

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate April 12, 2021

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

AGUILAR: Please join me in prayer. Dear Lord Jesus, praise to you, God, for this great state and this great nation. Praise to you, Lord, for your steadfast love over us all. We look to you, oh Lord, for your guidance to lead, wisdom on decisions, and your faithfulness to get us through the hard times. I pray for all who are in authority to remember to look to you for all these things. I pray we can act as one, not one party, race, or of one entrance-- interest, but as one heart. Help us not let the trends of social media abandon our morals. Help us to let our belief in you guide our thoughts and decisions. We ask all this in your name. Amen.

HILGERS: Thank you, Senator Aguilar. Senator Lindstrom, you're recognized for the Pledge of Allegiance.

LINDSTROM: Please join me in the pledge. 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.

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

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

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

CLERK: I have no corrections.

HILGERS: Thank you. Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB17, LB644, LB307, LB380, LB383, LB666, LB386, LB386A to Select File, some of which have Enrollment and Review amendments attached. A new resolution: Senator Day offers LR90, Mr. President. That'll be laid over at this time. That's all that I have.

HILGERS: Thank you, Mr. Clerk. Do you have any personal announcements?

CLERK: Senator Briese has an announcement this morning.

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HILGERS: Senator Briese, you're recognized for a personal announcement.

BRIESE: Thank you, Mr. President. I rise today to honor a great Nebraskan-- Nebraskan whom we recently lost. Gerald W. Schmitt, known by many as Jerry, served our state for over 30 years as a trooper in the Nebraska State Patrol after previously serving our nation in the United States Army. He retired from the State Patrol in 1992 and went almost immediately into-- into continued service to our state. He was elected to the Nebraska Legislature that year and served the 41st District, the same district I now serve, for eight years from 1993 to 2001. Senator Schmitt was active in the VFW and in his church as well as in his community. I want to extend our deepest sympathies to his family and to thank him for his many years of service to our nation and to our state. Thank you, Mr. President.

BRIESE: Thank you, Senator Briese. Senator Dorn would like to recognize Dr. Eric Thomsen of Beatrice, who is serving as our family physician of the day. Dr. Thomsen is seated in the north balcony. Please rise and be recognized by your Nebraska Legislature. Turning to the first item on the agenda, General File consent calendar. Mr. Clerk, first bill.

CLERK: LB372 offered by Senator Day is a bill for an act relating to Nebraska Crime Victim's Reparations Act. It changes provisions relating to the application of statute of limitations. Introduced on January 13, referred to the Judiciary Committee, advanced to General File. There are committee amendments pending, Mr. President.

HILGERS: Senator Day, you're recognized to open on LB372.

DAY: Today. Colby Coash.

HILGERS: Senator Day, you're recognized to open on LB372.

DAY: Yes, thank you, Mr. President. Good morning, colleagues. I rise today to introduce to you LB372. The intent of this bill is to make the existing Crime Victim's Reparations Program more accessible to victims of sexual assault, domestic violence, child abuse, and sex trafficking. The Nebraska Crime Victim's Reparations Program was created in 1979 and provides compensation to innocent crime victims for expenses related to the criminal act. LB372 builds upon the existing program and makes minor adjustments for the unique considerations for victims of sexual assault, domestic abuse, and sex trafficking that will allow this program to better serve them. LB372 does three things. Current law requires that to be eligible for

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reimbursement through the program, you have to report the crime to law enforcement within three days. LB372 lifts the three-day requirement. It is not uncommon for victims of domestic or sexual violence, sex trafficking, or child abuse to delay reporting the crimes committed against them. There are many reasons for this delay, with trauma response, shame, and stigma and safety concerns being some of the most significant. It's important to note, however, that LB372 leaves in place the requirement that a victim must apply to the program within two years of their victimization. LB372 clarifies what actions constitute a report to law enforcement by naming protection orders and a forensic medical exam which represent formal engagement with the criminal legal justice-- legal system and providing supporting evidence of the crime. The bill states that notarization shall not be necessary for application in an effort to reduce barriers to this program. LB372 was supported at the hearing by the Nebraska Attorney General's Office and victim advocates and had no opposition. It advanced from the Judiciary Committee with no opposition and has no fiscal impact. I want to be clear that it does not change what types of victims are eligible for the program, nor the kinds of benefits available. It only adjusts some requirements of application to make sure the CVR program is more accessible. The financial costs associated with domestic and sexual violence, child abuse, and sex trafficking can be significant for victims and their families and the Nebraska Crime Victim-- Victim's Reparations Program was created to help survivors afford these costs. LB372 will ensure the CVR program better supports them in seeking justice, healing, and reparations. I want to thank the Judiciary Committee for their support of this bill and the Speaker for putting this on consent calendar. I would greatly appreciate your support for LB372 making the existing Crime Victim's Reparations Program more accessible for victims of domestic and sexual violence, child abuse, and sex trafficking. And with that, I would encourage your green vote on LB372. Thank you.

HILGERS: Thank you, Senator Day. As the Clerk noted, there are Judiciary Committee amendments. Senator Lathrop, you're recognized to open on AM108.

LATHROP: Thank you, Mr. President. Colleagues, good morning. LB307 [SIC LB372] was heard by the Judiciary Committee on February 5, 2021. The committee voted to amend and advance LB372 with AM109 [SIC AM108] on a 7-0 vote with one member absent. AM108 would add child abuse to the list of offenses that are not subject to the three-day reporting requirement and bring there-- therefore bring it within LB372. I would encourage your support of AM108 as well as LB372. Thank you.

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HILGERS: Thanks, Senator Lathrop. Debate is now open on AM108. Seeing no one in the queue, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is the adoption of AM108. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

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

HILGERS: Committee amendments are adopted. Returning to debate on the underlying bill. Seeing no one in the queue, Senator Day, you're recognized to close. Senator Day waives closing. The question before the body is the advancement of LB372 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.

CLERK: 43 ayes, 0 nays on the advancement of the bill.

HILGERS: LB372 is advanced. Next bill, Mr. Clerk.

CLERK: LB343, a bill by Senator Friesen. It's a bill for an act relating to Motor Vehicle Certificate of Title Act; changes identification inspection provisions. Introduced on January 13, referred to the Transportation and Telecommunications Committee, advanced to General File. I have no amendments to the bill, Mr. President.

HILGERS: Senator Friesen, you're recognized to open on LB343.

FRIESEN: Thank you, Mr. President. LB343 gives county sheriffs the option to use the expedited vehicle inspections with all motor vehicle dealers and changes the time of inspections from when the vehicle is in inventory to a time of sale. Currently, expedited inspections can only be used with franchise dealers. The vehicles that come to a motor dealer from-- or a motor dealer from out of state must be inspected by a county sheriff's office. Currently, sheriffs have the option to make expedited inspection agreements with franchise dealers. This enables the sheriff to lay out a process where the dealer provides an inspection fee, documents evidencing the transfer, and other vehicle information. The sheriff inspects the documents, issues a statement, then the inspection was completed. If the information was incomplete or if the sheriff believes further inspection was necessary, the sheriff may request additional information from the dealer. If the dealer knowingly provided false information or inaccurate information, they're liable for damages. The dealer is required to keep these transactions records for five years. Currently, expedited inspections can only be used by motor vehicle dealer franchisees and LB343 simply

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gives sheriffs the option to use a-- use this expedited inspections with all motor vehicle dealers. Expanding this process will make the inspections easier and more efficient for both the dealer and law enforcement. Advanced out of committee 8-0 and I would appreciate your support of LB343. Thank you, Mr. President.

HILGERS: Thank you, Senator Friesen. Debate is now open on LB343. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. Speaker. I rise in support of LB343. I voted it out of committee and I am happy that it is here before us today. I am going to take this time now to share with you some of a deposition. In the district court of Lancaster County, Nebraska, Nebraska Families Collaborative, doing business as PromiseShip in Nebraska nonprofit corporation; and Kathy Bigsby Moore, an individual Nebraska citizen and taxpayer. Plaintiffs, versus the Nebraska Department of Administrative Services; the Nebraska Department of Health and Human Services; Jason Jackson, in his official capacity as director of Department of Administrative Services; Dannette Smith, in her official capacity as CEO of the Department of Health and Human Services; Saint Francis Ministries, Inc., a Kansas nonprofit corporation, Saint Francis Community and Residential Services Inc., a Kansas nonprofit corporation; and Saint Francis Community Services in Nebraska, Inc., a Nebraska nonprofit corporation are the defendants. And this is the deposition of Bo D. Botelho. A deposition of Bo D. Botelho taken before Cynthia Craig, registered professional reporter and general note-- noter-- notary public within and for the state of Nebraska, beginning at 9:30 a.m. on October 10, 2019, at the law offices of Kutak Rock, 1650 Farnam Street, Omaha, Nebraska, pursuant to the within stipulations. For the plaintiff, Mr. Thomas J. Kenny, Kutak Rock-- skip the addresses. For the defendants: Saint Francis; Mr. Michael C. Cox, Koley Jessen. For the office of the Attorney General, Mr. Ryan S. Post, Nebraska Department of Justice, Assistant General Attorney. Skipping the index. Exhibit numbers 48 through 49 marked for identification. The court reporter asked counsel if there were any stipulations for the record. Mr. Post: Just from-- form and foundation. Mr. Kenny: Yeah. Bo D. Botelho, having been duly sworn in, was examined and testified as follows. Direct examination by Mr. Kenny. Good morning. Mr. Botelho: Good morning. My name is Tom Kenny and I am the attorney for PromiseShip or Nebraska Families Collaborative and we are the plaintiffs in the action against the state and a number of-- and Saint Francis, a number of state officials. Are you familiar with that? Yes. And I'm going to be taking your deposition today. I would ask if you don't understand my questions, it's not clear if you-- if you don't hear it, if you'd-- if

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you'd just ask me to repeat it, I would. And if you would do that, I would appreciate it. Can you do that? Yes. So if you-- if you do answer, I'm going to assume that you've heard my question and understood it. Is that fair? Yes. For the record, would you provide your name and current job title? My name is Bo, B-o, Botelho, B-o-t-e-l-h-o and I am general counsel for the Department of Health and Human Services and I'm also currently serving in the role of chief operating officer. Question: Are you appearing pursuant to a notice of deposition in this case? Yes. I'm going to hand you what's been marked as Exhibit 48, ask you take a look at that. Witness reviewing document. Mr. Cox: This is Exhibit 48? Mr. Kenny: Yes. Mr. Cox: OK. Mr. Kenny: Have you received Exhibit-- Exhibit 48? Yes. Have you seen it before today? Yes. And did you, if you would-- would turn to the last page of Exhibit 48?

HILGERS: One minute.

M. CAVANAUGH: Do you see page 4, Exhibit A. Exhibit A? Yes. And have you reviewed Exhibit A? Yes. And I would just for the record that your counsel provided some records to us by email yesterday and I wanted to ask you if you have brought any additional records that your counsel has, did you not provide us yesterday, if you know? Answer: No. Well, these are-- these are the records that you provided by email. Mr. Post: Yes. The witness: So I provided to counsel all the records that I had that would speak to Exhibit A. Mr. Kenny: Thank you. With respect to item six on Exhibit A communication regarding the readiness assessment required by Section 68-1212, are you-- sorry, I have to scroll back up to the top-- familiar with the term readiness assessment? Answer: Yes. And did you provide documents to your counsel relating to the communications related to readiness assessment?

HILGERS: Time, Senator.

M. CAVANAUGH: Thank you.

HILGERS: You're next in the queue, you may continue.

M. CAVANAUGH: Thank you. I don't think I had any. I provided the readiness assessment. I don't know if I had any communications unless they were in the the emails that were-- OK. Yep. One second. Did I--? We'll come back to that later. But do you have an understanding of whether the-- tell me what ready assessment is. Mr. Botelho: Ready assessment is a tool that the department is required by statute to create in regards to case management of the eastern service area. Question: And is that the-- oh, sorry. And is that-- I understand your testimony that there was a readiness assessment tool, but the actual

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assessment of whether Saint Francis in this case is ready to perform, is that an ongoing process? Answer: It is. Question: Is that currently ongoing? Answer: It is. Question: And so I guess my question to you with respect to item six is how recently have you checked for communication relating to the readiness assessment? Answer: I believe there's been ongoing public records requests and we've complied with those. I don't-- I'm not involved in that process so I think anything that we would have had or the agency would have has been provided. Question: As far as you know, if you were involved in communication about the readiness assessment, have you provided that information to your counsel? Mr. Post: Unless it was privileged. The witness: Correct. Mr. Kenny: OK. Would you, Mr. Botelho, outline your education and employment history for us, please, starting with college? Answer: I have a bachelor's degree from the University of Nebraska. I got a-- from there I was went to Tulane School of Law. I got a law degree from Tulane, came back to Nebraska after law school, started private practice in Columbus, did that for two years, and then became a deputy county attorney in Butler County and also served as deputy county attorney in Colfax County and in Cuming County. Became county attorney in Colfax County. I served as special prosecutor for Saunders County and city attorney for Schuyler. And from there I became general counsel for the Department of Administrative Services in the state of Nebraska. Served as general counsel as a sole title for about a year and then became materiel administrator in addition to general counsel and legislative liaison. I'm sorry, did you say time?

HILGERS: No, 2:20.

M. CAVANAUGH: OK. Um, so I-- I was legislative liaison, general counsel, then added materiel administrator too. Well, they added materiel administrator to my duties. Held those three functions for two-- two, maybe three years and then picked up Billing Division and Transportation Services Bureau as well. Risk management. I was risk management for manager for a while as well, just basically got assumed various duties to absorb if they had a vacancy and was with the Department of Administrative Services for oh, I'd say just shy of six years, maybe five years, a little over five years. Question: About what time frame. I'm sorry to interrupt, but about what time frame were you with? Oh, that's a good question, Tom. From-- I started in December of 2011 or was it 2012-- maybe 2012 came to-- I've been with HHS now for a little over-- it would've been two years in June, I think. This is in October of 2019, I-- I'm not sure if I read the date. Question: Approximately 2011 to 2017? Answer: Yeah. Question: And with respect to you, you were I think I stopped you, if you were

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just, if you would just continue the timeline when you moved to DHHS in about 2017, is that right? Yes. And what were your duties at DHHS?

HILGERS: One minute.

M. CAVANAUGH: I came to DHHS. They brought me in as chief operations officer. I had absorbed all the internal operations or the division's departments in HHS and did that for, I don't know, maybe not even a year and then took over legal as general counsel. I've been general counsel ever since. Question: During your tenure at-- at the DAS, did you serve as the DA-- as the DAS at any point or was it-- no. Was it materiel division? You said you were materiel division director, I believe. Yes. Administrator? Answer: But not-- I was never-- you asked me if I was the director of administrative services. Yes. No, I was not. OK. Oh, I was-- OK. So I was a director or CEO of HHS for-- yeah, so I was at HHS when Courtney Philips left. I became interim CEO of HHS and would have been that from the October of the year she left, which--

HILGERS: Time, Senator.

M. CAVANAUGH: Thank you.

HILGERS: Thank you, Senator Cavanaugh. Mr. Clerk, for a motion.

CLERK: Senator Cavanaugh would move to bracket the bill.

HILGERS: Senator Cavanaugh, you're recognized to open on your motion.

M. CAVANAUGH: Thank you. I am moving to bracket this to what's quickly becoming my favorite day in May, May the Fourth be with you. I will continue reading Mr. Botelho's deposition. So I was-- OK. I became interim CEO of HHS and would have done-- been that from the October of the year she left, which would have been 2018 until the new CEO got here. I'm thinking she got here in February of maybe March of 2019. I also absorbed public health and was a public health director or director of public health from October of 2018 until we just got the chief medical officer and he just got here I think maybe last month. Question: Within your-- while you were at DAS, did you have any involvement in the state's procurement of goods and services? Answer: Yeah. So procurement would have been reported to me as my role as materiel administrator. Question: And could you estimate how many procurements you were involved in during your six years at DAS? Answer: That occurred during that time here-- there? Question: That you had any involvement in. What do you mean by-- Mr. Kenny: Well, let me ask you this. Let's take a hypothetical. If there's a contract

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being procured by the state and it's being procured by DAS, what would your responsibilities as materiel director be with respect to a procurement of goods or services? Answer: Right. So the state follows its procurement process. So this is where we start talking about the procurement process. If the contracts being bid by the Department of Administrative Services, those contracts, the final contracts executed by the materiel administrator, so I would have executed the contracts on behalf of the state. If there were problems or questions that would arise during the course of the procurement process, many of those would come up, come to up to me. But other than the anomalies, the questions, the problems, they just would follow the process, which then were resolved in an execution of a contract and I would sign.

Question: Would one of the problems you refer to that would come up to you as the materiel division director be protests of award decisions?

Answer: Yes. Made by DAS? Yes. Could you estimate how many protests you were involved in as DAS materiel director? Answer: I mean, I'm not sure. I'm not-- there are many, many protests, but I couldn't, I couldn't even guess. More than ten? Yes. More than 50? I don't know, maybe perhaps. I'm not sure, Tom. Question: And with-- with respect to what is a protest within the DA-- within the DAS, just briefly.

Answers: so when an intent to award is posted, any of the other bidding parties, if they basically an objection, they object to the intent to award as posted, they can file a protest. DAS has a two-page protest. The first stage, if they choose to exercise them in separate stages, is a protest of the materiel administrator. The materiel administrator responds in writing, basically reviews the protest, determines if there's validity to the protest. And if there's validity to the protests, makes a decision as to how the error or fault can be repaired or not and remove the intent to award response in writing. The bidding party then if you're not satisfied or perhaps another bidding is not satisfied with the decision of the materiel administrator, if it's the original party, they can then request a meeting with the director, the materiel administrator in person, and basically do an oral protest presentation if they want. And then the director would then respond to the protest. If it is yet another original party who was responding to the decision of the materiel administrator, they then would start a first-stage protest of the materiel administrator again. So it'd be like another bidding.

Depending on how many bidders you have, sometimes the protest period can be-- go on for a period of time with multiple protests from other bidders. So hypothetically, there can be-- sorry, Mr. Kenny. So hypothetically, there can be an initial protest that is granted?

Answer: Yes. Question: Changing the award decision? Answer: Correct.

And one of the other bidders might protest-- have to go back up to the top-- that? Answer: Correct. Question: OK and with respect to, so in

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your role as materiel director, would you make those initial written decisions on protest, is that correct? Answer: Yes. Question: And with respect to the second level, as you described, the meeting with the director of DAS, does the director of DAS have the power to change the decision that materiel division made or is he bound by the decision by materiel division? Answer: Director is free to make whatever decision the director deems appropriate and fit. The director is free to make decisions they deem appropriate and fit. Page 18 of Mr. Botelho's deposition on 10-10-2019. When talking about contracts in the materiel division, the director is free to make a decision that they deem appropriate and fit, which means that they do not have to take the lowest bid. That is not a requirement. They only take it if it is appropriate and fit. Back to the deposition. Question: So it's essentially a second level of review when you go to the director of DAS after materiel? Yes, it is. Question: In terms of-- there's some more background, I guess, I wanted to ask you about. Have you had your deposition taken before? Answer: No. Have you testified in court before? Answer: Yes. I'm going to skip this part. It's about Mr. Botelho's personal life. It's not really important unless you want to hear about how he's testified in court before. Um, you can-- this is public record so you can read that yourselves if you'd like. OK, so org chart. Question: Let me ask you-- let me hand you what's been marked as Exhibit 49. Let me know when you've read that. Answer: I've read it. Question: What was Exhibit 49? Answer: It looked like an org chart from the Department of Health and Human Services. Question: And I will represent to you that I pulled this off of the DHHS website maybe a month ago. Answer: OK. Question: Is this an accurate description of DHHS as of today? Answer: No, it's not. Question: Could you go through areas that are not correct in terms of the org chart, which is Exhibit 49? Answer: OK. So I'm starting on the right side. Division of-- Director of Division of Behavioral Health. That is Sheri Dawson. Division of Child and Family Services, it just shows Matt Wallen. He is no longer the director of Division of Child-- Children and Family Services. That position is vacant. Division of Developmental Disabilities, Courtney Miller. That's correct. Division of Medicaid and Long-Term Care, Dr. Van Patton. That is correct. Division of Public Health shows my name as interim director. I'm no longer the interim director. We have a chief medical officer. I can't remember his name right now. Question: So you are with respect to the Division of Public Health, you're no longer interim there? No, I'm not. No. Question: OK. With respect to the division of Child-- Children and Family Services, is there an interim director that has been identified, to your knowledge? Answer: No. There has not been. Question: OK and with respect to your duties as chief operating officer on Exhibit 49, is that an accurate summary of your

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responsibilities? Answer: Yes. Question: And do you report directly to Dannette Smith as CEO? Answer: Yes. Question: With respect to item two, Central Procurement Services, could you describe what those responsibilities entail? Answer: The procurement administrator, Greg Walklin, reports up to me. And that's important to note--

HILGERS: One minute.

M. CAVANAUGH: --for later that the procurement administrator, Greg Walklin, reports up to Mr. Botelho, which we will get into at some point. OK-- Greg Walklin-- OK, but what are your responsibilities with Central Procurement Services? Answer: I supervise Greg. I approve his leave and his vacation, do his annual valuations. Question: OK and is-- does he comprise Central Procurement Services or are there other people within that unit-- unit? Oh, he has a division. Question: OK and contract administration? What-- how would you describe your responsibilities in contract administration? Answer: We have one individual currently who is in charge of-- we're basically trying to build a division of contract management. So by contract administration--

HILGERS: Time, Senator.

M. CAVANAUGH: Thank you.

HILGERS: Thank you, Senator Cavanaugh. Colleagues, pursuant to Rule 5, Section 6, we-- and we are on consent calendar. At the expiration of 15 minutes or the cessation of debate, whichever happens first, we will take a vote on what's pending on the board. Fifteen minutes has elapsed and so we will be taking a vote without close on both the bracket motion and the underlying bill if the bracket motion is not successful. Again, that's pursuant to Rule 5. The question before the body is the adoption of the motion to bracket. All those in favor vote aye; all those opposed vote--There's been a request to place the house under call. The question is shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 17 ayes, 10 nays to place the house under call.

HILGERS: The house is under call. All unexcused senators, please return to the floor. All unauthorized personnel, please leave the floor. The house is under call. Senator Stinner is on his way. All unexcused senators are now present. The question before the body is the adoption of the motion to bracket. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

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CLERK: 0 ayes, 44 nays, Mr. President, on the motion to bracket.

HILGERS: The motion is not adopted. The next-- the next vote is on the advancement of LB343 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk.

CLERK: 48 ayes, 0 nays, Mr. President, on the advancement of the bill.

HILGERS: LB343 is advanced. Next bill.

CLERK: Mr. President--

HILGERS: Raise the call.

CLERK: Mr. President, LB616 is a bill introduced by Senator Hughes relating to abandoned motor vehicles. It changes the value requirement for vesting of title in a local authority or state agency. It changes local authority and state agency notice requirements. Introduced on January 20. At that time, referred to the Transportation Committee, advanced to General File. There are committee amendments pending, Mr. President.

HILGERS: Senator Hughes, you're recognized to open on LB616.

HUGHES: Thank you, Mr. President. Good morning, colleagues. This bill, LB616, will increase the minimum value of an abandoned vehicle from \$250 to \$500, making it easier for either the towing company or the law enforcement agency to have it declared abandoned and thus disposed of. As of right now, towers are being forced to store abandoned vehicles that may not have any value except as scrap metal. The second thing that LB616 does is require that law enforcement to follow the same 15-day notification that a towing company must follow. It is not uncommon for a tower to have a vehicle on their lot for an extended period of time while the tower waits for law enforcement to give notice to the last owner of the vehicle or to the lienholder. In the meantime, the vehicle is taking up space in the tower's lot and the tower is not being financially compensated for that storage or recouping any of their towing charges. This bill advanced from the Transportation and Telecommunications Committee, 8-0. I would urge your green vote on LB616. Thank you, Mr. President.

HILGERS: Thank you, Senator Hughes. As the Clerk noted, there are committee amendments from the Transportation Committee. Senator Friesen, as Chair of the committee, you're recognized to open on AM107.

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FRIESEN: Excuse me, I'll be right there. OK, all this does is it just changes one word. It strikes word "or" and inserts the word "and." So with that, I urge you to support this change of the LB616.

HILGERS: Debate is now open on the committee amendment. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. Speaker. I rise in support of AM107 and LB616. I voted for them out of committee. Returning to the deposition. OK, let's see here. Apologize, I lost my spot and-- with respect to a-- here you go-- contract-- sorry. Oh, thank you. With-- Question: With respect to the negotiation of a contract that's not finalized-- OK, we already did that part. Oh, no. OK. Question: With respect to the negotiation of a contract that's not finalized yet, would that come either-- within either central procurement or central or contract administration and how would that fall within your duties, if at all? Answer-- this is Mr. Botelho-- procurement is involved with the-- could be involved with the negotiation of a contract. Generally speaking, it depends on the contract. If there's going to be a negotiation or not, the procurement would be when a division program decides they want to procure a service or commodity, the procurement office helps them develop the tool to do that. Whether it's services, an RFP, or if it's going to be a commodity, the bid tool, they help develop that. It is then a determination made as to whether or not it'll go to DAS for a bid or if we will lease it on our own. If we-- if it goes to a DAS-- to DAS and the bid, then procurement office is-- is serves as a liaison between the procurement, between the program and the DAS procurement office and provides any assistance to DAS if they need it. Helps track the procurement for the program. Question: OK. So in a typical negotiation, a contract would involve both the procurement, the central procurement group and yourself. Is that fair to say? Answer: No, not for typical procurement. No, it would typically involve the program and the essential procurement office. OK. Mr. Botelho: I would only really get involved in the procurement if it becomes a legal issue otherwise we just follow the procurement process. Question: One of your duties I see is legal services and there are particularly-- particularly types of-- without getting into the detail, are there particular types of areas where you provide legal advice to the department? Answer: We provide legal advice in all areas where there's a requirement for a legal opinion or a support. We have attorneys assigned to the programs. We have attorneys assigned to juvenile courtrooms. We have attorneys assigned to legislative service-- legislation services, public records requests, record retention. Question: Are there lawyers then within DHHS? Do all lawyers within DHHS report to you? Answer: If they're serving in the

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attorney role. There are attorneys in DAS that are not serving as attorneys. They are serving as deputies to the program or whatever. They don't report to me, but if they're an attorney, they report to me. Question: And about how many attorneys are within the department that report to you, just ballpark? Answer: 17,18, I'd say. Question: And are there occasions then where you provide legal advice to the department? Answer: Me personally? Yes. Answer: Yes. Question: This is more of a document--

HILGERS: One minute.

M. CAVANAUGH: --question, but-- I'm sorry? Oh, OK. This is more of a document question, but when you provided-- when you are providing legal advice, do you designate your communication, either letter or correspondence or email, as attorney-client privilege? Is there any special way that you identify documents that you prepare where you're providing legal advice to flag that you're serving in as an attorney in that communication? Answer: The bottom of my email has a disclaimer on it that says it is. The-- there may be emails specifically designated such depending on who initiates the conversation. But in essence, any time, because I'm general counsel, if a question is coming to me, it's coming to me as general counsel. And so all of my communications are, in essence, legal communications. There's no way to-- I can never step outside of that role. Question: If you are, but you were-- you were also serving as chief operating officer. Are you-- are some of your communications therefore not legal?

HILGERS: That's time, Senator.

M. CAVANAUGH: Thank you.

HILGERS: Thank you, Senator Cavanaugh. Mr. Clerk for a motion.

ASSISTANT CLERK: Mr. President, Senator Cavanaugh would move the bracket-- to bracket the bill until May 4, 2021.

HILGERS: Senator Cavanaugh, you're recognized to open on your motion.

M. CAVANAUGH: Thank you, Mr. Speaker. May the fourth be with you. Question-- Mr. Kenny-- question: If you are-- but you were also serving as chief operating officer, are you-- some of your communications therefore nonlegal or, you know, on the business-- business side? Answer: Yes. So if for instance, so Catherine, Cath-- oh, sorry-- Cynthia Harris is my materiel administrator. If she was asking me to take a day off or she's coming in late and those types of things, then obviously I'm just communicating to her as her

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supervisor. So those types of communications certainly are not legal. But if it's a program coming to me, then they-- then they come-- can come to me as their attorney. Question: And your disclaimer appears on all of your emails, whether it's about taking a day off or about, you know, a legal matter, is that correct? Answer: That's correct. The one that's embedded into the emails? Yes. Question: And when you communicate, do you communicate with other agencies, for example, DAS, in the course of your duties? Answer: Occasionally, yeah. Not often, but yeah. Question: Do you provide legal advice to any, you know, DAS or any other agencies at the state? I don't-- Answer: I don't serve as an attorney for any other agency, no. Exhibit 2 marked previously, but referred to in this deposition. And I pause and note that I have copies of all the exhibits that are referenced in this communication. So if anybody needs to review those, please come see me or send a request to my office. Mr. Kenny: I'm handling-- I'm handing you what was previously marked as Exhibit 2, which was the amended complaint in this case. Are you familiar with Exhibit 2? Answer: Yes, I'm familiar with it. Question: And are you aware that PromiseShip contends that the contract of Saint Francis was awarded unlawfully? Answer: Yes. Question: Are you aware that PromiseShip seeks to enjoining further performance of that contract or payments under that contract enjoining or a stop? Answer: Yes. Question: And are you aware that PromiseShip has sought a preliminary or temporary injunction to ask the court to stop any further performance of the Saint Francis contract? Answer: Yes. And are you aware that the state has attempted to expedite the transition of children from PromiseShip to Saint Francis? Mr. Post: object to the form. Use the word expedite. Mr. Cox, join. By Mr. Kenny: Let me back up. Are you aware that Saint Francis contract has a go live date of January 1, 2020? Answer: Yes. Are you aware that there is a transition of services underway, transition from PromiseShip to Saint Francis? Answer: Yes. Are you aware that the Department of Health and Human Services is attempting to expedite that transition so that child welfare cases will be transferred from PromiseShip to Saint Francis in the month of October? Mr. Post: object to form and use of word expedite. Mr. Cox, join. Mr. Kenny: You can answer. The witness: yes. Mr. Kenny: Do you have an understanding of why the department has decided to expedite or begin transferring services prior to January 1, 2020? Answer: Yes. What is your understanding? Answer: I don't think I can answer that question. Mr. Kenny: You can. Do you know the answer to the question? Answer: Yes. Mr. Kenny: Why do you have-- do you have an objection to the question? Does your counsel have an objection to the question? Mr. Botelho: I think that-- I think that if I were to answer the question and speak on behalf of my client, I would be violating the privilege with my client. Question: I'm not asking for any communications, privileged communications between you and your

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client. I'm asking for the reason that the department is expediting the transition. Mr.-- Mr. Cox. Object. Asked and answered, privileged objection. Mr. Kenny: You can answer. The witness. I'm not sure if I can answer that question without violating the privilege of my client. Mr. Kenny: Again, I'm not asking for communication between you and your client. Is your client the CEO? Is that who you're referring to? Mr. Botelho: It's the CEO and the Department of Health and Human Services. I believe they have-- I believe they have made public that they are moving the cases, transitioning children early to Saint Francis Ministries. Mr. Kenny: Right. Then we will-- I'll just represent to you we will get to that later in the deposition. Mr. Botelho: OK. Mr. Kenny: There's been a number of meetings between Dannette Smith and others, Ross Manhart, PromiseShip, and Saint Francis about expediting the transition and transferring cases in October of 2019. Uh-huh. Do you understand-- uh-huh was Mr. Botelho. Mr. Kenny: Do you understand that I'm making that known to you? Mr. Botelho: Yes. Mr. Kenny: What I'm asking you for and so that has been public to the extent it's been revealed to PromiseShip and to Saint Francis. Mr. Botelho: Correct. Mr. Kenny: My question to you is what is the reason for the depart-- from the department's perspective for expediting that transition? Mr. Cox: objection. Asked and answered based on privilege. The witness. So to ensure the safe and orderly transition of children from PromiseShip to Saint Francis as the staffing levels in PromiseShip have been decreasing, there's concern about capacity for PromiseShip to continue with reduced staff. And this is what was communicated with PromiseShip and the purpose for doing an earlier transition of the cases. Mr. Kenny: So just to make sure I understand so because the department believes that staffing levels at PromiseShip are decreasing, the department would like to speed up the process of transitioning children to Saint Francis Ministries. Is that correct? Mr. Botelho: Yes. Mr. Kenny: Is your understanding as-- is-- does part of the reason that the department is expediting the transition relate in any way to the litigation that PromiseShip has filed? Mr. Botelho: No. Mr. Kenny:--

HILGERS: One minute.

M. CAVANAUGH: Thank you. Mr. Kenny: Mr. Botelho, could you describe briefly what you did to prepare for your deposition today, if anything? Mr. Botelho: Nothing. Mr. Kenny: Did you read any documents or have any-- I don't want to know about your conversations with counsel. Answer: No, I didn't review any documents. I'm going to pause there since I have one minute left and I acknowledge that I only spoke once and did the bracket motion for ten minutes. So I don't believe I have exceeded the 15-minute allotment for speaking on a consent

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calendar bill, but I will continue. I'm on page 10 of 113 pages and this is the first deposition. So, I will continue going on sharing this with all of you and the public and the body.

HILGERS: That's time, Senator.

M. CAVANAUGH: Thank you.

HILGERS: Thank you, Senator Cavanaugh. Pursuant to Rule 5, the expiration of 15 minutes, we will take a vote now on the two-- on the motion to bracket. The question before the body is the adoption of the motion to bracket. All those in favor vote aye; all those opposed vote nay. There's been a request to place the house under the call. The question is shall the house go under call? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk.

CLERK: 14 ayes, 7 nays to place the house under call.

HILGERS: The house is under call. All unexcused senators, please return to the floor. All unauthorized personnel, please leave the floor. The house is under call. All unexcused senators are now present. The question before the body is the adoption of the motion to bracket. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk.

CLERK: 0 ayes, 42 nays on the motion to bracket.

HILGERS: Motion to bracket is not adopted. The next vote will be on the adoption of AM107. All those in favor vote aye; all those opposed vote nay. All those voted who wish to? Please record, Mr. Clerk.

CLERK: 45 ayes, 0 nays on adoption of committee amendments.

HILGERS: Committee amendments are adopted. The next vote will be on the advancement of LB616 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk.

CLERK: 46 ayes, 0 nays on the advancement of the bill.

HILGERS: LB616 is advanced. I raise the call. Next bill, Mr. Clerk.

CLERK: Mr. President, LB58 was a bill originally introduced by Senator Pahls. It's a bill for an act relating to civil procedures; changes provisions relating to service of notice by publication in cases involving liens arising from city or village special assessments.

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Introduced on January 7 of this year, referred to Judiciary, advanced to General File. I have no amendments to the bill, Mr. President.

HILGERS: Senator Pahls, you're recognized to open on LB58.

PAHLS: Thank you, Mr. President and members of the body. Today, I would like you to consider advancing LB58. The bill is intended to simplify the process of notifying a property owner in the case of a lien for special assessment imposed by any city or village. Currently, a city or village must send affected property owners a full publication of notice through the mail. Sometimes this can amount-- amount to at least 20 pages because they're sending copies of the newspaper. Now in case of smaller liens, the cost of postage often outweighs the value of the proposed assessment. LB58 would provide for an alternative process, which would forgo sending a full publication notice. Instead, the property owner would receive a notice containing the amount owed, the date due, and the date of the Board of Equalization when it meets in case of an appeal. I'd like to add just a couple of other comments. One of the questions asked in the-- I'm going over the transcript. One of the questions well, let's see, what's going to happen with the newspapers? Yes, it will still be in the newspaper, but it will not be copied and sent to the individuals. I'm going to read one interesting comment made by one of the proponents in the hearing. Our Board of Equalization met this past Tuesday and I submitted the publication that was included within that mailing. We assessed over 1,500 properties, which resulted in an 18-page publication document that was included. So just think about 1,500 properties, 18 pages, plus the letter sent out to these individuals. And what we're asking is to send that letter out with all the additional information and they can still see because it will be published in the newspaper. Also it will be published on the website and another thing I asked is because in some of these smaller villages, because they wanted to make sure that they had a letter that was-- had their information on it. And we did, looked up on the, the Web site, several of the smaller communities. There is-- they do have a letterhead with all the information on that that they would send out. So what we're going to do, we're going to make this much-- actually very simple because they won't have to go through all of the additional papers in the newspaper and trying to find out where they're at because it'll be on a very simple, concise, one-letter documentation. And we had help from the-- one of the proponents were from the large-- well, the largest cities in Nebraska and also from the league. We had some there speaking from the league saying it was a value to communities throughout the state. So I think this does have potential of making government more efficient and in many ways

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simpler. And I know we have had a couple of people who have served on-- such as I on the board of "eq." I think Senator Dorn is right in front of me. I think he did that when he was on as county commissioner. So I'm asking you to think of a green light on this because it came out of the committee on an 8-0 vote.

HUGHES: Thank you, Senator Pahls. Senator Machaela Cavanaugh, you're recognized.

LATHROP: I got it.

M. CAVANAUGH: OK.

LATHROP: Just be thinking about it.

M. CAVANAUGH: OK. Thank you. I am not sure yet about this one. Sorry, Senator Pahls. I have to take a closer look between talking, but I think I probably support LB58. There you go. Thank you. OK. I was on page 10 of 113, so question-- Mr.-- Mr. Kenny: With respect to your duties at DHHS, do you have involvement in procurements of services by DHHS? Answer: The procurement division reports up to me. Question: Is that a yes, then? Do you have involvement? Answer: Yes. Question: Could you-- strike that-- would you have involvement in the procurement of services by any of the divisions in DHHS, a responsibility for them? Answer: Yes. In that procurement division-- in that the procurement division reports up to me. Question: OK. Mr. Botelho: And all procurements within the agency should be going through the procurement division. Mr. Kenny: Could you estimate how many procurements have been involved in since taking your position at DHHS? Mr. Botelho: Involved personally or that have occurred while I was at-- was in HHS? Mr. Kenny: Let's take the second part. That have occurred since you have taken your current position at DHHS. Mr. Botelho: I'm not sure. I'd say between when you add and when you consider the commodities, the services and the subawards over two years were probably in the hundreds, I'd say. Question: And personally, how many procurements would you say you've had-- had a personal involvement in terms of reviewing the procurement materials or reviewing protests where you've been personally involved? Mr. Botelho: It'd be a much smaller number. I'm not sure, Tom, because sometimes it's just-- it's just a question that would come up to me. They have a legal question and it may involve a procurement and I don't know how many times that would have occurred. Question: And when are the-- there instances in which a DHHS division seeks to-- to procure services, but asked DH-- DAS to handle the procurement? Answer: Yes. If I understand the question, there are procurements where the procurement would start, obviously, an agency. Generally the

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agency decides there's a need and then once there's a determined-- once there's determined a need, our procurement office will help them develop the need and make a determination as to how best to procure that. Is it-- is this a good, is this a commodity, is this a bid, depending on threshold? Whatever. They then create the process or develop the process for going about the procurement. If it is a bid on commodities, all of those commodities go through materiel unless there's a direct procurement based on the dollar threshold. If it's a service, the statutes allow agencies to bid it on their own and follow the DAS procurement process or DAS procurement will bid it-- back up to the top-- will bid it for us. So there's always that option. If the question is do we have DAS bid for us to make decisions? Yes, we do. Mr. Kenny: and so my question is what types of-- take service contracts, what types of service contracts will DHS ask DAS to handle the procurement for? Mr. Botelho: Oh, I don't think--

HUGHES: One minute.

M. CAVANAUGH: Thank you. I don't think there's a particular type. I mean, we look at what our resources are. We look at what the time-- the wait period is for in DAS. If they're backed up and they don't have the time to get to our procurement, then our procurement office may go ahead and bid on their own. We have limited resources as well. So I think-- so it-- I think it just comes down to, you know, resources and time, many decisions. With respect to protest decisions where the DAS or DHHS is deciding a protest in writing, is there a central library or repository of decisions made by DAS or DHHS? Do you know? Mr. Botelho: I don't know. I'm not sure how they're handling that now. When I was there, we retained the copy of any decision that we made that would have been in the materiel office. But I don't know. I don't think it was anything formal, like a library, but we did retain copies of those. I'll pause there.

HUGHES: Time, Senator. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Cavanaugh would move to bracket the bill until May 4, 2021.

HUGHES: Senator Cavanaugh, you're welcome to open on your bracket motion.

M. CAVANAUGH: Thank you. OK. Materiel office-- Mr. Kenny: And really what I'm asking you, what I'm asking is, you know, is there a repository of protest decisions so that someone taking your place in DAS, for example, knows what the precedent is and knows what the standards are from prior protest decisions? Mr. Botelho: I retain

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copies of all the protest decisions that I made or the director made when I was there. Those would have been there after I left, but what they did with those, I don't know. Mr. Kenny: Prior to RFP, are you familiar with RFP5995Z1? Mr. Botelho: You'll have to tell me what it was. I can't remember the numbers. Mr. Kenny: 55-- 5995Z1 is the child welfare services contract that PromiseShip has protested. Mr.-- Mr. Botelho: That's the current one? Mr. Kenny: That's the current one, correct. OK. So my question is prior to the RFP at the issue in this litigation, have you either at DAS or DHHS been involved in the procurement of a child welfare-- of child welfare services? Mr. Botelho: I think HHS went out to bid for these services once before when I was at materiel. Mr. Kenny: All right and so this-- that would have been the case management of child welfare services, is that correct? Mr. Botelho: Yes, but they have other contracts, service contracts out there as well that would all be involved in CFS and we would have to handle those at DAS as well. They have other multiple vendors that are involved in-- not case management, but-- Mr. Kenny: Understood. Mr. Botelho: Transportation vendors. So all of those. Mr. Kenny: And I-- so my question is focused on child welfare services' case management. Mr. Botelho: OK. Exhibit 50 marked for identification. Mr. Kenny: Handing you what's been marked as Exhibit 50, just ask you to flip through that and let me know if you're familiar with Exhibit 50. Witness reviewing document. Mr. Botelho: So it looks like a protest. It's a protest dated April 13, 2017, from Fraser Stryker on behalf of Magellan to me. Mr. Kenny: Correct. And I'll just represent that this document was found on the DAS website and it relates to a protest by Magellan as to our RFP5444Z1. Is that correct? Mr. Botelho: Yes. Mr. Kenny: And at that time, you were-- were you the materiel division administrator? Mr. Botelho: Yes. Mr. Kenny: And wouldn't you have been responsible for the initial DAS decision on this protest? Mr. Botelho: Yes. Mr. Kenny: Do you recall-- do you recall-- scratch that. Do you understand that in Exhibit 50, the bidder is challenging the scoring of the cost proposal submitted by the parties or submitted by, in this case, PromiseShip? Mr. Botelho: [COUGH] Sorry-- if that's the-- if that's what the document says, Tom, it sounds familiar. It's been a while, though. Mr. Kenny: Let me ask you this, Mr. Botelho. Are you familiar with whether you have ever made a decision with respect to this protest whether to grant or deny the protest? Mr. Botelho: I don't think I did. Mr. Kenny: And do you recall why not? Mr. Botelho: The agency pulled back their intent to award. The agency, would have been DHHS at that time, chose to pull their intent and not go forward. What was the-- is the intent to award issued by? In DAS-administered procurement as the intent to award issued by DAS or DHHS, if you know. The intent to award-- Mr. Botelho: The intent to award is issued by DAS on behalf of

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the bidding agency. Mr. Kenny: So is it-- do you understand then that DHHS decided to pull the intent to award? Mr. Botelho: Yes, they chose not to go forward with the bid. Mr. Kenny: And do you have an understanding of why they decided to pull the intent for award?

HUGHES: One minute.

M. CAVANAUGH: Mr. Post: I'm going to object on privilege because especially the time frame. Are you asking whether or not he has an understanding from now, recent conversations, if they ever even occurred or at the time it occurred, if he had an understanding? Mr. Kenny: I'm-- let me rephrase. And I'll pause there and come back to this.

HUGHES: Thank you, Senator Cavanaugh. Seeing no one else in the queue, the question before the body is the bracket motion. All those in favor vote aye; all those opposed vote nay. There's been a request to place the house under call. The question is shall the house go under call? All those in favor vote aye; all opposed vote nay. Record, Mr. Clerk.

CLERK: 14 ayes, 10 nays, Mr. President, to place the house under call.

HUGHES: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. All senators are accounted for. Colleagues, the question before us is the bracket motion on LB58. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 0 ayes, 43 nays on the bracket motion.

HUGHES: The motion fails. Colleagues, the next vote is the advancement of LB58 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 46 ayes, 0 nays on the advancement of the bill.

HUGHES: The bill advances. Next item.

CLERK: Mr. President--

HUGHES: I raise the call.

CLERK: --LB63 was a bill originally introduced by Senator Lindstrom. It's a bill for an act relating to property taxes. It changes certain deadlines relating to certain property tax exemptions. Introduced on

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January 7, referred to the Revenue Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

HUGHES: Thank you, Mr. Clerk. Senator Lindstrom, you're welcome to open on LB63.

LINDSTROM: Thank you, Mr. President, and good morning, colleagues. Today, I present to you LB63, a bill to change certain deadlines relating to property tax exemptions. LB63 was brought to me by the Nebraska Association of County Officials to change the deadline of a tax exemption status on real property or tangible personal property. Currently, county assessors must process these applications by February 1 before submitting their recommendations to the county board of equalization. LB63 would extend the due date to March 1. This allows the county assessors ample time to process these applications. LB63 was heard before the Revenue Committee on February 10, 2021, and received only proponent testimony. There was no fiscal impact with LB63 and I would encourage your green vote for the advancement. Thank you, Mr. President and colleagues.

HUGHES: Thank you, Senator Lindstrom. Debate is now open on LB63. Senator Machaela Cavanaugh, you are recognized.

M. CAVANAUGH: Thank you, Mr. President. One moment. OK, so LB63. Much like the last bill, I am not extremely familiar with LB63. I did listen to Senator Lindstrom's introduction and I will likely be supporting it, but I am not going to commit myself 100 percent just yet. Getting back to Mr. Botelho. OK. Mr. Kenny's question: So my question to you, Mr. Botelho, is during your tenure as materiel division administrator, is it your testimony that the department decided to pull the intent to award? Answer: Yes. Mr. Kenny: And what are the reasons, if you remember them, why the agency decided to pull the intent to award? Mr. Botelho: They wanted to reexamine their RFP and go back out to bid on it at a later time. Mr. Kenny: And why did they want to reexamine the RFP? Mr. Botelho: They felt they could improve it. Mr. Ken-- Kenny: do you have an understanding of whether DHHS made the decision based on the protests or was it based upon their own reasons, separate and apart from the protests? Mr. Botelho: I don't. Mr. Kenny: And you, with respect to Exhibit 50, the protest documents, so you would not then have made a decision on the merits of whether this protest should have been granted, is that correct? Mr. Botelho: No. Mr. Kenny: Do you recall any written explanation from the department as to what it wanted to change in the RFP or what it felt needed to be changed in the RFP and the reasoning for withdrawing the intent to award? Mr. Botelho: No, no, I don't. No and generally at DAS materiel, we don't require a written document or a memorandum or

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anything like that. It's up to the agency if they want to go forward or not. They would have-- they-- they would then have to find out what they were going to do to have a continuity of services that they don't award a bid, but if they choose not to go forward, it's at their discretion. You can't force them into a bid. Mr. Kenny: let's mark this as 51. Exhibit 51 marked for identification. Mr. Kenny: I'm handing you what is marked as Exhibit 51. I ask you to let me know when you're read that if you're familiar with that document. Witness reviewing document. Mr. Botelho: I read it and familiar with it. Mr. Kenny: Does Exhibit 51 reflect the decision to withdraw the intent to award? Mr. Botelho: It does. And-- Mr. Kenny: And based on the intent to award, are you-- have you made a decision that their protest is therefore moot? Mr. Kenny. Yes, it does inform them. I'm not going to respond officially to their protest. Mr. Kenny: And do you tell them to continue to monitor the website for additional sec-- for additional second paragraph? Mr. Botelho: Yes. Mr. Kenny: In your mind, is it unusual for the department to withdraw an intent to award after issuing an RFP, after scoring the proposals, and after reviewing a protest? Is that unusual in your experience? Mr. Cox: can you read the question back to me, please? Mr. Cox: I'll object to the form. Calls for the witness to speculate in a hypothetical. The witness: I don't know about the unusual. The state's done that before agencies during my time there where they've been with-- just withdrawn. Mr. Kenny:--

HUGHES: One minute.

M. CAVANAUGH: --Are you and were you aware of any public explanation that was given to the department by-- by the department to these bidders or other bidders as to why, after posting the RFP and going through the procurement, they withdrew the award? Mr. Botelho: By department, which department? Department of DHHS. Mr. Botelho: No, I'm not. Exhibit 55 marked previously, but referred to in this deposition. Mr. Kenny: Handing you what's now marked previously as Exhibit 5. It appears to be a document of the same date. Are you familiar with Exhibit 5? Mr. Botelho: It looks, yeah, it's generated by DAS procurement. Nancy Storant and Robert Thompson would have been the buyers, DAS buyers assigned to this. Mr. Kenny: So essentially Exhibit 5 is saying the same thing as Exhibit 5? Mr. Botelho: It is. This may be what went up on our website or the official communication--

HUGHES: Time, Senator. Mr. Clerk, for a motion.

CLERK: Senator Cavanaugh would move to bracket the bill, Mr. President.

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HUGHES: Senator Machaela Cavanaugh, you're welcome to open on your bracket motion.

M. CAVANAUGH: Thank you. This one, definitely for you, Senator Lindstrom. May the fourth be with you. OK. Mr. Botello: and it is. This may be what went up on our website or the official communication from procurement to all bidders. I can't remember how many bidders were on this, but 51 would have been my letter to the protesting party. This would have been the letter generated by the procurement that would have gone out to all the bidders. How many there were, I'm not sure. I don't recall. Mr. Kenny: OK. After the intent to award is-- is reflected in Exhibit 5 and 51 was withdrawn, do you know what DHHS did in terms of continuing the child welfare case management services that was sought in RFP5444Z1? Mr. Botelho: Yes. They contracted directly with the incumbent vendor, which at that time would have been what's now PromiseShip, but they may have had a different name at the time, NFC maybe, I can't remember, and deviated from the bid process with the direct procurement. Mr. Kenny: And are you talking about a deviation from the competitive bidding? Mr. Botelho: Yes. Mr. Kenny: Rules? Mr. Botelho: Yes. Mr. Kenny: And is-- is this-- is that a process that DAS involved in or DHHS in terms of requesting the deviation? Mr. Botelho: Both. Well, for the-- so it depends. If there's-- there are several types of-- there are deviations and exemptions. Exemptions are services that there's no requirement to be bid and so DAS would not be involved in it whatsoever. They have direct authority to do so. A deviation in a cert-- is a service that would have been required to bid, but it's not being bid for a valid reason under law. So when you seek a deviation, they're asking DAS to prove a deviation from the competitive bid process unless it's an emergency deviation, in which case they can go ahead and enter into it directly and then tell us within three days. Give us notice that they've executed a contract under an emergency deviation, they being the procuring agency. I'm going to pause there because this is an important narrative. So for anybody that's on the special investigative oversight committee into Saint Francis Ministries, I do hope that you are paying attention because there are some really important pieces of this story being revealed in this deposition of Mr. Botelho. So in 2017, I'm going to give you a little bit of the narrative on this. In 2017, the contract, the eastern service area contract was coming to an end and they had to bid out a new contract and they did the bid and they awarded it again to N-- NFC or NCS, sorry. And Magellan is another organization entity that applied as well and they didn't get the bid and they contested the bid and that's when they withdrew the procurement entirely and issued an emergency contract with NCF [SIC], which then became PromiseShip. So

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they issued the emergency contract because the contract with PromiseShip was ending and they had to have a continuity of services and they were having a dispute, much like we had in 2019. They were having a dispute over the contracting and procurement process and they couldn't effectively address that dispute in the time period before the contract dissolved with Saint-- with PromiseShip. So they issued an emergency contract in 2017 that expired in 2019 and that's what brought us to 2019, where they issued the RFP in January of 2019. They closed the RFP in April of 2019 and they awarded it in June of 2019. And not that it really matters, but I just did all of those dates out of my head because I know this stuff. I know this very well. I know the months, the years, the dates, the people, the process because this isn't the first time I've read these things. So June 2019, they award Saint Francis Ministries the contract and it was 60 percent less than PromiseShip. And one of the things that we talked about-- was talked about earlier in this deposition was the-- the readiness assessment, Saint Francis Ministries' readiness assessment. And it wasn't complete in October of 2019, even though they began transitioning services in October of 2019, three months before the contract was supposed to begin. And Mr. Botelho couldn't answer why they decided to do that. There-- well, he could answer. He refused to answer, I should say. He refused to answer why they decided to do that because it was the attorney-client privilege, which I don't believe should exist when the state is trying. So I hope that those that are on the committee again, when you talk to Mr. Botelho, he should report to you what the reasoning was for moving up the contract by three months, so. So we have the contract awarded in June of 2019 at 60 percent less. And this-- this piece of information that keeps not being in the story is that the contract was 60 percent less, but the direct services was 92 percent less. And that's the most expensive part of it all. If you have in statute caseload ratios of 17 to 1 and you have a contract that's bid caseload ratios of 25 to 1 and you've told that contract that that can't be, that's against the statute and then their budget for those services that they already have at a higher ratio, which would cost less, is also 92 percent less than what it's been costing to provide services. And I don't think people have been getting rich off of child welfare services because that direct service piece is people. Those are FTEs to manage the ratios. That's not that complicated of math. How much time do I have?

HUGHES: 1:20.

M. CAVANAUGH: OK, thank you. So that's just a little bit of the background on what we've got going here. And this is really

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complicated-- this is a really complicated case. And as you can hear through this deposition--

HUGHES: One minute.

M. CAVANAUGH: --it spans years and administrations. This-- the privatization of the eastern service area starts in the Heineman administration back in the early 2010-ish time. And-- and Kerry Winterer, who was the CEO of HHS, came and testified in support of the resolution to create the investigative oversight committee because he believes that what is happening now isn't right. So this is not a partisan issue by any means. And I will continue on with my thoughts next time. Thank you. And I'd like a call of the house and a roll call order, roll call vote. Sorry. You know, this-- what I'm trying to say. Reverse order. Thanks.

HUGHES: Thank you, Senator Cavanaugh. There's been a request to place the house under call. The question is shall the house go under call? All those in favor of vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 15 [SIC 16] ayes, 11 nays to place the house under call.

HUGHES: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Hilgers, please check in. Senator Bostar, Senator Groene, the house is under call. Members, all present-- all members are present. The vote before us is the bracket motion of Senator Cavanaugh on LB63. There's been a request for a roll call vote in reverse order. Mr. Clerk.

CLERK: Senator Wishart voting no. Senator Willliams voting no. Senator Wayne-- Senator Wayne voting no. Senator Walz voting no. Senator Vargas voting no. Senator Stinner voting no. Senator Slama voting no. Senator Sanders voting no. Senator Pansing Brooks voting no. Senator Pahls voting no. Senator Murman voting no. Senator Moser. Senator Morfeld voting no. Senator McKinney voting no. Senator McDonnell voting no. Senator McCollister voting no. Senator Lowe voting no. Senator Linehan voting no. Senator Lindstrom voting no. Senator Lathrop voting no. Senator Kolterman voting no. Senator Kolterman? Senator Kolterman voting no. Senator Hunt voting no. Senator Hughes-- excuse me-- Senator Hughes voting no. Senator Hilkemann voting no. Senator Hilgers voting no. Senator Matt Hansen voting no. Senator Ben Hansen voting no. Senator Halloran voting no. Senator Groene voting no. Senator Gragert voting no. Senator Geist voting no. Senator

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Friesen voting no. Senator Flood voting no. Senator Erdman not voting. Senator Dorn voting no. Senator DeBoer voting no. Senator Day voting no. Senator Clements voting no. Senator Matt-- Machaela Cavanaugh voting no. Senator John Cavanaugh voting no. Senator Briese voting no. Senator Brewer voting no. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar voting no. Senator Blood voting no. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar voting no. 0 ayes, 47 nays on the motion to bracket.

HUGHES: The bracket motion fails. Colleagues, our next vote is the advancement of LB63 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 48 ayes, 0 nays on the advancement of the bill, Mr. President.

HUGHES: LB63 advances. I raise the call. Speaker Hilgers for an announcement.

HILGERS: Good morning, colleagues. I just want to give a brief update as to the schedule for this week. As you know, the number one priority for us this week is the budget and we were able to get everything moved off General File. Everything has come back from the Revisors. We will be picking up Select File on the budget bills tomorrow morning. As I said in my previous Speaker memo a week ago or maybe two weeks ago, tomorrow is one of those days I've asked you to reserve at least early evening, depending on how the debate goes. So Select File on the budget tomorrow and then depending on the progress of the budget, we'll-- that will dictate what we do the rest of this week. So if you have any questions on scheduling, please let me know. But I did want to give the body a heads up and that we might go a little later tomorrow. Thank you, Mr. President.

HUGHES: Thank you, Speaker Hilgers. Mr. Clerk, the next item.

CLERK: Mr. President, LB466, a bill introduced by Senator Linehan. It's a bill for an act relating to revenue taxation. Requires the proration of property taxes when real property is sold. Introduced on January 15. At that time, referred to the Revenue Committee. The bill was advanced to General File. There are committee amendments as well as an amendment to the bill.

HUGHES: Senator Linehan, you're welcome to open on LB466.

LINEHAN: Good morning, Mr. President and colleagues. I'm introducing LB466. This bill is intended to address the situation that exists in only two counties in Nebraska. So I handed out earlier this morning--

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it should be on all your desks-- property tax proration. It is the way it is. So it basically explains that 91 counties in the state of Nebraska when you buy real estate, property taxes which are usually paid-- are often paid in arrears, are prorated and the current year's property taxes are prorated. But for some reason, which no one can seem to explain, in Douglas and Sarpy County, the custom and it is a custom, the property taxes, even the delinquent property taxes, are paid by the buyer. So this is simply a change that says that when you buy a house, the property taxes will be prorated unless it's otherwise worked out between the buyer and seller to handle it somewhat differently. So this is confusing to many Nebraskans. And I've had questions ever since I introduced this bill that this certainly isn't the way it works in Gage County or in Scotts Bluff County or in Hall County or Kearney County or Lancaster County, but I promise you, this is the way it has worked historically in Douglas and Sarpy County. It happened when I closed on my house in 2014. It happened to a member of the administration when they closed on their house in Sarpy County and it even happened to someone who works for NACO's parents 20 years ago. So this just says that they have to prorate the taxes unless they work out another situation. Thank you.

HUGHES: Thank you. Senator Linehan. As the Clerk stated, there are committee amendments. Senator Linehan, as Chairman of the committee, you're welcome to open on committee amendments.

LINEHAN: I think with all the time I had this morning, I'd be better organized. The committee amendment just changes it from the assessor to prorate it to it being the treasurer. Senator Erdman talked to me this morning about a different idea. If this isn't in perfect shape, I'm more than willing to work with people between now and Select on getting it in better shape. But this just-- I'm going to refer back to the thing I handed out this morning that says a couple of things. One, two, three, four, five lines from the bottom of the page, it says well, it's not too bad because you can deduct your property taxes on your federal return. Well, this was written in 2012 before the tax changes under the Trump administration in 20, I think, 17. So as we all know now, you can't deduct-- very few people get to deduct all their property taxes paid. So another reason this needs to be changed. Thank you.

HUGHES: Thank you, Senator Linehan. Senator Flood, you're recognized to open on your amendment.

FLOOD: Thank you, Mr. President and members. I intend to pull this amendment and work with Senator Linehan between now and Select. I just wanted to make sure in working with the State Bar Association that we

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treat ag land differently as it relates to real estate sales. And it has a lot to do with, you know, if you rent your ground out, did you get paid the rent from last year? And oftentimes that's-- those kinds of discussions decide who pays the property taxes. And so I'm going to work with Senator Linehan between now and Select File just to make sure that on ag land, we don't apply this standard. And I believe we're on the same page already. So it may not even be needed, but we will work between now and Select to do that. With that, I'd like to pull that amendment.

HUGHES: Without objection. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Good morning. Senator Linehan had alluded to the fact that I had a conversation with her. This amendment, AM157, changes from the assessor making the proration to the treasurer. Let me just share with you, when I do a real estate transaction how I do it at our firm. If it is a home, if it's a house or a business, we prorate the taxes. We don't have to have some kind of statute or law telling us to do that. We prorate the taxes to the closing date in the year that is currently collecting taxes because we pay taxes in arrears. So what we do is we collect the taxes from the prior year from the seller and then up to the day of closing of the current year from the seller and that's done by the closing agent. This allows or provides that the treasurer do that. I'm not sure that's the correct place to put it. I understand what Senator Linehan is trying to get at and so I think between now and Select, we make sure that we have it in the right place. But the closing agent is the one that usually collects the taxes and sends it on to the treasurer. I just want to make sure that we're clear on how that works. And Senator Flood, when we do ag land, our proration is such that if you got the crop in the year you got the crop, you're the one that pays the taxes. And so if we sell the land in January of this year, then the '21 crop goes to the new buyer and they pay the taxes and all taxes prior to that is paid by the seller. So we don't necessarily prorate ag land sales. We just basically whoever gets the crop, pays the taxes. But it's an issue that we need to work with. I appreciate Senator Linehan wanting to deal with this because some real estate agents probably don't do it the way do it-- we do it and I would assume that maybe I should ask Senator Linehan a question rather than assume. Would you yield to a question?

LINEHAN: I-- yes.

ERDMAN: Senator Linehan--

HUGHES: Senator Linehan, will you yield to a question?

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LINEHAN: Yes.

ERDMAN: Senator Linehan, the bill says that the county treasurer shall prorate the taxes unless there's an agreement between the buyer and the seller, is that correct?

LINEHAN: Yes.

ERDMAN: So they have an option?

LINEHAN: They do have an option-- having a different agreement.

ERDMAN: OK, that's what I thought.

LINEHAN: OK.

ERDMAN: I wanted to make sure. Thank you. So I'll be voting for the amendment and for the bill. And-- and if we need to make adjustments, we can make those in between General and Select. Thank you.

HUGHES: Thank you, Senator Erdman and Senator Linehan. Seeing no one else in the queue, Senator Linehan, you're recognized to close on AM157. Senator Linehan waives closing. The question before the body is the advancement of AM157. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 44 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

HUGHES: The amendment is adopted. The next vote is on the advancement of LB466 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 44 ayes, 0 nays on the advancement of LB466.

HUGHES: The bill advances. Next item.

CLERK: Mr. President, LB181, a bill introduced by Senator Linehan, relates to the Convention Center Facility Financing Assistance Act. It defines and redefines terms. It changes provisions relating to the use of state assistance. It changes limitation on the total amount of state assistance allowed. Introduced on January 8, referred to Revenue Committee, advanced to General File. There are committee amendments, Mr. President.

HUGHES: Thank you, Mr. Clerk. Senator Linehan, you're welcome to open on LB181.

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LINEHAN: Thank you, Mr. President. AM763 replaces the original content of LB181. LB181 was originally introduced to make changes to the Convention Center Facility Financing Assistance Act on behalf of the city of Omaha. However, an important issue arose with regard to refundable income tax credit created under LB1107 from last year that needed to be addressed this year. I filed AM501 as a fix for this issue. AM501 was adopted by the committee and became AM763. There's no difference between the two amendments, just a different number. So this is-- LB181 is a proposal that is a result of the collaboration between myself, the Revenue Committee, the Department of Revenue and the CP-- Certified Public Accountant Association. It seeks to resolve an issue surrounding the calculation of the income property tax credit as a result of last year's LB1107. It's a technical change to ease the administrative burden. It makes no changes to the tax credit amount. It simply allows for a more simplified calculation and it had no opposition at the hearing. So I'd ask for your green vote on both the amendment and LB181.

HUGHES: Thank you, Senator Linehan. That was your opening on the Revenue Committee amendment as well? Very good. Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. I stand in full support of AM763. Many of you, like I, have been contacted by accountants in your district that in the haste we did LB1107 last year with this credit. And I appreciate that Senator Linehan and-- had caught that the LLCs. But if any of you are involved in an LLC with a family farm or a small business and you might have-- you know, I had one accountant tell me he had three members of a small LLC of about-- of a quarter of ground, the third generations of nephews and cousins and-- and, what the accountants had to do was take that tax statement. It might have been a \$200 tax statement and divide it by 33, send out a form to each of the members so they could take \$10 or \$12 off of their taxes. What he was telling me is he-- the fee he had to charge them, that LLC, to calculate all that, to find all those tax statements was higher than what the credit was. So what this does, which Senator Linehan fixed it, is that the LLC can claim the tax credit. And if anybody's been involved with one, the LLCs pay no income taxes because the income is split between the members. But it's a refundable tax credit so now this refundable tax credit will go into the LLC and it will be divided and split out with-- with the rent on the farm or the rent on the-- on the-- on the business building that you own together. It clears up this-- this accounting nightmare that's out there because of the way it was originally written. But-- and also a lot of accountants didn't even claim it. They told the people don't even claim it for this year.

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It isn't worth it. I'm going to charge you more. It goes back. It's grandfathered back to this year, so next year you can claim 2020. If I misspoke in any way, Senator Linehan, but I think in my layman's terms, I think I summed up why this bill needs to be done and it needs to be done quickly so that this tax year yet, accountants have certainty to tell their clients that let's just wait till next year and take this credit next year on the LLC itself instead of dividing it up between all the members. So I really appreciate the work the Revenue Committee did and the people in the Revenue Office on AM763 and I appreciate that the Speaker has put it on-- on consent calendar so we can get this done. Green on AM763 and then green on LB181. Thank you.

HUGHES: Thank you, Senator Groene. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I want to stand up also in favor of AM763. As a tax preparer, I very much appreciate this simplification of the property tax credit calculation. I'm a member of an S corp with five owners that-- and the corporation owns four properties and each of us are having to, on our Nebraska tax return, list those four lines, find the property ID numbers and how much tax the corporation paid and times our percentage ownership. And it's small enough that we're able to get through it, but much larger situations have been very difficult for both accountants and taxpayers. And one of the tax preparers in my office did have to charge more than the credit gave back to the owner in a situation I just heard about this weekend. And this would be much better where the-- the entity gets the tax credit and it just splits it out. It gives the credit directly to my Nebraska tax return without having to list those four extra lines of all the properties, who the owner is, how much the share is and what the tax was for my share. So I thank Senator Linehan for bringing this and I ask for your green vote. Thank you, Mr. President.

HILGERS: Thank you, Senator Clements. Mr. Clerk. Excuse me. Colleagues, we need to vote on AM763. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 45 ayes, 0 nays on adoption of committee amendments.

HUGHES: The amendment is adopted. Mr. Clerk.

CLERK: Senator Linehan, I'm going to show L-- AM501 as withdrawn. Is that right, Senator? That was the original-- OK, thank you. I have nothing further on the bill, Mr. President.

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HUGHES: Thank you, Mr. Clerk. Colleagues, the question before us is the advancement of LB181 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 45 ayes, 0 nays on the advancement of the bill.

HUGHES: LB181 advances. Mr. Clerk, for items.

CLERK: Mr. President, an announcement. General Affairs will have an Executive Session at noon in Room 2022. Senator Pahls would move to recess the body until 1:30 p.m.

HUGHES: Colleagues, you've heard the motion to recess. All those in favor say aye. All opposed say nay. We are in recess.

[RECESS]

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

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

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

CLERK: I do. Enrollment-- I'm sorry. Retirement Systems Committee, chaired by Senator Kolterman, reports LB147 to General File with amendments. Education Committee, chaired by Senator Walz, reports LB135 to General File. New A bills: LB323A by Senator Walz. It appropriates funds to implement LB323. And LB527A by Senator Walz appropriates funds to implement LB527. That's all that I have, Mr. President.

HILGERS: Thank you, Mr. Clerk. We'll now turn to the first item on the afternoon's agenda, Select File consent calendar. First bill, Mr. Clerk.

CLERK: Mr. President, Senator McKinney, LB65. I have no amendments to that bill, Senator.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB65 be advanced to E&R for engrossing.

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HILGERS: It's a debatable motion. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. Speaker. I almost lost track of myself there. OK, I hope everyone had a lovely lunch and I am-- LB65, change contractual conflict of interest provisions under the Nebraska Political Accountability and Disclosure Act. So I rise in neutral support of that and I am going to continue reading from the deposition of Bo Botelho in the Saint Francis Ministries, the PromiseShip lawsuit against DAS, DHHS, and Saint Francis Ministries. And I apologize, I will have to recall my spot. OK, so I think I'm at the top of page 14 of 113 pages. OK, so, Mr. Kenny: Would you have come to your-- would you have been involved in approving Exhibit 6 or would you have been the DAS director at that time? Mr. Botelho: No, it would have been me. Mr. Kenny: It would have been you as materiel division director that approved the deviation requests? Mr. Botelho: Yes. Mr. Kenny: Turning down, the, the box six: other circumstances. The second full paragraph there. I wanted to, to turn your attention to the last sentence in paragraph two of, of Exhibit 6, beginning-- begins with the new sub award issued to NFC, and for the record, that is also now PromiseShip, in 2016, while DHHS issued a RFP to explore the third option of a new model of case management. Do you see that language? Mr. Botelho: I do. Mr. Kenny: Do you understand that DHHS is referring to with respect to the third option of a new model of case management? Mr. Botelho: No, other than if they-- not that I can recall, Tom. I'm assuming they were referencing to the bid they had just released. I-- but I don't know what they meant by model or what different about that in the previous one. Mr. Kenny: OK, if you turn to the second page, the end of the first incomplete paragraph at the top. Mr. Botelho: Uh-huh. Mr. Kenny: The duration would need to be sufficient to develop a sustainable model of case management, service delivery, and enough lead time to issue an RFP for and for providers to-- court reporter asked counsel to read from the document more clearly. Mr. Kenny: Would you read that last sentence beginning with the duration into the record, please? Mr. Botelho: The duration would need to be sufficient to develop a sustainable model of case management in service deliverable, delivery, and enough lead time to reissue a request for proposals for a provider to reach a state of readiness to implement a new model. Mr. Kenny: And that language from Exhibit 6, again, the question is, has to do with what the new model that's referring to in Exhibit 6, if you know? Mr. Botelho: So what the sentence is saying, again, this is a justification for entering into a direct contract with the then incumbent NFC, Nebraska Family Collaboratives, which is now known as PromiseShip. And what they're saying is the contract would have been long enough to give them time to build a new RFP,--

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HILGERS: One minute.

M. CAVANAUGH: --release it, execute a contract, and potentially have to transition a new vendor or the existing vendor into a new model of operation. And by model, I'm assuming they're referring to how they want case management to either handle or manage by the agency. They want a contract that would look different than the existing contract and they need time to get there. Mr. Kenny: And so with respect to a new model, are you familiar with a new model that is reflected in the current RFP new model of case management services? Mr. Botelho: I'm familiar that the RFP we just let had different aspects to it, although I couldn't tell you what necessarily was exactly different in this RFP from the previous one, but I do know they changed it and added performance measure attributes. And I think I only have a few seconds left so I am going to just probably pause here before I move onto the next page.

HILGERS: Time, Senator.

M. CAVANAUGH: Thank you.

HILGERS: Thank you, Senator Cavanaugh. Mr. Clerk for a motion.

CLERK: Senator Cavanaugh would move to bracket the bill, Mr. President.

HILGERS: Senator Cavanaugh, you're recognized to open on your motion.

M. CAVANAUGH: Thank you. May the fourth be with you. My motion is to bracket the conversation and vote from Select File of LB65 until May 4. I'm trying to just really stack May 4 to be a late night. So far, I haven't been successful, but maybe we all will vote for this bracket motion this time. Sorry. OK, back to the deposition. And so I'm going to pause here actually on the deposition to give a little bit more background information on what's being discussed here, because this is something that I asked about in, in committee briefings with the department several times. Including in October of 2019, I was asking these very questions, probably around the same day, this is October 19, 2019. And actually, if I-- I can't recall, I think the date that we had the briefing was October 29, 2019. But regardless, I asked the department about the case management ratios because the bid Saint Francis Ministries put forward had 25 to 1 and our statute is 17 to 1. And I thought that that could be problematic as far as even if they adjusted, they were already underbidding and how would they be able to compensate for that shift if they changed to 17 to 1? They would have to obviously increase costs because they would need to hire more

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people. But they said that they would not have to increase costs, which is actually not entirely true. They sent a-- there is correspondence, back and forth emails, talking about that they needed to adjust their bid to, their RFP to have the 17 to 1 case ratio to be in line with statute. And Saint Francis Ministries came back and said in order to do that, we're going to need \$15 million more. And then they were told by DHHS, no, you need to adjust it without increasing the cost. So DHHS told them that they couldn't increase the costs even though it was going to cost more. So that's kind of where we're at. And then the, the model-- so Saint Francis Ministries has this model and it's still the model that they're using where they have case managers that have a caseload of, say, 25 cases, but then they have another manager that has-- also has some of those cases. So they're counted differently and they're kind of duplicating counts of cases. It's sort of a weird-- I could do it on a diagram for people if you're interested. But so there's-- the way that they're getting their numbers down is that they're double counting workers on cases that aren't doing the case management. So that's where we're at today. And really that's where we've been at since we started. But that's just-- if you care about being compliant with the law, that's where we're at, that we're not compliant. OK, so picking back up. Mr. Kenny: So it would be-- would it be fair to say that you understand that there are differences in the current contract, but you don't know maybe the specific differences? Mr. Botelho: Correct. Mr. Kenny: OK, have you heard the name-- heard a name given to the new model of services that the agency is seeking? Shakes head. Mr. Kenny: Type of service? Mr. Botelho: No. I know there's the family, probably going to get it wrong, Family First Act, which I think is a federal requirement. This is my sidebar. Family First Act is the correct name. Continuing on. OK, and they're required to implement. Mr. Kenny: If you continue under the last paragraph of Exhibit 6, if you would scan through that and let me know if you agree with the statement by DHHS relating to the end of case management on June 20 or June 30, 2017. Mr. Botelho: The first sentence in the last paragraph. Mr. Kenny: The entire paragraph. Mr. Botelho: OK. Mr. Kenny: Just let me know if you agree with it. And if you don't, let me know if there's anything that you disagree with. Witness reviewing document. OK. Mr. Kenny: Do you agree with the statement by DHHS? Mr. Botelho: I did agree with it. I executed the-- yeah, I approved the deviation. Mr. Kenny: Would you agree with the statements relating to harm from case transfers and transitions that are made in the last paragraph? Mr. Botelho: In regard to a sudden end to case management, yes. Mr. Kenny: The last sentence of that paragraph, research has demonstrated that the changes in case manager or case transfers directly increase the length of stay in the foster care system, which increases overall cost. Would you

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agree with that statement? Mr. Botelho: I don't think I'm-- I don't think I can agree or disagree, Tom. I have no knowledge of the resources that they're referencing. Mr. Kenny: You don't have any basis for disputing or saying that this is an inaccurate statement, do you? Mr. Botelho: I do not. Mr. Kenny: With regard to the estimated dollar amount, what is the dollar amount here? Mr. Botelho: One hundred million forty-three. So a hundred and forty-three million? Yep. And that's over two-- a two-year contract, do you recall? Yes, I believe it was. And the one hundred forty-three million is the DHHS estimate of the two-year contract for child and welfare services that's being discussed here, correct? Mr. Botelho: Yes, estimated dollar amount of contract. Mr. Kenny-- and I apologize if I say McKinney, it is because of my seatmate. I keep getting his name stuck in my head and I have to pause every time to make sure I say Kenny not McKinney. OK, so Mr.-- Mr. Kenny: If DHHS-- and do you know if DHHS then offered that contract to PromiseShip or Nebraska Families Collaborative to continue the contract? Mr. Botelho: Yes. Mr. Kenny: Mr. Botelho, I wanted to ask you a question about the types of devices that DAS or DHHS may use to procure services. Are you familiar with something called an RFA? Mr. Botelho: A request for application? Mr. Kenny: Yes. Are you familiar with the department, DHHS's use of RFAs? Mr. Botelho: Yes. Mr. McKinney-- Mr. Kenny-- now I'm going to do it. OK. Mr. Kenny: What, what generally is an RFA as opposed distinguish it from an RFP? Mr. Botelho: An RFP is a request for proposal and generally those are used for contracts for services. An RFA, request for application, generally that term is applied when you have grants. Mr.-- Mr. Kenny: This would be federal grants or state grants or could it be either? Mr. Botelho: It could be either. Most of our grants are federal. How much time do I have left, Mr. Speaker?

HILGERS: 2:20.

M. CAVANAUGH: Thank you. OK. Federal grants are either-- Mr. Kenny: And in that case, the state is asking bidders to make applications for the grant, is that correct? Botelho: Yes. Kenny: I'm not sure if you're going to be familiar with this, but let's mark it as 52. Exhibit 52 marked for identification. Kenny: If you skim Exhibit 52 and let me know whether you've seen this document before, if you're familiar with it. Witness reviewing document. Botelho: I'm familiar with the form, Tom. I'm not personally familiar with this particular document. Kenny: Would you-- would the RFA have been issued-- strike that. Who within DHHS would have been responsible for issuing RFA number 101? Botelho: So this was issued by CFS and procurement would have handled the process. Kenny: Is that DHHS procurement would have handled the process? Botelho: If it released directly from us and not

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gone to DAS. Kenny: But you're not personally familiar with the-- with RFA 101, is that correct? Botelho: I am not. Kenny: If you turn to the last page of Exhibit 52, is that the withdrawal of solicitation? Do you see that document?

HILGERS: One minute.

M. CAVANAUGH: Botelho: I do. And are you-- do you have an understanding of why this RFA was withdrawn? Botelho: Trying-- what was this RFA for? I'd have-- I might have known. Flip to page-- Kenny: Flip to page 6, RFA 101. It gives a project overview. Witness review document. Kenny: I believe I've heard it referred to as resource family homes as the kind of subject matter of the RFA. But I wanted to ask you if you're familiar with why the RFA was withdrawn? Botelho: I'm not. Would that have been your decision to withdraw the RFA? No. Whose decision would it have been? That would have been the program's decision. In the case of CFS, the child-- the Division Child and Family Services' decision. Kenny: And I would-- you have been aware which entities submitted are the response to RFA 101? No, I would not. Take a five-minute break. Sure. They take a break.

HILGERS: Time, Senator.

M. CAVANAUGH: Thanks.

HILGERS: Thank you, Senator Cavanaugh. Pursuant to Rule 5, after 15 minutes of debate, which we have now reached, we will take a vote on the motion to bracket. There's been a request to place the house under call. The question is shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: 12 ayes, 8 nays to place the house under call.

HILGERS: The house is under call. All unexcused senators, please return to the floor. All unauthorized personnel, please leave the floor. The house is under call. All unexcused senators are now present. Question before the body is, is the adoption of the motion to bracket. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk.

CLERK: 0 ayes, 39 nays, Mr. President.

HILGERS: The motion to bracket is not adopted. Next vote is a voice vote on the motion to advance LB65 to E&R for engrossing. All those in favor say aye. Opposed say nay. LB65 advances. I raise the call. Next bill, Mr. Clerk.

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CLERK: LB105. Senator McKinney, I have no amendments to the bill.

McKINNEY: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB105 be advanced to E&R for engrossing.

HILGERS: It's a debatable motion. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. Speaker. LB105, change certificate dates for unpaid county claims. Would Mr.-- Mr.-- would Senator Friesen yield to a question?

HILGERS: Senator Friesen, would you yield?

FRIESEN: Yes, I would.

M. CAVANAUGH: I'm sorry, I'm sure you wanted me to continue reading a deposition, but would you mind just giving the body a, a-- an overview as to what LB105 is?

FRIESEN: What this does is it changes two numbers in the entire bill and it changes a date from the 15th to the 30th, I believe, as far as a reporting requirement and it's on a bill that we did last year. We neglected to change the date in a couple of different places in statute. So this corrects to what we did last year.

M. CAVANAUGH: Thank you. I was going to pull up the committee statement, but I thought I'd put you on the spot instead. So thank you, Senator Friesen. So that sounds like makes pretty good sense that that's a consent, consent bill. So thank you for that. And thank you for bringing the bill again this year. OK, so we are back from our break. Looks like they had a nine-minute break and they are on Exhibit A marked previously, but referred to in this deposition, Exhibit 53 marked for identification. Mr. Kenny: Back on the record. I've handed the witness Exhibit 8, which is an affidavit of Jason Jackson, and it has some attachments. And I'm pausing here. I will get to that affidavit at a later date. But right now, I'll continue with this deposition. Oh, and we're on page 16 of 113 pages. OK. Mr. Botelho, if you would turn to Attachment A, which is the vendors manual of the Department of Administrative Services dated December 14, 2017-- oh, I almost forgot-- dated December 14, 2017, and ask if you're familiar with the vendors manual. Answer: Yes. Question: And just for point of reference, this is dated December 14, 2017. At that time, you had made your move to DHHS or were you still with DAS, if you recall? Answer: I

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would have been with, with HHS. Question: From your prior testimony, my recollection is that you moved to DHHS in 2017. So I'm just curious if you were at DAS at that-- at the time that this revision of the manual came out? Answer: I think I got to-- I was not at DAS. I think I was at HHS in June or July of '17. Question: OK, do you recall revisions being made to the DAS vendor manual while you were still at DAS? Answer: Yes, I believe we did. Question: Do you recall that there was a prior vendors manual, I believe dated 2015? Answer: Not directly, but I wouldn't dispute that. Question: Do you recall why the vendors manual was revised in 2017? Answer: No. Question: There's no specific driving force that you recall as to why it was revised? Answer: No. Question: Were you involved in the revision of the manual? Answer: Not that I can recall. Question: Did-- do you recall who replaced you at DAS as materiel? Is that Mr. Carlson? Answer: He's the materiel administrator currently. I think there was one before him. Question: OK, if it would-- if you would--

HILGERS: One minute.

M. CAVANAUGH: One minute, thank you. If you would turn to-- let me ask you before we go through this. Have you reviewed the vendors manual dated December 17-- December of 2017 prior to today? Answer: No. If you turn to the fourth, the numbers on the page in handwriting, page 9 of the vendors manual, overview of public contract. OK. Question: Would you agree that with the first sentence that these guidelines were developed to assist vendors wishing to do business with the state? Answer: Yes. Question: Going down to the third short paragraph there, would you agree that the procurement is a major function of the state? Answer: Yes. Question: Would you agree that the process-- the processes have been developed to ensure maximum competition and to ensure fair and equitable treatment of all participants in the procurement process? Answer: Yes. Question: Are those accurate statements of the law in your view?

HILGERS: That's time, Senator.

M. CAVANAUGH: Answer: Yes. Thank you.

HILGERS: Mr. Clerk, for a motion.

CLERK: Mr. President, Senator Cavanaugh would move to bracket the bill.

HILGERS: Senator Cavanaugh, you're recognized to open on your motion.

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M. CAVANAUGH: Thank you. Sorry, I just took a sip of water and got an ice cube, so I apologize. OK, I'm going to continue with this. But I did want to say I had asked my colleague, Mr. McKinney, to check the queue because if there were people in the queue, I wouldn't put the bracket motion up. I don't want to hinder others if anybody does want to speak on a bill that I'm speaking on. If you just flag me, I will not take your, your spot. I will give up my spot. Otherwise, I will continue on and just wanted to make that clear. So this is a motion to bracket LB105 until May the fourth be with you. And I-- again, I haven't been successful yet, so maybe one time today I'll be successful in getting it bracketed to May 4. OK, so we are on procurement process DAS and we're now on page 17 of 113. I am reading you, like, the PDF that I'm reading off of is 113 pages. Each one of these pages is actually four pages. So we're technically we're on page 58 of the deposition. OK, continuing down the page, the third sentence, vendors may not change bids after the RFP ITB due date and time. Do you see that language? Answer: Yes. Question: Do you agree with that statement? Answer: Yes. Question: What is an ITB? Answer: It's an imitation-- I think initiation, to bid that would be for commodities. Question: But you agree vendors cannot change their bid of the RFP due date, correct? That's correct. Question: If you turn to page 12 of Exhibit A going by the numbering of the handwriting on-- at the bottom and the very, very bottom paragraph under services, do you see that language? Answer: Yes. Question: Is it accurate to say that procurements greater than \$50,000 can be bid out only out by the agency or SPB, but must be bid in the manner prescribed by MDAS? Is that accurate? Answer: I'm assuming MDAS is Materiel Division of Administrative Service would have to be. I've never seen it referred to, but yes, procurements over \$50,000 have to be bid and either they're going to be bid by the Department of Administrative Services or it can be bid by the procuring agency following the process of the Department of Administrative Services. Do you see the reference to-- Question: Do you see the reference to as SPB? What does SPB stand for? Answer: State Purchasing Bureau-- State Procurement Bureau. I forgot what they call themselves. Question: And is that division within-- Answer: Materiel. Question: OK, SPB is a division within materiel. OK, is that correct? Answer: That is. Question: Look at the last sentence. Any changes from the original document to contract must be reviewed by SPB prior to signing contract. Do you agree with that statement? Answer: Yeah. I'm trying to think what they're referring to here. I think they're-- I think what it's saying is amendments to-- I'm not sure what they mean by original documents. It's confusing. Kenny: OK. Botelho: But yes, amendments to existing contracts. If it was bid by the Department of Administrative Services, the contract was executed by the Department of Administrative Services. And so any amendment, in

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essence, is executed by the Department of Administrative Services.
Question: OK, if you would turn, somewhere, we lost the handwriting number-- handwritten number. If you would turn to Section 8 under evaluation 8.1. Are you familiar with 8.1? Answer: Generally, yes.
Question: And does 8.1 refer to a clarification to an RFP response? Answer: It does.
Question: Would you agree with the statement that a clarification-- in a clarification, a bidder cannot change the substance of response and cannot alter the cost to the state? Answer: Where are you reading from this? Question: Yeah, the third bullet down. Answer: Oh, I'm sorry, yes, this is 8.1 is referring to the evaluation. This is what-- so what they're saying here in clarification sought during the evaluation period. Yes, I'd agree with that. So-- Question: So the clarifications that are allowed under 8.1, if you go to the second bullet, must occur prior to the intent to award. Answer: Yeah, this is an evaluation process. Question: OK, under the fourth bullet, the bidder cannot change the substance of the response or cannot alter the cost to the state through a clarification. Is that correct as far as you know? Answer: Yes, during the evaluation process. OK, I'm going to pause for a moment. We're going to have another little interlude of explanation. So what they're talking about here is that, again, going back to the case ratios, they were in violation of the case ratios in their bid. And there's a Q&A or FAQ that's sent out when they start the RFP process and it very clearly states in there that the case ratios are 17 to 1. So that Saint Francis Ministries received in, I believe, February of 2019. And it's very clear, I came across it and I'm not a contract specialist, that that is really an important part of, of the contract. So that happened. They had the evaluation process of, of the contracting procurement and then they awarded it in June. And so Mr. Botelho has just stated here is that during the evaluation process, they can make clarifications and changes to the bid. They didn't start discussing the changes to the bid until July. They awarded it in June, they started talking about changes in July that the bid was wrong. As we go on, we will come to find that they never went back to PromiseShip to allow them to adjust their bid after the awarded bid. So I do think if we had, and we probably still can, I don't know if Senator Kolterman is around. If we were to move Senator Kolterman's bill out of Government, would that help with this whole process? He's nodding yes. Maybe we should move that bill. Seems like a pretty good case for needing to fix our procurement process. I, I believe Senator Kolterman's bill allows for a, a cleaner process for contesting an award than what we currently have as we've been hearing from Mr. Botelho. I would like to ask the Speaker, how much time do I have left?

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HILGERS: 2:15. Sorry, 1:50.

M. CAVANAUGH: OK, thank you. So I'm trying to decide if I should continue on right now or-- OK, so Mr. Botelho has told Mr. Kenny that you can make changes during the evaluation process and then we, having the hindsight now, know that that is not how the changes were made. The changes were made outside of the procurement process that we have in the state, which of course then is directly in opposition to the current vendor that we had at that time, PromiseShip, because there wasn't a discussion during the--

HILGERS: One minute.

M. CAVANAUGH: --evaluation process. And, and so that's a problem. I'm not sure if it's a problem that anyone right now is interested in, but it's one that I'm interested in. I think that, that our procurement process is clearly significantly flawed. And because it is so flawed, the children of Nebraska, especially the eastern service area, are really suffering here. OK, I'm going to continue. Reference--
Question: And the reference there to changing the substance of the response, does that refer to changes to the substance of the proposal?
Answer: Yes. So the clarification that's constructed in 8.1 is you have-- the state has received bids and you're evaluating their bids. There would be an elevator or-- evaluator or perhaps more than one evaluator who doesn't understand something in the bid itself. And so this process allows--

HILGERS: That's time, Senator.

M. CAVANAUGH: Thank you.

HILGERS: Thank you, Senator Cavanaugh. Having reached 15 minutes, we'll now take a vote on the motion. There's been a request to place the house under call. The question is shall the house go under call? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk.

CLERK: 11 ayes, 10 nays to place the house under call.

HILGERS: The house is under call. All unexcused senators, please return to the floor. All unauthorized personnel, please leave the floor. The house is under call. Roll call vote in regular order has been requested. All unexcused senators are now present. The question before the body is the adoption of the motion to bracket. A roll call vote in regular order has been requested. Mr. Clerk, please call the roll.

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CLERK: Senator Aguilar voting no. Senator Albrecht voting no. Senator Arch voting no. Senator Blood voting no. Senator Bostar. Senator Bostelman voting no. Senator Brandt voting no. Senator Brewer voting no. Senator Briese voting no. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh not voting. Senator Clements voting no. Senator Day. Senator DeBoer voting no. Senator Dorn voting no. Senator Erdman not voting. Senator Flood voting no. Senator Friesen voting no. Senator Geist voting no. Senator Gragert voting no. Senator Groene voting no. Senator Halloran, Senator Halloran voting no. Senator Ben Hansen voting no. Senator Matt Hansen voting no. Senator Hilgers voting no. Senator Hilkemann voting no. Senator Hughes voting no. Senator Hunt voting no. Senator Kolterman voting no. Senator Lathrop voting no. Senator Lindstrom voting no. Senator Linehan voting no. Senator Lowe voting no. Senator McCollister voting no. Senator McDonnell voting no. Senator McKinney voting no. Senator Morfeld voting no. Senator Murman voting no. Senator Pahls voting no. Senator Pansing Brooks voting no. Senator Sanders voting no. Senator Slama voting no. Senator Stinner voting no. Senator Vargas voting no. Senator Walz voting no. Senator Wayne voting no. Senator Williams voting no. Senator Wishart. 0 ayes, 43 nays.

HILGERS: Motion is not adopted. Next vote is the, is the pending motion to advance LB105 to E&R for engrossing. All those in favor say aye. Opposed say nay. LB105 is advanced. I raise the call. Next bill, Mr. Clerk.

CLERK: Senator McKinney, LB224, I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB224 be advanced to E&R for engrossing.

HILGERS: It's a debatable motion. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. Speaker. Don't worry, I have cough drops up here if I start to get hoarse. OK, so for anyone that's in the body that's paying attention, I am not going to be reading this tomorrow so when we're talking about the budget. Just want to make sure everybody is prepared to talk about the budget tomorrow. OK, so we are-- the evaluation process. OK. So, Mr. Kenny: And the reference there to changing the substance of the response, does that refer to changes to the substance of the proposal? Answer: Yes. So the clarification that's constructed on-- in-- construed in 8.1 is you have the state has received bids and you're evaluating their bids. There would be an

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evaluator or perhaps more than one evaluator who doesn't understand something in the bid itself. And so this process allows the agency, if it's DAS, DAS to reach out to the bidder during the evaluation process and say, hey, what do you mean by this? They can't, they can't add things to the bid. They can't take things to the bid, take things to the bid. They can only explain what is meant by whatever they're questioning. Question: And this clarification process would only apply during the evaluation process, correct? Answer: Yes. Question: Would not apply after an intent to award? Answer: No because then you're in negotiation, which is different. Question: OK, so if you turn to section 8.6 then under preferences, the second bullet, resident reciprocal preference under the Nebraska Revised Statute 73-101.01. Do you have an understanding of what that is? Resident reciprocity-- sorry, resident reciprocity preference? Answer: Uh-huh, yes, I do. Question: What is that? Answer: 73-101.01 is a state statute which is cumbersome to read. However, what it says is that if you're a nonresident, the best thing to do would be to read, the best thing to do would be to read the damn statute, Tom. But as I recall, it refers to nonresident bidders. So if you're a nonresident bidder and you're bidding on a contract and there are resident bidders, the agency would have to determine if the home state of the nonresident bidder has preference that would be-- that would advantage the nonresident bidder in that state and whether or not any of the resident bidders have been disadvantaged by the preference of that home state and then apply a similar type of preference in this state. Question: With the-- with respect to the RFP at issue here, 5995Z1, do you have an understanding of whether the bidders, whether PromiseShip was a resident of the state of Nebraska? And do you have an understanding of whether Saint Francis was a resident of the state of Nebraska? Answer: I believe they both were. In order to be a resident, you, you must-- you just have to be registered with the Secretary of State as a business in the state of Nebraska. They were both. Both PromiseShip and, and Saint Francis Ministries were doing business in Nebraska at the time so I imagine they both would be resident bidders. Question: Do you know that? Is that something that was examined during the procurement process? Answer: It would have been handled by DAS. Question: DAS would have made the determination? Witness nods. As to residency? Answer: Yes. Question: Have you seen--

HUGHES: One minute.

M. CAVANAUGH: --thank you-- have you seen any writing or opinion from DAS as to whether Saint Francis was a resident of the state of Nebraska? Answer: I personally have not, no. Question: Handing you what's been marked as Exhibit 53. It's just the statute you wanted to

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review. For the record, Nebraska Revised Statute 73-101 titled Resident bidder, defined; preference. Is that the statute that's referenced in the manual we just discussed? Answer: It should be, yes. If they cite it correctly, yes. Question: And if you go to the last sentence of 73-101, would you read that into the record? Answer: Any contract entered into without compliance with 73-101.01 and 73-101.02 shall be null and void. Question: And is it your testimony, Mr. Botelho, that you are-- you're not aware for certain one way or another whether DAS has determined the residency of Saint Francis? Answer: It is the process--

HUGHES: Time, Senator.

M. CAVANAUGH: Thank you.

HUGHES: Mr. Clerk for a motion.

ASSISTANT CLERK: Mr. President, Senator Cavanaugh would move to bracket the bill.

HUGHES: Senator Cavanaugh, you're open to-- you're welcome to open on your bracket motion.

M. CAVANAUGH: Thank you, Mr. President. And I apologize. I did not start my comments on LB224, Senator Aguilar's consent calendar bill. It changes provisions for appointment of county surveyor in certain counties and I am rising in support of that bill. I just would like to move the conversation on this bill to May 4, 2021. And I will continue with the deposition of Bo Botelho on October 10, 2019, regarding the contract of the eastern service area child welfare with Saint Francis Ministries of Kansas. OK, and is it your tes-- this is Mr. Kenny-- and is it your testimony, Mr. Botelho, that you are-- you're not aware for certain one way or another whether DAS has determined the residency of Saint Francis? Answer: It is the process of DAS to make that determination. Question: I understand that. My question is, do you know whether they have, in fact, made that determination in this case with respect to 5995Z1? Answer: I have not. I have no personal knowledge other than that's their standard process in that both bidders are doing business in the state of Nebraska at the time they bid. Question: Going back to Exhibit 8, which, which was the manual. I have a copy-- a couple more questions for you. If you would turn to the last page of Exhibit 8, which is the DAS materiel division and standard protest grievances procedures. Are you familiar with the grievance procedures? Answer: Yes, I am. Question: And did the grievance procedure outline procedures available for vendors to protest an award decision? Answer: Yes. Question: And if the grievance

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or the protest is successful, that can in some cases result in the award decision being changed, is that correct? Answer: It can be, yes. Question: And in some cases, could the protest decision result in the award being made to the protesting party? Answer: Yes. Question: Has that happened in your experience? Answer: Yes. Question: Are you aware of specific instances where a protest has led to the award decision being changed in favor of the protesting party? Answer: I'm aware that it's happened. I can't tell you specifics. You-- so when a-- if a protest comes in and if the protest is upheld, either you're going to correct the defect if you can or if it's not correctable, then the award generally will go to the next highest scoring bidder that may or may not be the protesting bidder. In some cases, if you have multiple bidders, generally speaking, a number three or fourth bidder doesn't fit-- file the protest. It's usually the number two. But in theory, it could have a third-ranking bidder file a protest and that would result in the award going to number two. Question: And that decision on a protest is made either by the materiel division director or by the DAS director, correct? Answer: Yes. Depending on the stage of the protest, yes. Question: And the DAS director would have the authority to grant a protest. Is that your understanding? The party who makes the protest to the materiel division and the materiel division denies the protest. Does the DAS administrator have the authority to reverse the materiel division's decision and grant the protest? Answer: So the protest process is drafted such that a protesting party has two choices initially. They can protest directly to the materiel administrator and reserve the right to then protest to the director or they can protest directly to the materiel administrator and director at once and skip the first stage. If they protested the materiel administrator and they get a decision from the materiel administrator, they can, depending on the ruling, then choose to seek further redress from the director of administrative services. At that point, the director has an opportunity to review everything before him and make a decision accordingly. Question: And the director of DAS could either uphold the materiel division's decision or reverse it. Is that correct? Answer: Correct. Question: If the contract has been issued prior to the DAS director's final decision, does the DAS director have the authority to still make a decision to reverse the materiel division even though a contract has been entered? Answer: Yes. Question: Are you familiar, Mr. Botelho, with the DHHS grievance process as opposed to the DAS grievance process? Answer: Yes. Exhibits 9 through 10 marked previously, but referred to in this deposition. Mr. Kenny: Let me hand you what's previously-- been previously as Exhibit 9. Is-- are you familiar with Exhibit 9? Answer: Yes. Question: What is it? Mr. Cox: this is 10. Mr. Kenny: Oh, it's 9 and 10. The witness: Sorry, 10. Kenny: OK. The witness: I was handed Exhibit 10. Mr. Kenny: All right,

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let me give you 9 and 10. Same question. Just let me know whether you're familiar with both of those. Answer: Yes. Question: What are Exhibits 9 and 10? Answer: They are grievance protest procedure for the Department of Health and Human Services. Question: And I know at the bottom left, these were revised in March of 2018. Do you see that? Answer: I do, yes. Question: And do you know where they were revised in, where they were revised in 2018 and were you involved in the revision? Answer: I believe we wanted to update our process. Question: And who would have been involved in that updating? Answer: Greg Walkin would have drafted it and I would have reviewed it. How much time do I have left, Mr. Chair-- President?

HUGHES: 3:40.

M. CAVANAUGH: Thank you. And do Exhibits 9 and 10 differ in any materiel respect to your knowledge from the DAS grievance procedures? Answer: The goal was that they would reflect it as much as possible. So these procedures would be in the instance where HHS would have let the contract ourselves. Question: So instead of going through DAS, DHHS is issuing the RFP directly? Answer: Yes. Is that correct? Yes. Question: And would you apply then if a bidder in that DHHS run procurement wanted to protest or issue a grievance? Is that correct? Answer: Yes. Question: Are you aware of any materiel differences between the DHS-- DAS procedure and the DHHS procedure other than who the protests are made to? Answer: Not that I can recall. Question: Would you agree that Exhibits 9 and 10 have been designated as guidance documents by the agency? Answer: Designated in what way? What do you mean? Question: Under the Administrative Procedure Act, have these been designated as guidance documents? Answer: Are you asking me are they guidance or have we listed them as guidance documents? Question: OK, well let's take both of those. Are they guidance documents? Answer: I believe they would be, yes. Question: And have they been designated by the agency as guidance documents? Answer: I'm not sure if we list them specifically as a guidance document. We have lots of documents that we're, we're in the process of trying to gather together in one searchable database that would be guidance documents. Question: Do you see the-- do Exhibits 9 or 10 reflect anywhere on the face of those documents? Are there guidance documents? Answer: No. Exhibit 11 and previously marked referred to in this deposition. Before I get to that, I'm going to pause for a minute to sort of give some more context here. So Saint Francis Ministries is based in Kansas. And in order to have the contract in Nebraska, they have to have a board of directors in Nebraska, which they do have a board of directors in Nebraska. They have three board members, two are Nebraska residents. Anyone want to guess who the third one is? The very

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Reverend Bobby Smith who is under investigation for embezzlement and fraud and is no longer the CEO of Saint Francis Ministries.

HUGHES: One minute.

M. CAVANAUGH: He is the third board member for the Nebraska board of Saint Francis Ministries. Yeah, good stuff, good stuff. I'm sure, though, you all already knew that. It's not easily available. You actually have to do quite a bit of research and digging to find the people. It's a, a gentleman here in Lincoln and a gentleman in Omaha, also very diverse board. Three white men, three white men. But yes, there are three members of the board. And in order to establish residency, they have two Nebraskans and I also would note that they created the board after July 2019 after the contract was signed. So just another sort of if you're keeping hash marks to keep track of how many things were done illegally or inappropriately, this is just one more. There was no Nebraska board of directors prior to--

HUGHES: Time, Senator.

M. CAVANAUGH: Thank you. I would-- oh, I would like to request a call of the house and a roll call vote, regular order.

HUGHES: There's been a request to place the house under call. The question is shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 17 ayes, 13 nays to place the house under call.

HUGHES: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Colleagues, the first vote is on the bracket motion. There's been a request to, to have a roll call vote in regular order. Mr. Clerk.

CLERK: Senator Aguilar voting no. Senator Albrecht voting no. Senator Arch voting no. Senator Blood voting no. Senator Bostar. Senator Bostelman voting no. Senator Brandt voting no. Senator Brewer voting no. Senator John Cavanaugh-- I'm sorry, Senator Briese voting no. Senator John Cavanaugh voting no. Senator Machaela Cavanaugh not voting. Senator Clements voting no. Senator Day voting no. Senator DeBoer voting no. Senator Dorn voting no. Senator Erdman not voting. Senator Flood voting no. Senator Friesen voting no. Senator Geist voting no. Senator Gragert voting no. Senator Groene voting no. Senator Halloran voting no. Senator Ben Hansen voting no. Senator Matt

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Hansen voting no. Senator Hilgers voting no. Senator Hilkemann.
Senator Hughes voting no. Senator Hunt voting no. Senator Kolterman
voting no. Senator Lathrop voting no. Senator Lindstrom voting no.
Senator Linehan voting no. Senator Lowe voting no. Senator McCollister
voting no. Senator McDonnell voting no. Senator McKinney voting no.
Senator Morfeld-- I'm sorry, voting no. Senator Moser. Senator Murman
voting no. Senator Pahls voting no. Senator Pansing Brooks voting no.
Senator Sanders voting no. Senator Slama voting no. Senator Stinner
voting no. Senator Vargas voting no. Senator Walz voting no. Senator
Wayne voting no. Senator Williams, voting no. Senator Wishart. 0 ayes,
43 nays, Mr. President.

HUGHES: The bracket motion fails. Colleagues, the question before us
is shall LB224 advance? All those in favor say aye. All opposed say
nay. The bill advances. Next item, Mr. Clerk. I raise the call.

CLERK: Senator McKinney, LB414. I have no amendments to the bill.

HUGHES: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB414 be advanced to E&R for
engrossing.

HUGHES: Colleagues, you've all heard the motion. All those in favor
say aye. All opposed say nay. LB414 advances. Next item.

CLERK: LB265. I have no amendments to that bill, Senator.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB265 be advanced to E&R for
engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say
aye. Opposed say nay. LB265 advances. Next bill, Mr. Clerk.

CLERK: LB312. Senator, I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB312 be advanced to E&R for
engrossing.

HILGERS: It's a debatable motion. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. I stand up in favor of LB312. I just
wanted to wish Senator Briese happy birthday. Thank you.

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HILGERS: Thank you, Senator Erdman. Seeing no one else in the queue, question is the advancement of LB312 to E&R for engrossing. All those in favor say aye. Opposed say nay. LB312 advances. Next bill, Mr. Clerk.

CLERK: LB180. Senator, I have no amendments to the bill.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB180 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB180 advances. Turning to Final Reading consent calendar. Colleagues, please return to your seats for Final Reading. Mr. Clerk, the first bill is LB5.

CLERK: [Read LB5 on Final Reading].

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB5 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, McKinney, Morfeld, Murman, Pahls, Pansing Brooks, Slama, Stinner, Vargas, Walz, Wayne, Williams. Voting nay: none. Not voting: Senators Sanders, Moser, and Wishart. 46 ayes, 0 nays, 2-- 1 excused-- 2 excused not voting, 1 present not voting, Mr. President.

HILGERS: LB5 passes. We will now proceed to LB41.

CLERK: [Read LB41 on Final Reading].

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB41 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Hunt, Kolterman,

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Lathrop, Lindstrom, Linehan, McCollister, McDonnell, McKinney, Morfeld, Murman, Pahls, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams. Voting nay: none. Not voting: Senators Lowe, Moser, and Wishart. Senator Lowe voting yes. 47 ayes, 0 nays, 2 excused not voting, Mr. President.

HILGERS: LB41 passes. We'll now proceed to LB70.

CLERK: [Read LB70 on Final Reading].

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB70 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: Voting aye: Senators Aguilar, Arch, Blood, Bostar, Brandt, Brewer, Briese, John Cavanaugh, Clements, Day, DeBoer, Dorn, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, McKinney, Morfeld, Murman, Pahls, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams. Voting no: Senators Albrecht, Bostelman. Not voting: Senators Machaela Cavanaugh, Erdman, Lowe, Moser, Wishart. 42 ayes, 2 nays, 3 present not voting, 2 excused not voting, Mr. President.

HILGERS: LB70 passes. We will now proceed to LB70A.

CLERK: [Read LB70A on Final Reading].

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB70A pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: Voting aye: Senators Aguilar, Arch, Blood, Bostar, Brandt, Brewer, Briese, John Cavanaugh, Clements, Day, DeBoer, Dorn, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, McKinney, Morfeld, Murman, Pahls, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams. Voting no: Senators Albrecht, Bostelman. Not voting: Senators Machaela Cavanaugh, Erdman, Lowe, Moser, and Wishart. 42 ayes, 2 nays, 3 present not voting, 2 excused not voting, Mr. President.

HILGERS: LB70A passes. We will now proceed to LB78.

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CLERK: [Read LB78 on Final Reading].

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB78 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, John Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, McKinney, Morfeld, Murman, Pahls, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams. Voting nay: none. Not voting: Senators Machaela Cavanaugh, Moser, and Wishart. 46 ayes, 0 nays, 1 present not voting, 2 excused not voting, Mr. President.

HILGERS: LB78 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB5, LB41, LB70, and LB70A. We'll now turn to LB252.

CLERK: [Read LB252 on Final Reading].

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB252 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, McKinney, Morfeld, Murman, Pahls, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, Williams. Voting nay: none. Not voting: Senators Bostelman, Moser, and Wishart. 46 ayes, 0 nays, 1 present not voting, 2 excused not voting, Mr. President.

HILGERS: LB252 passes. We'll now proceed to LB405.

CLERK: [Read LB405 on Final Reading].

HILGERS: All provisions of the law relative to procedure having been complied with, the question is, shall LB405 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

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CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, John Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, McKinney, Morfeld, Murman, Pahls, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, and Williams. Voting nay: none. Not voting: Senators Machaela Cavanaugh, Moser, Wishart. 46 ayes, 0 nays, 1 present not voting, 2 excused not voting, Mr. President.

HILGERS: LB405 passes. We'll now proceed to LB461.

CLERK: [Read LB461 on Final Reading].

HILGERS: All provisions of law relative to procedure having been complied with, the question is, shall LB461 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record, Mr. Clerk.

CLERK: Voting aye: Senators Aguilar, Albrecht, Arch, Blood, Bostar, Bostelman, Brandt, Brewer, Briese, Cavanaugh, Cavanaugh, Clements, Day, DeBoer, Dorn, Erdman, Flood, Friesen, Geist, Gragert, Groene, Halloran, Hansen, Hansen, Hilgers, Hilkemann, Hughes, Hunt, Kolterman, Lathrop, Lindstrom, Linehan, Lowe, McCollister, McDonnell, McKinney, Morfeld, Murman, Pahls, Pansing Brooks, Sanders, Slama, Stinner, Vargas, Walz, Wayne, and Williams. Voting nay: none. Not voting: Senators Moser and Wishart. 47 ayes, 0 nays, 2 excused not voting.

HILGERS: LB461 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB78, LB252, and LB405. Items for the record, Mr. Clerk.

CLERK: Mr. President, amendments to be printed to LB380 and LB384 by Senator Wayne. That's all that I have.

HILGERS: Thank you, Mr. Clerk. Turning to General File 2021 Speaker priority bills, LB271. First bill, Mr. Clerk.

CLERK: LB271, Mr. President, by Senator Morfeld, a bill for an act relating to driving under the influence. It authorizes a 24/7 sobriety program permit for operating a motor vehicle as prescribed; prohibits participation in pretrial diversion programs for certain driving under the influence and driver's license revocation violations. The bill was introduced on January 12 of this year, referred to the Judiciary Committee, bill was advanced to General File. There are committee amendments pending by the Judiciary Committee.

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HILGERS: Senator Morfeld, you're recognized to open on LB271.

MORFELD: Thank you, Mr. President. Colleagues, I'm happy today to present LB271. LB271 creates the 24/7 Sobriety Program Act and would set statewide standards to guide Nebraska counties in their implementation of 24/7 sobriety programs if they choose. Know that over the last two days or so, there's been thousands of text messages have been sent out. And I know that many of you have received emails from constituents because those text messages have urged them to contact their state senator. So I want to walk through a few different things because there is some misinformation and there's some things that the committee-- excuse me, the amendment to the committee amendment clears up. So I, I will get to that in just a second. But I would encourage you to come and talk to me or just listen to my floor speech here and I think I can walk through any concerns that you may have. I want to thank Speaker Hilgers for supporting this and making this a Speaker priority. This bill was brought to me by the Lancaster County and then more specifically, the Lancaster County Attorney, Pat Condon, and Lancaster County Public Defender, Joe Nigro, and is supported by the Attorney General's Office, among others. This legislation was modeled after the highly successful program in South Dakota and our experiences in Nebraska. The idea behind these programs is to conduct twice daily, on-site drug and alcohol testing, primarily alcohol, but the option is also there for drugs for those that are awaiting trial. So it's for those that are awaiting trial for their DUI, they would be able to participate in this program, but only if the county sheriff, the county attorney, and the judge feels as though these individuals are the right individuals for the program. The state in turn, this is the key, the state in turn, would issue the special 24/7 sobriety program driving permits to the qualifying program participants similar to the current interlock driving permits now in use. Now it's important to note this does not get rid of interlock. In fact, in order to be eligible for the program, and this is in Pat Condon's letter that he sent to all of you this morning, in order to be eligible for the program, you have to spend the first 30 days on interlock anyway. So for the first 30 days, you have to be on interlock if you want to drive anyway. And then after that, you'd be eligible for this program only if the county sheriff, the judge, and the county attorney agree that you're a good candidate for this program. So this is an alternative, an alternative if the county chooses, it does not get rid of interlock. In fact, it could be required to be used with interlock if the judge and other folks want to. If they blow-- if they don't blow clean or otherwise known as blowing dirty, then what happens is they're immediately under this law, this proposed law, they immediately have to go to jail for a

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certain period of time. And so there's immediate consequences. I would like to also note-- and this goes to the text message campaign that many of you have been a recipient of. I would like to note that the original version of this bill allowed for diversion for first-time DUI offenses. I know many of you have received an email that maybe says don't make it so that first-time DUI is a minor traffic offense. Well, basically, that was in the original version of the bill, which we're going to have an amendment to, and that takes it out. And the reason why you make it a minor traffic offense is so that they can have diversion. Now I know many of my colleagues in here actually like that portion of it and are upset that I'm taking out diversion because it's modeled after a very successful Sarpy County program that's been in place for a while and it's been grandfathered in that the rest of the state can't do. But that being said, we're taking that out as a compromise. I worked with Mothers Against Drunk Driving. That was their main concern. They said they'd be neutral on the bill if I took out diversion. So I'm trying to come to the table and have a middle, middle road. So we take out diversion. Back to the program, the South Dakota 24/7 program has demonstrated from research from RAND, which I just handed out, that these programs are more effective at reducing recidivism of drug and alcohol-related offenses than traditional monitoring methods. The reason why we know that is because of the study. But also we had a delegation of county attorneys and public defenders go up to South Dakota, talk to the people that implemented this program, and viewed it in action. Seeing the same facility staff twice daily, so remember that 7:00 a.m. and that 7:00 p.m. test creates a unique sense of accountability that is often lacking with just an interlock device or a suspended license. Unlike off-site monitoring devices, alcohol use is caught right away and has immediate consequences. Early evidence shows that not only increased rates of sobriety among the participants, but also a reduction in alcohol-related traffic accidents and even domestic violence among the population that is in the 24/7 program. That's the results of the South Dakota study and experience. By way of history, the first pilot program started in South Dakota in 2005 and they continue to have successful and popular program. Since then, many other states have followed suit, including Iowa, Montana, Wyoming, and North Dakota, with many other counties and other states implementing the program. From 2005 to February 2017, more than 30,000 unique South Dakotans participated in the 24/7 program and more than 99 percent of the breathalyzer tests were taken and passed. This legislation was brought to me by the stakeholders in Lancaster County that already launched a 24/7 program, but without legislation that has clear limitations and guidelines and more importantly, without the special permit, which is the big hook for getting people to comply and to want to be a part of

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the program. So this allows for the special permit. And the legislation, just to summarize, is needed for three reasons. First, the legislation would allow participants to apply for that special driving permit through the DMV if they've been in the programs for 30 days with no infractions. So again, they have to have that interlock for 30 days before they even have the ability. Program staff report that the ability to drive and the independence that brings is a major incentive to sobriety in the program. Second, as 24/7 programs become more popular, it is important to set minimum statewide standards based on best practices that are more likely to bring effective results. And third, statewide minimum standards allow for counties to apply for national grant funding only available to the states that do have statewide legislation. Remember, this is only in effect if the county chooses to participate in the program. The original version of this bill, introduced as LB335 in 2019, was as a result of discussions of a lot of stakeholders. So there's been a lot of work done on this bill. There is one change to the bill that we were unable to satisfy that I want to talk about. There's about \$100,000 fiscal note on this bill. Lancaster County commissioners voted to support covering all the cost to the state for this legislation. We sat down with the DMV and in the amendment to the committee amendment, we allow the county to be able to transfer funding to the DMV, but they still have to have the authorization to spend the money. So there's a fiscal note, but Lancaster County has said we will cover the entire cost to reprogram your system for the entire state. So think of it as a gift from Lancaster County to all of your counties. So I just want to note that. I will talk about the amendment to the committee amendment in a moment and I've already talked about it a little bit, so I'll skip over that. So-- and I'll just note that, as noted, the amendment takes out the provision that allowed pretrial diversion for first-time, nonaggravated technology practice. And so I-- or excuse me, for first-time, nonaggravated DUIs. And it allows the DMV to receive that reimbursement from Lancaster County. Colleagues, I know that there's-- you've received a lot of emails from the text message that went out. Literally, it's going out even now to thousands of Nebraskan voters. The only people opposed to this bill right now is interlock. And so I can only suspect that it's coming from interlock and we still allow for interlock. The bottom line is, though, is that interlock isn't going to have a monopoly on these 24/7 permits, right? And so that is going to cut into their business a little bit. But keep in mind that you still have to be on interlock for 30 days if you want to drive before you're even eligible for this program. And also keep in mind--

HILGERS: One minute.

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MORFELD: --that the main thrust of that opposition is the fact that we allow for diversion for first-time DUIs in the original bill. If you vote for my amendment, you take that out, you take that part out. So if people are concerned about that, making it akin to a minor traffic violation for first-time DUI offenders, vote for my amendment that's going to come up to the committee amendment and that takes that out. I urge you to consider adopting this program. It will make our streets safer. It will make our communities safer. It's supported by top law enforcement officials across the state. It's supported by defense folks. It's an important piece of legislation to ensure that we have safe roads and that we have a community that also provides support to people that are suffering from addiction, but ensures that they have accountability. That's what the 24/7 program is about. I appreciate your favorable consideration. I'd be happy to answer any questions that you may have.

HILGERS: Thank you, Senator Morfeld. As the Clerk noted, there are committee amendments. Senator Lathrop, as Chair of the Judiciary Committee, you're recognized to open on AM490.

LATHROP: Thank you, Mr. President. Colleagues, good afternoon once again. LB271 was heard by the Judiciary Committee on February 17. The committee voted to amend LB307 [SIC] with AM490 and advance the bill on a 6-0 vote with two members present not voting. Senator Morfeld has introduced AM853, which would strike the changes in the committee amendment. These are accommodations that he'll talk about shortly. However, as advanced by the committee, AM490 would make three changes. First, the amendment would add additional language to Section 5 to clarify that the 24/7 sobriety program permit is only available when a person has-- and that person is not otherwise eligible. Second, the amendment would add additional language in Section 8 to clarify that DUI offenses that are eligible for diversion are not eligible for dismissal until 12 months after completion of diversion and are not eligible for dismissal after completing an existing diversion program for a minor traffic offense. Third, the amendment would change Section 11 and add additional language that Section 60-94-- pardon me, 498.01 to clarify that a person is only eligible to apply for the 24/7 sobriety program permit if that person has already lost their license due to an administrative license revocation. As I said, Senator Morfeld will introduce AM853, which will effectively rewrite the committee amendment. So I would encourage your support of his amendment, the committee amendment, and the bill. Thank you, colleagues.

HILGERS: Thank you, Senator Lathrop. Mr. Clerk for an amendment.

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ASSISTANT CLERK: Mr. President, Senator Morfeld would offer AM853 to the committee amendments.

HILGERS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB461. Senator Morfeld, you are recognized to open on AM853.

MORFELD: Thank you, Mr. President. AM853 is the amendment that I mentioned probably about four or five times in my original opening on this. It does the following. It takes out the provision that allowed for first-time, nonaggravated DUIs to be given pretrial diversion. It cleans up language on the drug testing and best practices language on technology used for the 24/7 program. It also allows the DMV to be able to receive reimbursement from Lancaster County to pay for their setup costs for the 24/7 program. In addition, it also takes care of many different technical issues that the DMV brought up and had concerns with in the original bill. I'd be happy to answer any questions that you may have on AM853, but I hope that you vote for AM53 [SIC], and I'd urge you to, as it is, the results of a lot of sitting down with stakeholders and trying to find middle ground in which I believe we found middle ground. Thank you, Mr. President.

HILGERS: Thank you, Senator Morfeld. Debate is now open on AM853. Senator Albrecht, you're recognized.

ALBRECHT: Thank you, President Hilgers. And I just rise in opposition of AM853, AM490, and LB271. My office did receive many phone calls, 27 to be exact, and 6 emails all asking me not to vote for this. I don't see any reason to be changing it. And if it works well for South Dakota, they can continue, but I don't think it's something Nebraska needs. Thank you.

HILGERS: Thank you, Senator Albrecht. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker, and good afternoon. I was asked if I'm for this bill and I said I'm still trying to figure this out. One of the issues that I have perhaps is this, Senator Morfeld said the only one opposed to this is the interlock people. That's not a true statement. I've received several emails from families who have lost loved ones from drunk drivers and they're, they're very much opposed to the bill. So I, I need to figure out what it does and how it will keep people safe. And I was wondering if Senator Morfeld would yield to a question?

WILLIAMS: Senator Morfeld, would you yield?

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MORFELD: Yes.

ERDMAN: Senator Morfeld, on your amendment, AM490, if you could pull that up, I have a question or two on that.

MORFELD: Senator, I have AM853 because that replaces AM490. Can we work off of AM853?

ERDMAN: Yeah, the amendment, AM490. That's the committee amendment.

MORFELD: OK.

ERDMAN: OK.

MORFELD: We got rid of it. Yeah.

ERDMAN: Have you, have you withdrawn AM490?

MORFELD: Pardon me?

ERDMAN: Have you withdrawn AM490? It's on the board.

MORFELD: No we haven't, but AM853 completely replaces AM490 so I'm not working off of AM490 anymore.

ERDMAN: OK. All right. Well, I'll, I'll read through that again and then I'll put my light on.

MORFELD: OK.

WILLIAMS: Thank you, Senator Erdman. Senator Clements, you're recognized.

CLEMENTS: Thank you, Mr. President. I also have had a number of questions from constituents. Would Senator Morfeld yield to a question or a few?

WILLIAMS: Senator Morfeld, would you yield?

MORFELD: Yes.

CLEMENTS: Thank you, Senator Morfeld. I'm wondering about what benefits you're going to-- you're thinking that we'll see from this. Will we have, will we have-- will there be less incarceration?

MORFELD: So I'd have to look at the data a little bit more closely to talk about less incarceration.

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CLEMENTS: That's not one of the goals, though, really.

MORFELD: Well, I think less people will be incarcerated because they'll be getting more, more assistance and less likely to get pulled over because they have more accountability. So I believe that there will be less incarceration. And that's what we found in South Dakota. I'll have to get the specific numbers to be able to give you that information.

CLEMENTS: OK, that's fine. Is this-- does this help people keep their job?

MORFELD: It absolutely helps people keep their job because most people in Nebraska, they have to drive to get to their job, whether we like it or not.

CLEMENTS: All right by giving them a permit that makes them legally to-- legal to drive, is that it?

MORFELD: Yep.

CLEMENTS: All right.

MORFELD: And they'll still be able to do that under interlock if the judge and the county attorney believe that's the appropriate thing, so, yeah.

CLEMENTS: And there's quite a bit of testing going on. Who pays for the cost of the testing?

MORFELD: The individual pays for the cost of the testing. And many counties have set up indigent funds if they can't pay for it, but the individual still has to pay for the testing twice a day.

CLEMENTS: OK and one thing that stuck out to me on page 3 of the bill, a sixth sanction will cause removal from the sobriety program. Why are we allowing six times before they're kicked out?

MORFELD: So that's best practices. And keep in mind that this program is generally going to be used for third and fourth offense types of folks. And you'll also see in the bill that each time that they blow dirty, they have to immediately go to jail for a certain period of time, so there's immediate consequences. And the idea is, is that these are people that are either recovering or have alcohol addiction, addiction problems. So it gives them a little bit more leeway. But at any time, the judge can revoke too. They can say this is in violation

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of your bond and one time is one too many. And thank you very much. Have a nice day. We're revoking.

CLEMENTS: OK, so it's not automatically a six times. It could be revoked earlier?

MORFELD: It could be revoked earlier. This just gives the leeway for the judge and the county attorney.

CLEMENTS: And going directly to jail with a failure is how long of a term in jail then?

MORFELD: I believe the first time is 12 hours. The second time is 24 hours. And I'll have to check for the subsequent--

CLEMENTS: Oh, I think I did see 48 hours maybe after that.

MORFELD: Yeah, I think there's 48. Yep.

CLEMENTS: All right, well, the-- probably the biggest question is are we actually making it safer for the public or are we allowing more instances for someone to be driving under the influence with this temporary permit? Is it safer?

MORFELD: I, I absolutely think it's safer and the South Dakota data just show that it's actually safer than our current systems.

CLEMENTS: And this-- finally, is, is this available for repeat DUI offenders?

MORFELD: Yes, this is available for repeat DUI offenders. And in fact, it was found to be most effective for repeat DUI offenders.

CLEMENTS: All right. Thank you, Senator Morfeld. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Clements and Senator Morfeld. Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. Good afternoon, colleagues. Would Senator Morfeld yield to a couple of questions only?

WILLIAMS: Senator Morfeld, would you yield?

MORFELD: Yes.

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McCOLLISTER: Thank you, Senator Morfeld. Some counties in Nebraska have diversion programs. What, what-- will they be able to retain those programs with the passage of this bill?

MORFELD: So Sarpy County is currently the only county with a first-time DUI diversion program due to a carve out in statute. They will be able to retain these programs. And I've received confirmation from Sarpy County that if we pass this, they will be able to still keep their program that's been in place for many years.

McCOLLISTER: Senator, you indicated that this bill is modeled after a bill in South Dakota. How many other states have similar statutes than LB271?

MORFELD: So I, I listed off a bunch of states around us, so North Dakota, South Dakota. I think I said Montana, Iowa. And then there's a few others around us that, that have it as well, but that's all I have data wise right now.

McCOLLISTER: Following up on Senator Clement's question, you indicated that the statistics indicate this is a far better program in reducing the risk of drunken driving.

MORFELD: Yes.

McCOLLISTER: Thanks, Senator Morfeld.

WILLIAMS: Thank you, Senator McCollister and Senator Morfeld. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. Would Senator Morfeld yield to some questions?

WILLIAMS: Senator Morfeld, would you yield?

MORFELD: Yes.

FRIESEN: So could you just in, in a shortest terms as you could, compare a first-time DUI offense. Somebody gets picked up, and under current law, what would it look like? And under your law, what would be the options?

MORFELD: Yeah, so for first time, this isn't going to be used-- I want to make clear to the body, this isn't going to be used for a lot of first-time and second-time offenses. This is generally going to be used for, for third or fourth time types of offenses, people that need a high level of restriction. So I will say first-time DUI, what's

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going to happen is you're going to get pulled over, you're going to get breathalyzer, you're going to refuse that, they're going to take you to the detox center or the courthouse or whatever the case may be in your county, you're going to blow in a more accurate test. And then what they're going to do is they're going to take-- if you blow positive, above .08, they're going to take away your driver's license right there. They're going to give you a piece of paper saying it's been administratively revoked. You can take that piece of paper and then go get an interlock for the next 30 days. Now if, if you're a repeat offender and the county attorney and the judge and the sheriff all believe this is a good program, they've adopted it, they can put you, after those 30 days on interlock or not driving at all, they can put you into the 24/7 program. And if they want, they can make it so that you have interlock and the 24/7 program. You got to show up two times a day and then you also got a blow in the interlock. Now it just depends, but they still have that option.

FRIESEN: So it--

MORFELD: Does that answer your question?

FRIESEN: --it, it isn't really targeted to-- then to that first-time DUI gets picked up.

MORFELD: No.

FRIESEN: So we, we read all the time, and people are pretty passionate about this, I mean, about drunk drivers on the road. We read there-- you know, somebody has been picked up for his fourth and fifth DUI. They don't have a, a license. This would give that person an opportunity if he wanted to take it or if a judge and the prosecuting attorney would say that it's an option for him. They could apply for this program and then basically they get tested twice a day and yet they can have a provisional driver's license?

MORFELD: Correct.

FRIESEN: So how about if a person has a CDL? Does this apply anywhere there because that's zero tolerance?

MORFELD: I'm going to double check, but I do not think CDLs are an option under this. I-- in my conversation with the DMV, I think we made that pretty clear.

FRIESEN: OK, so if you are under a five-year license suspension, could you apply for this program?

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MORFELD: For the CDL or just a regular driver's--

FRIESEN: No, regular license.

MORFELD: Regular license, I will have to look into that, but I believe if the judge allows that, then, yes, they will be able to do that.

FRIESEN: Because if you-- if you're suspended for that long, you've got a, a serious problem, I take it. But they would still be willing to give you that shot and give you a chance, you think?

MORFELD: Yes. I'm going to, I'm going to double-check, but I'm almost positive that this would be an opportunity. That being said, this is only for pretrial. Sorry, I'm kind of thinking on the fly here. This is only for pretrial. So in that instance, that would be more like a probationary type of-- yeah, so this is only for pretrial. I guess if you're already suspended and then you're a multiple-- you're, you're a repeat offender, then that might be the case. But I'll double-check and get back to you, Senator.

FRIESEN: OK, if you would check into that. I think what-- again, if you're-- if you apply for the program and you're successful in getting there and you're getting checked every morning, every evening and you have this provisional driver's license to get to work and you abuse that and you get tested positive or you're-- you blow into it and you blow dirty, as you called it, what happens then?

MORFELD: Then you go to jail. The first time, I believe it's 12 hours. The second time--

WILLIAMS: One minute.

MORFELD: --it's 24 hours. And I believe the third time, it's 48 hours in jail. And quite frankly, most judges are going to revoke it after your first or second time. They just-- they have that option if they feel [INAUDIBLE].

FRIESEN: That's kind of my point. I think sometimes if we have people already with multiple DUIs and now they're given multiple chances again when they know they're treading a fine line, I, I feel that might be a little too much. But I, I see where you're going with it. Thank you for answering the questions. I'll keep listening. I can see a value in this. But again, I-- there is a point sometimes where we give people multiple opportunities and they don't seem to get it. I'm wondering why we keep giving more and more chances. And, and I'll have

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to just see once-- how this looks, I guess, with the multiple DUIs and how it affects what we do. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Friesen and Senator Morfeld. Senator Hilkemann, you're recognized.

HILKEMANN: Thank you, Mr. President. Senator Albrecht, I, too, got lots of phone calls and emails to oppose this particular bill and I always like to tell the-- say to the folks that, you know, thank you for your concerns. I have some concerns about this. That's why we wait for floor debate to occur. And I have to say that, that during the process of this, I just-- in fact, I just contacted Project Extra Mile who opposed this bill and I asked them if they were still opposed to it. They said with Senator Morfeld's bill, we would now be in support with it. On Saturday afternoon, I received a phone call from Pat Condon, who helped me a great deal to understand what the 24/7 issue was all about. And, and I liked one of the things that he said. This is, this is-- it's-- we're talking about DUI, but what we're also talking about is the social ill of people who are dealing with an addiction to alcohol and that the 24/7 program helps more people with their addiction with alcohol, because they can get away, they can find a way to get around that interlock system if that's the only thing that, that they're dealing with. I have to say that I, I, I feel very strongly about DUI. As you well know, I'm, I'm very concerned about our safety and alcohol. And so I'm concerned about that, that how this is going to affect the, the interlock system. And so I'm wondering if Senator Morfeld would take a question?

WILLIAMS: Senator Morfeld, would you yield?

MORFELD: Yes.

HILKEMANN: Senator, if we adopt this bill, will we have more people using the interlock or we will-- we have fewer people using interlock?

MORFELD: Depends on who adopts it, but there's a good likelihood you might have fewer people using interlock. But I wouldn't say it's a ton of people. It would be the repeat offenders.

HILKEMANN: And so then you would say that, that it'll be up to the judge whether they need to do the 24/7 and the interlock or interlock in and of itself would be adequate. Is that correct?

MORFELD: Correct. They would [INAUDIBLE].

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HILKEMANN: And Senator, is this 24/7, when I looked at it, is this, is this more of a voluntary program that the offender can go-- that, that could request rather than having the interlock?

MORFELD: Well, if a judge-- I, I would doubt that a judge or a prosecutor would force somebody into this program because it's quite the commitment, but-- they could, but I would say it's, it's primarily meant to be a voluntary program.

HILKEMANN: OK and so you would say that if we-- that, that, if we adopt this, this will, and I think you already alluded it, this will make our highways safer?

MORFELD: Absolutely. The study from South Dakota, which is done by RAND, which is a highly respected organization that does these studies, found that South Dakotans were safer on the roads and in their homes.

HILKEMANN: OK. Mr. Speaker, how much time do I have left?

WILLIAMS: 1:35.

HILKEMANN: I'm wondering if Senator Geist would take a question?

WILLIAMS: Senator Geist, would you yield?

GEIST: I would.

HILKEMANN: Senator Geist, during the, during the vote on this, you were-- you did not vote for this. Tell me where you are on this bill at this time.

GEIST: At this time, I stand in favor of this bill. I like finding alternatives. And I-- when I heard this bill, I was uncertain. But in doing--

WILLIAMS: One minute.

GEIST: --further research, I found-- I like alternatives to incarceration when it-- when the studies show that people actually get better. And that was the-- that's the reason why I find this to be a good alternative because people that use this program ending up-- end up actually more likely than alternative programs get sober. And that's why I find it more effective and why I changed my vote.

HILKEMANN: Thank you, Senator Geist. And thank you, Mr. Speaker.

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WILLIAMS: Thank you, Senator Hilkemann, Geist, and Morfeld. Senator Hilgers, you're recognized.

HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of LB271 and the underlying amendments and I appreciate Senator Morfeld bringing this bill. I will, I will note it's a bill-- when I was considering it as a Speaker priority, checked a lot of boxes. One of them is, is the fact that Senator Morfeld worked with our Lancaster County Attorney here, Pat Condon. The Attorney General is on board. The ACLU is on board. It had a lot of people who are trying to find winning solutions for our state and for our citizens. And so I thought that was a good starting point for a bill like this. And I think it does a lot of really good things. So I just want to quote from a letter from-- that Lancaster County Attorney, Pat Condon, sent. It's on your desk. There's really two things I want to emphasize and I just want to briefly address some of the emails that I was getting as well. And I think they've been mentioned on the floor here this afternoon in terms of how this might lessen or weaken the DUI laws. And I don't think that's really supported by the language of the bill, as amended, at least. And so I'm just going to quote two things that I think is worth the body hearing and also putting in the record. So this is from, again, the letter that we received from the Lancaster County Attorney, Pat Condon, and the first thing is he's referring to data-- data from the South Dakota experiment. And that-- that is the-- the South Dakota experience is what this bill is based on. And so in describing South Dakota's law and the impact it has, this is what he says. And I'm going to quote this. What South Dakota discovered was this program reduced recidivism, improved public safety, served as an alternative to incarceration, reduced the number of people in jails and prisons, allowed participants to remain in the community working, supporting their families, and it saved tax dollars. When we're talking about the kind of reforms that we talk, whether at any part of sort of the constellation of public safety issues, corrections issues, those-- that just described nearly every one of the box we could ever hope to check. And I think that the data bears out the success of this particular program and I think that was-- that is worth highlighting. Secondly, and to my second point, he also says that this, the LB with the amendment in particular, AM853, which is Senator Morfeld's amendment, does not change a DUI to a minor traffic offense. That is the suggestion, at least in emails and messages that I have received. The only thing that I-- that when I read the bill that I guess might support that argument is the diversion component that was in the underlying bill. So currently in Nebraska, I think there's one county that-- that might actually authorize a diversion program. But when there's no diversion, that means there's no real off-ramp to when

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you-- when you get-- when you have this kind of a charge, you have to plea or you have to go to trial. There's not-- no opportunity to sort of maybe a first-time offender might take some other, you know, some other opportunity to not have this go on the record. And so if diversion's in there, at least theoretically, I think you could argue, hey, this might weaken or water down our DUI laws. That's the only thing in the bill that I saw that would justify that argument. But AM853 pulls that piece out. And so without that piece, even with that piece, I think you could at least have a good faith debate one way or the other. But when AM853 pulls out the diversion component, I don't see the argument or the facts to support the argument that this would actually water down our DUI laws. To the contrary, I think the South Dakota experience that we're-- we're-- that this bill is based on does the opposite ultimately. So at the end of the day, I support LB271, in particular with the underlying amendments. And so I would urge your green vote on AM853, AM490, and the underlying bill. And whatever time I have left, if Senator Morfeld can use it, he can have it.

WILLIAMS: Senator Morfeld, you're yielded 1:20.

MORFELD: Thank you, Mr. President. Thank you, Speaker Hilgers, for your support and the prioritization. I just want to note a few different things. Senator Friesen asked me if somebody has a five-year suspension, can they apply for this program? I looked into it. It's only for pretrial. So in that case, they would not be eligible for the program. They might be able to do something like Interlock, though. So it's still an option. Senator Clements--

WILLIAMS: One minute.

MORFELD: --came up to me, hopefully it's OK if I note that on the floor, but Senator Clements came up to me and said, does this do away with Interlock? And they still use Interlock with this if they want or if the judge decides to? Yes. The judge can still decide to use Interlock in this program if they want, or they can say, hey, listen, this is a high enough level of supervision and program that it's sufficient. So that option is still there. It does not get rid of interlock and allows for those options to be there for the judge, who's in the best position, quite frankly, to determine how high risk this individual is. I'm sure they'll be doing that in consultation with the prosecutor as well. So, colleagues, thanks so much. I mean, this is-- this is a really good debate. It's great questions. I'm happy to continue answering more questions. I know we have more people in the queue. Thank you, Mr. President.

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WILLIAMS: Thank you, Speaker Hilgers and Senator Morfeld. Senator Matt Hansen, you're recognized.

M. HANSEN: Thank you, Mr. President. And good afternoon, colleagues. I rise in support of the bill and all the amendments on the board. And I'll note Speaker Hilgers, Senator Geist, Senator Morfeld, and myself have all risen and we're all Lancaster County senators. And this-- every year, Lancaster County in the fall prior to going back into session, has a kind of retreat or meeting with the Lancaster area senators where they talk about their priorities and they let the different agency heads, the different elected officials kind of talk about their priorities, you know, county attorney, county engineer, so on and so forth. For multiple years now, I think at least three years, if not four years, this concept and this idea has been one of the top priorities, kind of unified priorities of the county board and a unified priority between the county attorney and the public defender. And I think we can all appreciate but I really want to highlight how unusual that is to have kind of a widespread, county leadership-wide agreement that this program would be an improvement, it would make us safer, and it would be a tool that both, you know, prosecutors and defense think is worthy and that they want to have. Pat Condon has, our-- our chief prosecutor in Lancaster County, has been in strong support of this, as was, I believe, his predecessor. Focusing on the two programs, I want to talk about so people seem to be familiar with Interlock that is having a breathalyzer-like device attached to your car that requires that for the car to operate. Interlock stops a person from driving a specific car when they're intoxicated. The 24/7 program is designed to ensure that that person is sober all of the time, regardless of whether or not they're driving. So the scenario or the hypothetical that works, makes sense for me is you have somebody who is drinking and gets drunk on a Saturday night. As long as they don't drive their Interlock car on Sunday until they sober up, nobody knows that. There's no penalty. There's no repercussions. Under a 24/7 program, if somebody gets drunk on a Saturday night, they're going to probably blow some level of BAC at 7:00 a.m. the next morning. And that has repercussions. And the difference and the significance of that is that the 24/7 program is designed to, in fact, make people remain sober, where an Interlock is designed to make people from stop driving drunk. They have slightly different goals. And the way the 24/7 program to me is the harsher, stricter standard. There are people who might be interested or might be ordered to a 24/7 who actually don't even have a car or have a driver's license. There are people who take the bus to take their two daily appointments or-- or whatnot because it's a program for pretrial that the judges like because it helps reduce recidivism and helps reduce compliance. It helps reduce,

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you know, the-- the worst-case scenario where somebody gets as-- as you know, gets a DUI while they're awaiting the trial for their first DUI, as you see and sometimes when people are really struggling with addiction. The 24/7 program ensures or has at least the goal of ensuring that they are sober at all times and including that, you know, if you miss an appointment or if you miss a time, you know that-- that's-- that's a violation. That's a penalty as well. So the goal is to have a track and have oversight of an individual, ensure their sobriety. And that's where they see the dividends because it's not just to dissuade them from drunk driving. It's to get them sober and make them maintain their sobriety, which is a different and more expansive, in my view, kind of stricter, stricter goal. And there are many cases in which that is appropriate.

WILLIAMS: One minute.

M. HANSEN: Thank you, Mr. President. So that is why I support LB271. It's something that's been on my radar for a number of years. And I know a number of senators in Lancaster County have helped or worked on it over time. It's something that's been kind of a unified support from Lancaster County in a way you simply don't see on some of these criminal justice related bills. I would appreciate all of my other Lancaster County senators who've stood up already and spoken in favor of the bill. I'm going to maintain in continued support. And I think this is a very adequate, noble, effective program that we need in the state of Nebraska. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Matt Hansen. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. I appreciate that. I also want to say I appreciate Senator Hansen taking his mask off. I did hear him as well. That was good. So I went back and read AM853 and I see in the bill or in AM853 it talks about those who have an M or an O license. So I think to answer what Senator Friesen was asking, the CDL was not included as one of the options. So I was wondering if Senator Morfeld would yield to a couple questions.

WILLIAMS: Senator Morfeld, would you yield?

MORFELD: Yes.

ERDMAN: Senator Morfeld, would you flush out for me a little bit? I think you mentioned in your opening remarks that Lancaster County does this, but they don't have the provisional license, is that correct?

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MORFELD: Correct. That's only allowed under Interlock right now.

ERDMAN: So how does it work in Lancaster County?

MORFELD: So how it works for Lancaster County is they have them show up at 7:00 a.m. and 7:00 p.m., but they don't have their provisional license unless they have Interlock.

ERDMAN: OK, so if they have Interlock and they show up and they're tested and they pass, they can then drive their vehicle?

MORFELD: Yep.

ERDMAN: And if they don't-- if they don't--

MORFELD: And some-- some ride their bike or do other things too. Some can't afford Interlock.

ERDMAN: OK. So then this would allow them to have a provisional license?

MORFELD: It would allow them to have a provisional license.

ERDMAN: Can you define provisional? What does that mean?

MORFELD: So it's basically a license that just simply says that-- it's just a limited license. And for Interlock, it's you have to have an Interlock device for this, you have to be in the 24/7 program, and you have to be showing up at 7:00 a.m. and 7:00 p.m.--

ERDMAN: OK.

MORFELD: --in order to-- to have that license. And if you don't show up, it can be revoked. And you can also be brought down as a violation of the terms of your bond.

ERDMAN: OK, so then they would have the opportunity to drive anywhere or just back and forth to work?

MORFELD: I believe it's anywhere, just like Interlock. But--

ERDMAN: OK.

MORFELD: --I'll double-check on that.

ERDMAN: All right. So and I spoke to you about this example off the mike, in my district, you could live 40 miles from the nearest testing

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center. How would that work for those people in my district that would have to travel 40 miles one way to be tested twice a day?

MORFELD: So it may or may not work. In fact, I mean, in South Dakota, what they do is they have deputies that show up at different parts of the county in rural counties and say this is where we'll be at 7:00 a.m. So everybody in that part of the county you can show up and deputy so-and-so will breathalyze you. And if you blow dirty, you're going back-- you're going back to the county courthouse with the deputy. So in South Dakota, they-- they've done that in some of the counties that are--

ERDMAN: OK.

MORFELD: --a little bit bigger.

ERDMAN: So this is optional. This is not a requirement for my county to do this?

MORFELD: Not a requirement. They can continue requiring Interlock and only Interlock.

ERDMAN: And you mentioned, I believe also that Lancaster County would pay for the statewide implementation of this. Is that correct?

MORFELD: They would pay for the costs of reprogramming the DMV computers, which is, I believe, around \$100,000.

ERDMAN: OK. All right. That makes sense. I didn't understand what you meant there. You've clarified that. Thank you.

MORFELD: Thank you.

WILLIAMS: Thank you. Senator Erdman and Senator Morfeld. Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. I'm still open-minded here because we can keep people at work. But I have a lot of questions too. So I'll start off right away, Senator Morfeld, if you'll take a question.

WILLIAMS: Senator Morfeld, would you yield?

MORFELD: Yes.

GROENE: All right. On page 3, it says "Testing shall occur either twice a day or every day." Is that an option then for that rural county to do it once a day? In section-- line 11, page 3 of the

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original bill, "(a) Testing shall occur either twice a day or every day at a testing location or locations established by the county sheriff."

MORFELD: So it's supposed to be twice a day every day. I think we amend that in AM853. I'll double-check on that.

GROENE: All right. So you think you took that every day out?

MORFELD: I think it's-- I think it's limited now to twice a day. There's also technology that would be able to electronically [INAUDIBLE] monitor.

GROENE: Thank you. Thank you.

MORFELD: Yeah.

GROENE: And then the reason you went through-- the county sheriff has veto power. He may participate or he may assign somebody else so it sounds to me like he has complete control or she does. And it's the county sheriff because they have the breath analyzer equipment. Is that why it's to the county sheriff?

MORFELD: Correct. In some larger counties, they have more staff and they could have somebody else actually administer it if they wanted to. But in the vast majority of counties, you need the sheriff to be on board because they're the--

GROENE: All right, thank you.

MORFELD: --only ones with the equipment.

GROENE: So now you said South Dakota said they do a, what is it, it's-- whatever-- it's too big a bill-- that it should be severe or imminent right away, a punishment. And then I got the letter from the county attorney from Lancaster County, says South Dakota does 12 hours the first offense, 24 hours the second. Who defines it in Nebraska?

MORFELD: Yeah. So in Nebraska, we actually put it in the bill and I'm trying to find it in the bill here--

GROENE: It's in the bill, all right.

MORFELD: --while we're talking. Yeah, but--

GROENE: I didn't get that far.

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MORFELD: --it's a step up: 12, 24, 48 hours--

GROENE: All right.

MORFELD: --in jail.

GROENE: Thank you. And that's because, not because they broke their sentence or their probation, they broke their bail terms because--

MORFELD: Yeah, it's their bond. Yeah.

GROENE: It's their bond.

MORFELD: It's a condition of their bond. Yes.

GROENE: All right. So also, you said-- you answered the question to Senator Friesen, you said first-time people are on 30 days of the device, the Interlock device, then that's it. And what if they-- it takes six months? I asked Senator Lathrop, he said probably in the bigger counties, it takes six months from arrest to your hearing. So what happens the other five months with the first-timer?

MORFELD: So actually, I mean, so, yes, the first 30 days under our bill with 24/7, they would have to be on Interlock if-- or not driving if they want to be eligible for the 24/7 program. And then after that, they could continue to be on Interlock until they wait for trial right now. Under this program, they could be on Interlock and/or the 24/7 program as they are waiting for trial.

GROENE: So if you're second or third or fourth, you don't even get the Interlock option, is that correct?

MORFELD: You would be able to have the Interlock option under the second, third, or fourth as well.

GROENE: You do right now.

MORFELD: Yep.

GROENE: So I still don't see the difference then between a first timer, a second timer, and third timer pretrial.

MORFELD: Well, the big difference is, is that the 24/7 program is a really highly intensive program. So the judge and the prosecutors are probably only going to refer individuals who have multiple offenses who need that high level of--

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GROENE: Thank you. Thank you. That's the other question. I didn't see anywhere in here where the county attorney played a role. It just sounded like the individual could opt to do it and just go up to the sheriff and opt to do this. But it has to be a decision of the county attorney--

WILLIAMS: One minute.

GROENE: --to refer the individual to it?

MORFELD: Well, I don't know if it's specifically stated in the statute, but that's generally how it works. The county attorney determines what they're going to recommend to the judge and what the charges look like.

GROENE: And one more quick question.

MORFELD: Yep.

GROENE: So if this is such a good program and it's working for the individual, once they've been to trial, it disappears then? It's not-- it's not an option of the county attorney or the judge to keep him on it?

MORFELD: Right now, it's only pretrial. Some people have come and talked to me about it also being something that probation could be a part of terms of probation.

GROENE: All right, thank you.

MORFELD: I'm open to that.

WILLIAMS: Thank you, Senator Groene and Senator Morfeld. Senator Gragert, you're recognized.

GRAGERT: Thank you, Mr. President. As I sit here and listen, a couple of my questions I had been at least alluded to. And I was just going to clarify, you know, the pretrial and would ask-- would like to ask Senator Morfeld if he would answer a question or two.

WILLIAMS: Senator Morfeld, would you yield?

MORFELD: Yes.

GRAGERT: Thank you, Senator Morfeld. I was just going to clarify on the pretrial how long-- how long a time are we looking at with the individual being on-- on 24/7 or the Interlock [INAUDIBLE]?

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MORFELD: That's a great question. It depends on your jurisdiction. As I think Senator Lathrop noted off the mike, is about six months probably in his jurisdiction, anywhere from four to six months for a misdemeanor you can wait. And then for felony, just depends, anywhere from six to ten months maybe.

GRAGERT: And then the last question or second question I was going to have and Senator Groene kind of covered it. But once again, after the pretrial and they get sentenced, will this be an option to carry on the 24/7?

MORFELD: Not at this point. This is only for pretrial, but I'm open to working with senators to change that if they'd like.

GRAGERT: OK. That's all I had. Thanks a lot, appreciate it.

WILLIAMS: Thank you, Senator Gragert and Senator Morfeld. Senator Hughes, you're recognized.

HUGHES: Thank you, Mr. President. I was wondering if Senator Morfeld would yield to a couple of questions, please.

WILLIAMS: Senator Morfeld, would you yield?

MORFELD: Yes.

HUGHES: So, Senator Morfeld, just-- I'm listening very intently to the-- to the conversation today. And it has struck me that, you know, DUI is driving under the influence. But yet all we're really dealing with is alcohol because we're talking about breathalyzers and, you know, those type, the Interlock thing to drive your car. Is there any provision or any circumstance if someone would enter the or have the option to be in the 24/7 program, that there would be a different substance abuse testing rather than just a breathalyzer?

MORFELD: I'm glad you asked that question. In the legislation, we actually clarify, even in the amendment, that it can be a drug or alcohol test or both. And so if-- if driving under the influence includes drugs as well, the judge can-- can require both.

HUGHES: OK, thank you. That's-- that's very reassuring because unfortunately, we as humans have a predication [SIC] to addictions, not just necessarily to one type of mind-altering substance that I would-- I would hate to think someone who happened to get caught drunk driving would then be able to pass a breathalyzer test, but yet still be under the influence of drugs, which we do not have a rapid test

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for. So the fact that if-- so, so another question. Under what circumstances would a-- an additional test, a urine test or something like that, be administered in the 20-- 24/7? Would the sheriff or the prosecutor or the judge? I mean, who would have the authority to ask for additional testing?

MORFELD: Well, the judge would have the most clear authority to be able to ask for additional testing. And if it was an offense that they were-- that they're charged with, that deals with not just alcohol, but also suspected drug, driving under the influence of drugs, then I would assume that the-- the judge would be able to-- I don't assume. Under this bill, the judge would be able to order that that person have drug and alcohol testing because of their-- their offense.

HUGHES: But once-- once someone has entered in the 24/7 program, they're probably not going to have a lot of interaction with the judge. They're just going to be showing up twice a day for a breathalyzer. So if someone administering the breathalyzer test, I mean, is there a chain of command that they, you know, I think, you know, Joe Blow here may be doing some other things and he probably should not drive. What-- what-- how would that get to the judge in order for them to order additional testing?

MORFELD: Yeah. So the judge would, would do that when they're authorizing the 24/7 program. So if I was pulled over and it was-- and they said that, you know, I had alcohol in my system, clearly from the breathalyzer test and they suspected drugs, the judge would put as a condition of their bond, that they have to do the 24/7 program and they not only have to submit to a breathalyzer test, but they also have to submit to a drug test on a daily basis. And then that would be, you know, noted in that person's name and the information, the type of testing they would need when they showed up twice daily for that testing.

HUGHES: OK, thank you, Senator Morfeld. If that is indeed the case, I believe I can support this bill.

WILLIAMS: Thank you, Senator Hughes and Senator Morfeld. Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. President. And I'll make a few comments here and, Senator Morfeld, I'll yield you some time at the end. You can reply back. We've had talk off mike. Right now, I probably would support your AM, but your underlying bill, I'm not-- I'm not there to support that yet at this point. A couple of questions I do have and I'll give you time at the end is the 24/7 program, when they get that

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permit, are they allowed-- is the individual allowed only to drive to and from work? And if not, why not? Typically, you know, is that something that would be considered appropriate if we're concerned about a person getting to-- to and from work? And the next thing would be with that as well is are they required to receive any counseling of any type? And would that be included as to where they can drive? In other words, not, I'll call it social driving, not just driving wherever they want, but specific driving being-- being allowed. Is that what part of the program is? And the other thing, the other question I really have right now is it appears that a person can test positive, I'll call it, on a field sobriety or other test six times before they're eliminated from this-- from the 24/7 program. So if we have a person that's been stopped three times for DUI, they enter the program, then-- then they-- they can be tested six additional times, if you will, and fail those six additional times and they still remain in the program. I guess that's a bit of a concern in the sense of are they actually actively participating in a rehab or similar type of a program that helps them through this process of I'll say overcoming their addiction? And with that, I'll yield the rest of my time to Senator Morfeld.

WILLIAMS: Senator Morfeld, you're yielded 3:15.

MORFELD: Thank you, Mr. President. Thank you, Senator Bostelman, for the thoughtful questions. I may have to ask you to repeat one or two of the questions. I think I have them in my head. So I think I forgot the first question. But on the second question, they are able to drive more than just to and from work because they might have kids, they might have other types of obligations. But I'm going to triple-check and make sure I'm right about that. But I don't think there's any restrictions, just like with Interlock. The-- the other question on the six times that's based on the South Dakota model. And again, the judge has the discretion. They could say, listen, if you do this, if you get caught one time, you're out of the program. Bottom line. Or there's usually communication going on between the judge and other folks and the prosecutor. If it happens twice and the prosecutor's like, Judge, I think you should revoke this, then the judge can do that as well. And so-- so it's just to give the judge and the prosecutor leeway for the person under the circumstances. And, you know, I think people can make reasonable arguments for and against that, but I think that what they found in South Dakota is that, one, this generally is a high enough level of care and responsibility that people don't violate. Ninety-nine percent of people do not blow or they blow clean. But then, two, there are some folks that are experiencing addiction to alcohol that make a mistake and need a

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second chance. But that's up to the judge and the prosecutor to decide if they want to give that second chance after they spend that night in jail. And then what was your first question, Senator? If I can yield back time or ask a question of Senator Bostelman.

WILLIAMS: I think you can ask a question. Would you yield, Senator Bostelman?

BOSTELMAN: Yes. So it was-- I was asking about counseling.

MORFELD: Oh.

BOSTELMAN: My first question was driving to and from work and others-- other locations and I think you answered that. But I think the other question is, as required counseling or requiring some type of, you know, programming that-- that would help them through this.

MORFELD: Yes. So the judge would be able to require more counseling or something like that as a condition of their-- of their bond. So, yes, I mean, obviously, those services have to be available--

WILLIAMS: One minute.

MORFELD: --in that county and-- and all that, which we all know is a bit of a problem in some places, even Lancaster. But, yeah, that can be a condition of their bond and they could require that. I did receive confirmation that they can also drive where they want. And that's really the carrot to the program is, is that you have that ability to do the things that you need to do in your daily life as long as you're showing up and get tested. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Morfeld and Senator Bostelman. Senator Hilkemann, you're recognized.

HILKEMANN: Thank you, Mr. President. I just-- just received a text I think most Metro Omaha senators received. I thought it was quite interesting because we talk about this as being a new program. And the-- it's actually from Jack Cheloha, those of you who know it, says that Omaha City Prosecutor's Office has used a 24/7 program, sobriety program for the last ten years and it's worked out very well per Matt Kuhse, acting Omaha City Attorney. I thought that was interesting email to share with those in the body. That-- and it's nice to know that this program has a history and it's not wor-- and it apparently is working in the Omaha area. And I think I've had enough confirmations today from this debate that I will be supporting this bill. Thank you, Mr. President.

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WILLIAMS: Thank you, Senator Hilkemann. Senator Morfeld, you're recognized to close on AM853.

MORFELD: Thank you, Mr. President. And thank you, colleagues, for all the great questions. I'm happy to answer more. I really do appreciate, a lot of you've come up to me off the mike too. I'm happy to work with you on this. And I would urge that you adopt AM853. Thank you, Mr. President.

WILLIAMS: Thank you, Senator Morfeld. Members, the question is, shall the amendment to the committee amendment to LB271 be adopted? All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 38 ayes, 2 nays on the adoption of the amendment to the committee amendments.

WILLIAMS: The amendment is adopted. Returning to debate. Seeing no one in the queue, Senator Lathrop waives closing on AM490. Members, the question is the adoption of the committee amendment to LB271. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 38 ayes, 1 nay on the adoption of the committee amendments.

WILLIAMS: The committee amendment is adopted. Returning to debate on LB271. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. I apologize for not speaking earlier. I just wanted to make sure we got through all the amendments. So I was looking at the bill and I think this is a great idea for a lot of the reasons a lot of people talked about. But I just wanted to point out and make sure that some folks noticed when you get into these sorts of things, it gets a little complicated and there's a lot of little sections. And one of them was there's a penalty for if you drive on the-- under the influence, if you have this permit, that creates a felony of a Class IV felony. And that's if your blood alcohol level is at a .02, which is below the legal limit. The standard legal limit for a DUI is .08. And so this would create a lower threshold for that driving, which I think is a-- is probably a good thing when we're holding people to a higher standard in this situation and it helps accomplish the goal. The thing I wanted to make sure we point out and we discuss and that we understand is if you do this, the-- with the current Interlock license, if you drive and you have a .02 BAC when you have an Interlock license, that is a Class I

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misdemeanor. So this bill actually creates a higher penalty for violating this license than if you violate the currently existing license. So I just-- I don't know if folks were necessarily aware of that. I know when things get put together and a lot of people ask for a lot of things. And I know that this was a compromise amendment, but I don't know if Senator Morfeld would consider or the committee would consider matching the penalty in this statute with the penalty under the Interlock permit. But that would be, I think to me that makes sense. It's a good idea. They serve-- we're talking about how they serve a lot of the same functions. And so it does seem a step in the wrong direction to increase a penalty, especially to a felony when we're talking about something that people could-- this is a license someone could get while they're awaiting trial on a misdemeanor, a class, a first-offense DUI or a second-offense DUI, which is not a felony penalty. Obviously, some people could get this license while they're awaiting trial on felonies as well. But to subject someone to a felony penalty, whereas if they did go and get the Interlock, which, of course, they could get if they go through the hoops and they pay the extra money, would not be subjected to a penalty. So that's-- I just wanted to make sure not let the opportunity go by where we're having this discussion and not bring up that one point. I still support the bill, but I do think it's important that we know, go in eyes open knowing what we're voting for. Thank you. I yield the rest of my time.

WILLIAMS: Thank you, Senator John Cavanaugh. Senator Morfeld, you're recognized to close on LB271.

MORFELD: Thank you, Mr. President. And thank you, Senator Cavanaugh, for bringing that up. I wasn't aware of that issue. That being said, I'll work with you on Select File and then inform people of what we're thinking. And then that way, people can make a decision one way or another on which way they want to go. So, yes, happy to work with folks on Select. I appreciate him flagging that. And we'll come back with an amendment if necessary on Select.

WILLIAMS: Thank you, Senator Morfeld. Members, the question is the advancement of, excuse me, of LB271 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 4 nays on the advancement of the bill.

WILLIAMS: LB271 advances. Mr. Clerk for items.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB372 and LB343 both to Select File. The

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bills that were read on Final Reading today have been presented to the Governor (re LB5, LB41, LB70, LB70A, LB78, LB252, LB405, LB461). And I have an appointment letter from the Governor regarding the Director of the Department of Insurance. That's all I have at this time.

WILLIAMS: Thank you, Mr. Clerk. Returning to the agenda. Mr. Clerk.

ASSISTANT CLERK: Mr. President, with respect to LB154, there are E&R amendments.

WILLIAMS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendments to LB154 be adopted.

WILLIAMS: Members, you've heard the amendment. All those in favor say aye. Those opposed say nay. Mr. Clerk.

ASSISTANT CLERK: Senator Groene would move to amend with AM841.

WILLIAMS: Senator Groene, you're recognized to open on AM841.

GROENE: Thank you, Mr. President. I do not consider this a hostile amendment. I've had a lot of experience with the terminology in the discipline bills and the court cases that are out there. And I noticed and I'm all for his bill, by the way, the reporting of it. But one of the-- one of the requirements include physical contact that is not intended to punish a student for disapproval-- excuse me, physical contact that was involved with a child when they were being disciplined and eventually removed from the school, expelled, or suspended. The only place in law right now where-- or in statute where the word contact is-- "physical contact" term is used is in the Daily case, the famous Daily case that added physical contact as one of the things that the court interpreted was that the-- that those, the senators or the statute meant that is one of the things they could use to control their classroom. But the court also went in to say that physical contact, let me find it here in the statute, the court interpreted that the statute authorized an acceptable level-- level of an incidental physical contact, as is necessary for a teacher to promote personal interaction with their students. A certain amount of incidental physical contact is virtually unavoidable for-- for people working together in a social environment. So now you got an administrator, they've expelled the child, a student from the school. And he reads the statute and says, well, I've got to document every time we had physical contact with this child prior to being expelled. So he goes to the teacher and he said, did you have any physical

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contact? Well, one day he was coming in the door and I was going out and we bumped into each other. Well, write it down. One day he was acting up and I just put my hand on his shoulder and he settled down and we-- and-- and it was a human-to-human touch on the shoulder. Well, write it down. So I thought about it and I told Senator Wayne, I said in LB529 coming out of the Education Committee, the term physi-- "behavioral intervention" is going to be passed, maybe amended, which we're working on that. It will be a term that is in statute. It's a better term for that administrator, because what I think Senator Wayne wants and people want to know, what did you do? Did you-- did you-- did you use physical intervention to restrain this child? Did you use physical contact to stop his behavior or her behavior? It's a better term. It's better defines what we're trying to do here. I am not trying to harm this bill. I'm trying to make it better defined. What type of physical interaction are you talking about here that you need reported by that school administration? Physical contact is a very broad definition, very broad. A hug, as the court said in the Daily case, it's what we do as humans. We hug each other, we handshake, we put a hand on the shoulder, we bump into each other. Physical contact is a very, very broad definition. So physical intervention is a lot better term. It's a lot more defined and it will be in statute eventually to try to and to try to clear up for our schools and our personnel that work in the schools about what the 79-258 really entail and what the Supreme Court had-- when they defined it as physical contact and then went on to say, use the word "restraint." We're not using the word "restraint" here. Maybe "physical restraint" would be a better term if it was used prior to a child being expelled. So Senator Wayne originally had said there's-- he don't see anything wrong with it. It does-- it's better legal term probably. I don't know what's happened since. But that's why I brought it, for better clarity for admin-- administrators and teachers to know what-- what has to be documented, what has to be written down prior to a child being expelled and what has to be reported to the Department of Education. So that's why I brought the amendment. I talked to Senator Wayne prior to it. It just makes better law, I believe. Thank you.

WILLIAMS: Thank you, Senator Groene. Debate is now open on AM841. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President and colleagues. I'm not really concerned about this bill. I think clarity is always a good thing. I can see Senator Groene's argument regarding physical contact. So the word "intervention" is fine by me. So you can vote green on the underlying amendment and green on the underlying bill. Thank you, Mr. President.

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WILLIAMS: Thank you, Senator Wayne. Seeing no one in the queue, Senator Groene, you're recognized to close on AM841. Senator Groene waives closing. Members, the question is the adoption of AM841 to LB154. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

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

WILLIAMS: The amendment is adopted. Returning to LB154. You have a motion, Mr. Clerk.

ASSISTANT CLERK: Senator Cavanaugh would move to amend with FA22. Senator Machaela Cavanaugh.

WILLIAMS: Senator Machaela Cavanaugh, you're recognized to open on your floor amendment.

M. CAVANAUGH: Thank you, Mr. President. Good afternoon, colleagues. I rise, I am in support of LB154, but I did put forth an amendment to strike the enacting clause. This is something that I learned from Senator Chambers as that-- as just a floor amendment that you can do that's easy to write up. I learned a lot from Senator Chambers. I don't know if anybody's picked up on that today or not. So this floor amendment would strike the enacting clause, which would mean that Senator Wayne's bill would never be enacted, which would be a real shame. And I hope we all vote red on this actually. How long do I have to open?

WILLIAMS: Nine minutes left.

M. CAVANAUGH: OK, thank you. So-- so Senator Wayne's bill, it's-- I'm not sure how many people have been paying attention, but it requires tracking of student discipline as prescribed. And I think this is a really important step in making our schools safe for not only students, but also for teachers. If we can start tracking this information and collecting the data, it will help give a better picture of where the issues are not only in student behavior, but also in teacher behavior. So the system must be able to track discipline by type of discipline and demographic characteristics, including, but not limited to, race, poverty, high mobility, attendance, disability, and limited English proficiency. In addition, the State Board of Education must require school districts to report by individual student any acts resulting in in-school suspension, short-term suspension, long-term suspension, one- or two-semester expulsion, assignment to an alternative school or alternative-learning program, use of physical contact, which we just voted to amend it to physical intervention,

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with such student, or the restraint or seclusion of such student; offense consulting grounds for long-term suspension, expulsion, or mandatory reassignment pursuant to Section 79-267, regardless of consequences assigned; act resulting in law enforcement involvement, including any incident reported to law enforcement or to a one site--on-site school resource officer and any school-related citation or arrest. For the purposes of this subsection, school-related citation or arrest is defined. This act does not limit the tracking of discipline to only those types listed. Additionally, it requires the designation of a data coordinator in each school that is tasked with gathering and reporting the discipline data pursuant to this subsection. I apologize if people prefer "dat-ta." I always say "day-ta" I know it's like "potato-potahto." Subsection 3 is amended to require student discipline to be included in the Student Achievement Report and requires the inclusion of data that would indicate differences in student discipline due to available educational input characteristics described in subsection of this section. Students with disabilities are also added into the populations to be included in the analysis of progress towards state achievement goals. Section 2 amends 79-760.06 to add student discipline as a required indicator of performance of individual public schools and school districts under the accountability system established by the State Board of Education and harmonizes provisions therein. So what I really like about this bill is that it seeks to get the information that we need before we start deciding what the problem is to solve. Can't solve a problem if you don't know fully what the problem is. And this is a great starting point for school safety and how we're going to manage difficult situations in schools when children are clearly struggling in the classroom. And this will help us arm our teachers with the right supports on how to approach-- approach that. So I very much appreciate Senator Wayne's thoughtfulness in this. I also noticed that it has a great coalition of supporters: the Education Rights Council, the ACLU, the Nebraska Council on Developmental Disabilities, the Arc of Nebraska, and the NSEA all came in support of this bill. This is the kind of thing that I think we should be looking to do more of. My first year, this body passed a bill that I'm very proud of. It's the Healthy Pregnancies for Incarcerated Women's Act. And we in that, in passing that piece of legislation, we started a process where now pregnant women who are incarcerated, it must be documented if they are shackled. And I talked to so many people in this body about that bill, and everyone kept saying to me, they don't do that. They don't do that. They don't do that. Well, we had no proof that they didn't do that because we didn't require them to document it when they did it. And so documentation is really important so that we can find solutions to these problems. And I'd like to add that because we passed that

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piece of legislation when the YRTC in Geneva campus shut down and they moved those girls to Kearney, one of them was pregnant. And YRTC had to rewrite their rules and regulations because of the bill that we passed. And because they had to rewrite the rules and regulations-- and they did shackle those young women. They shackled those women, young women when they transported them from Geneva to Kearney, five point shackle of teenagers who had just been neglected and abused by our state agency and then neglected and abused further because they dragged a trash can in to where all the girls were full of shackles and told them to start putting them on. But the young woman who was pregnant, she had her own transport to the Kearney campus and did not have to be shackled because of what this Legislature did. I think it's important to remind ourselves that we can accomplish positive things. And I'm sure it made a difference in that young woman's life and in the toxic stress that she would be enduring during pregnancy. I think that that's a really impactful thing that she knew that she didn't have to be shackled because somebody was looking out for her and we were that somebody. We don't do it a lot. We could certainly do it a lot more than we do, but that's one example. And I'm grateful to Senator Wayne for this bill because this is another example of an opportunity. We have to do something right by young people in the state of Nebraska. I have more to say, but I don't know how much time I have left. Mr. President.

WILLIAMS: Two minutes.

M. CAVANAUGH: OK, thank you. I'll put my light on.

WILLIAMS: Thank you, Senator Cavanaugh, you're recognized.

M. CAVANAUGH: OK. So additionally, talking about the data collection piece of this, I'm going to talk about another bill that I have. It's currently in committee. It is the Integrated-- Juvenile Justice Integrated Data System. It's something that the University of Nebraska has asked for. And I have been working with the researchers at UNO and-- and others and the Crime Commission to-- and the Supreme Court to try and get an integrated juvenile justice data system. I think that data is-- is a hugely important piece that we are missing in Nebraska on-- on problem solving. There's a great report. I have it in my desk here. One sec. We get these every year, that's the Kids Count in Nebraska report. And if you don't have your 2020 copy, I recommend you reaching out to Voices for Children. I'm sure they would happily mail you one, though I think they deliver them to everyone's office. But this is a report that really breaks down the status of children and child welfare in Nebraska. And they even do it by area. You get your county fact sheet and-- and it provides some really important

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information that should help inform public policy. I know it does for me because it's data driven. And I know a lot of people in this body think that I do things that are just emotionally driven, but that's not actually the case. I look at data to inform the decisions that I make, and I look at data to inform whether or not I need to pursue a bill. And if a bill isn't necessary because the data proves that, then I won't pursue it. But when the data comes in and shows us about child welfare and where we stand, I definitely am going to be seeking all the data that I can. One moment. Sorry. So in this report they talk about pro kid policy plan. Children are our state's greatest resource and the decisions our leaders make about them impact our collective future. Voices for Children in Nebraska has developed the following pro kid policy plan, focusing on the issues of health, economic stability, child welfare, and juvenile justice. Our policy priorities are guided by research, data, and proven best practices that improve child well-being. We pay close attention to the impact of race, socioeconomic status, and geography and seek to remove barriers to opportunity when-- within these areas. This plan represents our vision for Nebraska, where strong communities allow all children to thrive. So Voices for Children has four areas that they try to ensure in child policy: health, economic stability, child welfare, and juvenile justice. I guess you could say that this is sort of a road map of how I approach policy because my goal here is to make sure that Nebraska is the best state to raise a family, to be a kid, to be a baby, to be a pregnant individual. I want Nebraska to be the state that reflects the values that you all talk about all of the time. I want Nebraska to be a pro family, pro reproductive health state where everyone feels like their child has the best--

HILGERS: One minute.

M. CAVANAUGH: --chance possible for success. So what I really like about Senator Wayne's bill is that it seeks to help address these issues. It seeks to help document the possibility and find out if it is true. Are children-- are children of a certain race or children of a certain ability treated differently? And if so, what can we do to address that? Are children of different races and different abilities marginalized in the classroom? Are they viewed as more disruptive because of something about them that is different? And this-- this bill will help us track that and hopefully with the information that we gather from this-- thank you.

HILGERS: Time, Senator, but you're next in the queue. You may continue.

M. CAVANAUGH: Is this my second time?

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HILGERS: This is your second time, yes.

M. CAVANAUGH: Do I have three times and a close or two times and a close?

HILGERS: You've got your close after this.

M. CAVANAUGH: OK, thank you. One moment. OK, so where was I? Yes, data, children. This bill seeks to do something really, really important and I think it does it in a way that, that doesn't seek to vilify anyone in the process. It just seeks to make sure that we are accurately documenting what is happening in our schools and in our classrooms so that we can dedicate the resources appropriately. I'm very excited about this bill. I know I probably don't sound that excited at this point because I'm a little bit worn out, but I am very excited about this bill. And I think it's going to be a great step forward for the children of Nebraska as we move to make our education system more equitable. So in 2019, I only have my 2019 book here. I don't have my 2020 book. It's probably in my desk somewhere, but my desk has been overrun with binders of information. In 2019, it says the County Fact Sheet, County Data Fact Sheet. I think this is, oh, sorry. My eyes are too bad to read this. I think this is for Douglas County, I assume because it's mine. Health: 5.4 percent of children are uninsured, 15.4 percent have inadequate prenatal care, 28 percent-- 28.7 percent children enrolled in public health insurance. Economic stability: 38 percent of children are in low-income families and 13 percent of households have children-- with children in poverty, 29.7 children of color are in poverty, 11.6 percent children who are food insecure. Wow. Even 1 percent of children being food insecure is heartbreaking, but 11.6 percent is devastating. And this is before-- before we had the coronavirus. I can't imagine what that number is now; 15.2 percent households with children enrolled in SNAP benefits, 67.6 percent families with children who own their home. Interesting, 67 percent-- 67.6 percent of families with children own their own home. I wonder, that 33 other percent, how many of the people in these other categories are in that 33 other percent? And that's another reason that an integrated data system is so important because the data, it's you can't cross-examine the data and extrapolate. I can make an assumption about what I think here, but without being able to pull the data in different ways, I can't know for sure. Yeah, that's-- so just another reason that we need an integrated data system, not just a juvenile justice or a data collection, data collection of school physical interventions, but just writ large, we need to have our--

HILGERS: One minute.

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M. CAVANAUGH: I'm sorry?

HILGERS: One minute.

M. CAVANAUGH: OK, thank you. We need to have our state agencies be able to communicate to each other and draw down that data and share it with research entities such as the university. And that is something that we can do if we want to. But it doesn't seem to be on the docket these days. I'm all about spending less money to get more done and data-- an integrated data system would help us spend less money to get more done because we would really know what the impact of what we're doing is, so-- sorry, I'm just writing my next motion while I'm talking here. I'm not as good at multitasking that as Senator Chambers was. He could always talk and do this at the same time. But I'm learning.

HILGERS: That's time, Senator.

M. CAVANAUGH: Thank you.

HILGERS: Thank you, Senator Cavanaugh. Seeing no one else in the queue, Senator Cavanaugh, you're recognized to close on your amendment.

M. CAVANAUGH: Thank you. So I-- I think I'll just let us go to a vote on this amendment and do a call of the house and a roll call vote, regular order.

HILGERS: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

ASSISTANT CLERK: 13 ayes, 9 nays to go under call.

HILGERS: The house is under call. All unexcused senators, please return to the floor. All unauthorized personnel, please leave the floor. The house is under call. Senator Halloran, would you please check in, please? All unexcused senators are now present. There has been-- the question before the body is the adoption of FA22. A roll call vote in regular order has been requested? In regular order. Mr. Clerk, please call the roll.

ASSISTANT CLERK: Senator Aguilar voting no. Senator Albrecht voting no. Senator Arch voting no. Senator Blood voting no. Senator Bostar voting no. Senator Bostelman voting no. Senator Brandt voting no. Senator Brewer. Senator Briese voting no. Senator John Cavanaugh

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voting no. Senator Machaela Cavanaugh not voting. Senator Clements voting no. Senator Day voting no. Senator DeBoer voting no. Senator Dorn voting no. Senator Erdman not voting. Senator Flood voting no. Senator Friesen voting no. Senator Geist voting no. Senator Gragert voting no. Senator Groene voting no. Senator Halloran voting no. Senator Ben Hansen voting no. Senator Matt Hansen voting no. Senator Hilgers voting no. Senator Hilkemann voting no. Senator Hughes voting no. Senator Hunt voting no. Senator Kolterman voting no. Senator Lathrop voting no. Senator Lindstrom voting no. Senator Linehan voting no. Senator Lowe voting no. Senator McCollister voting no. Senator McDonnell. Senator McKinney. Senator McKinney voting no. Senator Morfeld voting no. Senator Moser. Senator Murman voting no. Senator Pahls. Senator Pansing Brooks voting no. Senator Sanders voting no. Senator Slama voting no. Senator Stinner voting no. Senator Vargas voting no. Senator Walz voting no. Senator Wayne voting no. Senator Williams voting no. Senator Wishart voting no. The vote is 0 ayes, 43 nays, Mr. President.

HILGERS: Floor amendment is not adopted. Raise the call. Mr. Clerk for a motion.

ASSISTANT CLERK: Senator Machaela Cavanaugh would move to bracket the bill until May 4, 2021.

HILGERS: Senator Cavanaugh, you're recognized to open on your motion.

M. CAVANAUGH: Thank you. I like this bill so much I want to see if we can discuss it again on May 4. I know we're getting to the end of the day and I'm probably just going to talk for a few more minutes on this one because I have things to say about the next few ones as well. So for anyone who I think just left, come back in a minute. OK, so this is all kind of just a whole interesting confluence of topics, because next we have some juvenile placement conversation to be had. We have had this bill on student discipline and tomorrow we're going to be talking about the budget. And I just-- it all, just for me, keeps coming back to how we're approaching these problems. Senator John Cavanaugh mentioned increased crimes on the last bill. We've got decreasing crime, decriminalization, increased criminalization. And what did the people look like that these bills are impacting? Because I don't think that when we're decriminalizing things in this body, that they're crimes that are predominantly black and brown people. But when we are increasing crimes in this body, I think that they are predominantly black and brown people. And we seem to be willing to invest money in things that impact white people at a disproportionate rate than black and brown people. And so I just think that it's important for us at every moment to just take a pause and think about

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those things and think about how we can be better and how we can challenge ourselves to do a better job of this and not just keep the system as it is or even worse, make the system better for white people and worse for black and brown people, which I think sometimes we do. Whether it's intentional or not, I see it happening in this body. So I think I will yield the remainder of my time to the Chair. If there is no one after me, I would ask for a call of the house.

HILGERS: Request a call of the house, Senator Cavanaugh? There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Have all those voted? Record, Mr. Clerk.

ASSISTANT CLERK: 19 ayes, 19 nays to go under call, Mr. President.

HILGERS: The request fails. Senator Cavanaugh, you can continue with your opening.

M. CAVANAUGH: Oh, I'm sorry, I was done. I was going to yield the time back and let us go to a vote. But I do appreciate that 19 people in this body continue to prove my point for me. So thank you, colleagues.

HILGERS: Thank you for your opening, Senator Cavanaugh. Debate is now open on the motion. Seeing no one in the queue, Senator Cavanaugh. Senator Cavanaugh waives closing. The question before the body is the adoption of the bracket motion. The question before the body is the adoption of the bracket motion. A roll call vote in reverse order has been requested. Mr. Clerk, please call the roll.

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

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Briese. Senator Brewer. Senator Brandt voting no. Senator Bostelman voting no. Senator Bostar voting no. Senator Blood voting no. Senator Arch voting no. Senator Albrecht voting no. Senator Aguilar voting no. The vote is 0 ayes, 43 nays, Mr. President.

HILGERS: Motion is not adopted. Anything further on the bill, Mr. Clerk?

ASSISTANT CLERK: Nothing further, Mr. President. Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB154 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB154 advances. Next bill.

CLERK: Mr. President, LB143. Senator, I have E&R amendments pending.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that the E&R amendments to LB143 be adopted.

HILGERS: It's a debatable motion. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. Speaker. I'm not going to put up any more motions today. So it's been interesting today. I don't know if you-- if you all would agree. Maybe you've been bored. I wonder if I could ask a senator to yield to a question. I was thinking perhaps Senator, oh, nope, don't see him. Senator Aguilar, would you mind yielding to a question?

HILGERS: Senator Aguilar, would you yield?

AGUILAR: No.

M. CAVANAUGH: Thank you. How are you today? Oh, no, you won't yield. OK, never mind. All right. Sorry. I-- hmm, OK, well, then, I guess-- gosh, I'm at a loss for words. Some people are asking me, what do I want to get out of this? But most of you are just ignoring me, which is an interesting approach. I'm not going to stop; and the worse you behave, the longer this is going to go on. So please continue to be disrespectful to me as a colleague. And I will continue to take your time and mine. I am in no rush. I am here till the end. I am tired, very, very tired; but I am not as physically tired as I am tired of

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watching the misogyny and the racism in this body and your unyieldingness to it. You all refuse to acknowledge that I might not be the only one that's the problem, that maybe we're all the problem. If anyone in this body came up to have a conversation with me about how we can be better, what an interesting conversation we would have. But you all think I want to get something. I want to trade something. You took everything I have. There's nothing to trade. So I'm going to give you time for self-reflection. I'm going to give you time to consider who you want to be as a legislator. I'm going to give you time to reflect on who you want to be as a colleague to me or not. You can think about me not at all, if you like. But I'm going to give you time. So stop talking to other people about me. Stop asking other people to fix me. Fix yourselves, be better. Be the Legislature that Nebraska deserves. Be better. Don't go to other men and ask them how they can intercede and get me to behave differently. It's the epitome of misogyny. Be better. Just--

HILGERS: One minute.

M. CAVANAUGH: --that's it. It's not that hard. It's not that complicated. It's not rocket science. Have a fair and full debate when it's somebody's bill that doesn't look like you or somebody's amendment that doesn't look like you. Don't be dismissive. Don't act like you're better because you're a white man in this body. You're not better. You're equal, 49 equal. We don't have caucuses. We don't have that institutional structure of political power the way that other legislatures and governments do. We are supposed to be better. We are supposed to be the best.

HILGERS: Time, Senator.

M. CAVANAUGH: Thank you.

HILGERS: Thank you, Senator Cavanaugh. Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. Colleagues, I hope as we end this day we-- we find time to talk to each other. One of the most interesting things about this body and one of the most interesting things about our rules and if you don't have a Mason manual, I will tell you to get one besides just our rules. Because underneath our rules, one senator can grind things down to a slow and it's a delicate balance between the majority and the minority. And that's why we picked, in the '80s, the Mason manual to follow in the rules. And you can be one person. And if you feel like there's nothing left, there's nothing left to lose, you can slow everything down. That's why the majority has always

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balanced with the minority in this body. If we start not-- if we start getting petty. And believe me, my four years we've had fun on the floor and I was involved in that. But if we don't take time to reflect after the budget, budget's going to be long. We already know that. The rest of this week could be long and the rest of the session could be long. And I'm not saying there's a right or wrong answer, but there's two sides, if not three sides to every story. And I hope people sit down and start talking because what I just seen happen to make me put on my light is not what this body is about. I've only seen in the ten years that I've watched this body, and I've only been here for four, somebody not yield to another person. And I get it, it's late. It's really not productive maybe. But I don't want that to spill over into tomorrow where we're talking about one of our biggest requirements that we have to do is our budget. Besides our Constitution, the next important thing is where we spend our money and that's our budget. And it's going to be long and it's going to be contentious. There's things that I don't like and some people don't like other things and we're going to have a conversation. But I want it to be productive. And when times aren't productive and people are eating times up, you have to ask why. And we got to be able to admit when we're wrong. You know, last year there was a time when there was a group of individuals running around saying we can't reward Senator Wayne's bad behavior, but my behavior wasn't bad. It was to make sure that urban was being treated the same as rural when it comes to housing. And that was something I was willing to die on the sword for. So the question is, was my behavior bad or the fact that we excluded and killed Senator Vargas' bill two days before bad? I don't know. But at the end of the day, if we don't figure out how to sit down and work through it, we're going to be stuck here every day doing the same thing. And it's not just one person. Everybody every year, as Senator Groene used to always laugh at me, has their mountain lion moment where this is what means the most to them. So rather than getting snippy and getting upset and walking around saying why this and that, come to a solution. Come to the table and figure out how we can make things better. That's all I'm asking for the end of the night is that we try to move tomorrow into a productive conversation and the rest of the session. Because if we keep deteriorating, while one senator can slow everything down, unfortunately two or three can stop everything. There will be no more consent calendar. There will be no more, more to move things.

HILGERS: One minute.

WAYNE: And I don't want to go there. And so I just hope these last ten minutes everybody can smile a little bit, cheer up a little bit, and

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end on a good note because we've got work to do. We got a lot of work to do. We got a lot of people dependent on all of us. Thank you, Mr. President.

HILGERS: Thank you, Senator Wayne. Senator Pansing Brooks, you're recognized.

PANSING BROOKS: Thank you, Mr. Speaker. I, too, rise in a similar vein as Senator Wayne. When people ran at the beginning of the year for their various positions, all the talk was about the sanctity of the institution and making sure that we promote collegiality and work together to find ways to protect Nebraskans and make our state thrive. All of-- each person that's in a leadership role claimed that they were going to stand and fight for collegiality no matter what and protect this institution. When you look at that vote that we just had on call of the house, that was not collegial in the least, 19 to 19. And the leaders of many of our committees and our whole body voted against that-- that call of the house. And I want us to think about collegiality, to think about kindness to one another. And now the discussion is whether one senator is taking something way too far and whether or not this is appropriate and who started what. Goodness gracious. It's like the Israelis and the Palestinians. We've got the same battle going on. I've talked to HHS Committee members. No one was as prepared as Senator Cavanaugh in that hear-- in those hearings, especially on Saint Francis, but in other things as well. She was prepared. There was one time when there was a concern about a name calling and maybe that wasn't appropriate. Maybe it was, I don't know. But to penalize somebody who is representing 40,000 people and I'm understanding, Senator, that's not the point of Senator Cavanaugh anymore. But we need to figure out what the point is and move forward. We-- we don't need to be voting. We just don't do that. We don't vote against a call of the house. Should we start doing it? I guess we can. It was a way for people to kindly let everybody get up to vote on an issue. So if we're going to start doing that, let's-- let's know that right now, if we're going to start doing that. Maybe I better start asking people on the mike, is it your intention to continue to vote no on call of the house? Because that's not collegial. Is-- is it your intention to not allow somebody who works on and creates a-- a study to not serve on it? Because, again, that's not collegial. That's not kind. It's not thoughtful. If you looked at the balance of the committee, it didn't matter exactly whether Senator Cavanaugh was on it or not. Again, I have offered my spot on the YRTC Committee. I'm happy to move off of it if that would allow Senator Murman or another person to come to that committee. Well, Senator Murman was elected to the YRTC Committee as well. And then Senator Cavanaugh could go on.

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She's saying that's not what she wants. That's fine. I'm seeking a solution. I'm working to find something to let us move forward in this body so I can determine whether or not to vote against some bills. And you can determine whether or not to vote against some of my bills. But we could move on and get some things and have some good discussions for our state. We can have some kind discussions. We can have some passionate discussions.

HILGERS: One minute.

PANSING BROOKS: And whether or not you like somebody, whether or not you care about them, whether or not you want to give them the time of day, they are representing 40,000 Nebraskans and we better dang well pay attention to those 40,000. This is a state that cares about people, that cares about business, that cares about moving forward and thriving and being an awesome place with our Unicameral and this is pathetic. I ask the leaders to stand up and do more. Find out solutions, ask the correct questions, figure out what it is. This is a waste of time, Nebraskans. Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Pansing Brooks. The motion before us is the adoption of the E&R amendments. All those in favor say aye. Opposed say nay. The E&R amendments are adopted.

CLERK: I have nothing further on the bill, Mr. President.

HILGERS: Senator McKinney for a motion.

McKINNEY: Mr. President, I move that LB143 be advanced to E&R for engrossing.

HILGERS: Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. LB143 advances. Mr. Clerk. Mr. Clerk for items.

CLERK: Thank you, Mr. President. Just a couple of amendments to be printed: Senator Pansing Brooks to LB247; LB156 (Senator Wayne). Senator Brewer would like to add his name to LB392. Senator Halloran would move to adjourn the body until tomorrow morning at 9:00 a.m.

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