lies in Nebraska with the Environmental Protection Agency. This bill does not diminish nor alter the safety measures provided by the existing EPA processes in any way. To the contrary, this legislation supplements and reinforces the existing EPA process by defining property rights and providing additional state oversight of CO<sub>2</sub> storage facilities. The language of LB650 was presented from the outset to representatives of the EPA Region 7 and has been vetted by their staff to ensure at this point. The EPA regulatory process comes with some jargon. The EPA classification for

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these wells under the Underground Injection Control Program, or UIC, a program of the federal Safe Drinking Water Act, is Class VI wells. I'm passing around a handout from the EPA that demonstrates the extensive nature of the protective casings throughout the geologic layers. One other critical point to guide our floor discussion today, while terminology is quote unquote injection well, the term well is the general term for a cased borehole 3 to 10,000 feet below the subsurface-- or the surface. In this case, CO2 is deposited for stable storage deep below the surface through these quote unquote wells. Second, the policy framework for regulation and property rights clarified in LB650, while new to Nebraska, are not original. They are based on guidelines and recommendations from the internationally recognized IOGCC. And this legislation incorporates the experience of states including North Dakota, Wyoming, and Louisiana that have already adopted similar legislation and policy. Nationally recognized legal experts in the area of geologic property rights and management were an integral part of crafting this legislation. The Energy and Environment Research Center at the University of North Dakota and its federally funded PCOR partnership has also participated in the development of this legislation, sharing firsthand experience with similar policy in other states. Third, and I wrote this specifically, because I recognize that for many of us, including myself, the terminology involved in deep geologic storage of CO2 is unfamiliar and the nature of storage reservoirs 3,000 to 10,000 feet below the surface can be difficult to conceptualize. I've provided another handout that's in that packet that demonstrates just how far below the surface geologic storage takes place. We're talking thousands of feet below the aquifer. Please note that the EPA will only consider and authorize permits for projects that can verify and prove the appropriate geology exists to prevent any CO2 migration. And you're going to find out this is mostly in the well western and central part of the state. It does not include areas like Pawnee County or Johnson County or Dixon County or Wayne County. So that any reservoir that is placed well below and appropriate to the layer rock just-- let me strike that. The wellbore, as you can see from the handout, is sealed with several layers' carefully tested casing, as it travels potentially sensitive layers below the surface of the Earth to adequately protect Nebraska's natural resources. Finally, I want to emphasize that every Nebraskan understands the importance of groundwater protection and the stewardship of Nebraska's natural resources, especially water. The goal of LB650 in the long term is to improve the quality of our global environment while expanding market value of Nebraska products. Underground injection technology has been utilized at commercial scale for a variety of purposes safely for decades, including here in Nebraska. During the bill hearing, the

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Natural Resources Committee, geologic experts, including Nebraska's state geologist Dr. Matt Joeckel, as well as the CEO of the Energy and Environment Research Center at the University of North Dakota and a respected geologic engineer with extensive experience in Nebraska, provided expert testimony to the committee. I'm happy to provide copies of that expert testimony if members would like a greater depth of understanding of the technical aspects of CCS. Good public policy advances the goals of many interests at the same time. This bill establishes the framework for Nebraska to seize upon the opportunity to be a national leader in both low-carbon market economy for Nebraska ag and industrial products, while also addressing climate change at the same time. When I think about keeping and recruiting young innovators in Nebraska, using technology simultaneously to solve problems and create economic opportunity is exactly the kind of policy they are looking for in a place to call home. In order to take advantage of these opportunities, we must establish a state policy framework that is both clear and transparent, allowing private industry to employ innovative problem-solving, grow our economy, and protect our environment. That's exactly what LB650 does. Now LB650 had no opposition testimony in its public hearing and has the support of the Nebraska ethanol industry, Nebraska Corn Growers, Nebraska Farmers Union, Nebraska Chamber of Commerce, and others. I look forward to a good conversation and discussion today and look forward to working with each of you to advance this legislation. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Flood. As the Clerk noted, there are amendments from the Natural Resources Committee. Senator Bostelman, as Chair of the committee, you are recognized to open on AM548.

**BOSTELMAN:** Good afternoon, colleagues. I'm-- excuse me, I am pleased to introduce AM548, which is the committee amendment to LB650. The primary purpose of the amendment is to clean up some language, add a severance clause, and to address a potential concern brought up at the committee hearing by language that clarifies that it is not the intent of the original bill to interfere with the Nebraska Oil and Gas Conservation Commission's regulation of oil and gas operations. That clarification is found in the addition of section (3) to Section 15, which begins on line 18 on page 9. The amendment also clarifies that the bill only addresses storage facility injection wells or reservoirs and makes the language of the sections internally consistent with one another. The amendment was adopted by the committee on a 7-0 vote with one member not voting. I ask for your green vote on AM548 and LB650.

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**HILGERS:** Thank you, Senator Bostelman. Debate is now open on AM548. Senator Williams, you are recognized.

**WILLIAMS:** Thank you, Mr. President. Good afternoon, colleagues. And I stand in full support of AM548 and the underlying bill and would like to thank Senator Flood for bringing this and also Senator Hughes for prioritizing this. This is a win-win for a lot of business and a lot of our state. The legal and regulatory framework that is established for carbon dioxide storage is necessary. The ethanol business, which is, by the way, our state ranks number two in ethanol production of all the states. We have in excess of 25 ethanol plants producing 2.5 billion, that's B with a bill, gallons of ethanol each year. And that creates a substantial demand for corn production in our state and I think everyone knows that and how good that is. There's about 1,400 jobs in our state currently in, in the ethanol industry. And the ethanol industry contributes \$5 billion to our state's economy on an annual basis. One of the byproducts, as Senator Flood talked about, of ethanol is carbon dioxide. And by putting this in the ground forever, putting it away, we solve a lot of problems. We fix the byproduct issue that is now rolling off of our ethanol facilities and we create a smaller carbon footprint for the future. I think these are the kind of things that we can do that make our state better, improve the agriculture situation in our state, and help our ethanol and corn industry. For those reasons, I would stand in full support of AM548 and the underlying bill. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Williams. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. Speaker, and good afternoon. I was in that hearing, Senator Flood, the day that your bill was up. I was waiting for a bill that I had to be heard and I listened to several hours of testimony. My opinion may be somewhat different. I understand the financial contribution that ethanol makes. I under-- I understand also that pumping CO2 into the ground is going to make our ethanol more attractive to California. And I also understand that we have a misunderstanding, a misinterpretation of the adverse effects of CO2. I've looked up the relevancy of CO2 for humans and other things and contrary to what's to be expected by the environmentalists and those concerned about global warming, CO2 has health effects that benefits the human body and they are innumerable. It helps balance the pH in your blood. And I could go on and read those for 10 or 15 minutes and it wouldn't make any difference to anybody. But the point is this, plants grow with CO2. It makes trees grow, it makes plants grow. It is vital that humans have CO2. If 30 years ago, I said to you that we are

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going to pump CO2 into the ground, we're going to get paid for that by some people who think CO2 is dangerous and harmful and they're going to give us millions of dollars to do that, you would have said: We thought you were crazy, but when you started talking, you removed all doubt. And so here we are pumping CO2 into the ground that we're going to get some advantage to be considered green by some state that wants to run on clean, on clean energy or green energy. And we've discounted the benefits of what CO2 does and we also have, have heightened the concern we have about CO2. And so we in the United States, we're following all of these things, trying to lower our CO2 footprint and most of the other countries who don't care about global warming do whatever they want and so they're admitting CO2 into the atmosphere. They have an unfair advantage to compete with us because they don't have to, to function under the regulations we're putting in place. But I fully understand the benefit that somebody has a perception that pumping this into the ground is a good idea. So I'll be listening to this, but I have a difficult time understanding how this makes any sense at all. Thank you.

**HILGERS:** Thank you, Senator Erdman. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. Speaker. And thank you, Senator Flood, for bringing this bill, and thank you to Senator Hughes for prioritizing this bill. I stand intending to vote for this bill and I feel like I need to explain why. I was the not voting at the committee. And I would tell you when this bill was first presented to me, I had severe reservations about it. I know we've talked about carbon capture and sequestration for a long time in the environmental community as a way to take carbon out of the environment. And for a long time this was an undeveloped technology that was-- basically, its day wasn't here, and so that was one reason I was suspicious of this. As Senator Flood indicated or discussed, we did have a fantastic hearing on this where a lot of my fears about the technology itself were put to rest. But those are not my only concerns with the bill. I do think that the, the science behind it appears to be in shape, that this is not a dangerous idea or as dangerous as I thought. But a few other things I just wanted to draw attention to in the bill that were initially of concern to me is when they drill these wells, first they have to find a geological formation that is suitable. And so one of the problems is you have to, you take that where you find it. And some of those geological formations will be, extend under other people's property. And so the-- one of my concerns about this is, is the mechanism by which individuals' property rights will be infringed upon by the, the injection wells and in the substrata there. We've had--

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I've had a number of conversations with people and I think this is a conversation that we just, we shouldn't gloss over when you're talking about imposing on other people's property rights. I do think that this bill is good and should be, it is-- should be adopted, but I just think we should make sure to have the conversation about what that means. And so the bill provides for that when a well or a storage space, once the entity that is going to be pumping the CO2 into that storage reservoir has reached 60 percent of the ownership-- or consent from 60 percent of the volume, then the remaining 40 percent will basically be compelled to participate and they will be compensated equitably. And so I think it's important that we make sure we recognize this. And there really isn't another way around it because, as I said, the reservoirs are-- you take them where you find them. I would have a question, and I don't know if anyone here can answer it, but I've had a few conversations with some of the industry folks about whether you could curtail the size and scope of a project and whether that makes sense to not infringe further on property nearby. But that's a, I guess, another conversation that I'm not intending to have here today. I just thought we should make sure and have that conversation. I know another concern is at the end of the life cycle of this reservoir, there's a capping procedure where the well will be capped and meet certain standards. And then ultimately the state will take over responsibility for that. During the life, the, the facility will pay into a trust fund, which I think should go to cover the ongoing costs of the facility going forward. And so that's less of a concern. I know Senator Bostelman and what AM548 is to address is part of the concerns around the state taking title to those facilities going forward. So those are my two big concerns going forward with this bill. I would say that knowing full well about those concerns, I intend to vote for this bill. I just want to make sure that everyone was aware of those and that we had that conversation. How much time do I have, Mr. Speaker?

**HILGERS:** 2:00.

**J. CAVANAUGH:** Thank you. So the other reasons-- the reason I like this bill, aside from those concerns, is when we're talking about how we address these environmental impact, we talk about climate change, we talk about anthro-- anthropogenic climate change, which is climate change caused by humans. And I know some people don't believe in this, but it is something that we should, as a matter of public policy, address. And what this bill does is puts a price, allows a price on carbon, which means we are saying that in essence, an ethanol plant can produce-- it can, can start this facility, can pay to take carbon out of their product, can sequester it, and then they can sell their,

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their ethanol for a better price, which essentially is capturing a value to carbon. Which I think as a matter of policy is a good idea going forward. And I think this is a good first step that will allow us to start adopting and making strides towards taking carbon out of our, out of our environment, to figuring out what the true cost in the economy is of carbon, and to figure out how--

**HILGERS:** One minute.

**J. CAVANAUGH:** --much more valuable products are once we take those actions. And so that's-- for that reason, I'm in support of this bill. I think that it is good for the economy of Nebraska. I think it will open up markets for the ethanol products of Nebraska, among other products. I think it provides an opportunity going forward for other ways to address climate change and carbon issues. And I think I'm probably out of time, so I'll push my button and talk again later. Thank you.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Lowe, you are recognized.

**LOWE:** Thank you, Mr. Speaker. Well, this is different. We're talking about CO2 capture. And is it a good thing or is it not a good thing? Should we spend the money to do this or should we not? We're talking about ethanol plants and how it could make our ethanol plants greener and our energy greener and the exhaust better. Senator Flood, if you would yield to a question. Flood yield?

**HILGERS:** Senator Flood, would you yield?

**FLOOD:** Yes, I will.

**LOWE:** Thank you, Senator Flood. Is this bill specifically for ethanol plants or could a coal plant also use this?

**FLOOD:** A coal plant could use this. Absolutely. And other industries that have CO2 emissions.

**LOWE:** Thank you, Senator Flood. We've been talking about ethanol plants and how good it could be for the ethanol plants, but we do have Gerald Gentleman out in North Platte area. It's a coal plant and during the Obama years, they were threatening to close it down. That would be a major impact on our electricity here in Nebraska. If we would use this process and they would be able to take some of that carbon that they put out into the air, which is not very much anymore because they do a very good job of scrubbing their emissions, and

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inject it back down into the ground, we could get another 50 to 100 years out of Gerald Gentleman without the federal government shutting it down. So we need to think of it that way, about our electricity that we make here in Nebraska. We need to think about, as Senator Flood said, the other processes that we do that emit carbon into the atmosphere and if we can inject that carbon back into the ground. And let's look at where we're injecting it too. We're injecting it into the old oil fields or into a salt formation under the ground. The old oil fields weren't exactly pure anyway, and that did not leak into our aquifer. This is thousands of feet below our aquifer, where this will be injected if, even if it is under our aquifer. They will be very careful, they don't want a mishap. What LB650 and AM548 will do will give great benefit to Nebraska in many ways. Many, many, many ways. And I'm excited for this technology. This is not new technology. It has been used for several decades now. And we can continue to use this to better our environment, to better our energy, to better our atmosphere that we have safely and securely. This is a good bill. This will allow Nebraska to generate electricity for years to come. Thank you, Lieutenant Governor.

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

**GEIST:** Yes, thank you, Mr. President. Would Senator Flood please yield to a question?

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

**FLOOD:** Yes.

**GEIST:** Senator Flood, I'm sorry I didn't ask you this off the mike, but I think you'll be able to answer. I'm so intrigued by this and haven't heard the discussion. I wasn't able to hear the, the committee hearing. So I'm curious if you would just tell me what is the form of carbon that is put in the ground? Is it a liquid, a gas, a solid? What is it? What is that?

**FLOOD:** Well, that's a great question. And in fact, over lunch, I spent my time with the state's geologist, Dr. Joeckel. And with, with this technology, the carbon dioxide is injected underground as a supercritical fluid, which exhibits a liquid-like behavior. It's an intermediate between a gas and a liquid, not something that we would be very familiar with. Supercritical conditions for CO<sub>2</sub> are attained at temperatures above its critical temperature of about 31 degrees Fahrenheit and above its critical pressure of 72.8 atm or about 1,070 psi, so it, it is-- that's actually the form-- the CO<sub>2</sub> is, is captured, it is scrubbed, it is-- they apply the pressure, the



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temperature and then it goes into this what they call supercritical fluid, which is the state at which it is thrust down, we call it a well, into the storage area, if that makes sense.

**GEIST:** Yeah, it does. And that's really all. I'm just so intrigued by, by all of this. And I was needing to visualize what is that you're putting in the ground. So thank you. That's all.

**FLOOD:** Thank you.

**GEIST:** Mr. President, thank you.

**FOLEY:** Thank you, Senator Geist and Senator Flood. Senator Wayne.

**WAYNE:** Thank you, Mr. President. I won't speak long. I was also not voting on this bill primarily because the liability that incurs from this injection goes to the state. And one, I think that's unconstitutional, but two, and that's why there's a severability clause as a part of this amendment. But I just have a problem when a company may be able to profit and then close its door and the state assumes the liability for anything that goes wrong. Now, I can overlook that liability if Senator Flood would be willing to add an amendment that says any gold or diamonds that are created from this process over a couple of hundred thousands of years goes to north Omaha. I'm-- I'll overlook that whole thing and I'll vote for it. But no, in all seriousness, I think we got to think big. That's why I didn't vote against it. I think I don't know enough about this. And that day that we had the hearing, I had three hearings in other rooms, so I wasn't able to attend. But reading what I can, this seems plausible. I do have an issue with the constitutionality of it as far as that. But bigger, I just, the liability is a huge concern for me. But I do think we should continue to have this conversation. I'll be present and not voting like I was in the committee because I'm still learning more about this. This is a foreign idea to me, but I think we should, as a state, continue to think big and have these conversations. And with that, I will yield the rest of my time to Senator Flood.

**FOLEY:** Thank you, Senator Wayne. Senator Flood, 3:20.

**FLOOD:** Thank you, Senator Wayne. And this is something that I worked with the committee on prior to its advancement and recognized the question. The question on liability, the way we look at this is that corporations come and go. The EPA, through its permitting processes, does require financial assurance. And then there is a state trust fund created that is paid for by the injection well owner that funds the

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regulation and the, and the future liability. But the idea is that what we have here is CO2 that ultimately we, the state has the interest in making sure that it's safe. And if, you know, we have this all the time, where a gas station closes in the 1940s and we have a benzene issue at an intersection, we have the leaky underground storage fund, or the LUST fund, that remediates situations like that. And the idea is to deal with this on the front end by creating this fund, making the injector pay into it, and then funding in trust the money for future remediation, should that be an issue. And the interesting thing about this sequestration is that you're literally talking about, when they talk about impacts, sometimes they look at 1,000 to 10,000 years. So it's a, it's a long-term question and nothing is very quick. It's also, I think, at the end of the day justifies itself because it's good for the state and it's good for the environment. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Flood. Senator Bostar.

**BOSTAR:** Thank you, Mr. Lieutenant Governor. Would Senator Flood yield to a few questions?

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

**FLOOD:** Yes.

**BOSTAR:** Senator Flood, what were-- could you speak to some of your motivations for introducing this legislation?

**FLOOD:** Senator Bostar, I am a true believer in the future of rural Nebraska. I was drawn to this because I recognize that there's a market for carbon-friendly, low-carbon energy, especially in California, on the West Coast, on the East Coast. And I know the impact that ethanol has had on the ability of corn farmers to create added value and generate wealth. And I, I think that the market is asking for low-carbon energy and this is an opportunity for Nebraska farmers to benefit through the production of ethanol as one industry sending that to the coast and taking advantage of what I think will be an even greater market share for states like Nebraska in ethanol.

**BOSTAR:** Thank you. Do you believe that this legislation will benefit to some extent, the mitigation of climate change?

**FLOOD:** Yes, I think it does. You know, states all over the nation and the continuing conversations in Nebraska, we talk about the effect of carbon, carbon emissions and what can be done to minimize that. And I think this bill is the unique intersection of addressing climate

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change and an opportunity for Nebraska agriculture and Nebraska industries to profit from the same.

**BOSTAR:** Thank you. And so just to be clear, do you think it's important for the state to take actions that provide some level of mitigation for climate change?

**FLOOD:** You know, I'll be honest, Senator Bostar, I did not run for office with a climate change plan or agenda, but when this bill was presented to me, I saw a unique opportunity to do right by several different communities in our state: the folks that care about climate change and agriculture. And what I can find a win-win, I'm all for it.

**BOSTAR:** Thank you. So and just shifting briefly, you know, are you aware of the challenges that some other states have had regarding resulting seismic activity from the utilization of injection wells?

**FLOOD:** I think you're referring to states like Oklahoma, where they have a large number of oil wells drilled throughout the state. And that's been, that's been on maybe a more unregulated practice going back, you know, 100 years possibly, as they've, they've had an oil industry there that we don't necessarily enjoy the same type. And, yes, there have been concerns raised about increased seismic activity from those oil wells.

**BOSTAR:** Well, so, I mean, I think that, and I'd be happy to share with you some, some reading material if you were interested, but I think it's predominantly the injection wells that have been linked to the seismic consequences. And it is my understanding that if we do not appropriately site the locations and parameters of injection wells, that we could be at risk for negative unintended consequences here. Would you agree with that?

**FLOOD:** Well, I don't think there's any real history of seismic activity in Nebraska related to, I don't know, wastewater injection wells, but-- repeat your question again so I can understand kind of what you're--

**FOLEY:** One minute.

**BOSTAR:** If we don't appropriately site injection wells--

**FLOOD:** Right.

**BOSTAR:** --do you agree that there would, there's the potential for risk of negative consequences to the state of Nebraska?

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**FLOOD:** Yes.

**BOSTAR:** Who currently is the ultimate authority overseeing the practice of the permitting of these injection wells?

**FLOOD:** The Environmental Protection Agency.

**BOSTAR:** Is the Environmental Protection Agency the ultimate authority in permitting injection wells in Oklahoma?

**FLOOD:** Yes. Not the case in Wyoming or North Dakota, but yes, in Oklahoma.

**BOSTAR:** And Oklahoma faces some challenges from this. So what can we do to ensure that we are being responsible here in Nebraska, so that we aren't facing unintended negative consequences here in our state?

**FLOOD:** Well, to your point, Senator Bostar, I am unfamiliar with the regulatory day-to-day practices of the EPA as it relates to injection wells, but between the citizens of the--

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

**FLOOD:** --state of Nebraska--

**BOSTAR:** Thank you.

**FOLEY:** Thank you, Senator Bostar and Senator Flood. Senator Hughes.

**HUGHES:** Thank you, Mr. President. Good afternoon, colleagues. I agree with Senator Flood that it was probably one of the most interesting committee hearings that we had that I've been able to attend. The amount of expertise that we had come and testify on this bill and the ability to safely capture and inject carbon dioxide into the substrata was very fascinating. There are several other places where we use-- utilize injection wells in the state of Nebraska. Currently, most of in the oil and gas industry, we use injection wells because when you pump out oil or natural gas, you do get a certain amount of water or saline solution that comes up with that that is not-- cannot be dumped on the surface. It's, it's salty water, so it has to be reinjected back to the substrata from whence it came. There are also cities and towns, or one town that I know of for sure, that does have an injection well that, from their water treatment plant. They've got a multimillion-dollar water treatment plant that takes all sorts of nasty chemicals out of their water that comes from their well field, goes through their treatment plant, and that stuff is separated, isolated, and reinjected back deep under the earth's surface from

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whence it came as well. It's pretty interesting when you look at this bill, there's a huge potential for investment in the state of Nebraska. We're talking upwards of \$1 billion within the state of Nebraska in infrastructure and opportunities, not just for ethanol plants, but for other industries who do give off carbon dioxide. So it's important, I think, that we move this bill forward. But I do appreciate the concerns that have been raised that make sure that we get it right. I've had a couple of times to spend some time with Dr. Joeckel from the University of Nebraska. He's a geological professor. He came to us on his own dime. He was not representing the university in any way, shape, or form. Very intelligent individual. He knows his stuff. He's very passionate about geology in the state of Nebraska. And from visiting with him, I'm very comfortable that we will be able to find safe sites, that we can inject this CO2 into the substrata and it will stay there. One of the things that we did learn in this hearing from the oil and gas industry is there is a negative pressure to the oil in Nebraska. So if you remember the Horizon well in the Gulf of Mexico, when they hit that pocket, that oil wanted out of the ground. There was a positive pressure behind that. The oil in Nebraska, there is a negative pressure. So that's part of the problem. When they hit oil in Nebraska, it doesn't want to come out of the ground. There's a negative pressure. So if indeed that is the case with the substrata where we would put this carbon dioxide, that would be another positive, meaning beneficial, reason to put it there--

**FOLEY:** One minute.

**HUGHES:** --because it's more likely to stay there because it would have a negative pressure to keep it there. When it comes to the technology of an, of a injection well, there are safety standards that are in place. When they, when they drill an injection well, it's like drilling an oil well. There are three layers of pipe with two layers of concrete in between, and the outer layer stops below the aquifer level when it hits shale. Then the next section of pipe goes in and there's concrete poured between those two. And then when they get down to the area of injection, the third layer of pipe goes in and there's concrete poured between it and the second to the outside and there's pressure monitored in between each of those sections. So there-- if there is any type of leak, it is quickly detected.

**FOLEY:** That's time.

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

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

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**FLOOD:** Thank you, Mr. President, members. I appreciate the discussion on this and I, I can't brag enough on the hearing we had on this. And I am so pleased that if we ever had to go back and look at what the Legislature considered, when the expert testimony was offered at the hearing, that record is absolutely complete. And one of the things I want to stress here is that ultimately the EPA does the permitting on injection wells. What we're doing here is we're defining the property right and permitting essentially a process from the state of Nebraska that makes somebody say, hey, we're going to, we're going to determine if the geology of the ground below, of the earth below, warrants safely an injection well. And just testing that, if you are required to, to test that well or that geology, can cost up to \$3 million. And so what we're doing here is we're permitting a process, not permitting-- we are permitting a process to go forward in that there's a property right. Ultimately, the permit comes from the EPA. Senator Bostar was asking me questions about the state of Oklahoma and injection wells and increased seismic activity. The state of Oklahoma is just like us, regulated by the EPA, their wells are regulated by the EPA. In states like Wyoming and North Dakota, they've actually taken primary regulatory authority in cooperation with the EPA. So, Mr. President, I would ask if I could have an exchange with Senator Bostar.

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

**BOSTAR:** Absolutely.

**FLOOD:** Senator Bostar, I want to, I want to revisit the conversation you and I were having about your concerns as it relates to seismic activity and the oversight in the state of Oklahoma. Would you restate your concern?

**BOSTAR:** Yes, certainly. So we-- there's fairly well-documented evidence that the injection wells in Oklahoma have led to unwanted seismic activity. And the permitting and regulatory authority overseeing that in Oklahoma is the EPA. The, the EPA would oversee that for the state of Nebraska. And so as we discuss expanding the regulatory framework here for injection wells, I want to ensure that we end up in a place where we don't have the problems that Oklahoma does, that every well is permitted and cited correctly so as to mitigate, to the best of our ability, all risk of unintended negative consequences.

**FLOOD:** Well, to your question, there is no way to ever have no risk. Anytime you step in the car and you go, go in the car, there's a risk and you can get in an accident. So I'm not going to promise

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perfection. But, you know, to your point, based on the conversation and the concern that we've had and you've raised, I would be willing to work between now and Select File to further explore everything that can be done that is reasonable to ensure that Nebraska doesn't have a similar experience to the state of Oklahoma. And I'd be very interested in, in your perspective as it relates to what things could be done and, and talk to the state geologist, talk to different industries, and then, of course, talk to our own Department of Environment here in Nebraska. So I don't know if that would be satisfactory to you, but it's something I could definitely work on. I don't think either of us are going to solve it here.

**BOSTAR:** Well, you know, and I really appreciate that, Senator Flood. And I would, I would be pleased to work with you between now and Select on looking into trying to increase the comfort level for all of us around mitigating the risk--

**FOLEY:** One minute.

**BOSTAR:** --to the best of our ability. And so with that, yeah, you have my green vote to Select under the idea that we will, we will address this together. Thank you.

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

**FOLEY:** Thank you, Senators Flood and Bostar. Senator John Cavanaugh.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Just wanted to finish where my thoughts were from previously, and so not to belabor the point, but it was a very good hearing. And Senator Hughes kind of addressed and one of the things I wanted to to further address was that the testimony hit on the fact that some of the land in Nebraska, the geological formations are particularly suited to this type of storage. And some of it has a negative pressure, which it was my recollection that the, the testimony indicated that a large portion of that land was in Senator Hughes's district or part of the state. And when there's a negative pressure, I just wanted to make sure Senator Hughes remembers this, that when there's a negative pressure, that in essence means that the land, the ground there is sucking. And so I want to make sure Senator Hughes remembers that the testimony at the hearing was that the land in his district sucks. So the-- and I appreciate the conversation here by Senator Flood and Senator Bostar and I would join in those concerns. Senator Flood has this handout where he discusses the, the Class VI injection wells and that several states have sought primacy over the EPA in siting of those wells. And I just want to be clear that this bill is not seeking primacy over the

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EPA. We still are going to have EPA oversight and that that would be a separate process at some point in time in the future. But going in with our eyes open here today, we are adopting this bill with EPA oversight. It would be a different conversation if we were seeking to go around the EPA and to do this as a different process. I do appreciate Senator Bostar's efforts to make sure that we have proper oversight in addition to the EPA, but I just want to make sure that we have that said. So the only-- the other thing I wanted to point out was I appreciate everyone's conversation about the necessity here for mitigation in terms of our effects on climate. And I brought a bill to the Natural Resources Committee and we had a hearing on LB483, which was the climate change study bill and severe weather. And some people look at those, that bill that is, it's been brought up before, and think that it's a, it's a bill to just find ways that we can force people to use less to be more efficient. And that is not the case. I think if we had adopted LB483 or one of its predecessors as part of that study, it would have identified carbon capture and sequestration as one of the opportunities that that study was asking us to look for as ways that we can address climate change, address the effects of climate change on, on our environment and opportunities to create new industries to address climate change. And so I appreciate everyone here having that conversation, but I would ask you that when we have these conversations about climate change, to think about what the opportunities are that we can do, we can undertake to improve everyone's life and not just think about what the negatives are and not just think about what the, the austerity measures that you would be asked because of climate change. There are opportunities. And this is one that we are talking about here today. This is, as Senator Flood talked about, this is a win-win big idea where we're going to make a product from Nebraska more marketable to other states because we are, we are taking initiative to take carbon out of the product and make it more valuable to a, to a marketplace. And so there are economic opportunities for our industries, there are economic opportunities for our products, and there's an opportunity to improve our state by taking actions on climate change and this is one of them. And so I think we need to change that conversation when we're talking about climate change to too many people focus on that they don't believe it's happening. I'm sorry to tell you that it is and that--

**FOLEY:** One minute.

**J. CAVANAUGH:** --whether you believe it's human caused or not, there is extreme weather events that we experienced this year in terms of the polar vortex, we have increased flooding at a higher rate, and we need to address those things. This bill is one such bill that we would come



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up with, would have been proposed if we adopt a climate action plan in the state of Nebraska. And with that, I yield the remainder of our time. Thank you, Mr. Chair.

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

**LOWE:** Thank you, Lieutenant Governor. I belong to CSG, the Council of State Governments. It's an organization of government leaders. Some think it's good, some think it's bad, some don't think there's any purpose of it at all. But I belong to a committee in CSG and that's the Midwest-Canada Relations Committee. And I also belong to the subcommittee of that committee and that's the Midwest Energy Subcommittee for Canada and the Midwest. And two years ago, we were up in North Dakota and we visited the coal-- Dakota Gasification Company who owns and operates the Great Plains Synfuels Plant. The synfuels plant is the only commercial-sized coal gasification plant in the United States that manufactures natural gas. It's located five miles northwest of Beulah, North Dakota, out in the middle of a pasture, out in the middle of nowhere with the rail line leading there from coal that is not fit to be burned. That plant was opened in 1988, or it's been operated by the synfuel-- the Dakota Gas since 1988. In that plant, one of the first rooms you come to after you go through the lobby, there's a room about the size of this room and on the floor of that room is a model of that plant. The model takes up the whole floor. It is a huge model. The plant itself is about a half a mile wide and a half a mile long, I suppose. It's huge. And when they built this plant, before they built the plant, they built this model and they cut it in sections and they took this model out onto the land where they were going to build-- be building the plant. And they'd take section by section so they knew exactly where every piece of this plant was going to go. It's a massive plant. They make natural gas out of coal. That was the original intent. It didn't cash flow. The plant went into receivership and was bought and \$1.3 billion was poured into this. And not only now do they make natural gas, but they make other chemicals that come from the coal so there is very little waste. And part of that, one of the other chemicals that come out of that is CO2. On an average, they create 153 million cubic feet of natural gas from this plant every year and it's piped to Ventura, Iowa, and then distributed to the eastern United States. They also supply carbon dioxide to the world's largest carbon capture and storage project in Saskatchewan, Canada, and they deliver between 2.5 and 3 million metric tons of carbon dioxide every year to this carbon capture site. Dakota Gas sells carbon dioxide produced at the plant to two customers and transports it through a 205-mile long pipeline to Canada. It will be used to enhance the oil recovery in Weyburn and Midale fields.

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Today, the Dakota Gas is capable of exporting about 102-- 152 million cubic feet per day of CO2 to Canada. It's about 50 percent of the CO2 produced when running at full rate.

**FOLEY:** One minute.

**LOWE:** What is CO2 used for? Thank you, Lieutenant Governor. CO used-- CO2 is used for industrial processes for making different products. CO2 is either transformed using chemical reactions into materials or into chemicals and fuels. It can be used for fertilizer, for polymers. CO2 combined with hydrogen produces hydrocarbon fuels, the fuel of the future. CO2 can be used to cure cement or the manufacture of aggregates. It's used in biochar, which is plant material that has been burned at high temperature, has the potential to increase our crop yields by 10 percent. This is storage of our future fuel and our future economy. That's what we're talking about here. We're storing our future.

**FOLEY:** Time.

**LOWE:** Thank you, Lieutenant Governor.

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

**BRANDT:** Thank you, Mr. Lieutenant Governor. And I'd like to thank Senator Flood for bringing this bill. Would Senator Flood be able to answer a few questions?

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

**FLOOD:** Yes.

**BRANDT:** Senator Flood, we talked a little earlier about the difference in CO2. I have an anhydrous ammonia plant right next to where I live. They produce CO2 and it gets made into dry ice. And with this process, we're injecting CO2 in the ground. Can you tell me what the difference is?

**FLOOD:** Well, I think with the production of anhydrous ammonia, you're using natural gas essentially to, to make that. And natural gas is based-- is a fossil fuel and so it would be a long-chain carbon that was, that existed millions of years ago. Whereas in farming, with the process of growing corn and the process of photosynthesis, you are engaging in a short chain. You know, what's the growing cycle of those leaves growing on the plant through the photosynthesis cycle, creating the carbon that then is burned off in the process when you're making

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the ethanol and captured and sent into the injection well? So we're talking about two different types of carbon here.

**BRANDT:** All right, thank you. On your handout, and it would be the one that, that has this chart on it right here, you talk about-- we're talking about geologic storage and terrestrial sequestration. I can tell you about 15 years ago as a farmer, we got paid for carbon sequestration on no-till grasslands and wetlands and that program did not last very long. And I guess that is something that would directly help our farmers and landowners in the state. So as we go down the road with any type of legislation on carbon sequestration, I would like to see us include programs in this that, that directly help our, our farmers and our landowners. Senator Flood, we're going to capture the value of the carbon by injecting it. Do you have an idea what the marketing value of that is? Because if I'm an ethanol plant and I can say I've got a lower carbon footprint, should give it more of a marketing punch, should it not?

**FLOOD:** Absolutely. And the, the marketing punch here is significant. The-- each ethanol plant essentially has a carbon score. And as I understand, let's say a plant score is 60 and this can reduce that score in this, in this case from like 60 to 30. I mean, this-- we're all talking numbers that are all relative, but the ability for a Nebraska ethanol plant, for instance, to become more competitive and more attractive to a market that's paying for and prioritizing a low carbon score is significant here.

**BRANDT:** OK, thank you. And then, Senator Lowe touched on this, we're going to pump the CO<sub>2</sub> to basically hold it for a while until at some point in time the science can figure out what we're going to do with it. Down the road, can that CO<sub>2</sub> be recovered again and who owns it?

**FLOOD:** Well, the state of Nebraska would own it. That's one of the discussions that Senator Wayne and I had on the bill. And, you know, it's quite possible there will be a future value or use to it. How it would be extracted would be a permitting process, a question for the regulators. But in the event there is future value there, that would be then accrued to the state.

**BRANDT:** And then the last question would be in the bill it talks about a fee per ton of CO<sub>2</sub> injected. Do you know what that fee would be or about what that fee would be?

**FLOOD:** Well, no, I don't. It would be set by the Nebraska Oil and Gas Commission pursuant to their regulations and it would have to be sufficient enough to do both the pay for--

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**FOLEY:** One minute.

**FLOOD:** --and offset the regulation. Oh, one minute. We'd have to offset the cost of the regulation and also provide a future trust for any type of potential remediation or long-term fund to deal with issues arising from the sequestration of the carbon.

**BRANDT:** All right. Thank you, Senator Flood. I will vote green on AM548 and LB650. I would encourage all my colleagues to do also. This is very forward-thinking legislation. Thank you.

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

**FRIESEN:** Thank you, Mr. President. I stand in support of LB650. I do understand what they're trying to do and, and I will talk a little bit about the reason for it and, and why this is happening. And I do feel it's a little bit ridiculous of what we're trying to accomplish, but if it works, it will benefit the ethanol industry in our state. So I've, I've kind of joked for years that we export a lot of ethanol into Brazil and Argentina and Brazil and Argentina make ethanol from sugarcane. So their carbon footprint is a lot smaller when they use it under the carb formula in California. And so Brazil and Argentina are able to import-- or export ethanol into California with a very low carbon footprint, even though they're probably burning rainforests and everything else to do that. But when we're taking and loading ethanol out in the Gulf and putting it on a ship and sending it to Brazil and Argentina, and at the same time those two countries are loading ships and sending them to California, it seems a little like we're playing this shell game of who's ethanol is which. And I always made the joke that our ships loaded in the Gulf went through the Panama Canal and came up on the other side in California and unloaded our ethanol over there, and suddenly it was low-carbon ethanol. So I get where we're going with this. I appreciate it. I know there's a market there and I know it will help our industry because we're the closest to California. But it is a giant shell game we're playing and it has to do with California's carb standards. And that's just the market we're dealing with. And so our ethanol plants have to deal with that and to make them more profitable. If this works, I'm fully in support of it. I think it's a method that it's a, it's a good, I guess, experiment to, to see what happens and if it's feasible. And so if that truly is feasible, maybe there's other uses that we can do with this, like some of our coal-fired power plants. There's been other CO2 storage attempts made. Let's see if it works because we have to look at the bigger picture and see once-- how we're going to meet some of the stability standards in our electric grid and things like that. So I

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see a place for this. I hope it, it goes, I hope it works well. And so I do stand in full support of LB650. Thank you, Mr. President.

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

**HUGHES:** Thank you, Mr. President. Good afternoon again, colleagues. I do have to rise to accept the challenge from Senator John Cavanaugh about the 44th District. And Senator Cavanaugh, believe me, there have been plenty of our colleagues have come by and offered me suggestions about a definition of District 9. But being the bigger man, I will not pursue down that path. So just, just a lot of, a lot of information being exchanged here in the back row. A couple of quick points I want to make. Currently, an ethanol plant can apply to the EPA to do this. They can apply to the EPA to do an injection well to inject CO2. What we're trying to do, what Senator Flood is trying to do with this bill, is to expedite the process and give the state more control on where it goes, who benefits from it, those types of things, and what, what the opportunities are for enhancing the economy of the state of Nebraska. Currently, there are CO2 injection wells in the United States and around the world. The technology is there and it's being done safely. There are a couple in Decatur, Illinois, I believe, that have been in operation for some time. So this is not new technology. It's being done. And it's an opportunity that Nebraska should grab hold of, because I think it could be a very large investment for our state and a huge boost to our economy. Thank you, Mr. President.

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

**McKINNEY:** Thank you. I rise in neutral of this bill currently. I wonder if Senator Flood will yield to a few questions.

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

**FLOOD:** Yes.

**McKINNEY:** Senator Flood, I ref-- I received a few texts from a few, from a constituent that had brung some things that I would like you to answer. One, he stated that this is an unproven technology. It requires a lot of energy to operate and it's expensive. What do you say to that?

**FLOOD:** Well, I know that there is a carbon sequestration injection well that's been run a number of years very efficiently in Decatur, Illinois, and the EPA permits it. I, I don't have enough experience to say whether everything's entirely proven. I mean, I believe that the federal government allows it with its regulation. So I'm, I have a

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comfort level there. As far as the energy that it takes to operate an injection well, I'd have to get the specifics on that. I'm sure that it doesn't take up a very large footprint. It no doubt would require, I'm sure, some electricity. But the energy required to actually sequester the carbon is not something I've had to answer yet.

**McKINNEY:** All right. Thank you. Next question. He stated, also stated that efforts like this is led by the fossil fuel industry to put off doing more things that would actually address climate change in our country.

**FLOOD:** Well, this CO2 injection well does enjoy the, the support of some national environmental groups that, a majority of them, in fact, that see value in, in sequestering carbon. Does this go far enough to, to cause the change in climate change that they want to see? I'm sure it doesn't. What we're reacting to here is a market that is prioritizing a low-carbon footprint and we're using the incentives in the economy to incentivize generators of CO2 emissions to successfully sequester it. So I don't think this in and of itself is this is, is the full solution. It's one piece of change in America that I think over time as incentivized and not will reduce in a lower carbon footprint.

**McKINNEY:** All right, one last thing. One other piece to climate change and environmental justice is we also have to address the disparities in environmental justice and climate justice when it comes to communities like north Omaha. And I would just be interested, something that might move me to on the other side of this is something in here to address the historical nature of negative practices by the, the fossil fuel industry in plants like the OPPD plant in Omaha that have negatively affected my community. There's more kids with asthma, it's poor air quality. It-- could something be in this bill to address that issue, to give back to those communities that have been negatively affected?

**FLOOD:** Well, for instance, OPPD does, I think, have a coal electric generation facility in north Omaha, north of the airport, if I'm correct. They could sequester, they could capture the CO2 emissions and they could sequester that, reducing CO2 emissions. You know, ethanol in and of itself is a, is a renewable. And so could more be done? Yes. I think this does give anybody that runs a coal power plant an option to reduce their carbon footprint if they wanted to sequester that. I don't know that they'd be--

**FOLEY:** One minute.

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**FLOOD:** --incentivized to do that in the same way that a for-profit business would be as a political subdivision. So that's probably a challenge. But, you know, I haven't given a lot of thought to the different regions of the state. And I should point out that I don't really think that they could probably sequester the carbon in Omaha because the geologic nature of that eastern Nebraska region probably doesn't meet the criteria. So this probably isn't even an option for OPPD, just given its geographic location. What can be done besides this? I think this is part of a bigger issue that we'd have to look at.

**McKINNEY:** All right. Thank you. I yield the rest of my time back to the Chair.

**FOLEY:** Thank you, Senator McKinney and Senator Flood. Senator McCollister.

**McCOLLISTER:** Thank you, Mr. President. Good afternoon, colleagues. Senator Flood has done a rare thing. Increasingly, the members of this body recognize that climate change is real and so I think this discussion has just been very, very worthwhile. Secondly, carbon and CO2 sequestration is a viable technology. So the tech, the technical ability to do that currently exists in this country and certainly in Nebraska. I'd like to ask Senator Flood a couple of questions. Will he yield?

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

**FLOOD:** Yes.

**McCOLLISTER:** You mentioned a couple of states that have similar projects. Can you remind us what states have, have had these kinds of processes?

**FLOOD:** Well, I know there is a CO2 injection well in Decatur, Illinois. I don't have a lot of background on it. I do know that the states of Wyoming and North Dakota have taken over the primary regulatory responsibilities ranking above the EPA in their states after like a joint memorandum with the EPA in those states. In Nebraska, obviously, we don't have any CO2-- CO2 sequestration. And so I wouldn't say that it's, it's widespread popular, but it's becoming popular with the incentives that are currently available for industries that emit CO2 in their emissions.

**McCOLLISTER:** Thank you. The facility in Decatur, Illinois, that services a coal-fired generation plant, does it not?

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**FLOOD:** I-- before I say something on the record, I want to check that before we go very far.

**McCOLLISTER:** I believe it does. You mentioned that this process may have some, some financial benefits to ethanol plants. Is there a financial return to these ethanol plants to inject this carbon dioxide?

**FLOOD:** Yes, there is. I mean, if you are selling ethanol-- and right now there are ethanol producers in Nebraska that are a major part of the picture in states like California and states like California do care about the carbon footprint of, of ethanol producers in Nebraska. And they, in fact, inspect these plants to make sure they are meeting the representations that they make to the buyers of the ethanol. And by sequestering carbon in this manner in Nebraska, our Nebraska corn farmers and our Nebraska ethanol plants become more attractive as a, as an ethanol vendor--

**McCOLLISTER:** Thank you.

**FLOOD:** --to states like California.

**McCOLLISTER:** Yeah, but there is no carbon exchange, carbon tax, or cap and trade situation for them to take advantage of it. So it's simply a marketing advantage, not a financial advantage. Is that correct?

**FLOOD:** I believe there are some credits that are available on the federal side and I can get you more information on that. There is a, there is a benefit for-- in our economy and the way that we are incentivized to, to meet the climate change challenge, there are financial opportunities for emitters of CO2 to take advantage of. So I wouldn't want to say there's absolutely nothing.

**McCOLLISTER:** Well, I favor this bill. It's a good bill. Starts us out on a road that I think we need to go down. LB650 is a good bill and I will hope you will give it a green vote. Thank you.

**FOLEY:** Thank you, Senator McCollister and Senator Flood. Senator Moser.

**MOSER:** Good afternoon, colleagues. And thank you, Mr. Lieutenant Governor. I'm also on Natural Resources Committee, so I listen to this discussion and had some questions for the testifiers. And, and I applaud Senator Flood for digging into this and being prepared for any and all questions that may pop up on the floor. Some of the questions that were asked, I think I have some information on. One of them was



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about making dry ice out of the carbon, CO<sub>2</sub>. If you compress the CO<sub>2</sub> enough and cool enough, it will turn solid and it's, it's dry ice. And it's used for cooling things. They use it in some packing plants to cool certain cuts of meat while they're packaging them. And the disadvantage to making dry ice out of carbon dioxide is then when the carbon dioxide evaporates, it, it takes energy out of the air around it to turn back into a gas. So then the CO<sub>2</sub> is then released again. So it's not a sequestration for very long. It's only while the dry ice is frozen. The strata where this supercritical carbon dioxide is injected is deeper and lower than where typically oil is produced. So it's a little different geological formation. And there are only certain places in Nebraska that would have the right geology for this sequestration to take place. And you need to have a source of CO<sub>2</sub>. The closer it is to where you can inject it, the better, the more economical it makes it. So it's not, it's not going to happen all over Nebraska. You know, it may not happen only once or twice in the whole state. It's a bit of a leap of faith, I think, to support this bill. And I, you know, I think Senator Flood should be applauded for sticking his neck out to bring this bill and, and withstand all the slings and arrows of everybody who questions what we're doing here. But I think it's, it's a good thing for Nebraska agriculture to be able to get a better credit-- a better carbon score. I was going to say credit score-- carbon score on their ethanol. And it may be a big help, you know, it may not, but I think it's worth the effort to try to make it work. And so I'm going to vote for it and I hope my colleagues do too. Thank you.

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

**GROENE:** Thank you, Mr. President. I stand in support of LB650. I thought it was a little science fiction when Senator Flood first introduced it. You know, not really proven and-- but after hearing the testimony, and it was an enjoyable hearing, he-- Senator Flood is trying and Senator Hughes by sponsoring it as his priority are trying to be proactive, to have something in place in Nebraska so it's not a mad rush down the road. And, and the process will-- they'll have time to set this up. There's no guarantee anybody will build one of these. And what's nice about it, too, it will be done by free enterprise. The ethanol plants will do it themselves and it will be a marketing tool and they won't build it unless California-- or there's some economic reason to build it, that California will buy more of our ethanol. I also look at it, we went through a very cold snap and I'll brag again how our, my Gerald Gentleman coal, fossil fuel burning plant out in Lincoln County kept us all warm with lights on. That maybe NPPD could also, working with the EPA, do one of these wells to offset carbon

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emissions there. But I always like to go back to basis and if some kids are watching, I don't know what they learn in school anymore about carbon dioxide is a necessary gas of our life cycle. It is not a poisonous gas. And I'll read you an old chapter from an old sixth-grade textbook. The oxygen cycle and the carbon dioxide cycle-- carbon cycle are two of the biochemical cycles on earth that make life possible. They are separate but are dependent on each other because the carbon cycle gives off oxygen for the oxygen cycle to use. And in turn, the oxygen cycle emits carbon dioxide, which goes back into the carbon cycle. Plants are the main vehicle by which the oxygen and carbon cycles are connected. Respiration, combustion, and decomposition are three other ways that CO2 and oxygen is released back into the atmosphere. Another biochemical cycle, the hydrogen cycle, connects some of the pathways in nature that are involved in carbon and oxygen. And if you don't believe in God and creation, read that chapter. That couldn't just possibly just happen. But carbon dioxide is a natural occurring gas. It's a good gas, it's not a bad gas. Without it, we don't exist. Without it, the corn plant don't grow. Without it, food does not grow and animals do not eat. I just want to refresh your memories about carbon dioxide. It is not nitric oxide. It is not a sulfur oxide. It is a gas that I appreciate exists. And quite frankly, folks, in this body, we emit a lot of it because we all like to talk on the mike. So if we have an imbalance in that lifecycle, I understand that, but it is a minute amount, 99.5 percent of all the carbon dioxide out there we need and thank God we have it. So I support this bill. I hope it helps us sell more ethanol. I hope it keeps us warm in the winter if, if the government bureaucrats say we have to find a place for our carbon dioxide, whichever they decide is too much in the life cycle. And if it helps my power plant and my lights on--

**FOLEY:** One minute.

**GROENE:** --in Lincoln County with Gerald Gentleman, I'm all for it. We'll rotate some of that money into the economy. Somebody will build a well and we can go on with life in the carbon and oxygen cycle. Thank you.

**FOLEY:** Thank you, Senator Groene. Senator John Cavanaugh, you're recognized for your third opportunity.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. First off, I just want to address I appreciate Senator Groene's comments. There's a classic saying that too much of a good thing is not a good thing. And that is kind of where we get carbon, carbon dioxide is good and it is part of the life cycle, but if you get too much of it, it becomes a

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problem. And that's kind of the point we're getting at here. And I just, I wasn't going to talk again, but I wanted to kind of address some of the concerns raised by Senator McKinney. And so the reason I'm in favor of this bill and it has to do with the fact that we have too much carbon. And there are places like the, the coal fire plant that Senator Groene is so fond of that are producing carbon dioxide. And there are carbon, is carbon dioxide being produced in other communities. And we have done this for generations where we have emitted carbon into the environment at no cost to the emitter. And so it has built up in our environment to a degree where we now have a problem. And the reason I like this bill is that it is making the producer address that cost. It is factoring the cost of the carbon into the price of the product. And that is why this is a good bill from my perspective. Obviously, there are a lot of other reasons people like this bill and I join in some of those reasons as well. But the reason I'm voting for this bill is fundamentally that it is a step to say that when we produce a product that has an external effect on the environment, being an emission of carbon, that we should factor that cost into the cost of the product. And that is part of what this bill does. I know there are some questions about whether anyone will do this and this is a market-based approach to attach that cost and to allow people to find a market for a product. But it is a step in the right direction to attach a cost to that external effect that carbon has. And so to Senator McKinney's questions, this is not going to solve the problems that we have in a lot of other smokestack emissions. It's not going to solve all of the problems. It is a step in the direction because once we start saying we need to take into account the cost of what we are doing to our environment, that makes the next step to figure out what other costs we need to attach and where else we can do that. And so I would urge your green vote on AM548 and LB650 for the reasons that have been articulated here. And I appreciate the conversation from everyone and with that, I would yield the rest of my time. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Bostelman, you're recognized to close on the committee amendment. Senator Bostelman. Senator Bostelman, you are recognized to close on the committee amendment. He waives closing. The question before the body is the adoption of AM548. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**ASSISTANT CLERK:** 40 ayes, 0 nays on the adoption committee amendments.

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**FOLEY:** AM548 has been adopted. Is there any further discussion on the bill? I see none. Senator Flood, you're recognized to close on the advance of the bill.

**FLOOD:** Thank you, Mr. President. Members, you know, when you go door to door, like most of you have had to do, they don't ask you whether you can talk about carbon dioxide. And I want to tell you again how impressed I was with the committee and its just interaction on this bill. And then, of course, the full Legislature. There was a lot of time put into this and we had very good questions. A couple of things between now and Select File, Senator Bostar and others have raised the question of how we will regulate this and to ensure the safety of the citizens of Nebraska, our natural resources. I have pledged to work with Senator Bostar and others between now and Select to not only better understand what the issues in Oklahoma are as it relates to seismic, increased seismic activity and their relation to injection wells, but also what can be done within reason to figure out what the best next step is. And I'm sure that that will be more of a learning process than anything. I also want to thank Senator McKinney and others that have raised concerns that they have about the bill. Senator Wayne. I intend to keep those discussions going between now and Select as well. And thank you for the time and attention you've given to this and I urge your green vote. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Flood. Members, you've heard the debate on LB650. The question is shall the bill advance? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 41 ayes, 0 nays on the motion to advance the bill, Mr. President.

**FOLEY:** LB650 advances. Next bill, please. Items for the record first, please. Next bill, please. Sorry.

**ASSISTANT CLERK:** Mr. President, LB650A by Senator Flood is a bill for an act relating to appropriations; to appropriate funds to carry out the provision of LB650.

**FOLEY:** Senator Flood, you're recognized to open on LB650A.

**FLOOD:** Thank you, Mr. President. Members, this is the accompanying fiscal-- or the A bill. You'll note in here that there is \$200,000 in expenditures in FY '21-22 and then \$175,000 in '22-23. There's a explanation of this. This goes to, I believe, the Oil and Gas Commission, which will then be the agency that will work with the EPA

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and accomplish the underlying intent of LB650. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Flood. Any discussion on the A bill? Senator Erdman.

**ERDMAN:** Thank you, Mr. Lieutenant Governor. I appreciate that. Senator Flood, would you yield to a question?

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

**FLOOD:** Yes.

**ERDMAN:** Senator Flood, the Oil and Gas Commission is headquartered in Sidney. You knew that, right?

**FLOOD:** Yes. I hear it's a outstanding location for state agencies--

**ERDMAN:** Yeah.

**FLOOD:** --to be located in.

**ERDMAN:** You are, you, you are so correct. Thank you. So I was there at the hearing. I believe the Oil and Gas Commission came in in a neutral position. Is that true?

**FLOOD:** Yes.

**ERDMAN:** And what was their reason for being neutral if they're going to be the ones that are going to oversee this, this program?

**FLOOD:** As I recall, they were just respectful of the legislative process and said, and testified that if the intent of the Legislature was to adopt this legislation, that they would assume the responsibilities assigned to it by the State Legislature.

**ERDMAN:** OK.

**FLOOD:** And that was my understanding.

**ERDMAN:** Very good. I would agree that's what it was. It was refreshing to see an agency of the state come in and not trying to wipe out your bill by some vast appropriations bill or some fiscal note that wiped out your bill like they did to my Game and Parks bill. So that was nice to see that they were willing to do whatever the Legislature passed. I appreciate that. Thanks for your answer.

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**FOLEY:** Thank you, Senators Erdman and Flood. Any further discussion? I see none. Senator Flood, you're recognized to close on the A bill.

**FLOOD:** I waive that closing.

**FOLEY:** He waives closing. The question before the body is the adoption of-- excuse me, the advance of LB650A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**ASSISTANT CLERK:** 39 ayes, 0 nays on the motion to advance the bill, Mr. President.

**FOLEY:** LB650A advances. Items for the record, please.

**ASSISTANT CLERK:** Thank you, Mr. President. Amendment to be printed to LB566 from Senator McDonnell. Your Committee on Enrollment and Review reports LB41, LB461, LB78, LB405, LB252, LB70, and LB5 all to Select File, some with E&R amendments. Committee on Urban Affairs reports LB131 to General File with committee amendments attached. That's all I have at this time.

**FOLEY:** Thank you, Mr. Clerk. We'll proceed to the next bill, please.

**ASSISTANT CLERK:** LB338, offered by Senator Bostelman, is a bill for an act relating to telecommunications; change provisions relating to universal service funding for unserved or underserved exchanges; provide for community-based plans as prescribed; provide duties for the Public Service Commission; harmonize provisions; and repeal the original sections. The bill was introduced on January 13, referred to the Transportation and Telecommunications Committee. That committee reports the bill to General File with committee amendments.

**FOLEY:** Senator Bostelman, you're recognized to open on LB338.

**BOSTELMAN:** Thank you, Mr. President. Good afternoon. LB338 would allow the Public Service Commission to redirect Nebraska Universal Service Funds, NUSF, from one eligible telecommut-- communications company, ETC, who is not fulfilling their duties to provide broadband services. An ETC is a carrier approved by the commission to receive NUSF support. LB338 also allows the Public Service Commission to consider rural-based plans when redirecting funding. Current statutes allow for the PSC to withdraw NUSF funding from telecommunications companies who fail to meet their obligations to serve the area they are receiving funding for. The PSC is then allowed to hold a reverse auction to award that funding to another ETC. This bill does not remove those provisions, but simply allows a PS-- the Public Service Commission to

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consider a rural-based plan that has been created with the intent of local businesses, hospitals, schools, residents, and agricultural producers in and outside of the city or village limits on which ETC they think will best serve their needs. The PSC shall then consider the rural-based plan on a set of scoring criteria, which can be found listed in the bill. In 2018, LB994 was passed by the Legislature, which allowed the PSC to adopt rules and regs that established standards governing the withholding of funding from the NUSF from any receipt. The PSC attempted to adopt rules that allowed them to consider rural-based plans by Attorney General-- by the Attorney General, but the Attorney General rejected the plan because it was not expressly allowed in LB944-- LB994. This bill will simply give the PSC that authority. Too often we have seen NUSF funds awarded to ETCs who have failed to provide the minimum speed standard of 25/3 to their customers. Reverse auctions have been the tool used in the past for redirecting federal USF funds to new ETCs, but have shown poor results in the rural areas of our state. LB338 will just give the PSC another avenue to redirect those funds, but with the input of those residing in the service area. I ask for your green vote on this bill and its advancement to Select File.

**FOLEY:** Thank you, Senator Bostelman. As the Clerk indicated, there are amendments from the Transportation Committee. Senator Friesen, you're recognized open on AM110.

**FRIESEN:** Thank you, Mr. President and colleagues. AM110 makes it clear that the rural-based plan established in LB388-- LB338 will not eliminate the existing reverse auction system that is available to the Public Service Commission. This rural-based plan will simply allow rural residential and business users to get together, voice their opinion on how best to redirect NUSF funding, and it gives these affected stakeholders a chance to be involved in the decision-making process. Thank you, Mr. President.

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

**ASSISTANT CLERK:** Mr. President, Senator Bostelman would move to amend the committee amendments with AM803.

**FOLEY:** Senator Bostelman, you're recognized to open an AM803. Senator Bostelman. Oh, yes.

**BOSTELMAN:** Good after-- thank you, Mr. President. AM803 amends LB338 and affects the Nebraska Universal Service Fund support, dark fiber leasing and telephone boundary changes, importantly. It, it, it happens to also address funds that will be directed to cities and

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counties under the American Rescue Act recently passed by Congress. For the purposes of NUSF support, Section 6 and 7 of AM803 increase the minimum standard, speed standards to 100/100 as a condition to receive new NUSF funds. These changes amend the existing law the commission relies on in determining eligibility for NUSF support. This portion of the amendment is consistent with the Governor's LB388, as it incentivizes broadband providers to build out quality future-proof infrastructure while also protecting ongoing NUSF support for the operation and maintenance of existing 25/3 capable infrastructure. AM803 inserts a new section that would require any receipt-- recipient of NUSF funds to submit to speed tests as determined by the PSC as a condition to receive ongoing NUSF support. The amendment increases the minimum speed standards of 120 for boundary changes and dark fiber leasing to be consistent with the Governor's LB388. Like the Governor's bill, this standard protects existing infrastructure against subsidized overbuild. Again, like the Governor's bill, this standard protects existing infrastructure against oversized-- or subsidized overbuild. For the purposes of boundary exchanges, citizens who reside in a local exchange area that fails to meet the 120 speed standard could petition for a boundary change in order to receive broadband service from a neighboring telecommunications carrier who is providing faster speeds. Under AM803, a public entity who leases dark fiber would not be the, would not be subject to remit 50 percent of its profits to the NUSF in areas that do not meet the 120 minimum speed standards. This amendment also protects existing 120-capable infrastructure against subsidizing overbuilding-- subsidized overbuilding. Last, but certainly not least, the American Rescue Act will appropriate \$685 million directly to cities and counties. Those funds are eligible for building broadband infrastructure without the changes in Section 6 and 7 of the amendment. The old 25/3 standard would apply by default. Those sections change that standard to 100/100. Last summer, this very same low standard caused the state to leave on the table more than \$10 million in CARES Act funding that had been allocated for broadband. For years, we have seen state and federal funds go to companies who promised to build out quality and afford, affordable high-speed Internet. However, time and time again our rural citizens are being left behind. AM803 safeguards our money from being spent to build out antiquated infrastructure that will not provide Nebraskans with the service they need. Therefore, I ask for your support of AM803 and a green vote on LB338. Thank you.

**FOLEY:** Thank you, Senator Bostelman. Debate is now open on LB338 and the pending amendments. Senator Pansing Brooks.



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**PANSING BROOKS:** Thank you, Mr. Lieutenant Governor. Well, I stand in support of AM803. I think this is a huge, huge public issue and public policy issue for our state, colleagues. I, I cannot think of anything that is probably more important for our state than broadband and wireless access across the state. As many of you know, my husband is a telecom lawyer, one of very few. About a handful practice in front of the Public Service Commission to work on expanding broadband and allowing carriers to, to come in and provide access in our state. This amendment has been supported by ag, by rural communities, by the League of Municipalities, by cities. We have to get to the point where, yes, this is complicated. I've heard from a number of you: This is so complicated, I don't know what to do. And they were confused because, people were confused because of Senator Bostelman's previous bill and, and, you know, part of the problem is sometimes the-- in the future, at some point in the future, the wire, wired carriers, the people with the wire lines, the companies with the wired lines are going to have to realize that they either need to keep up or get out of the way. This is a huge issue. I have purposely stayed out of telecom because of my husband. I felt it was a, a great conflict. But when, when there are issues like this that come up that really are blocking our access to being able to move across the state, I am going to stand up and speak out. There are farmers on the Ag Committee. They all stand up and speak out on what they know about what they care about. And I care about access across our state. The only way we can thrive is if wireless broadband succeeds in our state and there are many opportunities available. And we cannot just sit back with the same old standards, the, the 25/3 standard. The state needs to change that. We have to have a higher standard, higher speeds accessible for our people. You want to keep kids in Nebraska? Give them Netflix right now. That's what they want to stay here, let alone colleges and expanded learning until, you know, education. So this is probably, to me, one of the main, key issues. Senator Bostelman is supporting up to 100-- over 100 speed. Well, that's what the federal government is doing right now as well. This is an important issue. We cannot sit back and sit on our hands and say, oh, well, maybe something will happen or, oh, this is going to be too much pressure. I'll tell you what, if you look at the amendment, what it says and what they-- it's whittled down to almost nothing till-- this is such a no-brainer. Any recipient of ongoing high-cost support from the Nebraska telephone-- Telecommunications Universal Service Fund shall agree to submit to speed tests. Hello? Speed tests by the Public Service Commission. "Upon the commission's request, such recipients shall conduct the speed tests and submit the results to the commission." My, what a terrible thing. I'll tell you what, if there are companies that do not want to do that, ask yourselves why is it that they don't want to do

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that? Could it be because they are not providing the, the speeds that they say they are? "The speed tests shall be conducted for one week using a random sample of locations of consumers who subscribe--

**FOLEY:** One minute.

**PANSING BROOKS:** --to services provided over infrastructure for which ongoing high cost support is received." This isn't even a big deal, you guys. This is, this is about helping our, our state thrive, getting wireless access, letting people connect and communicate. This is possible. And there is so much that can be done. Senator Bostelman and Senator Brandt are becoming experts in the area of wireless access. I, I would ask you to talk to them as well about what's going on. And remember when you're talking to somebody, find out if they're really supporting the wired access versus the wireless broadband rural access. So thank you for your time, Mr. Lieutenant Governor.

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

**FRIESEN:** Thank you, Mr. President. I stand in support of LB338 and LB110, but I stand in opposition to AM803. So we've, we've worked on trying to get broadband out into rural areas for all six years that I've been here. And it's been a slow, steady pace. But when I first got here, there was basically nothing happening. And so we've, we've taken small steps because we have worked through a system to where there used to be a big fight between some of the rural electricians and the broadband industry. And now we're trying to get broadband out into the parts of the state and the Governor has realized how important that is and so he was willing to at least put money towards building out broadband in rural Nebraska. The, the Governor's bill, LB338 or 39-- LB348 [SIC], whatever it is, that, that bill is different than this bill. That is a specific set of funds. It's not-- it's done through the Public Service Commission, but it's not using NUSF funds. It's using appropriated money and it's also using dollars that come in from the federal government. As we get more stimulus money, it's going to provide more revenue to, to that program that builds out. And what the object of that bill does is it prioritizes unserved areas first and then we go into the underserved areas and build out 100/100 broadband service. What this amendment basically does is it raises that standard now so that anything that is less than a 100/20 is open to development, so we will not prioritize those areas that are 25/3 or less. We've changed that definition. And so my goal has always been to-- the hardest parts of the state to serve are those with 10/1 or 25/3 because nobody wanted to go there. And so by taking that prioritization away from going to those underserved areas, by changing the definition, we have now said that we are going to let companies

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basically cherry-pick those areas they'd like to go. And I don't think they'd like to go to those areas that currently have the 25/3 or 10/1 because those are the most difficult areas to serve. So we, we, we are working on an amendment that the MTA has agreed to. We want to come up with a solution to this. I think I know where Senator Bostelman wants to go, but the direction he's taking to get there will do some damage. We have got companies right now that are building out and they may be building out a wireless facility under either our universal-- Nebraska Universal Service Fund from the Public Service Commission or they're doing it through the Federal Communications Commissions through different programs that are, they have out there. They're building wireless facilities, they're putting in fiber, they're doing all of the above. But what I think could happen is you can have an area that just been recently built out and they may have a service by 50/25. So that standard still shows them under this amendment that that would be under-- unserved and they would be available to overbuild with 100/100. It creates confusion in the industry. There's-- we have been changing the rules as we go. It seems like every year we've been adding something to this. We don't even let the programs work that we've approved. And so I, I look at this as I think there's a solution to this, I just don't think this is the right solution yet. We do want to get broadband out into those unserved--

**FOLEY:** One minute.

**FRIESEN:** --areas, and that is, should be our priority. So when you change that standard to say that most areas of the state are now unserved, it changes our priority. So with that, I do stand opposed to LB-- AM803. I support the rest of the bill and I'm looking for a solution. I'm hoping that-- we have a draft up in, in Bill Drafters now. We hope that we can get to that today and that will be acceptable to everyone. Thank you, Mr. President.

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

**GEIST:** Thank you, Mr. President. I too stand in opposition to AM803, but I am in favor of AM110 and LB338. Senator Friesen and I actually have many of the same objections. And I, actually I give Senator Bostelman credit. I understand what he's trying to do, I just-- and he knows that I'm just not in favor of this at this time. And I'll tell you specifically, my biggest pushback is having worked through LB996 in the One Hundred Sixth Legislature and we set up new rules for the PSC and how they're going to judge giving out broadband in those areas that are unserved and underserved. And that was through a reverse auction. This does not eliminate the reverse auction, it broadens what they can do. And I understand that. I just, my, my concern is that

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we're continuing to change the goalpost and we're broadening the field or narrowing it. The PSC has yet to perform a reverse auction and so we don't know how that works here in the state. We are aware that federally it's not a great plan. But here in the state, we have more confidence in the PSC being able to run a reverse auction for those areas. So personally, I would like to see LB338 go forward, LB388, which is the Governor's broadband bill, go forward, and then start correcting what we see happening from the results of those bills. For me, this is too much change at one time and, and I would just rather see a simplified, more streamlined approach. And so that's where I stand, opposed to AM803, but in favor of AM110 and LB338. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Geist. Six senators in the queue. Senator Brandt, you're first.

**BRANDT:** Thank you, Mr. Lieutenant Governor. I'd like to thank Senator Bostelman for bringing this much-needed bill to Nebraska. Senator Geist, I respectfully disagree. I don't think we can get enough change fast enough in this state when it comes to technology. I stand in support of AM803, AM110, and LB338. This will increase the standard to 100/20 from the 25/3. This will require speed tests. So at least we as citizens can see what we're getting for our money. For years and years, we subsidized the Nebraska Universal Service Fund. That money goes for rural outbuild and there really hasn't been much accountability on what these companies have been doing with that. Now we can measure it. It will be in statute. AM803 protects us against a subsidized overbuild and it adds the rural-based plans to be part of the consideration when we clawback funds from a carrier. Senator Friesen says that rural development will stop if we increase this over 25/3. Would Senator Bostelman answer a question?

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

**BOSTELMAN:** Yes.

**BRANDT:** Senator Bostelman, do you agree with Senator Friesen that if we raise the standard from 25/3 to, to 100/20 this will stop development in the rural areas?

**BOSTELMAN:** No, I would say it will do the exact opposite. In fact, I think you have an email from Lash that actually speaks to that, that this will actually expedite for cities and others across the state. This will actually bring broadband to them at a more expeditious fashion that is better for them.

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**BRANDT:** Thank you, Senator Bostelman. Colleagues, I ask you what other industry gets to stifle competition? For the last 20 years, our public power districts have been restricted from the broadband arena. We did have a bill or still do have a bill, LB460 would take those restrictions off. These are the utilities that go to our rural areas. These are the people that can help get this deployed faster in Nebraska to give us some robust broadband into our rural communities and especially outside those incorporated areas. What other industry gets to take millions in federal and state funds with low accountability or slow-walk deployment to rural areas? And finally, they get to charge their consumers whatever they want and for what kind of service? They don't want to be measured. AM803 at least requires some measurement and some accountability here. And if you agree to deliver 25/3 or 100/20, you ought to be delivering that, particularly if you're using tax dollars to do that. And if you can't do that, don't take the money or give the money back. So I guess I ask where's our broadband in rural Nebraska? You know, let's get with it. We've, we've got to know-how. We've got the technology to do this. And with that, I would encourage your green vote for both amendments and LB338. Thank you.

**FOLEY:** Thank you, Senator Brandt. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Again, it's good to see you, Lieutenant Governor Foley. Good afternoon, colleagues. I rise in support of LB338 and AM110 and I am optimistic about AM803. I do think that there are a few things that need to be cleaned up on that. And I know that Senator Bostelman is committed to making sure that this final version of this bill is as close to perfect as it can be. But as our colleague, Senator Pansing Brooks, says, we can't let perfect be the enemy of good. So I rise in support overall of Senator Bostelman's bill and the amendments. And I know that this has been a very passionate and important issue to Senator Bostelman over his career here in the Legislature. I think we've heard innumerable speeches from Senator Bostelman about broadband in the state and its importance. And if there is one thing that has been highlighted over this past year in issues of equity and access, I think the lack of access to broadband in this state is, is really of grave concern, especially when it comes to education and healthcare. And as we've had several bills this year that are addressing broader telehealth and tele-education. And we've seen a lot of students going to tele-education, not just young students, but also college-age students and community college students doing tele-education as a means to be safe during this current pandemic, but also creating an increase in access to education barriers that might exist in especially more rural

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areas or areas of-- even urban areas where we have maybe the, the, the challenges of working multiple jobs to make ends meet and having the access and opportunity to utilize tele-education so that you can learn at different times that fit better with your schedule. So I do think that this is a very important issue that impacts the state of Nebraska. And additionally, I think it was two years ago, Senator Brandt hosted a few of us. Well, I think he invited all of us that were in the body at that time, but hosted a few of us out at his farm, his cooperative. And Senator Dorn was there as well. And there was a lot of talk about the infrastructure of, of the moving the supplies and trains and schedules. And if we have increased access to broadband and high-speed Internet, I think we can see that our rural businesses will begin to thrive under that. And so this is really an investment in business, it's an investment in education, it's an investment in healthcare and it's something that I think we can all get together on and find a solution. I know that there's a lot of competing interests in this area. There's a lot of different business entities involved in this and we also have different oversight entities such as the PSC. And I think that it's been really great to see, I know there was talk earlier today about task force, but we did have a task force, we had a broadband task force, and they did really important work that informed our committee priority bill last year, which was for broadband, the Telecommunications Committee priority bill. And that was really born out of the recommendations from that broadband task force. So the, there's a lot of moving pieces to this. And I appreciate that Senator Bostelman has been a very passionate advocate for this and continues to work through this because it is a complicated issue. And also, Chairman Friesen--

**FOLEY:** One minute.

**M. CAVANAUGH:** Time? Oh, one minute. Chairman Friesen has also been very dedicated to this, as making these priority bills the last two years. And we have another priority bill this year that is dedicated to telecommunications and broadband access. So I hope that we can continue to work on strategic implementation of broadband in this state. I think in the past, we've been doing some band-aid measures and there's a great opportunity here to make a strategic and smart investment in broadband that is going to impact the lives of so many Nebraskans. And I appreciate the senator and our committee for working so hard on this. Thank you, Mr. Lieutenant Governor.

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

**BOSTELMAN:** Thank you, Mr. President. To answer a couple of questions, I think on broadband-- on, on fiber that we're talking about, the

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current limitations placed on, on public power in regard to leasing dark fiber serve as an impediment to the development of broadband in rural Nebraska. I think that's what Senator Brandt is talking about. AM803 allows for leasing of fiber in areas that are not served with 100/20 broadband services. These speeds are consistent with LB388. To be clear, Section 5 of AM803 does not put public power in a broadband business. It does remove barriers of their ability to, to lease some fiber, but it does not, does not prohibit them. Talking about what-- a couple of things, I've been trying for the last three weeks to talk with NTA to get an amendment to cut-- get a compromise on this bill on-- to come to the table. We finally met yesterday and then they met today at noon. And I compromised a significant amount to get AM803. AM803 is pieces put together that makes sense for this state. We-- COVID is something that shined a light pretty brightly on Nebraska and the lack of broadband and the needs we have statewide. The ARA money that's going to come down to our cities and counties. This will allow them then to have high-quality broadband, 100/100, into their, in their communities. This is about economic development. This is about bringing businesses to the state of Nebraska. This is about keeping people in rural Nebraska. This is about bringing people from larger towns, cities into our small communities that do great things. New businesses, new opportunities. I hope that perhaps this AM803, as it's drafted right now, actually does that and helps our-- the, our rural communities as much as we can. Many carriers under the reverse auction of LB994 of 2018, they actually want to, want to and will serve rural areas that don't have broadband. There's companies out there that want to do this and this bill allows that to happen. We can't continue to take little steps. We can't take piecemeal steps. We need to take steps that are bold and aggressive, bold and proactive, steps that are pro-business. Our ag community supports this 100 percent, Farm Bureau supports this 100 percent, and our league supports this 100 percent. Communities across the state, schools across the state, health providers across the state have all come to me and said this is what we need. I can speak probably the rest of the afternoon on why it's needed as far as lack of connectivity for a great share of Nebraska. When we talk about NUSF specifically in the bill, it talks about PSC being able to do tests, speed tests. Right now, if they get NUSF funds, we kind of take their word for it. Are they provided or not? To me, it's that portion of AM803 is very critical. It's the same as in LB388. This bill has very few differences than LB388. So if you're going to support LB388, the Governor's bill, this bill pretty much so mirrors it for the rest of the state.

**FOLEY:** One minute.

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**BOSTELMAN:** The objections you might have on fiber on the 100/20, it's the same, it's the same language in LB388. It's no different. So why is it good for one and not the other? Are we worrying about overbuild? The federal government is moving now to high-speed Internet and any of the-- and RDOF money that come out, that just come out, that was all high-speed. It wasn't 25/3, it was high-speed. This amendment and the underlying bill, LB338, I am opposed to AM110, but AM803 puts the state from 48th worst in the United States, 48th worst in the United States and moves us up that ladder. And if no-- and if a provider doesn't want to have the opportunity to increase their market to sell a better product, then to prove that they're-- or support and prove that product is actually doing what they're doing, then perhaps those providers need to take a second look at their business model and what they're doing for the state. Because too many of us, too many of the towns in my district don't have high-speed Internet. Too many of the, of the businesses that would locate in my district won't locate there because the lack of high-speed Internet. AM803 does that.

**FOLEY:** That's time, Senator. Six senators in the queue. Senator DeBoer, you're next.

**DeBOER:** Thank you, Mr. President. Colleagues, today we are looking at AM803. We might be looking at a different amendment. I was considering, with Senator Bostelman's blessing, adding in a different amendment on for a bill that I brought into the committee, which is LB498 on mapping it. I just want to take just a second and put a little interlude and then I'll talk about the amendment we're actually talking about and talk about the amendment we're not talking about, which is a mapping bill which would look at whether or not we actually have the speeds that we say we do in the state, where we have those speeds, and what those speeds are. The reason I did not bring the amendment is because the FCC has said once again that they're going to work once again to try to get more accurate mapping about where broadband is and isn't and what speeds are and are not available in the, in the country. I feel a little bit like on this one we're Lucy with the football. The FCC says come and kick it, Charlie Brown. We're going to do the mapping and, once again, we fall for it. So I hope that's not what I'm doing this time. So my bill, LB498, is out of committee. It is sitting on General File. And if in January, Lucy has removed the football again and we have not seen the FCC taking any action to improve the mapping and we don't have any confidence that they will, then I will at that point try to move that bill forward. So that's the point I wanted to make on the bill, the amendment that we're not talking about. And I appreciate the committee and everyone who helped me work on that bill. I feel like sometimes when people



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from different committees come in here, some of the, the things that they discuss gets lost in translation. So I wanted to explain a couple of, of things in case somebody didn't totally understand all the intricacies of what we're going on here, because, of course, this is a very complicated area of the law. There are a lot of different angles and entities that are involved in it. Somebody asked me yesterday, when you're moving from a speed of 25/3 to 100/100, do you just crank up the speed on the, on the, the system that you have? And that's really not what can happen. So if you're in the TNT Committee, I'll give you a little bit of a Cliff's note here, 100/100, if you're talking about that speed, that means fiber. That means that you have either hung fiber on the, the whatever poles, usually electricity poles or whatever poles are out there, or you've buried it in the ground. So 100/100 means you've got some kind of fiber situation where you're going to the home with fiber and you're delivering on that best-of-what-we-have-now technology, which is fiber to the home. 100/20 is usually something that rings in the head of those of us who are dealing with this a lot, that it's something to do with cable. I don't know exactly why their speeds are not capable of being symmetrical as easily, but they're very good speeds. And so 100/20. When you talk about 25/3, that is the speed that currently the FCC, currently at this moment, the FCC says is broadband. That's their-- that's the served areas. If you've got 25/3 speeds, that means that the FCC recognizes that as an acceptable speed. Especially during this pandemic, we've seen that perhaps that speed is not very acceptable. And certainly going into the future, it won't be. I mean, my parents have an oven that is hooked up to the Internet and they can go on their phone and they can--

**FOLEY:** One minute.

**DeBOER:** --start it preheating or something like that. It's called the "Internet of things." And as more and more and more things in this, in our society use the "Internet of things," as well as you think of all the Zoom or, or conferencing programs, online school, all of those things, they suck up bandwidth very quickly. So what we're talking about here is saying that we need to go and incentivize with tax dollars only those best technologies that we have and not the technology that we used to use because we're recognizing not just where we are today, but where we're going to be in the next five years. And that is we're going to be using more and more bandwidth, more and more speed. All of these things need to sort of step up. And instead of investing into the kind of technology that existed in the past, we're talking about using tax dollars to invest in what will be

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future-proof, is what they call fiber, technologies that will actually be able to, to last for a while--

**FOLEY:** That's time.

**DeBOER:** --and we'll be able to do. Thank you, Mr. President.

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

**FRIESEN:** Thank you, Mr. President. So we've talked a lot about broadband expansion in rural Nebraska. When we've asked in the past how big a problem do we have, what's it going to cost to get it done, when can we get it done? And we've never, ever really received a good answer. Me and Senator Bostelman do want the same thing and we're not having a hand-to-hand combat here trying to kill the bill. We just both want a solution that works. One thing that comes out is that we have a roughly a \$3 billion to a \$5 billion investment we need to make to get fiber to every home in the state of Nebraska. Those are the rough estimates that I've gotten. You can argue with the numbers. I, I have no clue if they're accurate, but consistently we have heard those numbers when we've talked about what is it going to cost to get this done? What is it going to cost to get every last home hooked up to broadband? So if we're looking at a \$3 billion to a \$5 billion problem when we're talking about in our budget putting \$20 million a year into broadband expansion. We've got a long ways to go. So when I look at some of the companies and I've got some-- and I'll just use the MTA companies because I asked them specifically, what have you invested? What is your investment in this project? And the number they came up with, and I don't know how many of the companies reported, but basically over the last three and a half years, they have invested \$262,237,000 in broadband expansion. They're spending money. But when you can't make a business case for doing it out in the rural areas, it's hard to do without this, some sort of program that helps them pay that cost. So we, we look at the dollars and boy, there's, there's companies that have, have realized that they have to upgrade their lines, they have to upgrade their copper systems. They have been receiving ongoing support for their telecommunications part of it, the telephone. They're the carrier of last resort, so they must maintain that system. So some of the dollars they've been getting over the last, since we've created the NUSF fund has helped to maintain that system. But when those copper lines go down and they start to wear out, which, which copper has a shorter lifespan that-- than fiber is what I've been told, they're going to replace them with fiber. But it takes an investment. And if you've seen the investment that they've made, there's companies I've talked to, they're talking about they can't hire enough people for construction crews to put in fiber. The

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lead time on ordering fiber is nine months already. We're doing a nationwide push to get in broadband. And everybody wants fiber to the home, it's the Cadillac. In our really sparse areas that have no Internet whatsoever, there's people who would be tickled to death to get 25/3. Do we want to get fiber to them eventually? Yes. But in order to come up with a 20-- a \$3 billion to \$5 billion investment and try and get that done in the next three to five years, I don't see it happening. So what I've always said, we want to prioritize some areas, we want to prioritize what we're doing so we-- the companies can look at that and follow a strategic plan on how they're going to build out fiber in their areas. And by changing some of these definitions, we've changed some border boundary dispute or, you know, exchanges that we've set up in the past couple of years. And so there's companies out there that are going to want to start--

**FOLEY:** One minute.

**FRIESEN:** --crossing the borders and trying to acquire more territory. And I get that. But again, I go back and some of those areas they would love to have any kind of Internet. But how do we get them high-speed Internet and is it going to be fiber to the home in those sparse areas where you'll have a-- you may run a fiber line for 15 miles to hook up one customer? And that customer may say, I don't want it. We don't, we don't know that, but we're going to say that they're going to build it out there. So we're have some real challenges in the rural area getting broadband out there. It's going to be expensive and it's going to be time-consuming. So I'm-- we, we want to look at this in a strategic way and try and come up with a plan to where we get those underserved, hard-to-serve areas and do that first. Let's not change the definition on how we get there in midstream. We've got companies that have done a great job. I've got companies around me. I've had fiber to the home in the rural, their whole exchange has been fiber to the home for years.

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

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

**FOLEY:** Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, a priority mission. Senator Wayne would move to recommit LB338 to the Transportation Committee.

**FOLEY:** Senator Wayne, you're recognized.

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**WAYNE:** Thank you, Mr. President. I wish Senator Halloran-- oh, there's Senator Holloran. Like we talked about yesterday, we just do things because it's the way it's always been done in this body. And when I look at public broadband, which we don't have, I see that as the solution. What is interesting to me, and I guess the reason why I did this is because I want to spend a little time just asking the body to think about some basic, really a basic question. Is broadband a utility? Let me repeat that. Is broadband a utility? Is broadband considered a critical infrastructure that every person should have access to? If the answer is yes, which I believe the answer is yes. When you look at it from an educational standpoint, when you look at broadband from an economic development standpoint, when you look at broadband from rural and urban and how critical it is for those to maintain population standpoint, broadband is a utility. But what's interesting and what I just heard and the reason I dropped this motion was I heard the Chairman of TNT say, when asked on how do we build out broadband, we never really got a real good answer. What I also heard was Senator Bostelman say we are 48th in the country when it comes to broadband. So I got to ask the question to my colleagues, why are we running from who we are? Why are we scared to acknowledge what this state is? Which it, when it comes to public utilities, when it comes to critical infrastructures, they are all public. Our roads are public. Our electricity is public. Think about that. So what I-- I got to go back and think about, why is this? The reason is the farmer down the end of the line, the small town down the end of the line, there is no business case to develop that. There is no business case to run fiber to just one person. Now I want us to step back and think of what other reason was that used in this Chamber to stop or try to stop a movement? And in the 1800s, it was private industry saying electricity should be provided by private companies. But it was the same argument of why electricity cannot go to the farmer because it just wasn't economic sense. So here we are in 1930-- are we adjourning early, just off of me? I'll ask the question, I'll stop. I'm not going to hold anybody from going up home. You're adjourning after me, Speak-- Speaker Hilgers? I will close my closing. It was really good. I was closing my opening, but I will, I will be done. No, I would like to withdraw my recommit motion at this time.

**FOLEY:** Speaker Hilgers, you are recognized.

**HILGERS:** Thank you, Mr. President. Good afternoon, colleagues. It sounds like we're waiting on an amendment. We are going to go-- we were going to go through until 5:00 p.m. That amendment is not going to come down before then. We're not going to move over, we're not going to skip over this. We're to come back to this in the morning.

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And so in light of the fact that we're waiting on an amendment that will not come before 5:00 p.m. and otherwise we're just going to be continuing this discussion that we can easily pick up tomorrow with the value of having the amendment in front of us, we are going to adjourn now and we will be picking this up, this discussion up in the morning. Thank you, Mr. President.

**FOLEY:** Thank you, Mr. Speaker. Items for the record, please.

**ASSISTANT CLERK:** Mr. President, new A bill. LB587A by Senator McDonnell. It's a bill for an act relating to appropriations; to appropriate funds to carry out the provisions of the LB587. Amendments to be printed to LB274 from Senator Geist and from Senator Lowe. [RECORDER MALFUNCTION] (Additional amendments: Senator Friesen to LB338; Senator Wayne to LB338; Senator Morfeld to LB501. Name adds: Senator Lathrop to LB108; Senator Pansing Brooks to LB354.)