

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate March 17, 2022

**FOLEY:** Good morning, ladies and gentlemen. Welcome to George W. Norris Legislative Chamber for the forty-fourth day of the One Hundred Seventh Legislature, Second Session. Senators, please re-- our chaplain today-- excuse me-- is Senator Williams. Please rise.

**WILLIAMS:** Thank you, Mr. President. Please join me in prayer. Lord, we thank you for today and we thank you for all days, especially Day 44 and the 16th day of Lent. During this season of Lent, we ask you to help us recognize and understand our reliance on your grace. Our faith is easily challenged. Our faith can be like trying to hold water in our hands. It can quickly slip away. Help us to hold on. We pray today for your guidance during our work in the Legislature. May our mouths speak of your goodness. May our arms hold [INAUDIBLE] and those that are in need. May our feet walk toward justice. May our hearts trust in our worth. And may our souls dance in your grace. Amen.

**FOLEY:** Thank you, Senator Williams. Senator Friesen, if I could ask you to lead us in the Pledge of Allegiance, please.

**FRIESEN:** Thank you. Please join me on 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.

**FOLEY:** Thank you, Senator Friesen. I call to order the forty-fourth day of the One Hundred Seventh Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

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

**FOLEY:** Any messages, reports or announcements?

**ASSISTANT CLERK:** Just two items, Mr. President. The various agency reports that have electronically been filed with the Legislature are available through the website. In addition to that, a list of registered lobbies for the current week. That's re-- that's all I have at this time.

**FOLEY:** Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign, and do hereby sign LR329. Members, Senator Clements would like us to recognize Dr. Dale

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Michels of Walton, Nebraska, serving as today's Family Physician of the Day. Dr. Michels is with us on the north balcony. Thank you for being here, Doctor. First bill, Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, returning to LB1011, it's a bill for an act relating to appropriations: to define and redefine terms; provide, change, and eliminate appropriations for the operation of state government; repeal the original sections; to outright repeal laws 2021, Section 1, and to declare an emergency. The bill has been considered previously on General File on March 15 and 16. Pending are the amendments from the Appropriations Committee, as well as FA76, offered by Senator Lathrop to the committee amendments.

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

**HILGERS:** Thank you, Mr. President. Good morning, colleagues. I want to give an end-of-the-week update as we head into next week. So as you recall, next week is the second of two weeks that we had budgeted for the budget-- I guess no pun intended-- in order to get our work done by Day 50. We have quite a bit of work to do next week. So the first part of my announcement is to provide you notice of some slight modifications, but important ones to the timing of our schedule for next week. So number one, as you know, we have, we have started the first day of each work week at 10:00. Going forward next week, as well as going through the rest of the session, we are going to start at 9:00. We need to get that hour back, so we're going to start next Tuesday at 9:00-- not 10:00 but 9:00. Secondly, typically we have an hour and a half for lunch. We don't really have time to do that now. So next week, and maybe going forward, we were going to do an hour. So we will recess at noon and we'll go till 1:00. Thirdly, for next Thursday-- I'm going to talk about the weekly schedule here in a second. Next Thursday is kind of a critical day to get through the, the non-ARPA budget bills on Select File. In order to do that, I want everyone to be aware and be prepared to stay as late as we need to go on Thursday. If we, if we don't-- under one scenario, if we don't start those until Thursday and they all go four hours, we'll be here till about 10:00 or 11:00 next Thursday night, which is what we will need to do in order to get those bills back, have them read over that evening, so we get the layover day Friday. So the three modifications are: we're starting at 9:00, we're only doing an hour for lunch, and next Thursday we-- be prepared to go past 8:00. For next week's schedule-- and it's going to, it's a little fluid, depending on how long we take on the bills-- the next budget, the next non-ARPA budget bill is coming up after LB1011; that's LB1013. If that goes eight hours-- you recall today we're going to go through lunch like we did

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last week-- if that goes eight hours, I anticipate cloture will be around midmorning, say 10:30 or 11:00 on Tuesday. After that, I will continue with LB1024, Senator Wayne's priority bill. In addition to that, we will work on LB825 and LB939. Those are two tax cut bills. In addition to that-- those are Select File. In addition to that, as you know, I've made a commitment to Senator Matt Hansen to ensure that LB1073 can move along the process in time before the deadline by March 30, so we will have LB1073 Final Reading next week. On Wednesday morning, I anticipate that we will take up the ARPA budget bill, and I'm going to talk about that here in a second. I anticipate that'll be Wednesday. Then Thursday, as I mentioned, I'm anticipating Select File on the three non-ARPA budget bills and then, on Friday, Select File of the ARPA budget bill. In addition, on Friday, after that's done, we will have the pull motion on LB933. So that's sort of our schedule for next week. After next week, I've had a lot of people asking me questions about their priority bills. As you know, this week and next week have been really reserved for the budget. If we get through some of these more quickly, I will have more time for priorities next week, and I'll get as many as I can across the finish-- or through the process as we can. But I'll have a really better sense of how much time we have left and what we have left to do at the end of next week. So I'll have a little more clarity then. On ARPA for next week, I want to talk a little bit about this. The ARPA bill is pretty unique in a lot of different ways. One, as you know, there are legal restrictions as to what we can spend the money on. Number two, it's a finite set of dollars. We have a \$1.04 billion, but no more than that. And there are some other unique issues involved with that particular bill. And so I requested yesterday that the Executive Board make LB1014 a Speaker Major Proposal. I was very happy that yesterday the Executive Board unanimously granted that request. That, what that enables me to do is to order the amendments and set some time restrictions on the amendments that could be heard. And I think it's very important, given the volume of requests that the Appropriations Committee dealt with but couldn't actually put into the bill. If I recall, Senator Stinner said there were \$4 billion worth of requests. They can, of course, do, only do a billion. I think it's very important to allow the body the opportunity to actually have some of those amendments heard and have some of these proposals discussed on the floor. So how this process will work is, Senator Stinner has identified-- or told me that he anticipates Tuesday morning the committee amendment to LB1014 will get filed. They're working on that right now, the Revisor's Office; it takes a long time to do. I'm asking everyone who would like to have an amendment on LB1014 to file it by 6:00 Tuesday. Now you can file it afterwards, I'm not-- that's not a hard deadline. But because we want

to make sure everyone has the op-- an equal opportunity, and an equal chance to get heard, to get up, I'm really asking for you to get those in earlier, if possible. And those are filed across the desk. In advance of that, I've had several senators already, by the way, come approach me and try to work through or at least give me notice that they want to bring something. And that-- I really welcome that and would invite you all to do that so we can start thinking about how to structure all this. But Tuesday morning, the committee bill, committee amendment will be reported. I would ask you to have your amendments filed. You don't have to rush to the courthouse, because we will control the right order to be able to make sure that everyone has a chance, as many people as possible have a chance to be heard. And, and please let me know what it is that you're thinking about doing so that we can sort of talk through it. Now a couple, couple of pieces of information as the methodology, I think, is important. And I'm working with Senator Stinner closely on this to make sure that this is a very fair and thoughtful process. But a couple of things I want to flag for you as you're thinking about potential changes. Number one, because it's a finite number-- this might be the most important thing-- because it's a finite number of dollars, I'm asking if you actually want to spend more money on ARPA, you need to identify what area you're going to cut. If we get an amendment that just spends more but doesn't cut, then it probably will not be considered. I don't see how we can actually consider that. Conversely, if you actually just want to cut money, you certainly can do that because we can, we can spend less. We could always appropriate it next year, but I'm going to put those a little bit at the back of the line compared to those that actually want to do the mix. Beyond that, it's got to qualify. Of course, it's-- we're going to give preference to those that were actually within bills or actually were in front of the committee. And, and ideally, you can try to work through, if you can, with anyone that if you're trying to do a different allocation. So if you-- someone's got \$10 million and, and they think that they could do, it's already in the committee package and they could go \$5 million, as an example, and you can work that out with them, that will make everything easier as well, and we'll try to prioritize those kinds of things. There are a lot of other factors, and I'm working closely with the Chairman to make sure that this is thoughtful, and we're taking into account all the different considerations that we should as we order these things, but those are a couple really high-level points that I wanted to provide to you. So there's a lot of work next week. I appreciate you adjusting your schedule a little bit going into next week. I think it'll be pretty critical to get that done by day 50 so that we have the remaining only about six days for general and Select File after

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that. If you have any questions, of course, please find me. Otherwise have a great long weekend. Thank you, Mr. President.

**FOLEY:** Thank you, Mr. Speaker. Members, we're on LB1011. Senator Stinner and Lathrop, if you would each like a couple of minutes each, you may do so to refresh us. Senator Stinner.

**STINNER:** Yeah. The mainline budget predominantly consists of adjustments to the General Fund's budget, and I think a lot of people are looking at other adjustments that the committee has recommended to the body. But in essence, it's that \$115 million that we're talking about, that impacts the General Fund's total at the bottom line, and those are salary increases and provider rate increases. That predominantly takes care of it. There is also some construction that we have taken out of the General Funds. Most of that's crime lab, an expansion of crime lab, so not a whole lot of moving parts in the mainline budget. And I would appreciate your green vote.

**FOLEY:** Thank you, Senator Stinner. Senator Lathrop, and you're, you're next in the queue, Senator, so we'll put seven minutes on the clock.

**LATHROP:** OK, thank you very much. Good morning, colleagues. My amendments are an opportunity for me to talk about a-- what I believe is a significant issue and the efforts undertaken by a working group that brought in CJI this summer to try to identify why the population in our Department of Corrections is going up while, while our admissions are going down. I have used this as an opportunity because-- and I've done this on the budget, first and foremost, because I think it's appropriate to talk about this as a budget item or because of its impact upon the budget. The Governor has proposed building 1,500 beds at a cost of \$270 million and closing the Penitentiary. We would, in that instance, net 700 beds in additional capacity, but it would not get us out of an overcrowding emergency. And I shared with all of you a chart. The chart is based on facts. There's no opinion in the chart. It is fact, and the fact is that our population is growing at 2.5 percent per year. Think of it as adding 200 people per year to the population at the Department of Corrections, and the 1,500 beds proposed by the Governor or the net of 700 beds, additional beds. When that construction is complete, a few years later, we will be 1,300 beds short, and we will need to build 200 beds a year just to keep up with the population. Those folks on the CJI working group met for the purpose of determining how do we flatten the trajectory or alter the trajectory of the growth in population at the Department of Corrections. We spent a good deal of time talking about this yesterday, and today I will continue that

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effort. I continue to be opposed to the prison until we do something about the growth in the population, and here's why. This is a significant issue facing the state, not because of the inmates themselves, but because of what it means fiscally for this state to not look at a problem as obvious as the nose on your face. We are experiencing a growth that we can't sustain. We cannot build our way out of this. If you don't believe we need some type of sentencing reform, I'll look forward to your solution to this problem, but we can't simply say, no sentencing reform, we'll do some consensus items, no sentencing reform, we're not going to alter the trajectory of our prison population growth-- we'll just build 700 additional beds and call it good. Well, all we are doing is kicking the can down the road and, in my judgment, it's fiscally irresponsible. I want to talk about my experience with this bill for a moment. There is opposition, apparently, and I say apparently because I'm unable to dialogue with law enforcement. I've not been able to dialogue with law enforcement, and the county attorneys have said no to everything but a few consensus items. That's maybe the first time that's ever happened to me down here, when we are facing an obvious problem and the people who could help fashion a solution simply say no. But here's an observation I'm going to make is, they don't have to pay for these people that we're sending down to the state that are making our population grow by 200 people a year. It's easy because they don't have skin in the game. Do I appreciate the work of law enforcement? Believe me, I do. I have been a friend of law enforcement for my 12 years of service. Same with the county attorneys. Most of these people are lawyers that I know and friends. But it's easy for these people to say no when they don't have-- when, when they're handing us the bill; and that's what's happening. And so I need my colleagues to understand the issue, the gravity of the issue, the importance of doing something this year, and the importance of doing something about the growth in our population before we decide what to build. If our intention-- if we kick the can down the road and do no reform, then we need a lot more prison than what the Governor is talking about. We need to spend probably twice as much just to meet the population we will have by 2030. And, by the way, probably cost us \$40 million a year to operate on top of a half a billion dollars to build. And if you look at the proposal from, from the--

**FOLEY:** One minute.

**LATHROP:** --director, colleagues, you'll see that this thing has a big footprint, and they're putting several buildings in it, but they have room for expansion. We ought to ask, do we want to do that? Do we need to be prepared for that expansion? And I have no problem with building

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additional and replacing the pen. I really, truly don't. I don't have a problem with that. We probably need it. I've read the Alvine report, but we don't know what to build and how much to build until we get done with this debate. And if you want to say no to LB920 or just do the things that don't make a difference but look good, then we're going to need a lot more money spent on prisons and a lot more money spent on operating those very same prison facilities. How much more time do I have?

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

**LATHROP:** Thank you.

**FOLEY:** Thank you, Senator Lathrop. Senator Slama.

**SLAMA:** Thank you, Mr. President, and good morning, colleagues. I believe I'm the last person to get up and speak before cloture, so I, I do think it's valuable. I think this discussion will continue after we vote and approve this bill and move on to the next bill. To talk a little bit about the inside baseball of what's going on with this debate, so procedurally, Senator Lathrop, as he has a right to do, has filed dozens of amendments on this budget bill and the next budget bill to have a conversation on criminal justice reform. But here's the mechanics of how that works in reality with our filibuster rules and how the process works in terms of considering amendments on the floor. Amendments are brought up and considered in the order in which they're brought. So when Senator Lathrop drops about a dozen amendments, that means that he has the first dozen shots at a ten-minute open, five-minute close or a fresh speaking queue. He essentially controls the debate on the budget, and what that means is we're preventing discussion about serious amendments that could be brought to the budget that hit on some of these criminal justice issues that Senator Lathrop and others are talking about: adding mental health beds, investing in our kids with education learning loss-- \$60 million that was cut from the budget by Appropriations. We can't have these discussions about actually spending money on the issues that Senator Lathrop is discussing, because Senator Lathrop has filed these procedural motions to block any of those amendments from being brought. And when it comes to criminal justice reform, Senator Geist, who I'm going to yield the remainder of my time to, here in a moment. And I serve on the Judiciary Committee. I'll be the first one to tell you that there is not consensus on the Judiciary Committee on the right steps for criminal justice reform. But I can tell you right now, if you tour the Nebraska State Penitentiary, it needs to be replaced. We can fixate on the new prison only adding 700 beds, but that new

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facility will give the convicts the space that they need to rehabilitate and get programming. It will keep the men and women who work in these facilities safe. So while we're fixated on just talking about a problem, we're not actually doing anything because the people who are talking about the problem have filed dilatory amendments to prevent us from actually spending money on the issues they care about. And when it comes to LB920, I'm sure we'll get eight hours to talk about it on the floor. There is a very reasonable bipartisan solution out there proposed by Senator Geist, and I'm going to stand opposed, and so will Senator Geist, to letting dangerous felons out of prison, which is what LB920, as drafted, does now. And with that, I will yield the remainder of my time to Senator Geist.

**FOLEY:** Thank you, Senator Slama. Senator Geist, 2:00.

**GEIST:** All right. I apologize to my colleagues and to those of you out there that I wasn't in this debate yesterday. Sometimes life takes over and this is not all of life. So one of the things I would like to say is that we don't talk about that we are 36th in the country in incarceration rates. That is a good number. We'd like to be 40th. We'd like to go lower than that. But what you hear is that we're putting so many people in prison when, in fact, we have a capacity issue. That is one of the issues that's really making this a crisis. We have needed new capacity for ten-plus years. That is the can that's been kicked down the road. It's a capacity. Since CJI-- not, I'm sorry-- since CSG came and did a review--

**FOLEY:** One minute.

**GEIST:** --in 2015-2016, our probation rates have gone up to-- gone up 70 percent. We are diverting low-level incar-- or low-level criminals, for lack of a better word, in so many cases to diversion, to probation. We're putting them on monitors. They are out in our community. What we have not done is focused on making sure those folks get good quality programming, have adequate oversight, adequate supervision, hired enough probation officers, enough parole officers at all levels so these individuals don't get put back in prison. We need to look at our recidivism rates and continue to put a focus on--

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

**GEIST:** --all right.

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



**ALBRECHT:** Thank you, President Foley. Good morning, colleagues. I rise today just to speak on an amendment that I have had on this particular bill, and we have talked for a day and a half on, on prison reform. Certainly, mental health issues are probably more of my priority when it comes to spending money on getting them out of the prison area, and taking them to a safe place where they can be taken care of, rehabilitated, given their meds, and get them back home and on the streets to, to be a productive citizen. But I want to just stand today and talk about my AM2244, which would be amended into the LB1011. It's a reinstatement-- it's putting back into the bill an initial request of the Governor that no funds be appropriated for the use of sex education and ensure that the Legislature not appropriate funds used to support research, adopt or implement state sex education standards for Nebraska schools. The language was removed from LB1011 when it came out of committee. AM2244 sets it back in place, stating that it is the intent of the Legislature that no funds-- so I'm going to save you some money here-- no funds appropriated to Agency 13, Program 25, Education, Administration, and Support, shall be used to research, adopt or implement state sex education standards for Nebraska schools. This prohibition on the use of funds applies regardless of whether the standards are proposed as mandatory or voluntary standards. Sex education is a controversial topic and should be determined by those who lead, know, and care for their communities and the children; and that would be the parents. Local control is set forth by our founding fathers, and Nebraska has embraced this idea since it became a state. Local control is how we prevent another disaster, like the proposed health-- educational health standards. Parents are the primary educators of their children. There's no purer form of local control than a parent or guardian directing their child's education. Our job is clear, and we should keep it short and simple, that the State Board of Education and the Department of Education should focus on improving the standards that they have been authorized to formulate by this legislative body, and everything else should be returned to and decided by the locals themselves. These health standards have created a crisis of confidence in the State Board of Education and our Department of Education, as evidenced by the overwhelming number of Nebraska parents, grandparents, teachers, and others from all corners of our state who are standing in opposition to this content. Nebraska parents and guardians are the primary educators of our children. The State Board of Education and the Department of Education stepped outside of their jurisdiction when they published a health education standard draft that introduced such controversial content, unrepresentative of the majority of Nebraskans. Article VII of the Constitution of the state of Nebraska says that the Department of

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Education shall have general supervision and administration over school systems of the state, and of such other activities, as the Legislature may direct. It also states that the duties and powers of the State Board of Education shall be prescribed by the Legislature, and that the Commissioner of Education shall have powers and duties as the Legislature may direct. Clearly, in Nebraska, the State Board of Education, the Department of Education, and the Commissioner of Education are all to be directed by the Legislature. In the year 2000, the state Statutes 79-760 was put into law, which requires the State Board of Education to adopt measurable academic content standards in subject areas of reading, writing, mathematics, science, social studies, and history. You will notice it was only core topic standards that were mandated by the Legislature.

**FOLEY:** One minute.

**ALBRECHT:** Our, our job is clear, and we should keep it short and simple that the State Board of Education, Department Education, and along with the Commissioner, should focus on improving the standards that they have been authorized to formulate by the Legislature, and everything else should be returned to and decided by the local school districts themselves. As state senators, I would just ask and implore you to be thinking about this over the four-day weekend because it is also filed on Select. So we will be talking about this again, and it will be one of the, the things that I'm going to talk about on this budget until, until we all agree to, to put it back in, save us some money. I'm not asking for any ARPA funds. I'm not asking for anything out of the Cash Fund or General Fund, I'm asking you to put this into the budget so that if this is-- and we already know it's happening in many schools in our state. It needs to be stopped, and this body is the one that can control whether that happens or not.

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

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

**FOLEY:** Thank you, Senator Albrecht. Senator Walz would like us to recognize some guests today. We have with us Alex and Mac Sissel and Elum Schaefer, from Fremont Middle School and Johnson Crossing. Those guests are with us in the north balcony. Could you please rise so we can welcome you to the Nebraska Legislature? Oh, sorry. Senator John Cavanaugh.

**J. CAVANAUGH:** Thank you, Mr. President. I would yield my time to Senator Lathrop.

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

**LATHROP:** Thank you, Mr. President, and Senator Cavanaugh, thank you. So I want to be clear about the purpose of these amendments and what I'm trying to do because we will be going to cloture pretty soon. I feel it's necessary for me, as someone who has been dealing with an important issue faced by this state, to take the time to talk about that issue because I can't get anyone engaged in it. I have a bill, and I'm pretty darn sure I know what's going to happen to it, not because anyone has become educated on the issue, but because some people have gotten directions from outside the body. And there has been no effort, no effort in this body to get and resolve significant issues facing the state. We're not. There's no collaboration and no one can trust anybody. So I put up amendments so that we don't end up with an amendment on a prison. And I mean it, and I'm going to do it on the next one. And you can't shame me out of it. And then maybe somebody will come to me and say, Let's figure out this big problem that you've been working on for 12 years. But we don't do that anymore, nor can we trust anyone. This is a symptom of the problem with the way we've been operating. Senator Flood has stood up two or three times this year to say people need to get together and talk. No one's talking to me. I picked up five amendments yesterday on LB920; that's the response I got. I don't have a law enforcement person to talk to. I don't have a county attorney that will talk to me and work out what LB920 ought to look like. That's why we're here, and if it's a problem for you, that's fine. We'll talk about it when we get to LB920 and we'll talk about it all morning. I want to be clear about one more thing before we get to cloture. I'm not trying to screw up this budget. I think you should vote for cloture, regardless of whether you're getting everything you want, nothing that you want. We need a budget. Those people over in Appropriations Committee, you can agree with them or disagree with them, but you can't let perfect be the enemy of good. If you didn't get everything you want out of this, that happens. You're all involved in deciding who the, the nine people are that we're going to send to that committee, and you voted on a chairman. And while they put this budget together, they also are dealing with ARPA. And you can criticize them if you need to. I don't think that's in order. You may disagree with them, but these guys have worked as hard as people in Judiciary Committee have, and that's saying something. I would encourage you to vote for cloture when this gets to cloture. And understand that my efforts today are serious, but they have nothing to do, at the end of the day, with whether I want to see the budget passed or not. I think it needs to. Thank you, Mr. President.

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**FOLEY:** Thank you, Senator Lathrop. Mr. Clerk, do you have a motion at the desk?

**CLERK:** Mr. President, I do. Senator Stinner would move to invoke cloture pursuant to Rule 7, Section 10.

**FOLEY:** Thank you, Mr. Clerk. It's the ruling of the Chair there has been a full and fair debate afforded to LB1011. Senator Stinner, for what purpose do you rise?

**STINNER:** I rise for a call to the house and a roll call vote in reverse order.

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

**CLERK:** 20-- excuse me-- 30 ayes, 2 nays to place the house under call.

**FOLEY:** The house is under call. All members please return to the Chamber, check in. The house is under call. All unexcused members are now present. The immediate question is whether or not to invoke cloture. A roll call vote, in reverse order, has been requested. Mr. Clerk.

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

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Bostar, voting yes; Senator Blood; Senator Arch, voting yes; Senator Albrecht, voting yes; Senator Aguilar, voting yes. 40 ayes, 4 nays on the motion to invoke cloture, Mr. President.

**FOLEY:** The motion is successful. We'll move now to a vote on Senator Lathrop's FA76. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 6 ayes, 36 nays, Mr. President, on the amendment to the committee amendments.

**FOLEY:** FA76 is not successful. We'll move to a vote now on the Appropriations Committee amendment, AM1999. Those in favor vote aye; those opposed vote nay. A roll call vote has-- in reverse order-- has been requested. Mr. Clerk.

**CLERK:** Senator Wishart, voting yes; Senator Williams, voting yes; Senator Wayne, voting no; Senator Walz, voting yes; Senator Vargas, voting yes; Senator Stinner, voting yes; Senator Slama, voting yes; Senator Sanders, voting yes; Senator Pansing Brooks, voting yes; Sir Pahls, voting yes; Senator Murman, voting yes; Senator Moser, voting yes; Senator Morfeld, voting yes; Senator McKinney, voting no; Senator McDonnell, voting yes; Senator McCollister, voting yes; Senator Lowe, voting yes; Senator Linehan, voting no; Senator Lindstrom; Senator Lathrop, voting yes; Senator Kolterman, voting yes; Senator Jacobson, voting yes; Senator Hunt, voting yes; Senator Hughes, voting yes; Senator Hilkemann, voting yes; Senator Hilgers, voting yes; Senator Matt Hansen; Senator Ben Hansen, voting yes; Senator Halloran, voting yes; Senator Gragert, voting yes; Senator Geist, voting yes; Senator Friesen, voting no; Senator Flood, voting yes; Senator Erdman, voting yes; Senator Dorn, voting yes; Senator DeBoer, voting yes; Senator Day, voting yes; Senator Clements, voting yes; Senator Machaela Cavanaugh, voting no; Senator John Cavanaugh, voting yes; Senator Briese, voting yes; Senator Brewer, voting yes; Senator Brandt, voting yes; Senator Bostelman, voting yes; Senator Bostar, voting yes; Senator Blood; Senator Arch, voting yes; Senator Albrecht, voting yes; Senator Aguilar, voting yes. 41 ayes, 5 nays on the adoption of committee amendments.

**FOLEY:** AM1999 has been adopted. Now, next vote, final vote is to advance the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

**CLERK:** 40 ayes, 6 nays on the advancement of the bill, Mr. President.

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**FOLEY:** LB1011 advances. I raise the call. Next bill, please.

**CLERK:** Mr. President, the next bill is LB1013. Pursuant to the rules, Senator Wayne would move to indefinitely postpone the bill, Mr. President--

**FOLEY:** Senator--

**CLERK:** --pursuant to Rule 6, Section 3(f).

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

**WAYNE:** Thank you, Mr. President. Colleagues, this is why, if you start going down the budget path, it's hard to say no if you don't stop the first one or two, 'cause now we're dealing with the actual cash, cash transfers. I think this bill should be IPPed 'cause I don't agree with leaving people behind. Unlike Senator Lathrop, I don't think we have to pass a budget if you're leaving people out. And what we just took a vote on was a budget and cash transfers that left out an entire community-- not just a small population, but the entire Omaha and Lincoln area. And what's amazing to me is the number of Omaha and Lincoln senators who support a budget that has nothing in there for their communities, and I don't think it was by mistake. So if you look at the cash transfers in this bill: LB1015, Perkins Canal, \$53,500,000; LB1023-- the Jedi-- but Lake McConaughy and Niobrara, \$100 million; LB1074, Surface Water Irrigation Fund, \$50 million; Peru Levee, \$5 million; LB813, trails, \$8.3 million; the Lower Platte River Basin public water flood control, \$20 million; new cabins for State-- Mahoney State Park, \$1.75 million, and then the lake somewhere between Omaha and Ashland for \$80 million, which is a total of \$318 million-plus that go to water and trails. Then you look at rural Nebraska besides the water and trails that they get. We have a Nebraska rural project of \$50 million, LB788. Then we have a rural workforce housing of \$30 million, LB1071. Then we have a Agricultural Innovation Center that is slated to be built next to a companion facility that doesn't even have the money to be built yet, but we're going to give them \$25 million, for a total, in rural Nebraska, of \$423 million. Let's just take a moment and see what's going to Omaha and Lincoln, what's behind door number 2-- \$20 million. LB1252 middle income housing, which could be split between Omaha and Lincoln-- \$20 million. Hey, but we want to talk about the proliferation of military and growing our, our military force. Don't worry, we've committed over \$60 million to them-- STRATCOM promotion, \$5 million, LB1233 Military Base Development Fund. Yes, for those who are looking at a home that has a golf course, that has tracks, that has grass for a parades where

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they can stand up in line for their parades and practice their parades. And we're going to give money to a private contractor who's failed to maintain buildings, to help them maintain the buildings-- \$25 million. Then we got a public-private partnership, LB1232, which, when I drove by there yesterday, it seemed like they were already clearing out trees. So that's \$20 million. Bellevue Readiness construction, \$7.6 million. Then we have some stuff about generator backups and interior remodels of about \$1.3 million. And then we got to share costs with the federal government for military of about \$1.9. So we're going to give \$60 million-- a little bit, \$60.8 to benefit military, mostly federal. So if you look at all of that combined, outside of the Omaha and Lincoln area, we're looking at about \$480 million out of the \$513 cash transfers going to everywhere but where our most population are. And you say, Well, hey, we represent all Nebraskans. You're right. I'm representing every Omahan and Lincoln who is being left out and left behind by this budget. And I'm telling you now-- mark my word-- that last vote is going to be the vote that determines whether you're going to be welcomed in North Omaha. Because, if you're willing to leave them behind again and claim during election season, I'm going to ask for their support, that vote will be brought up at every event. Because out of the \$513 million, \$20 potentially could go to the community that all-- I hear all the time down here, Senator McKinney, about redlining, about Highway 75 destroying North Omaha, about the institutional racism, about our kids being behind in school and how we're going to fix all of these things. But yet, as a state, we have refused to invest in those communities this year. And I will go toe-to-toe with anybody from the Appropriations Committee can tell me if this state budget, and this particular bill with the cash transfers, is investing equitably into North Omaha and South Omaha. I will challenge the East Omaha senators who are on Appropriations to tell me how that happened. Tell me how we have two East Omaha senators on Appropriations and we're left behind. I've been down here for 6 years, I've watched this body for over 15 years, and I have never seen this type of intentional neglect and discrimination when it comes to cash transfers in this body; and everybody is signing off on it. And if people get a little uncomfortable and hurt feelings 'cause we're having a real conversation about this now, too bad. But we're struggling to ask for \$250 million for a community that everybody, I thought, said they wanted to support. But we can transfer \$300, almost \$400 million to everywhere else and not blink an eye. I think I'm supposed to be in an Exec right now over in Natural Resources. And here's the sad part, colleagues and people who are watching at home: nobody gives a damn. We will have a longer debate about irrigation districts, and what they

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do, and how they're important, than the fact that over 200,000-- actually, if you want to be completely honest, about 700,000 people are completely left out of the budget when it comes to cash transfers. We will have a more serious conversation about the need for Perkins Canal to be built, potentially to get water from Colorado 20 years from now, than we will about truly investing in North and South Omaha-- hell, Lincoln, for that matter. We will have more debate in the last three days about \$8.3 million on a trail than we will about neglecting an area we so-- say every day we are going to try to help. We're going to have more conversation, Senator Flood, about \$20 million to InternNE on a state budget than we will about the people being left behind. We are going to have more conversations about Ogallala and Niobrara getting marinas than we will about North and South Omaha and Lincoln being left behind. And we are definitely going to have more conversations during the state budget process about a lake than we will about the needs of the people being intentionally left behind. No one gets to walk away from that last vote, not by me anymore. Senator Lathrop has his ability to tie up this bill afterwards and tie up the previous bill like he did. And he's saying--

**FOLEY:** One minute.

**WAYNE:** --at all costs, he doesn't want a prison built. Got it. We need to have reforms. Got it. But at all costs, we got to stop leaving people behind. There won't need to be a need for a prison if we invest in communities. There won't be a need for a prison if we take time out to put, dollar-for-dollar, what we're putting in water projects. But we don't do that. And I can tell by most of the people in this body, we're not even listening. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Wayne. Senator Stinner, you are recognized.

**STINNER:** I think I'm-- is that me? OK, thank you very much. Mr. President, members of the Legislature, I only have five minutes because of this IPP. I was actually prepared ten minutes, but I want to talk about the last vote, and I do appreciate-- it was more than I expected, actually. But here's what that last vote was about. It was about wage, continuing the wage increase for employees for the state of Nebraska. Those employees that the Governor negotiated, renegotiated those contracts, if we didn't pass that, would have-- didn't have the resources. So you're back to Kearney Veterans' Home, now fully occupied, now fully staffed. You're not going to get those, those raises this second half. And I'm going to task, I'm going to test everybody here to go home and find a nursing home, and go visit with those folks and find out what's happening. They don't have staff.



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You go to Mullen, Nebraska, this summer, and ask the people in Mullen who just lost their nursing home, what happened? Or Valentine or Pender-- 15 percent, we gave 24/7 facilities 30 percent. In that mainline budget, we're getting halfway to the wall. We're going to use ARPA to try to bridge the rest of it. That's the strategy. But find out, when you come across somebody with a-- that needs some help-- developmental disabilities-- and say, you know what, I don't really care about you. I'm only going-- I voted against that budget. I voted against you because I don't care if you have providers-- 35 percent occupancy rate in providers for DD. And oh, by the way, if your family member has anxiety, if your family member is now hooked on drugs or suicidal, there's no behavioral health folks out there to help you. You'll just have to wait till you have to call the ambulance because we didn't increase provider rates for behavioral health. The number one problem in the state of Nebraska right now is mental and behavioral health, so that's an important area. And then I want you to go to the county jail to make sure that there isn't any kids on child welfare, sitting in the county jail, waiting for some kind of place to go, because there are no providers out there for that either. And so we're giving them 15 percent, halfway to the wall, so that \$12-an-hour person now can get really close to \$15. That's what that vote was about. That's what the budget's about. And I am absolutely going to get back on the mike and we'll talk about this cash reserve situation. And I, I will say this. Let's talk about what the Governor proposed in his: \$175 million for a replacement of a prison-- no strategy for overcrowding. We're trying to develop a strategy on the run here, and that's called reforms. We're trying to say yes from Appropriations' side, we agree that something needs to be done. Yes, we have an overcrowding problem. Yes, we're going to provide those resources, but we have to have a strategy on overcrowding, not just replacing beds. We're not adding capacity, or if we are, what's just minimal or marginal. And of course, the Perkins Canal, you know where I was that on that-- \$500 million for a canal all of a sudden. Are you kidding me? You know where I was at on that.

**FOLEY:** One minute.

**STINNER:** My committee decided \$53 million was a good compromise; I didn't. I think there's a process here because we don't know what we don't know about that. And you're ready to commit \$500 million, 10 percent of the total goddamn revenue of the state to a project you don't have a clue about. So we're at \$53 million; we cut it back. Is there something wrong with that? Was there a conspiracy behind that? Probably not. In any event, I'll be back on mike. I'll defend what we put in here as the Appropriations Committee. It's all hooked to

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recovering from COVID and bridging gaps. And if rural Nebraska doesn't mean anything to you, you better look at the statistics because all we have is, is a depopulation of rural Nebraska. Until we do something as a Legislature, until we understand our duty--

**FOLEY:** That's time.

**STINNER:** --to the safety and well-being of the people in Nebraska, we're failures.

**FOLEY:** Thank you, Senator Stinner. Senator McKinney, you're recognized.

**McKINNEY:** Thank you, Mr. President. I rise in support of the motion to indefinitely postpone the budget, LB1013. Yesterday, on my way to work, I was listening to my favorite album ever by my favorite artist ever. And there's a line in a song-- well, the album is entitled "Me Against the World," and Tupac is my favorite artist ever. And in the song "Me Against the World," he has a line that has always stuck with me for my whole life: Politicians and hypocrites, they don't want to listen. And that's what this body is doing. They don't want to listen. And I woke up today in a good spirit, and I got time today, Senator Wayne. So would Senator Geist yield to a question?

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

**GEIST:** Yes, I will.

**McKINNEY:** Senator Geist, does District 25 want a prison?

**GEIST:** I would, I-- you know, I would guess probably not. District 25 doesn't have enough space. We have too much, too many houses and--

**McKINNEY:** So where are we-- yesterday, I was asking and I've only spoke to one senator in this body that has actually said yes to a prison. Another was a maybe. So where are we going to put a prison?

**GEIST:** You know, I have heard it will be somewhere between Lincoln and Omaha so that we can get a population base large enough so that they can have good employee opportunities, employment opportunities. Where specifically, I do not know.

**McKINNEY:** OK. Also, the state of Nebraska has the 10th highest black incarceration rate. Do you think that's acceptable?

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**GEIST:** You know, Senator, I think this, this deserves a long discussion. I don't like the disparity that is between our population races. I don't like that. I am highly in favor of infusing your community with jobs and opportunities. That's why we're working together on another bill. I think as a, as a state, actually as a country, we need to rethink how we have not served your community. So no, I don't think it's acceptable because I agree with you and Senator Wayne that, when the opportunities have come to infuse your population with state dollars, we've not taken advantage of that to the full. And I think we have left you behind. So I am committed to working with you to help your population.

**McKINNEY:** Thank you. And according to the-- not the ARPA funds, but the budget-- we're not helping my community. There's a set-aside. People can say a set-aside is not in the budget, but there's \$175 million that is set aside on the table, not on the table. Somebody could drop the amendment and it could be on the table that could be used to infuse and revitalize my community, Senator Wayne's community, Senator Vargas' community, Senator Aguilar's communities. But we want to build prisons. We want to be the worst in the nation at criminal justice. We want to build prisons, we want to enhance felonies. We want to do all these things and then say, you should come to Nebraska. It's a great place to live. But if I was out of state and I was doing a Google search of where I'm going to go-- I have, you know, I have a daughter, and where do I want to raise my daughter as a black father? And I go online and say, oh look, Nebraska has the 10th highest black incarceration rate. The city with the most black population in the state is the most-- well, the area is the most impoverished.

**FOLEY:** One minute.

**McKINNEY:** Why would somebody from my community, somebody black from out of state come to Nebraska? Is Nebraska not for everyone? Or are we trying to improve Nebraska to make it for everyone? And that's something we have to think about. But you know, I have time today and, you know, I'll repeat it again. Politicians and hypocrites, they don't want to listen. So let's engage today. I'll be asking other people questions, too. Thank you.

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

**FRIESEN:** Thank you, Mr. President. I guess, when I'm going to talk about the budget-- and I think some of us were painted with a pretty broad brush-- I am just upset with the budget; and it's nothing personal. I didn't get a chance to amend it, I didn't get a chance to

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change it. And so if I don't get a chance to do that down the road, I'm going to be against it. I think we're spending too much, and I'm not going to talk about provider rates or any of those. I don't-- I will get into that if we get a chance to talk about it. But to say that I voted against it because you're raising wages and increasing provider rates is not true. I think, when we have a budget increase of over 5 percent, I think we need to talk about why we're doing that when, in the past, we've held it down around that 3 percent range. And again, we didn't really have a chance to amend any of the things in the budget, so why would I vote for something that I don't like? And I will continue to oppose it. And I think, when people in Nebraska see how we're spending our money and we start talking about where we're spending that money, I think they're going to be upset too. Over and over, we keep telling everyone that we're a high-tax state, and the first time we get more money to spend, we spend it all. So let's talk about the different items in the budget. And if I can get to them and make amendments to them, I will. And if I can get the budget to where I like it, I'll vote for it. And otherwise, I'll vote no. There's nothing wrong with that. My priorities have always been a little different. I've never had an Appropriations bill. I have tried to get funding to nonequalized schools, but never once have I been in front of Appropriations for a spending bill. And we talk about how I'm a little bit like Senator Wayne. We talk about how conservative we are and everything else, and then we're voting for a budget that's, I think, excessive. We're spending on things that I don't think we should be spending on. And we're really not getting a chance to amend that budget yet. Maybe if enough people voted no, there'd be that opportunity, 'cause somewhere down the line, we're going to have to have a compromise. Or maybe we'll just run out the rest of the session and there'll be a lot of bills left on the floor for the next year's Legislature to deal with. I don't care. There comes a point-- and we all knew we'd get to this point when we wasted a lot of time earlier. We knew we'd get to this pinch point when we run out of time that we would all be starting to get angry. We'd all start to fight over what we want. I don't have an ARPA bill.

**FOLEY:** One minute.

**FRIESEN:** I don't have an Appropriations bill. We don't have to pass a budget. We have to do that the first year. So I want to actually be able to make some amendments, make some changes to it. And it's not that I don't trust the nine members of the Appropriations Committee, it's just that I want a say in it, too, a little bit, just like we do with all the other bills. Thank you, Mr. President.

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**FOLEY:** Thank you, Senator Friesen. Members, Senator Bostelman would like us to recognize some guests that we have with us, 38 fourth-graders from St. Wenceslaus School in Wahoo, Nebraska. Students, please rise. I'd like to welcome you to the Nebraska Legislature. Senator Linehan, you're recognized.

**LINEHAN:** Thank you, Mr. President. Good morning, colleagues. There's a lot of things in the budget I like, too. I feel like I should just repeat pretty much, word for word, what Senator Friesen just said. There are several things I like in the budget. And yes, I'm all for increasing provider rates, but I'm also looking at the big picture here on what we can afford. We, we came here, my class came here a year after several of our senior members, who are leaving at the end of this session, and we were broke. The year before we got here, they spent a lot of money. It wasn't just 'cause revenues were down; spending was way up. And I don't want to repeat. And I have been, as you know, in government in one way or another, for almost 25, 30 years. And I have seen people vote no and get yelled at. I, I-- it doesn't bother me. The majority, even if it's a supermajority, sometimes makes a mistake. And I'm 100 percent in agreement with Senator Friesen and Senator Wayne that we need-- this is-- we need to talk about these things. I asked yesterday, on the mike, and I got an answer from the staff and I appreciate it, but I'd like the answer on the mike. As we keep going through this, we're using all these cash funds, the way I read the bill-- maybe I'm not reading it right-- we're using a lot of cash funds to increase these provider rates. Is that sustainable? Will those cash funds be there next year and the next year and the next year? Because anybody that's been in the Legislature or any kind of government, whether it's federal government, once you start a program, it's-- you, you do not back down. It doesn't do anything but go up unless, in very dire, dire situation, which we were in the first year we got here, you don't have enough money. I, I'm not-- there were things in the Governor's budget that were really, really important to me, and they're not in this budget. And there were important things in the ARPA's Governor's budget that were important, and they're not in this budget. I, I don't-- and I, too, have never taken a-- I've never taken a bill to the Appropriations Committee. I didn't actually know until this time that you have to go to them to get money 'cause we didn't have any money like, I don't know, what was it-- the first two or three years we were here? You couldn't bring a bill if it had an A bill. You couldn't even bring the bill to the floor. That was one of the rules by Speaker Scheer. If you have an A bill, forget it; we don't have any money. I don't want us to put ourselves right back in that position.

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And I don't think we're being unreasonable to think that there might be some wiggle room on the budget, that some of the rest of us might have some input. I tried, off the mike, to talk to Appropriation Committee members. And then on the mike, though nobody's name was brought up, I was criticized for asking questions. I didn't even do it on the mike. The idea that we would like send this sailing along without any discussion about how we're going to sustain all this bothers me greatly. And I've had, I've had the same priority bill since I've been here, and I've never got to clo-- cloture, and I've never stood up and screamed at anybody. And it was for-- it's \$5 million. And I've been told it would break schools and would kill our budget, and there's no way we could get there.

**FOLEY:** One minute.

**LINEHAN:** But now we're spending hundreds of millions. I think the number on provider rate increases is \$94 million, and nobody's concerned about how we're going to pay for anything else. I don't get it. Thank you, Mr. President.

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

**GEIST:** Thank you, Mr. President, and I echo the sentiments of Senator Linehan. I, I have been talking with people who have been here before in the past, and they noticed, as well, how sit-- what term limits has done. One of the, the problems that we see-- and I see very many, and I take responsibility; I'm sure that I voted for term limits. I never would again because we don't become subject matter experts. And so what happens is, we don't do what Senator Linehan is asking, and ask questions, and dig deep, and think. We-- it's so easy here to just go with the flow, do what everybody else does, find a subject matter expert that you think is in another committee, and just vote how they vote. And we definitely need to have a third term, but I'm not speaking on that. And actually, I-- this is the last time today, during a budget debate, that I'm going to speak on anything that has to do with Corrections, because I really do think we need to do exactly what Senator Linehan is saying: ask questions, understand where we are and where we're going, what we need, what we agree with and what we don't. But right now, I just, I want the body to know, and I want you all to know that, that I think we're at a place that would-- actually that Senator Lathrop said we need to talk to each other. And Senator McKinney asked me a very important question about incarceration rates for African-Americans. What we're looking at-- and I'm just going to say the taboo, anti-political thing-- what we're looking at across the country, not just in the African-American

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community, but in the Hispanic community and the white community and every other community, is an absolute breakdown of our culture and our families. Now, government can't fix that. So all we can do is respond to it. And how we respond to it is very important, and a lot of that response is reflected. A lot of our thinking of how we work in society is reflected in our Corrections philosophy. So I'm just going to tell you my Corrections philosophy and what I run all of these things through and why, in some areas I agree 10,000 percent with LB920, and, in some areas, I just disagree. That is a good, strong parenting philosophy. And I know that sounds really simple, but it's really rare these days. And that is, when you're raising good children, you have rules. Those rules are meant, are there to be followed. If you don't follow the rules, there's a consequence. Children should know when they do X, Y or Z, here is their consequence, and that consequence does not change. However, to the degree that that kid complies, they get more responsibility and they get more opportunity. If we continue to lower and lessen the consequence, and we have very paltry opportunity, we have out-of-control children. And that's what we're doing. That's why our youth who are at risk, that's why our adults who are at risk are not getting better, because we're lowering the expectation, and we're not giving them a robust opportunity--

**FOLEY:** One minute.

**GEIST:** --to get better. That's why I support recidivism, focusing on that, making sure we help people not come back. But I disagree with lessening a penalty because then there becomes no consequence for behavior. Thank you, Mr. President.

**GEIST:** Thank you, Senator Geist. Senator Wayne.

**WAYNE:** Thank you, Mr. President. First, what I heard a lot from-- more about from Senator Stinner was rural Nebraska, but let me be clear about the increase in provider rates. The increase in provider rates no way automatically translation-- translates to increase in wages. That's a beautiful lie. The provider could actually keep the 10 percent and only give a 5 percent increase, or they may not give increase at all to wages. That's going to be up to each individual provider. So I'm not going to feel guilty for voting no on a bill that increases provider rates when, at the end of the day, North Omaha, South Omaha are left behind. And it's not just North Omaha, South Omaha. It's Lincoln, and it's any other impoverished area in Nebraska that is left behind on a budget where we have more money. So I started thinking, well, maybe they didn't include any budget bills for North or South Omaha because-- I thought about it. I didn't really bring a

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budget bill from North and South Omaha. I don't remember if Senator McKinney did, but I don't think maybe any of us did. But then I go to Page 3, and I see the first one is the University Agriculture Innovation facility. That was originally an ARPA bill. So that means clearly they're having conversations about what could be an ARPA and what couldn't be. So if North and South Omaha was an investment area for our state, then clearly they could have found a way, just like they did here, to invest. They chose not to. No more passes, and if this costs me \$450 million, fine. If we want to get hurt feelings over this debate, fine. But nobody's getting hurt feelings over Senator Lathrop not allowing anything to be adjusted on the budget. But if I stand up and say something, it's a problem. But here's the reality, colleagues. Let's talk about the process on the floor. Senator Lathrop has already committed that there is nothing he's going to do except for keep going through his eight hours. So to all the people who want to actually do something to the budget, you have to vote for the IPP motion. You have to vote for it to stop this bill, which can be brought up again, and make them come to the table. Otherwise, we're going to have 40 people vote for cloture again, and we're going to keep going with the same get-along. Look at the Select File. There's already amendments on there. We're going to be tied up again for four or six hours. You will not be able to make an adjustment on this budget. So instead of agreeing with me on the sidelines-- and I would I would disagree with Senator Geist on this-- don't talk to me on the sidelines about you agree; and I'm not accusing her of that. There's been a lot of people who said, I agree. This process, we should have had more dialogue. This is an unprecedented amount of money. We should have figured out how we could have all worked together. Don't talk to me about that no more. It's time to do something. And you do something by your vote. You say there's too many ir-- irregular, irregularities in this process. And it's not the process. I'm not blaming Appropriations for the process. I'm saying, but when you have unprecedented amount of money, the process should have changed. When you have unprecedented amount of dollars and you're doing cash transfers, you need to make sure the entire state is taken care of equitably. And if you want to go by congressional districts, it doesn't. No way you divide it, are we talking about cash transfers that takes care of the whole state, the whole state, nor how you divide it. We're talking about a state budget that takes care of the whole state. And we're supposed to just be OK with that because of provider rates. It's the same thing that I always keep hearing about maybe next year. Well, this is so important, we got to take care of X, Y and Z. Well, when is my community going to be important enough for this body?



**FOLEY:** One minute.

**WAYNE:** When is East Omaha going to be important enough to Appropriations? When do we get to walk back into Omaha and say, Hey, our Legislature cares. And don't give me the ARPA line; that's federal dollars. When is the state going to invest? When is the state going to invest in Grand Island, who's having a cultural change there and we're just ignoring it? When are we going to invest in Fremont, Lexington? When are we really going to sit down and start looking at, as a state, where there is change occurring with just the demographics? How do we do it? And you know what else, Senator Stinner? We got the same damn brain drain in North Omaha. Senator McKinney's district lost over 5,000 people through the last census count, census takings. Why? For the same reason rural is. The difference is, we're investing in rural, we're not investing in Senator McKinney's district. Thank you, Mr. President.

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

**ALBRECHT:** Thank you, Mr. President. Colleagues, I rise to just visit a little bit about these nursing homes. I do happen to have one in Pender, Nebraska. Just got a letter yesterday from the CEO, letting us know that it was a very difficult decision, but one that had to be made. They wanted to personally let me know that the closing of Legacy Garden Rehabilitation and Living Center in Pender, that the board of directors voted on Monday evening on the closure, closure of this particular facility. Staff, residents, and families were just made aware last evening of an in-person meeting. I'll tell you, I think we've all had our family members, parents in these nursing homes and these facilities. And one thing I will say about rural Nebraska, when they take care of their people, they take care of them in ways that-- they treat them like they're their own family. And, and I think it's more of a case that it's hard to find individuals to staff those facilities. But, you know, here we are running a day late and dollar short. Those folks deserved our attention very early on. Unfortunately, we only meet every 60 to 90 days to take care of these things. But we knew with what was happening with COVID, what was going on in these facilities. But again, you know, maybe we should have called a special session. When you have to call families and get them to try to find a place and then, you know, right, right in the next town where I am from, they have another nursing facility. And I mean, I don't even know where they're going to take these 17 people. You know, you want to keep them close to home so he can go visit them and do what you need to do to keep them happy and, and thriving. But you know, whether, whether we can get these funds to them fast enough is

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going to be the question. But at the same time, I think of all the other things that are in, in our budget, and I think it's important for every one of us to stand up and speak to our constituencies because they need to know what is in these, in the proposals that may benefit them. But I'll tell you what, when it comes to, you know, people with disabilities, mental health patients that are going into our, our Corrections, I do have heartburn over that. And I would-- and I, along with many of the people in my district, feel very strongly about building those facilities to accommodate law enforcement so they don't have to drive from one corner of Nebraska to the other corner for a safe place to keep a mental health patient that has been arrested. There's a lot of things that we need to have priorities on, on this floor, whether it comes to the children, for the inmates, for the elderly, and everything in between, we have got a responsibility to do the right thing. You know, I understand and I so appreciate Senator Stinner-- I certainly do-- and the task that he and his committee have. But at the same time, I, I just don't feel like 49 senators are able to just-- if you don't get into that committee to talk about what you need, then you just really don't have a say at the table. And that Appropriations is probably the most powerful of all committees in this building because they do control the purse strings and whether we're putting too much money in one place or another; that's for them to decide. But it's for us right now to be talking about, and we need to be able to--

**FOLEY:** One minute.

**ALBRECHT:** --to talk about it with each other because there are things that are going to be needed to be changed. And we can't just take up this time without letting our, our folks know back home that, hey, we hear you. We're going to do the best we can to, to make something happen. But Nebraskans, it's not that easy to make it happen on the floor of this Legislature when you're tied up talking about one particular issue. And I mean, those who know how to work the, the tables understand exactly what they need to do to stop anything from being talked about. But we do have, you know, some, some saving grace here when the Speaker decides which one becomes most important to him and/or many who go behind the curtain and decide which ones go forward and which ones don't. So I just hope and pray that we do get through this without a lot of issues and--

**FOLEY:** That's time.

**ALBRECHT:** Thank you.

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

**DeBOER:** Thank you, Mr. President. Good morning, colleagues. I was wondering if Senator Stinner first would yield to some questions.

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

**STINNER:** Yes, I will.

**DeBOER:** Senator Stinner, what's the process for getting money into this budget? What--?

**STINNER:** Well, the original process for the budget recommendation is that, through bills that are accumulated and referenced to the Appropriations-- now remember, bills for-- referenced to Appropriations, there's existing laws, and what you're asking us to do is either increase an existing program, decrease in existing program or, maybe, increase or decrease certain things in, within that bill. For an example, microloans, we actually increased the amount of loans from 100-- \$100,000 to \$150,000. That would be changes that we're allowed to do and are asked to do within the budget process.

**DeBOER:** Do you do things without a, a bill?

**STINNER:** No, we have to have a bill.

**DeBOER:** So if I want to do something,--

**STINNER:** I take that back. That is not a correct statement; I'm sorry. That-- when we, when we review agency requests, we can go increase an agency or decrease an agency's request, and that's part of the Appropriations process. We can increase their request as it relates to Appropriation, that's cash funds and that's fed funds. So we do make adjustments without bills.

**DeBOER:** And is there a difference between the process for the mid-biennium and the beginning of the biennium?

**STINNER:** Actually, there is, and I, I will point out two things that came to us that were a little bit unusual, was STAR WARS obviously went to a committee to create a STAR WARS program, and it was referenced-- the spend part was reference to the Appropriations in order to appropriate those amounts. That was unusual. The other one, I believe, was-- I'm just trying to think there was probably another exception to-- oh yeah, the canal. The canal went to Natural Resources to get processed, and obviously the spend part came to Appropriations.

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So those would be two pretty unique situations. Now, we did have bills in ARPA, and Senator Wayne is correct in what he has said on the mike, that we did have bills and he did have an ARPA bill in Appropriations, and we had a South Omaha bill. On the ARPA side, we tried to put together a package, and I asked Tony Vargas to put a package together that dealt with the qualified census areas. And we wanted to make it a fairly substantial package because we felt like ARPA really did have a significant portion of ARPA directed toward qualified census areas. So he is correct. We could have-- and he's probably correct-- Also moved some of those ARPA requests out into this Cash Reserve Fund. Obviously, we did not. We did middle income. There is a section there that we moved some of that middle income to a revolving fund here because a revolving fund didn't comply with ARPA.

**DeBOER:** So how did you decide which ones came from ARPA and which ones came from the cash reserve transfers?

**STINNER:** Generally, what happened was, if there was an ARPA request that was a legitimate ARPA request that was going to be passed, but there was a portion of that request that did not fit within the guidelines, but a portion does. Internships would be one, rural housing would be one, middle income would be another. Those are the three that I can point my finger to, that have an, an ARPA request. But ARPA has, has you spend all the money within a certain time framework, so if you're dealing with rural housing,--

**FOLEY:** One minute.

**STINNER:** --that actually goes over a longer period of time It actually benefits the, the rural workforce housing. It actually benefits middle-income housing because it stretches, so there's no time limit to, to utilizing those funds.

**DeBOER:** OK. Senator Wayne, would you yield to a question?

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

**WAYNE:** Yes.

**DeBOER:** We only have a few seconds left, but Senator Wayne, what did you want in the cash-- I mean, I know you've got some of the ARPA funds for a project that you had requested. What bills did you have that didn't get something or that you want to have in this cash reserve? What, what is it that you want?

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**WAYNE:** Increase in housing, there's an increase in cash reserve-- or the transfer that Senator McDonnell got for the, the building in Sar-- south Sarpy. So ARPA funds building, you can only-- you can't build anything vertical, whereas cash funds, you can help with the actual construction and building of things. So cash funds like that would've--

**FOLEY:** That's time.

**WAYNE:** --been helpful. Thank you.

**FOLEY:** Thank you, Senator DeBoer and Senator Wayne. Senator Morfeld.

**MORFELD:** Thank you, Mr. President. Colleagues, I want to get up and just respond to a few of the things that have been said on the floor so far this morning. I mean, I think that we can all agree that, when crimes are committed, particularly violent crimes, there needs to be consequences and punishment. I don't think anybody is going to disagree with that. The issue that we're talking about more frequently, though, is not violent crime. It is people who literally have addiction issues and are caught with small amounts of drugs that, yes, are dangerous in many cases-- some drugs that are not, like marijuana-- but they're caught with these small amounts of drugs. And then, in some counties, they're literally being charged, pretty much automatically, with a Class IV felony for, literally, trace amounts of drugs that aren't even usable amounts. And that's the starting line, is charging them with a felony. And we're not talking about people that are drug dealing, we're not talking about instances where violence were involved. We're talking about people who literally had a trace amount of drugs on them getting charged automatically with a felony. And if you don't think that's happening, just look to Lancaster County; it's happening every day here. And then, not only that, if you have two or more misdemeanors on your record, even if it was 20 years ago or 30 years ago, based on the local policies here in Lancaster County, you're not even eligible for diversion or one of those problem-solving courts. And then we wonder why our prisons are overcrowded and full of people who are nonviolent. It doesn't make any sense. And I'm sorry, I agree to a certain extent that you must have consequences for people who break the rules, particularly if they're in Community Corrections, Diversion, problem-solving court, whatever, but I don't know of anybody in here-- and I know there's plenty of people 'cause I know many of you very well, but there are a lot of people in here who know what it's like to have somebody who's close to them that are addicted to something. And you don't just get over it the first time, the second time or the third time getting caught.

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Oftentimes people with addiction, it takes many times. And what we have is, we have a system in place that is overly punitive with people that are just dealing with addiction and substance-abuse problems. And then in many cases, in order to be a part of the problem-solving courts, they are signing something saying that they will plead to the maximum penalty if they relapse or violate the rules once. So then what we have is, we have a bunch of people who: one, can't even get into the Community Corrections system, who would otherwise be good candidates, because they might have two misdemeanors from back when they were 18 or 19; and then, two, we have county attorneys and individuals who are making those people who are lucky enough to be able to even get into these programs, sign something saying I'm going to plead to the maximum, plead guilty to the maximum penalty, if I relapse once or twice or even once-- I don't even think they get a second chance. So this is the type of systems that are currently in place--

**HILGERS:** One minute.

**MORFELD:** --across our state, and it depends on the county. So granted, we have some counties that are probably doing it really well. So I'm only telling you, based on my experience in the county that I live in and represent part of it. But this is what we're talking about. This is the problem. And when somebody is dealing with addiction, it's not just, oh, well, you screwed up, and now you should go to prison for two years. Like, that's not the answer, colleagues, but that's the answer that a lot of people apparently have bought into on this floor. And when it comes to nonviolent crimes, particularly ones dealing with addiction and substance abuse, we have to be more thoughtful. We have to be more thoughtful because otherwise what we are doing is, we are throwing them in a system that is ill-equipped to address their needs and they're coming out worse. And this is the reality across our state. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Morfeld. Senator McKinney, you are recognized.

**McKINNEY:** Mr. Speaker, I rise again, and I saw something that really speaks to the point of why we need to rethink criminal justice in the state of Nebraska. The other day, a white kid in Millard shot his kid-- shot his friend. The headline, ketv.com, says: 'he's a good kid.' Omaha teen charged with manslaughter for shooting death is released until the court date because they want him to finish high school. But I could think of countless individuals from our community that wanted to finish high school, that made a mistake, that were

deemed as a horrible person and was not released and couldn't finish high school, that was shipped off to the State Penitentiary; and nobody cares about them. That's what we talk about when we say the criminal justice system isn't equitable and it doesn't work for people that look like me. I'm not wishing jail on anybody, but let's be fair, and let's utilize our laws equitably, and let the process go. But wow, somebody is 18. I know somebody that was 18 that got charged with something similar, and they were not given a bond. If they were given a bond, it was like a million dollars, and the county attorney stood up and said, these people are horrible people. But when it comes to somebody white in Millard, good kid, needs to finish high school. But what about the black kids that wanted to finish high school, that made a mistake? That's what we're talking about here, and that's what we're talking about when we're saying we got to equitably fund communities across the state; and no one wants to listen. And I also was thinking, where are we going to put this prison? We should put the prison next to the lake. We should. We should put the prison next to the lake because I'm looking at this map, and I honestly don't know where the prison is going to go because almost everybody that's in between Omaha and Lincoln don't want the prison. And the one person that agreed is far western Nebraska, which is, which is not going to help because it's going to create another situation like Tecumseh. So where are we putting this prison? We want to waste a half a billion dollars on a prison, but nobody wants it. Nobody community wants a prison. But we got \$175 million set aside for a prison. So where are we going to put this prison? Senator Brandt, would you yield to a question?

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

**BRANDT:** Yes, I would.

**McKINNEY:** Do you think District 32 would like a prison?

**BRANDT:** Well, they tried for the one at Tecumseh, and they didn't get that. And in retrospect, it's probably a good thing it didn't happen.

**McKINNEY:** Thank you. Senator Dorn, would you yield to a question?

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

**McKINNEY:** Oh, he's not here. I was going to ask him, does District 30 want a prison, as well. I'm, I'm trying to, you know, figure out where we're putting a prison because, up to now, only one person has actually said, I think it's a good idea. The other person was a maybe. So if there's-- and, and that was far western Nebraska-- but they want

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to build a prison between Omaha and Lincoln, but nobody between Omaha and Lincoln would like a prison in their district. So where are we putting the prison? Somebody stand up and say, where are we putting this prison, because nobody wants it. But the Governor wants it. Where are we putting it? Are we just going to eminently take somebody's land, some farmland that is going to create issues? I just don't know where we're putting this prison. Can somebody, please, when you get on the mike, stand up and say yes or no, I want the prison in my district? Because I don't know where we're putting it. Fremont doesn't want it. Omaha doesn't want it. Lincoln doesn't want it, in between doesn't want it.

**HILGERS:** One minute.

**McKINNEY:** Where are we putting the prison? And if we have to really think about that, we should think about why we're setting aside \$175 million that could go to Omaha, that could go to Lincoln, that could go to Offutt, that could go to a trail, that could go to Scottsbluffs [SIC]. But we want to set it aside for prison that don't nobody want, but everybody wants to be tough on crime, but also want to decrease property taxes. And we could take some of the 100-- \$175 million and give it to property tax relief as well. But maybe we just put the prison by the lake. I think that's a great idea. We could see a prison, you could fish on a lake, and you can have a reality of what a lot of people live in our, in our state. Thank you.

**HILGERS:** Thank you, Senator McKinney and Senator Brandt. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, at this time, I am listening to the debate on MO152. I do think I support parts of LB1013 but, with that, I just want to unpack some things that have been said on the floor. I agree with Senator Stinner how important the last bill was in reference to pay increases, but I just want to make sure we say, on the record, that those pay increases, especially for the, the state employees that have nothing to do with the medical field, it's, it's not really good. We're losing employees at a very high rate here in Nebraska because they can go to the private sector and get paid \$5 to \$10 more per hour. So just want to put that in perspective. We're really not doing a very good job of eating that elephant. But I do want to address a little bit of what Senator Geist said. And I know when Senator Geist says something, like she just said on the mike, about children and that it all starts with what happens in the family, I know that she believes that, that that's the solution because that's part of her demeanor, and I respect that.



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But we have to understand that, you know, there's no justice, there's just us. And what does that mean? What that means is that we have people that are incarcerated that suffered childhood trauma. We know that one in six men that are incarcerated were physically or sexually abused by age 18, and even more have witnessed interpersonal violence. And when you witness those things, that creates antisocial behavior. And we have case after case that we can show you where kids grow up in environments where there is the cycle of violence, generation after generation after generation. We know that no matter how, how much the parents try to set rules and have consequences, that those consequences aren't necessarily healthy consequences-- getting whacked upside the head, getting locked in the closet, having food taken away. If we're really concerned about our prisons, it can't just be something as simple as, well, it starts with the family, because we have a pre-K situation in Nebraska that we've started to address, but we can do better. I know Colorado just did a really good job of addressing it, having universal child care, which I thought was exceptional, allowing people to benefit, to pull themselves up by their bootstraps when they didn't have any bootstraps to start with. But I want people to be really clear that there are parents that are in high-crime areas that try really hard to set rules, to set guidelines, and then that child walks out the door. And that child walks out the door and, and his or her peers belong to gangs, or his and her peers are bringing a gun to school or are selling drugs because they live in poverty, perhaps, and they're trying to generate some new, new funds because they've been poor all their lives, and they see that as a easy out. I think that you can definitely instill good things in our children, in your home life, but I think we can't discount the cycle of violence and how, how many people are affected by that. We've talked about sexual assault on this floor before. One in three women experience some type of sexual abuse before the age of 18-- one in three. So imagine that, then perhaps living in poverty,--

**HILGERS:** One minute.

**BLOOD:** --living in an angry household. We can't simplifies all the factors-- simplify all these factors and then say that's why we have too many people in prison. The reason we have too many people in prison is that we're not getting in front of the initial problems that keep our kids safe. And frankly, having worked in the prison system, I can tell you that people who get out faster are the pedophiles. The people who stay in there longer than the pedophiles are the people who commit nonviolent crimes, usually drug-related. Does that seem right or fair? Not to me. Thank you, Mr. President.

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**HILGERS:** Thank you, Senator Blood. Senator Linehan, you're recognized.

**LINEHAN:** Thank you, Mr. Speaker. So I handed out a story that was in the, on the front page of the Omaha World-Herald this morning about what Omaha Public Schools is doing with their COVID money. And I just want to give a shout-out to them because it seems to me that they're making every effort to help kids recover from learning loss, and to help the teachers. And it's an opportunity for me to talk about a bill that I have worked closely with Senator DeBoer on, and Senator, and Chairwoman Walz, about trying to provide beginning teachers extra money so we can keep them in the profession. We had a hearing about this. I've talked to several-- I shouldn't say several-- administrators, young teachers. We lose them between the second and third year and the third and fourth year. Often they leave the profession. And young teachers, let's say their basic pay is-- let's just use \$40,000 because it's easier for me to do the math, and Senator Clements won't have to correct me. Let's say they make, and this is higher than the base for many, I know, but let's say it's \$40,000. Well, they have to get-- out of that \$40,000, they have to give 4 percent to their retirement, which most people in their 20's aren't thinking too much about retirement. So that takes their salary down to \$36,000. And then they have to pay their Social Security, which is another 7.5 percent. I'm not going to try and do that in my head, but it's-- maybe Senator Clements can help me. So you get down to where their take-home pay is minimal. And to increase, to go up in the pay scale, you have to get more hours, more college credit. Well, if you don't have money, how are you going to get more credits? Now, we do have some programs-- and Senator Walz could talk to this-- I think it's in a lottery fund where we help some of them get more hours if they're teaching, we have-- so they can climb that scale. But the idea behind this bill is we're going to get teachers, young people in the profession and help them stay in the profession. And I just noticed this morning, when I was reading, what Omaha has done, Public Schools, five initiatives totaling 18-- this is on page, what, I can't see the page number here-- but it's-- they're using \$18.7 million marked for teachers' recruitment, focusing on licensing conventionals, credentials, professional certification. And this is very important, and it's true, by Fulmore: Having a high-quality teacher in every classroom is a priority. The district will also provide up to 18 credit hours of free graduate college courses. They are separating up to-- a separate init-- initiative, giving up to a thousand OPS teachers will be able to receive up to nine graduate hours of instruction to enhance teaching. They've also-- and this has been in the press already-- but their \$9,000 per student teacher stipend. For

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academic success, about \$14 million will be allocated to student academic support initiatives. And the statistics-- ah, this is excellent-- expand summer school to all students. So instead of going half day, middle class students will be allowed to go all day in the summer school, 'cause we have two years of learning loss here, at least; we all know that. So this is a plan. It's a plan to try and fix the challenges we know we have in front of us. They also have money they've spent on student and staff well-being. I would-- I think one of my concerns with the way we're spending this money on the budgets is, I don't know the plan. I don't know, as Senator Wayne mentioned,--

**HILGERS:** One minute.

**LINEHAN:** --if we increase provider rates, is there a plan that we're sure that money's going to go into wage increases? Does the budget say you will get a 15 percent increase in providers' rates and, therefore, you have to raise salaries 15 percent? I don't think it says that, and I haven't read it word for word. I will reread it this weekend, but I don't think the plan says that. It doesn't matter what's actually in the bill. So I think if we would, like, all get together, and calm down, and maybe talk to each other, there's some things that we could fix here, and maybe we could get to 49 on the budget. I don't know. That might be a possibility. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Linehan. Senator Lowe, you're recognized. I don't see Senator Lowe. We will move on. Senator Wayne, you're recognized. I don't see Senator Wayne. Senator Friesen, you're here [LAUGHTER]; you are recognized.

**FRIESEN:** Thank you, Mr. President-- kind of like winning the lottery. So I'm going to talk a little bit about some of the budget items that I'm seeing, and I think there's-- part of the problem with what we're going through this year, there's, there's ARPA money that funds some projects, and there are some general fund budget items that fund the same projects, and it's kind of getting hard to decipher exactly how much money is being put into things. And I, I look at the, the rural workforce housing, the, the middle income housing that's being proposed. And I'm kind of wondering, I, I guess-- if somebody can answer the question of-- so we put more money into housing and, right now, when I go across the state, every builder out there is building houses as fast as they can build them. There's a shortage of materials, costs are shooting up. And so how does putting \$40 or \$60 million into rural workforce housing, how does it get any more houses built? We're on a short time frame here, I think, especially with the ARPA money. And I don't know that, if it's allowed to be put into this

revolving loan fund or, or how that works. And so maybe Senator Stinner, if he would be here, could answer some of those questions. But those are some of the things I wish someone would address a little bit, and tell me how that's going to build more houses in Nebraska 'cause right now, we have heard over and over that you-- everyone is busy, they're swamped. There's a shortage of materials. And yet now, by pouring more money into it, we're suddenly going to build more houses. We don't have a workforce. There's, there's companies out there who would like to add another crew, whether it's putting in fiber or building houses. Where are you going to get the people from to do that in order to spend the money that we're throwing out there? So those are things I think we need to look at. And that's why I-- when I looked at what the federal government did in their stimulus program, and when they, they basically built a five-year program, and they throw billions of dollars at us and say, get it spent. And all it does, really, is drive up the cost, and we'll get less done for a lot more money. Now, if we were responsible, we would develop programs that probably went out ten years and said, even the Department of Transportation-- give us a ten-year program where we're going to give you so-and-so much money for the next ten years. Now you can build a program where you can actually get companies, maybe in time, to ramp up their ability to put in new roads or resurface roads or build bridges. But right now, everybody I talk to is-- they're busy, they're booked out a couple of years. There are not people out there to do the physical work. You can spend, you can throw money at it, you can put money in programs, but it's not going to build you more houses. It's not going to get you more roads built. And the federal government is saying, here, here's all this money. Look what we've done for you. And in the end, if it all has to be spent by 2026, sometimes it's going to be physically impossible to do. And then they're going to have to decide if they want to reclaim the money or not. And my guess is they don't. But when we look at programs that we're doing here, are we throwing too much money in at one time? Is it going to help or is it just going to drive up the cost? And I'm not talking about provider rates or any of that. I, I do question whether or not 15 percent, I think it allows them to go there. I don't know how that process works, but if I think at one time, that's probably plenty, too, but I've not had a lot of--

**HILGERS:** One minute.

**FRIESEN:** --contacts from nursing homes and those types of facilities. I know they want provider rate increases. I get that. With inflation coming, I do believe there should be some. Should it be 15 percent? I don't know. So those are the types of things, when we're doing this,

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we've got to look at this and kind of put all the pieces of the puzzle together. And that's what's so hard this year is we've got the ARPA money, which has different restrictions on it than our General Fund dollars or money taken out of our Cash Reserve. We're going to do a lot of these projects, but sometimes they're intermingled and sometimes they're not. But again, I question how putting this much money, sometimes, into rural workforce housing, unless it's a revolving loan account that can be there for 10 to 15 years. I don't see that we're going to get any more houses built. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Friesen. Senator DeBoer, you're recognized.

**DeBOER:** Thank you, Mr. President. If I'm going to decide on something as significant as whether or not to indefinitely postpone part of the budget, I do want to have some answers to some of these questions, so we'll start with what Senator Friesen just asked. Senator Williams, I believe that's your bill on the rural workforce housing. Can you tell me, are we going to have too much money for the amount of workers and housing folks that we're going to actually have in this? Can they use it? Will they use it? And what will they use it for? Senator Williams, would you yield?

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

**WILLIAMS:** Yes. And I did hear your question, and I appreciate the questions that Senator Friesen has had about this. We've been through two rounds so far of the rural workforce housing, and both of those rounds have been oversubscribed, meaning we had more applicants than we had dollars to put out. And remember that the communities were matching those dollars. Whatever they received in the form of a grant from the state, they had to match that with private money to build that. So far in the two rounds, there is one project that I'm aware of that they have struggled finding a contractor. Every other project, they have not had that issue that Senator Friesen is bringing up. They've been able to find contractors. In particular, I would point out the, the projects that are going on in Aurora themselves that he has been to. We have changed the rural workforce housing program slightly in LB1069 that will be coming up, to make it a little bit easier to find contractors with the grant portion of it. And so we believe that it will-- if, if you tie everything together, we are requesting \$50 million. There's \$20 million of ARPA funds, and there are \$30 million of rainy day funds in this. And the program has been extended for five years, so it would basically allocate \$10 million a

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year in this. We feel confident-- and we've worked with DED and the people there, Sheryl Hiatt, that we have the contractors, and we will have plenty of requests for that money.

**DeBOER:** All right. Thank you, Senator Williams. Senator Wayne, I'm sorry you got cut off the last time we were talking. So I'll throw you the question, as well. What was it that you wanted in this particular cash transfer, what bill you had? What did you want? What got funded? Where and how much? And what do you want left?

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

**WAYNE:** Yes. So the short answer is, we put a package together of \$450 million. The-- Appropriations only gave us around potentially a minimum of \$50 million-plus, so \$110 million. So there's plenty of other things that could have been funded, such as the historical districts, such as 24th Street, Malcolm X, Florence, which is no different than what Senator Sanders was doing to LB2-- LB1233. That was a \$25 million request from Senator Sanders that she got for basically beautifying areas: lakes, green spaces and things for the community. We had the IHub building where Senator McKinney actually pulled and rewrote his IHub to not get funding because we were going to fund that through ARPA, and that's no different than the LB1107 small business revolving line-- I mean, a revolving loan account that's in LB1107. So there are plenty of things that we could have used cash transfers from, that were a part of our plan that the committee did not decide to take up. That's just three. I can name more if you want me to keep going.

**DeBOER:** OK, so these are one-time funds that you're asking for that are from the cash transfers--

**WAYNE:** Correct.

**DeBOER:** --rather than the last budget, which would be sort of ongoing expenditures? Were there ongoing expenditures, as well?

**WAYNE:** We weren't asking for any ongoing expenditures at this point, but we could, we could definitely do cash transfers, we could do on go-- ongoing spending, but the point of it is, is there was a lot of--

**HILGERS:** One minute.

**WAYNE:** --areas in which the committee could have chose to fund, but chose, chose not to.

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**DeBOER:** OK. So what I'm understanding is that, at this time, you didn't have, as part of your proposal, a request for ongoing expenditures. Your proposal was focused on one-time expenditures to build this hub that you talked, the, the--

**WAYNE:** Yeah, most of them are--

**DeBOER:** --you said the name of it. I'm sorry, I can't--

**WAYNE:** IHub, IHub, but most of them--

**DeBOER:** IHub.

**WAYNE:** I can go line-for-line on our cash transfers and find something that was in our plan that is similar to what we did with, with cash. I can literally go line-by-line from parks to buildings.

**DeBOER:** OK. So with respect to this then, the cash transfers, about how much more would it take to get you to the total amount? I don't know what's been allocated for ARPA.

**WAYNE:** I mean, if I was trying to be equitable, I would say Lincoln and Omaha should just, should get just as much as we putting into water, and--

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

**WAYNE:** --and rural.

**HILGERS:** Thank you, Senator Wayne, Senator DeBoer, and Senator Williams. Senator McCollister, you're recognized.

**McCOLLISTER:** I'm here, Mr. President. Good morning, and good morning, colleagues. There's been some criticism of the Appropriation process, and I am not among them criticizing the Appropriation group. As you look at the composition of the Appropriation Committee, I think it pretty well mirrors the composition of the body as a whole. And I, I like the process that they've employed. It's democratic, cost-driven, so I want to thank Senator Stinner and the entire Appropriations Committee. There's also been some talk about crime, and we'll continue to talk about that when LB920 comes to the floor, as well. And no doubt: do the crime, do the time. But the question I have is, are sentences, some of these sentences correct? Are they, are they appropriate, proportion-- proportional, and are they cost-effective? That's the question. Let me give you some statistics on Nebraska crime. The length of stay for incarcerated individuals in NDCS has

increased 38 percent in the last decade, driven largely by increasing sentence lengths and decreasing parole rates. Parole rates have decreased in just three years from 78 percent in 2018, to 58 percent in 2020. Is that the good thing? Is that the kind of thing we want to see happen in Nebraska? These trends come at great cost to the state, with Corrections expenditures growing over 50 percent since 2011, to more than \$270 million in 2020. In spite of this investment, recidivism rates have increased over time, with 30 percent of those released in 2018 returning to prison. Individuals in custody spent 38 percent longer in prison, or an average of three months, in 2020 than they did in 2011. Why are we doing this? I contend there is no reason that we should increase the length of time that people stay in prison. It's not cost-effective and it's not data-driven. It's-- there's no data to show that keeping somebody in prison longer means that they won't recidivate. Lastly, another category where, where data revealed a significant increase in the median time served, was those offenses with a mandatory minimum sentence term. Between 2015 and 2020, sentences for offenses requiring a mandatory minimum term, including two, two classes of felonies, along with specific offenses, like use of a firearm to commit a felony and habitual, habitual criminal charge experienced an average length of stay increasing of 42 percent. There's no relationship between increasing crime and the length of stay a person stays in prison. If Senator Geist would answer a few questions, I'd be grateful. Will she yield?

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

**GEIST:** Yes, I will.

**McCOLLISTER:** Great, Senator Geist, you participated in the CJJ process, did you not?

**GEIST:** I did.

**McCOLLISTER:** How big a prison should Nebraska be building when it comes time to do that?

**GEIST:** That was not part of our study. And actually, I'm not a subject matter expert on comparing the size of prison. But I think what is being looked at currently is probably good, given some other alternatives that we could look into.

**McCOLLISTER:** So simply replacing the current prison, with its population of 5,500, would be sufficient?

**GEIST:** I'm not saying that's sufficient in and of--



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**HILGERS:** One minute.

**GEIST:** --itself. I said, given other opportunities that we could look at. I'm a huge proponent of doing things like Community Corrections, Bristol Stations, and things like that, that we actually involve community and secure facilities. So there's a lot of alternative things we can do. But I'm not going to also say that we don't need a new prison because I think NSP has run its course. We need space for these individuals to get some class time. We can get industry in there, hopefully, to do some job training, but we cannot do that when people are stacked on top of each other in an aging facility.

**McCOLLISTER:** I absolutely agree. And I think those are good ways to go. Community Corrections, Diversion,--

**GEIST:** Yes.

**McCOLLISTER:** --the special, specialty courts,--

**GEIST:** Yes.

**McCOLLISTER:** I think that's a great way to go. But what I want to see is sentencing reform to make--

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

**McCOLLISTER:** --those crimes-- thank you.

**HILGERS:** Thank you, Senator McCollister and Senator Geist. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Your Committee on Natural Resources reports LB1262 to General File with committee amendments. Notice of a hearing from the Retirement Systems Committee and from the Executive Board. That's all I have at this time.

**HILGERS:** Thank you, Mr. Clerk. Returning to debate, Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President. Colleagues, good morning. I kind of expected, when I got up this morning, that I would be here and talking a lot more than I've had an opportunity to. And that's OK. I think it's given people an opportunity to express whatever concerns they have that are broader than the Corrections. And I appreciate that Senator Geist is here this morning and has shared with us her perspective. I've appreciated having Senator Geist-- I guess she

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left-- I, I appreciated having Senator Geist on the Judiciary Committee over the last couple of years. She has an important perspective and adds an important dimension to the vetting we do over at the Judiciary Committee as bills come up, same with Senator Slama. Today, Senator Geist made an observation which I agree with, that, that in many ways the Department of Corrections has to deal with the fact that families have been-- the core family that, that maybe my parents' generation saw as most common-- mom, dad and a, and a number of children raised in a two-parent household where, where the income is sufficient to take care of their needs and the core of the family. When that doesn't work-- and as we have gone from my parents' generation to mine and the next one, we do see far more broken homes, single-family homes, kids without sufficient supervision. And that is, that is-- if, if those changes hadn't been made, we probably wouldn't see the increase in crime that we saw, perhaps in the '70s and '80s. And as Senator Geist observed, that's kind of what we're-- what we have to deal with, right? The idea that we can distill this down to a parental philosophy, that if my child talks back, I'm going to send him to the room for an hour. If my child disobeys me, they're going to get two hours. If my child breaks curfew, they're grounded for a week. And those are simple propositions, and they do have a deterrent effect, I suppose, with kids. It doesn't really work that way with criminals. They don't really think about-- they're more concerned about, am I going to get caught than they are with what's the penalty. Because we've increased penalties and it really-- that's not what makes a difference. But if your child comes home, and they're 13 years old and they're intoxicated, do you send them to their room? What if they do that three or four times? Do you think sending them to the room is the answer? Or do you take them somewhere for some substance abuse counseling? Because what we're dealing with in the Department of Corrections is far more complicated than an intact family unit addressing a disobedient child. Because when we send mom or dad to prison, we're doing something to the kids, too, and it, and it exacerbates the very problem we would all agree leads to many of the problems that the department is dealing with. So when mom is a single family-- a single parent raising three kids, and she gets sent to the Department of Corrections, those kids don't have a parent anymore. Or when dad isn't around, his children don't have the benefit of having a father available to them. Now I'm--

**HILGERS:** One minute.

**LATHROP:** --not saying-- did you say one minute?

**HILGERS:** One minute? Yes, sir.

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**LATHROP:** I'm not saying that somebody with a-- that, that disobeys the rules of society shouldn't have some consequence. I, I fully agree with that, but I make this point because it's far more complicated than that. It's far more complicated than an analogy to raising children because we know, sitting and listening to the issues that lead to incarceration, that when you take a parent out of the home, you're-- in many ways you're punishing the children, too, because dad or mom isn't there. And now their circumstance is exactly part of the broken home we're talking about. And I bring that up just to say this is complicated stuff. It's complicated stuff, and a lot of what we're dealing with is addiction. A lot of what we're dealing with is addiction, and it--

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

**LATHROP:** --and there's more nuance to this. Thank you.

**HILGERS:** Thank you, Senator Lathrop. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, my opinion on these, this motion and bill has not changed since I spoke last. I actually was going to say a lot of what Senator Lathrop just said. I just want to build on that, though. And I talked a little bit about it when I was up the first time. You know, these, these individuals that end up being incarcerated, so many of them had childhood trauma. Neurobiological psychological development, then, is affected by that. It's a fact; it's a scientific fact. There's plenty of data that shows us that. There are multiple organizations that have been dealing with that. And in Nebraska, even though we're eking in that direction, we haven't really made a lot of progress when it comes to our pre-K. We don't pay our community providers well. We aren't providing them with better trauma-focused care to help these families. And to be really frank, the vast majority of the organizations that, that push for these initiatives see the family, see the parents as the child's first teacher. So if the parent doesn't have the tools to help that child, where do you go from there, especially when we know, for a scientific fact, that this development for this child has been affected? So with that, actually, since Senator Lathrop said everything I wanted to say, I just, I just want to remind you, as we do budgets in the future, we can do better at the beginning of a child's life. If we invest in our children, if we invest in their future, we won't be having these discussions in 20 or 30 years about why our prison is overcrowded, why people who live in poverty or the cycle of violence or the cycle of poverty end up in the prison system.

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And with that, I would yield any time I have left to Senator Lathrop, because he was on a roll.

**HILGERS:** Senator Lathrop, 2:50.

**LATHROP:** Thank you, and thank you, Senator Blood. Maybe another point I'd like to make on the topic of, this is a little more nuanced than being black and white on that topic. And I don't say that in a disparaging way. I certainly don't want it to, to sound like I'm judging the comments of Senator Geist, which I know are heartfelt and, and come from an earnest place. But I've had an opportunity to go to the Department of Corrections. I visited every one of the facilities. I've been at some of the places a couple of times, and had an opportunity to visit, not just with staff, but with some of the inmates. As I walk through the yard, people will come over. Invariably, I'm taking the tour with Inspector General Koebernick, and a lot of them know the Inspector General and come over and talk, and when they know-- I've just had an opportunity to meet a lot of these people. And here's the point I'm going to make, and I, and I get people may be on their best behavior when they're in the Department of Corrections. But when a judge sentences someone to a period of years in incarceration, that judge is doing a couple of things-- trying to hand out suitable punishment for a crime. And that's an important part of our criminal justice system, making people pay a price for their misbehavior. They're also trying to figure out how long is it going to take for them to not come out and be a problem again. And that piece, that piece is one of the issues that we talk about in LB920 on the indeterminate sentence. So if you sentence somebody,--

**HILGERS:** One minute.

**LATHROP:** --you don't know how long it's going to take for them to get the message. You don't know how long it's going to take for them to have been rehabilitated. And that's the idea behind some of those points in the CJI study, which is, let's let the Parole Board sort that out. Give them a sentence that has a low number and a high number that's further away. And then that person can come before the Parole Board and they can sort out who's got it and who doesn't understand it yet. And they can keep the people that haven't been rehabilitated until they have been. And the people who have been rehabilitated and are prepared to go out into society and be productive can be released on parole. That really is central to many of the issues, many of the recommendations or the options that will move the needle in that graph that I shared. Thank you.

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**HILGERS:** Thank you, Senator Lathrop and Senator Blood. Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr. President. And colleagues, I'm just-- I want to be clear on what actually is going on. I think Senator Slama alluded to what she believed were kind of the causes and effects of it, but I'm going to kind of reiterate some of this. It's 100 percent true and I, 100 percent, believe Senator Lathrop is going to take a-- the full eight; no problem with that. He has made it clear. We have got to do some reforms, and this is grabbing people's attention, hopefully, to help move that process along. I have no issue with that. But if we go eight hours and then, on Select, we go again-- because if you look at the Select Files, there are amendments already filed-- there is no opportunity for us to amend the budget. I am OK with that, but I'm only OK with that if we vote down the budget. Because we are truly saying we are, we are OK with leaving people behind. But I just don't believe, if this is a moral document, that's what we believe: we should allow people to be left behind. But there's no other mechanism on this floor to amend the budget. Now we could try to incorporate some things in on the A bill of a bill. It gets a little complicated-- how the budget is written, that's why it gets a little complicated. But at the end of the day, we are stuck with it. So that's why I'm saying you can't get up and say, I don't like this or I want to change this, when you'll have no opportunity to change it. If you look on Select File, there isn't an amendment that can be substituted that would allow your idea of what you want on the budget to occur. It just, it's just not there. It would take a group of senators, one, being OK with a substitute of amendment and nobody objecting, but there's already enough FAs that are already there that it won't happen. I'm OK with that. I'm OK with protecting the budget if, if you're OK with the budget. I don't think it's a coincidence that the budget is put out and Lathrop is taking all the time to make sure it can't be attacked; that's a defensive strategy. But what I'm going to challenge people today is, if you really are against the prison, then pull all your amendments. And if they put a prison bill on there and it passes, then you filibuster the bill. But see, the problem is, we don't have enough faith in the 17 or 18 who are against the prison to actually stay against the prison. That's why you got to play defense like Senator Lathrop is doing, 'cause we can't hold strong 17, 18 people that, if a budget bill amendment got put on to allow the construction of the prison, that we could do it. So what-- the trust we're talking, what I'm talking about isn't necessarily somebody is going to put on an amendment. Hell, I don't trust that we could stop the budget if it got attached, because we just keep paying lip

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service, lip service that we don't want to build a prison, lip service that we want to do some criminal justice reforms, but not too much, not as far as even President Trump took, and we really don't want to invest in north Omaha. I just fundamentally believe that now. So it's a weird, weird dynamic going on that we don't trust people to vote--

**HILGERS:** One minute.

**WAYNE:** --down an amendment, but we don't trust-- we don't have enough trust in 17 or 18 to hold up the budget if the prison was on. But we're OK with passing a budget to the, for the communities that are disproportionately overrepresented in prison, of not being invested at all, at all by these cash transfers-- at all, 'cause there is no guarantee that the little \$20 million that goes for affordable housing would actually go to Omaha; Lincoln could take it all, which is good for Lincoln if they could. So procedurally, we either got to vote yes on this or you got to vote no on cloture if you're actually going to upset and stop the budget process procedurally; there's no other option. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Wayne. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. I'd yield my time to Senator Wayne.

**HILGERS:** Senator Wayne, 4:55.

**WAYNE:** Thank you, Senator Hansen. Thank you, Mr. Speaker. There's a lot of things that I actually don't know in life, But when it comes to the rules and how this floor operates, I'm pretty well versed in how it works. If you want to add something to the budget, there needs to be an amendment. The amendments are all tied up. The only thing you can vote for, at any given time, is what's on the screen. So there could be a really good amendment for something in Holt County that you may think is-- qualifies for just \$500,000, it can't get to the budget unless you figure out, now, how to attach it to a priority bill that could have it an A bill to make it actually come out of the budget. Now here's why that is important, and I don't think people really understand, when you talk about time. We have four days left of General File debate-- four days. So that tells me, in order to attach something to a budget, you've got to figure out not only which priority bill you could attach it to, but which priority bill will be scheduled you can attach it to, and hope that you don't run out of time. I think it's a perfect plan for Senator Stinner and Senator

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Lathrop-- not saying they're working together-- to make sure the budget goes through, as is, because it puts everybody else in this body at a disadvantage when there's only four days left of real General File debate. So that means all your Select File bills, you've got to figure out how you can attach an amendment that changes the budget that doesn't cause too much delay, because from Select to Final Reading, you have to lay it over for one day; there has to be a layover day. So it has to sit on Final Reading for a day. So if you really want to amend this budget, if you really want to say that we care about all people in all parts of Nebraska-- and our budget should reflect that, especially the damned extra money we got or we're receiving in cash that we're transferring out-- then you have to vote no on cloture, or not present, not voting, to stop the process. And you better believe, if you stop the process right here, Speaker Hilgers, Chairman Stinner will have to figure out a way, within the next 72 hours, by next Tuesday or Wednesday, to figure out how to do it because, by next Friday, if we're not on Select, now you're talking about running into some line-item vetoes that the Governor can do, and you might not have the ability to override them; all comes down to scheduling. You know who controls the scheduling? The Speaker. We could file the motion to change the schedule, but he doesn't technically have to raise that motion the same day. It can be another day or day 2. So this is a great way to make sure you can't change the budget. So the real question is: Are you OK with the budget? And if you're OK with it, vote for it. If you're not OK with it, then you can't vote for cloture and you can't vote for the bill. It's really that simple. And if you're OK with leaving communities behind, then don't come to those communities saying you support them. Don't talk to me or my community about ARPA. That's federal. I'm talking about the state investing in communities that are in need. It's not there in our cash transfers, and our cash transfers are extra money to buy down our cash reserves to put them at \$1.3 to \$1.4 billion,--

**HILGERS:** One minute.

**WAYNE:** --instead of the \$1.7 or \$1.8. So it's extra money to buy it down, and that means we're choosing where to put dollars. We are prioritizing what areas of Nebraska we are going to put dollars. And cash transfers, theoretically, should be a one-time transfer-- never are, but should be. So we are prioritizing everywhere else but Omaha and Lincoln. And that's the facts. And nobody has gotten on the mike and telling me the chat-- cash transfer facts that I am stating are wrong-- nobody-- 'cause numbers are numbers. Two plus two equals four. Add the numbers up and show the investment, and you see it's not there

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for many of the communities you all say you support. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Wayne. Senator Hansen, Senator Matt Hansen, you're next in the queue.

**M. HANSEN:** Thank you, Mr. President, and good morning again, colleagues. This time I'm going to speak on my time. What I wanted to say on this is, we've had a couple speeches today who have talked about-- kind of trying to paraphrase, summarize, do it justice-- but that the kind of increase in crime is tied to different family structures and, in a way to say we don't think there's good parenting nowadays, and that is why crime is going up. Colleagues, if you have a fundamental issue with how parenting is happening in the state of Nebraska, that is not, on itself, a criminal justice issue. That is its own issue. It's probably an economic issue, it's probably something else. But to say the parents are failing in their roles and the correct substitution for that parental role is the police, is the courts, it's the prosecutors, is the Department of Corrections, to me, is the missing and miss-- wrong next step. If people are disappointed that families can't have a stay-at-home, single-family parent, then survive off of one individual income, that's, you know, an economic issue. That's something we should be doing to raise wages, to do things on that. It is not the place for, on its own, to say we don't think parents are doing a good job. Therefore, we want more law enforcement involved in our families. To me, that is, that is the step in a totally unclear and kind of nonsensical direction. I understand we need the law enforcement. We need things for when crimes happen. We need that for public safety. But to act as if that's the appropriate surrogate for a lack of what you deem, kind of, appropriate parenting, to me, is one of the fundamental disconnects between different groups, especially in this body, and to me, one of the barriers of why we're having so much trouble getting criminal justice reform done. That's been problematic for me to hear. I've heard it in past debates. I've heard it even in past debates this year. And to have it come up again, I just felt like I had an opportunity to say that. If you're upset with parenting, if you're upset with family structures, that is not a law enforcement issue. That is not a criminal justice issue. That is an economic issue, that is something else. So to say that as a solution that the police and the courts have to solve, to me, is the wrong step. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hansen. Senator Hunt, you're recognized.

**HUNT:** I'll yield my time to Senator Wayne. Thank you.



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**HILGERS:** Senator Wayne, 4:55.

**WAYNE:** Thank you, Speaker, and thank you, Senator Hunt. So everybody is asking a little bit here and there about, well, what is it you, you kind of want? It isn't what I want. It's about, do all Nebraskans matter? In order for all Nebraskans to matter, we have to put our money where our mouth is. And it would be different if there wasn't an ARPA bill in the cash transfers, but there is-- there is. So there was a dialogue about cash transfers and where things go. And at the end of the day, there are communities that are left behind. So I can spend this afternoon going through red lining and going through, actually, the historical Nebraska and how, you know, poverty and property rights and "covedences" [PHONETIC] and all these things. But none of that matters. At the end of the day, to most people in this body, the historical context of how we got here doesn't matter. You can't talk about single-family homes without talking about policies that were implemented by government to make sure that families who were in poverty stayed single. Yes, that's real. You cannot have a man living in your house if you're a woman and you are getting any type of financial assistance from the federal government. That's loosened up over the last 15 years, but from '79 to '95, that was the rule. Just what is-- what it was. And when 20 percent of the African-American males are being incarcerated from certain census tracts, it's hard to build a family structure. But let me tell you what makes it even harder. It's when you get on child support-- and you might lose your job or you get transferred or laid off-- and you get behind. Then you go up to a show-cause hearing because now the state is saying that you got to pay what you were making before you switched jobs. And you're in the arrears, and you're trying to catch up, and the judge says, Hey, you got 60 days sitting in jail as a punishment for you losing your job. Yes, that's really what happens. Here's what also happens is, when you get behind on child support, you go to a show-cause hearing, you lose your license. So you're supposed to catch up in a job and go to work, but you don't have a way to drive there anymore because the child support in which you're trying to pay off-- that, by the way, comes automatically out of your check, so it isn't like you're ducking it-- you can't even get to the job anymore because you lost child so-- you lost your license due to a show cause for child support, being behind on child support. If you don't believe me, come to Omaha, it's on the fourth floor. We can sit in the referee, referees' hearing room and you can see how many people don't have license. How many people are there for a 60-day purge order, to sit out 60 days because they were behind on child support. So just imagine. The mom doesn't want to do that. She wants to continue to

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work with her father's son-- or her, or her son's father and figure it out, but the state has intervened. I've had parents show up and say, Hey, he is still behind, but he is catching up. He has gave me \$100 a, a week, and they say it doesn't matter, he's still behind. He needs to go sit for 30 days in jail-- or he's still going to lose his license. So then dad is now mad at mom, saying, If we would just figure this out. Can you help me out? Can you lie and just sign something saying I paid you with \$50-- \$500 instead of \$100? Then the judge might not put me away. Well, she's not going to lie under oath 'cause-- for-- 'cause she doesn't want to get charged with perjury. So now dad's mad at mom, and there goes the family dynamic being destroyed again. That's real life examples. That's what happens on the fourth floor in Douglas County, in the child--

**HILGERS:** One minute.

**WAYNE:** --in the family referee room damn near every day. But let's not figure out how to invest in that area to make sure we can help them out. That's my problem. That's my problem with the whole process. We are not seeing the whole board. And what I'm seeing right now shows a lack of investment by this state in an area that has been begging for help for the last 40 years. Rural Nebraska, over \$480 million, urban-- Lincoln and Omaha split \$20 million. Have a good day. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Wayne and Senator Hunt. Senator Friesen, you're recognized, and this is your third opportunity.

**FRIESEN:** Thank you, Mr. President. So I-- again, I'm going to talk about some of the things that are being funded with this bill and why I'm opposed to it unless I am allowed to make changes to it that I don't feel comfortable voting for this budget. Number one on the list here-- I'm just starting at the top in no particular order-- is \$25 million for the University of Nebraska, for a facility there that I don't, I don't believe that is needed. We-- at \$30 million to go to the Military Base Development and Support Fund. Again, I, I don't think that we, as a state, need to be doing that right now. We've, we've done a lot already for Offutt Air Force Base. I do support the military, but there comes a time when you have to say no, and we have to cut back on spending. We're going to do \$20 million to the Internship Fund. Oh, I don't know. That's, that's a lot of money, but it's a good program. I've seen the results of it. It's not that I'm opposed to the program. I just don't know if businesses shouldn't step up and do more of that. If they want to create an intern program, they can. I don't know that they need state help if they really want to get

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up and do that. We're going to do \$80 million for the Jobs and Economic Development Initiative-- I haven't read much into that-- \$20 million for the Site and Building Development Fund. So again, Senator Wayne is talking a lot about investing in north Omaha. But I'll question maybe that, is Omaha or Douglas County doing enough for north Omaha? And I, if, if Senator Wayne would yield to some questions, I'll, I'll read some things off here so that he can get ready for a question. But according to the Department of Revenue, Douglas County, if you add up their school aid, their aid to cities and villages, Homestead Exemption, Water Sustainability Fund, community college age, property tax credit, and public health aid, in 2020/2021, they received like \$506-- or \$653 million in state aid, LB1107 credits for property tax relief-- \$62 million, turnback taxes for convention centers-- \$11 million. Senator Wayne, would you yield to a question?

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

**WAYNE:** Yes.

**FRIESEN:** So when I read off some of those numbers, is, is Douglas County and is Omaha doing enough for north Omaha?

**WAYNE:** I believe everybody can--

**FRIESEN:** Well, you, you say the state is not investing enough, but we give a lot of money to Douglas County. What are they doing? What is, what is Omaha doing for--?

**WAYNE:** Well, we can start out-- where do you want me to start? Like, we just spent over \$200 million on bonds and-- streets and bonds to help areas, 30th Street just got repaved, I mean, for about \$20 million. I mean, where do you want me to start? I mean, yes, we are investing, but also that area, Douglas County has about one-third of the state's population. I mean, so it would be--

**FRIESEN:** True, this is just a one-year funding thing.

**WAYNE:** Absolutely. So if you look at ARPA right now, just-- if you look-- I'm just using ARPA and their budget-- so let's-- matter of fact, go back up. The project we're looking at down at the airport, the city is going to put in anywhere from \$10 to \$15 to \$20 million, the county is putting in roughly \$5 million. And that's just the first year. They've committed to another \$5 or \$10 million until the entire project is built out. So they are committing significant portions of their dollars to, to--

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**FRIESEN:** Does the--

**WAYNE:** --to the project that we're talking about.

**FRIESEN:** You know, we're not even getting into the, the TIF financing that's happened in Omaha, the \$2 billion of excess value that translates into more state aid to schools. If I, the number is correct, we're-- about 29 percent of all--

**HILGERS:** One minute.

**FRIESEN:** local state aid goes to Omaha. And you said they're are about one-third of the population,--

**WAYNE:** Right.

**FRIESEN:** --so that isn't far off. But when I look at the communities out in rural Nebraska, where there's just as extreme poverty in some of those places as probably in north Omaha, and those communities don't get hardly anything. Again, we, we don't want to get into this, this spending fight. But I'm just saying that state aid is, is out there.

**WAYNE:** Um-hum.

**FRIESEN:** And sometimes the local communities-- and in my area, too-- if you don't have the leadership in their local communities to make things happen, pouring more money in, with state aid, is not going to fix the problems, necessarily; it's usually a local solution.

**WAYNE:** Correct. And I will quickly say, before we run out of time, if we get it right in north Omaha, we'll get it right in rural Nebraska 'cause we-- I do think we have very similar problems and we need to start with economic development, which is-- and you know that I've supported many things. The rail project, Senator Groene and I worked on that for a year and a half, and we got that across the line, and this year we're putting \$50 million into it. So I'm all about rural development. I think they're the same problems we have in north Omaha.

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

**WAYNE:** It's just not in this budget.

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

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**HILGERS:** Thank you, Senator Wayne and Senator Friesen. Senator McKinney, you're recognized. This is-- oh, I'm sorry. Mr. Clerk, for items.

**ASSISTANT CLERK:** Thank you, Mr. President. Your Committee on Enrollment and Review reports LB1012, LB1137, LB742, LB983, LB908, LB856, LB1007, LB829, LB851, LB1124, and LB1057 (also LB1082) all to Select File, some with E&R amendments. That's all I have at this time.

**HILGERS:** Thank you, Mr. Clerk. Senator McKinney, I apologize. You're next in the queue. This is your third opportunity.

**McKINNEY:** Thank you, Mr. Speaker. I rise again 'cause, you know, we're having conversations about how being tough on crime and these policies and laws that we've passed in the past have affected families. As someone that is from a family that has been heavily affected by the criminal justice system, I think it's fair I speak about it. You know, I had to visit my dad in the Nebraska State Penitentiary. I had to visit him in the Omaha Correctional Center. That's a unique experience to this body that I don't know if anybody else visits their parent in prison, but I did. And it wasn't the best situation going to visit my dad and then leaving him in a prison and not seeing him for months at a time or years. But people don't think about that when they stand up and support bills to enhance felonies and disproportionately affect communities. It's but, but this, but this, but this, but that, but that, but this, we have to think about this-- public safety. Public safety is making sure people have a bite to eat. Public safety is making sure people have transportation and adequate housing and livable-wage jobs. That's public safety. Just standing up, saying, Oh, we are for public safety, and all this hero worship with the police is just be-- like, it's bogus. It makes no sense. We really have to think about where we're investing in this state. And currently and historically, this state has failed to invest where we need to invest, whether that is in a small rural Nebraska town or in north Omaha. Senator Friesen, I think those impoverished communities in western Nebraska need to be supported and invested in, as well. I'm not against that. In Douglas County-- you brung up Douglas County-- they are building a kids' jail currently, as we speak. And I don't support that and I didn't support it when they proposed it because that's not where you put dollars. If you really would like for crime to decrease, people offending to decrease, you invest in them. You don't build buildings that are going to house them or lock them up. You're pretty much just saying, I don't care if you commit a crime, we got a place for you. And that has been a reality my whole life that, for a long time growing up, it was, hopefully I make it to the age of 25, and if

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I do, I hope I'm alive. Or maybe I'll be in jail, serving time like my father and my, and my family. That's that reality that kids have to deal with every day in my district and Senator Wayne's district, Senator Vargas' district, Senator Aguilar's district. I have friends-- I wrestled with people from Grand Island, and some of them got in trouble while we were in high school. They traveled to Omaha and wrestled with us, and we traveled back and forth. I-- it's, it just makes no sense that we, we would like to set aside \$175 million for a prison when we have so much need in our state for so many other things. And everyone thinks it's OK because nobody wants a mailer saying X senator is soft on crime. It is just baffling. It, it makes no sense. Why can't we use \$175 million to support families, to make sure that they, they're not in poverty, and a kid doesn't have to go through adverse experiences like visiting a parent in prison? That's--

**HILGERS:** One minute.

**McKINNEY:** --that's what we should be doing. That's what we should prioritize, not building a prison because you don't want a bad mailer saying X senator is soft on crime and this is why you should vote them out. No, say I'm smart on justice, and I, and I voted to invest in Nebraskan families. You want property tax relief, but you want to set aside \$175 million that's just going to sit there because it's not appropriated. So it's going to sit there. We're not going to use it this year, but we have so much need in this state. What if we don't get the rental assistance bill passed? That's, that's \$175 million dollars we could use for that. Think about it. Thank you.

**HILGERS:** Thank you, Senator McKinney. Senator John Cavanagh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. President. Well, I originally pushed my light 'cause Senator Wayne was talking about Child Support court, which I thought I could add a little bit more context and color to that conversation, as well, because I spent a lot of time working in that courtroom. And Senator Wayne did a very nice job of describing all of the problems in that courtroom, but I thought he missed out on one that's actually, I think, even one of the, the worst things about that, which is he's talking about these, the situation between the two parents and the money. But we have a large number of those cases in Child Support court are the state seeking action against, generally the father, but the parent, the noncustodial parent, for money to pay the state for services like SNAP benefits and, and Medicaid for the child. So if, if a parent, a custodial parent, applies for those state benefits to help the child, the state automatically goes after the

noncustodial parent and attempts to get some amount of money from them every month to help pay for that. And that falls into the same category where we're talking about, we are starting to incarcerate people because that's what we're doing. It's a civil incarceration, it's a custodial sanction, civil incarceration for-- which is supposed to be coercive. So the 60-day purge that Senator Wayne talked about is where a judge decides how much time someone, a noncustodial parent, spends in jail, county jail, to try to convince them, coerce them into paying back-due child support. So a parent who is working but doesn't have legal custody of the child-- the child is getting state services and the parent falls behind on those payments-- can be locked up in county as a method to coerce them into paying the state for services like Medicaid and SNAP. And the whole point-- we talk about a lot of these things. What-- how can we be smart about this? How can we actually solve these problems? And this is one microcosm, one, one small thing that we do that demonstrates the broader problem that we have, where the, our response to all of our problems is incarceration, where we lock people up because we think that that will solve the problem that we that's in front of us. We use that for everything. We use it for drugs, drug problems, for dependency problems. We use it for mental health issues now. And we use it, in this particular case, as a method to coerce parents who don't have custody of the child into paying the state, to help offset the cost of state services that we are providing to, to these children to help them be healthy, be productive, be successful, to, to invest in. We had Senator Halloran handed out, actually yesterday, a flier that I thought was interesting about-- I think it was 70 percent of people in custody are, have a lower reading level-- functionally illiterate, I think, is what it said-- something along those lines, people who can't read. One of the reasons that we get into that situation is, we are not investing in children. We're not. And when we do invest in them, we create all of these other roadblocks around it, meaning that if you have an anchor, if you have a household that is not two parents in the house at the same time in the same household, we go through this whole gymnastics of trying to get money from the parent who doesn't live at the house and then locking them up, causing them to lose their job, causing them to lose their license, their driver's license, but also professional licenses. So in this whole system that we have set up, not only do we lock people up, but we also take away professional licenses, which are what they are required--

**HILGERS:** One minute.

**J. CAVANAUGH:** --to have to earn a living. And I have been involved in this court, like I said, and I have begged the state to reissue things

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like barber's licenses to make sure that somebody could get back to work, to earn, to pay that back-due amount, pay that purge amount so they didn't get incarcerated to coerce them into paying. And so these are the types of things that we do without thinking about it because we think incarceration works. And there are instances, granted, that-- where incarceration is necessary and is the thing we should do, not in all instances. And we need to take a-- go through those more suspected, be more suspect of that, of incarceration as a tool, as we over incarcerate, we overuse it. We over rely on it because it is easy, it is simple, it is the quickest way to address these issues. But it is not the right way and it does not solve the problem. So that is one of the reasons we need to continue having this conversation, and I appreciate people talking about this.

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

**J. CAVANAUGH:** Thank you, Mr. President.

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

**HALLORAN:** Thank you, Mr. Speaker. Good morning, colleagues. Good morning, Nebraska. We've-- we clearly have a problem. And it's a dynamic problem, it's a difficult problem, as Senator Lathrop has detailed in some of his testimony. I have heard very little, if any, hardly any discussion about how do we break the pipeline of people committing crimes and going to prisons. We talk about this statically because we have a static problem of overcrowding. That's a given, and we have to do something about that. We need to do something about that, but we don't talk about what's feeding the pipeline, going into-- these people going into prison after-- for, by committing crimes. I want to thank Senator John Cavanagh. At least, he was one person that read the handout that I handed out the other day, and it dealt with the percentage of people in prison who are functionally illiterate, 70, 75 percent functionally illiterate. Well, that seems to be a common problem, common denominator that we should be spending more time addressing because, if we don't stop the flow into the prisons, this is going to be a perpetual problem. You'll not solve it by reducing the penalties on crimes. You'll not, you'll not stop that by justice reform, whatever you want to call it. But you've got to stop it with education. North Omaha-- north Omaha has a graduation rate of about 50 percent of their students that are functionally illiterate. Well, if you're functionally illiterate, what are your opportunities? If you cannot read or write, I don't care how many jobs are available to you, you're not going to get a good one if you get



one at all. And if you don't get a job, if you're functionally illiterate, what's the opportunity that are left? What's the opportunity? What's the natural attraction for you? Well, committing a crime, right? So we don't want to talk about the fail, failure-- not in all public schools, but very specifically in high-crime areas-- we don't want to talk about the failure of education to graduate kids that can-- are literate, are literate. So you know, some people will say, Well, Senator Halloran, it's not just a school issue, it's the parents issue. And I agree with that, but we cannot legislate good parenting, but we do have some control over our schools. Senator Linehan, for a number of years, has sponsored an Opportunity Scholarship Act and, oh my gosh, no. It went from \$10 million to \$5 million. She could take it down to \$1, and there are people in this body that would not vote for an opportunity scholarship bill to give kids not to be locked into a ZIP Code. Senator Justin Wayne voted for it; he understands the issue. Senator McKinney didn't vote for it. Senator Day didn't vote for it. Senator Lathrop, you didn't vote for it either. We've got to address the pipeline going into prisons. Otherwise it's a perpetual problem. We're going to have crime because we don't have people educated enough to get a job. So I don't want to relitigate the opportunity scholarship bill, but that was a failure; not passing that was a failure. It should be at \$50 million, not \$5 million. Until we address that problem, until we can get-- now, OK. So can north Omaha raised its literacy graduation to 25 percent, only 25 percent being illiterate? That's still too high, but that's 25 percent. That's a, that's a 50 percent improvement in literacy. And, and those kids will not have the likelihood of going to jail. You got to stop the pipeline going into jail. And I know--

**HILGERS:** One minute.

**HALLORAN:** --education is a subject in this, in this, in this body. We don't want to touch public schools. We don't want to address that issue because they're, they're-- public school is sacred. It's not. Across the state, it's a success, but there's parts of it, there's parts of it, by ZIP Code that are not. And until we address that, until we address that-- we have the fortitude, Senator McKinney, to address that-- we're going to have a pipeline of people going into prison because they can't read or write, they can't get a job, they go to crime. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Halloran. Senator Flood would like to welcome 50 5th grade students from Norfolk Middle School in Norfolk. They're seated in the north balcony. Please rise and be recognized by

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your Nebraska Legislature. Returning to debate, Senator Matt Hansen, you're recognized. This is your third opportunity.

**M. HANSEN:** Thank you, Mr. President. And I guess I'm initially-- was-- punched to my light to say something along the lines of some of the absurdity of child court cases, support cases because I worked on that. But in the light of the speech we'd last heard, Senator Halloran, I've been on this floor for almost eight years now, and I have worked repeatedly on education, and I have worked repeatedly to support education, fund education, provide opportunities for students. And yes, I have opposed the opportunity scholarships, as you call them-- the voucher program-- because I know there's people in this body who would cut Lincoln Public Schools's budget in a heartbeat, and I cannot-- I, like I have to balance both of those issues. I have to know and account for that some of the things you say about opportunity scholarships, in my mind, are disingenuous and are not going to the same place you intended. You have schools you'd like students to have scholarships for. That's great. Don't pretend like it's an actual criminal justice solution in your mind. I'm sorry, that's just we've had this debate over and over again, and we can segregate that off to another bill on another day, separate that off to another bill on another day, but we can do that on its own. There are another, number of issues related to this, and we've talked about them and we've talked about them. We've brought bills to the floor and we've faced filibusters and we've faced things. You know, we talk about the school to prison pipeline, talk about the number of bills we've had to have filibustered on the floor about providing some-- truancy, think about issues like that. Think about issues related to student discipline, corporal punishment, all of the things we've had, school resource officers, all of the things we've had to talk about on this debate and on this floor, including, specifically, in public education, in our public schools. To say this isn't an issue that we haven't focused on is, I think, is a misnomer and does kind of disservice to all of the work the bodies had over the past many years, including my eight years. We've really worked on this. And yes, we've not done a lot of things that a lot of people on, kind of, any side or any perspective wants. But that doesn't mean we're not looking at the issues. Like that doesn't mean we're not looking at the issues, and that doesn't mean we're not working on it. Look, there are people who-- all right, I can't even, I can't even finish this thought. The thing I initially had wanted to set was the the absurdity of some of the child support cases where, in addition to, kind of, the show cause leaving to the, you know, non-custodial parent, the parent who's behind on child support being, you know, potentially getting some sanctions, including

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going into custody, is when the state is the one who steps in and files the case, the custodial parent, the parent who actually is caring for the child and the person who's going to receive the child support isn't actually automatically a party to the case. And so they sometimes get excluded and actually can't talk to the county attorney who's in charge of doing it because they're not a party to the case. It's the case of the state on behalf of their child, which leads to this absurdity and catch-22 where the state is suing one parent on behalf of the child, and the other parent isn't involved at all. That's where we've left some of these things. I've worked on that issue. We haven't necessarily gotten across the finish line. I'm glad to hear other people who've worked in this area have it on their mind. Maybe we can go forward. But when we talk about, you know, barriers to family structure, I really appreciate the people who get up and identify some of these issues in terms of, kind of, the absurdity of bureaucracy. Sometimes we, as a state, push in and interject in, and that's what I initially wanted to say. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hansen. Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President and colleagues. I very much appreciate that Senator Halloran has been on the floor for most of this dialogue, and that he shared the, the article that he did yesterday. I have to tell you, I have, I have come to a different perspective on this pipeline to the prison. And Senator Halloran, I think you've identified a symptom and not the cause. I had no appreciation of this. I grew up pretty much in a, in a middle-class neighborhood. I have not been exposed to the challenges in the neighborhoods that are encompassed in Senator McKinney's district. But here's what I do know about those kids that are trying to get an education. A lot of the people that end up in prison have experienced tremendous trauma, tremendous trauma in their lives. And I saw a statistic some time ago-- and I'm going to shoot some time over to Senator McKinney to finish this thought-- the number of kids at North High who knew somebody that been shot. Or can you imagine hearing gun, gunfire outside your bedroom window at night or being concerned about whether you can wear what color of a sweatshirt as you walk down the street? I think that the-- I appreciate your concern for the pipeline. I'd like to, maybe because I don't suppose to speak for what kids go through in Senator McKinney's district, but I can tell you that the, that we know people who end up in prison have a lot of trauma and, and, and many of them can't read. And I suspect that the reading is a symptom of the trauma they experience that ultimately leads them to the time they spend at the Department of Corrections. And with that,

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I'll share the balance or give the balance of my time to Senator McKinney.

**HILGERS:** Senator McKinney, 3:00.

**McKINNEY:** Thank you, Mr. Speaker. Thank you, Senator Lathrop. And to speak to the trauma and the education gaps in my community, I think you-- I went to North High. I got shot at, walking from school a couple of times, bullet went past my head one time. And I had to go back to that school, and walk from school to wrestling practice every day, still not knowing whether or not, if I walked from school, whether I'd make it to practice or make it back to school the next day. That's the trauma kids deal with, that I've dealt with. Imagine going to school hungry. Imagine going to school, waking up and the water is shut off and you can't take a shower, but you still have to go to school. A lot of these kids deal with that. That's what leads to the education gaps. I'm a product of OPS. I, I went to OPS all throughout my life. I went to a lot of elementary schools because we moved a lot because we were poor. And my mom moved a lot, and eventually we kind of got settled and through high school, I went to North. But that's what those kids are dealing with. It's not just kids aren't being educated properly, and the teachers are bad, and OPS is bad. The state, the country, the state in this country, the county, whoever else you want to say, the city has neglected that community for forever. That is why the education gaps are what they are. You put people into a box and say, figure it out or pull yourself up by a bootstrap, when you don't have boots and you don't got socks and you just got your feet. Those kids are dealing with so many things. I, I coach youth wrestling, and we ask--

**HILGERS:** One minute.

**McKINNEY:** --kids that come from good families, but we also have kids that are going through the child welfare system, parents in prison and things like that, losing family members and things like that. And we as, we as coaches, we have to deal with those things. So it's not just OPS is bad. The state, the country, the city, the county hasn't done right by people in north Omaha. And that is the problem, which is why you have a motion to indefinitely postpone the budget because we have to really think about what we're doing, and why our prisons are filled, and why all these things are happening. Thank you.

**HILGERS:** Thank you, Senator McKinney and Senator Lathrop. Senator Day, you're recognized.

**DAY:** Thank you, Mr. President, and I don't want to continue to beat a dead horse here with discussing how a lack of education is connected to rates of incarceration. And I appreciate that Senator, Senator Halloran brought the topic up because it is obviously connected. But I, I, you know, since I was mentioned on the mike, I felt like I should stand up and say something. I'm on the Education Committee. It was my number one choice for committees because I do believe that education is a critical element in ensuring the safety and the health of society in general. But I don't think-- I think it's incredibly reductive to pick out education as the singular element in the success of a person's life and whether or not they're going to end up incarcerated. Senator Lathrop and Senator McKinney had already mentioned this, and I did want to mention, too, Senator McKinney did vote for the scholarship tax credit. And quite frankly, it's his thoughts on it that have put me in a place where I'm thinking a little, a little bit more about it myself. But discussing adverse childhood experiences as it relates to incarceration, maternal depression, physical and emotional neglect, emotional and sexual abuse, divorce, mental illness, incarceration, homelessness, domestic violence, and substance abuse are all adverse childhood experiences. And then, underneath that is adverse community environments, poverty, discrimination, community disruption, lack of opportunity, economic mobility and social capital, poor housing quality and affordability, and violence are all issues that underlie those adverse childhood experiences that greatly impact whether or not a person ends up in prison at some point in their life. You know, I think it's great to look at education and how that affects long-term issues in a person's life, but we also have to address the other issues of poverty, mental illness. We, we have bills all the time, we have SNAP bills. You know, we can't talk about education if kids are hungry when they go to school. We can't talk about kids being hungry if they don't have a place to live. We have so many bills to address these issues, and then we want to pick out one singular element as, you know, the cure-all for people going to jail, and it's absurd. Meanwhile, when we do have bills to work on mental health access, healthcare access, helping mothers with maternal depression, postpartum depression, perinatal depression, maternal morbidity and mortality, those kinds of issues, nobody wants to talk about it. Some of those bills can't even get out of committee, so it frustrates me when we're having a, having a conversation about how criminal justice reforms won't solve the problems, because all we need to do is pass the scholarship tax credits so kids can get a better education. And that's going to solve the illiteracy problem that leads to imprisonment-- because it's not true. It's reductive, and we all know that. I would encourage people

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to start to listen to the larger conversation, again related to some of the adverse childhood experiences as it relates to poverty, maternal depression, violence, and those types of things, again, particularly the issue with, with what Senator McKinney and Senator Wayne have brought in terms of economic development in north Omaha. Those are the things that we have to support if we're serious about reducing the overcrowding problem that we have in Nebraska. Is education a piece of that? Yes. But it's one small piece of it, and we can't continue to ignore all of the other things that factor into it. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Day. Senator Halloran, you're recognized.

**HALLORAN:** Thank you, Mr. Speaker. Good morning again, colleagues, I'm not ignoring all the other factors, not ignoring all the other factors that the people who live in impoverished areas have to deal with. Poverty is the problem. How do you get out of poverty? More SNAP? More benefits? That doesn't get you out of poverty; that just makes you more dependent. Senator Lathrop said that, said, said that illiteracy is just a symptom. That's why he's an attorney, not a doctor. It's not the symptom, it's the cause. The symptom, the symptom is we have, we have prisons full of people. What's the cause? It's not the singular cause. I didn't pretend that when I first made my statement. It's not the singular cause, but it's the dynamic, dynamic cause we're looking at here. Until we can address that-- and, and some of you made my case for me. Senator Hansen, oh my gosh, no, we don't want to touch education. We don't want to challenge that as being part of the problem. But it is part of the problem. And this isn't a condemnation of OPS. What it's a condemnation of is, these kids don't have the opportunity if they're stuck in a school that's not working for them, they can't move out of that school. We've had this debate before, but the no votes keep coming up. We're going to keep them locked into their ZIP Code and then we're going to have this problem 10, 15, 20 years from now-- same kind of problem-- a pipeline full of people going into prison. Look, the neighborhoods would be a lot better off over time, if these parents-- if one parent goes to jail, what's that do to the income for the family? It sucks. It's done, right? So these kids are-- will end up living in a one-parent family, and the cycle goes on and on and on. No, we want to, we want to sit here for hours and hours and talk about the static problem of prison overcrowding. That's the symptom. What's the cause? The cause is, these kids aren't being educated to the point where they're literate enough they can get a job. And God knows there's plenty of jobs out there. The unemployment in Omaha, north Omaha is, I've heard, like around 9 percent. That's not-- something wrong with that picture. Kids can

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apply for a job. Young adults can apply for a job, but if they can't read or write, that ain't going to be much of a job. So we can, we can wrap our arms around the education system and protect it from its responsibilities, but that's a mistake, and that's on us. Thank you, Mr Speaker. Thank you, [INAUDIBLE].

**WILLIAMS:** Thank you, Senator Halloran. Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Good afternoon, colleagues. It is afternoon. This has been a very interesting debate, Senator Halloran's comments and the comments of Senator McKinney and Senator Wayne. We've talked about the utility of the money that we're about ready to, to spend, the ARPA money included. And I would ask Senator Wayne to describe how the money that we are going to send to his area of Omaha will, will actually move the needle for, for people in his community. And then, if we have any extra time, I'm going to ask Senator Vargas, as well.

**WILLIAMS:** Senator Wayne, would you yield?

**WAYNE:** Yes. So if there is an investment in north Omaha-- I'll let Senator Vargas talk about south Omaha-- what you're talking about is job creation, what you're talking about, and I'll give you a simple personal schedule. If you have a job that has a livable wage, one, if you create a schedule, and that schedule, by itself, determines a lot of your social abilities. So if you have to be a worker at 7:00 or 8:00, you're not staying out late having drinks, 'cause you know you have to get up and go to work in the morning. If you're having a good paying job, you have what's called disposable income. So now that stress and pressure of being in poverty is relieved, and you can take your kid or your kids and your wife or your girlfriend to a movie or go out to eat, and the dynamics of the entire family begin to change, because you start removing stress of just not having a good paying job, as one example. We already know that many educational outcomes are determined by incomes levels. So if you believe those statistics, if you increase the income level of certain areas, then you know, just by natural attrition, there is going to be higher achievement because of the income levels, based off of the data. Lastly, you start to give people hope. And if you ever Google studies on hope, you'll see that, when people can see things and believe things, it begins to change communities. That's why, if you invest in one part of town, you see what is called natural attrition into more investment. It's because people start believing that things are changing, and you want to be a part of that change. Last thing I'll say is, if you have disposable

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income, you can start buying property. If you buy a home, that home changes your investment strategy and your outcomes for the rest of your life. Thank you, Senator.

**McCOLLISTER:** Thank you, Senator Wayne. Same question, Senator Vargas.

**WILLIAMS:** Senator Vargas, would you yield?

**VARGAS:** [INAUDIBLE]. I'm going to try to summarize. I mean, look, there's a, there's an investment that needs to happen on the east side of Omaha. I support what Senator Wayne's doing and that people don't know that. I've said that before. That's why I've been advocating within the ARPA funds, them getting more funds, and I would support more funds coming from Cash Reserve, quite frankly, as much as we possibly can. Here's the thing. There are just substantial differences when we talk about what people are going through that are living in poverty. That is why we help them. People can't get jobs unless we both help them and work on education and workforce. People can't get into jobs if you're more likely to end up in the criminal justice system or in the juvenile justice system than anything else. It's why we need programs like SNAP and Medicaid, but we also need better workforce and development programs that reach kids as early as possible so they don't get into any other pathway. These are real, genuine gaps that exist within the system. I was a Pell Grant kid. I was a free-and-reduced-lunch kid. I say that because I don't know how many of us were,--

**WILLIAMS:** One minute.

**VARGAS:** --quite frankly. There shouldn't be a statistic of just one or a few that get to this point. I know what we're debating is whether or not we invest more in those communities, and I'm 100 percent for investing more in those communities. And where's a-- if there's a mechanism for us to continue to do that in a way utilizing what we currently have, I will support that, and I hope we do when we have Senator Wayne's bill up. But at the end of the day, if you are saying no to all these other types of educational programs and things that are going to help and they're not getting out of committee, it does feel very disingenuous to not support them. There is a lot more that we have to do to then make sure we're helping people and preparing education and workforce so that kids and families can be self-sufficient. Thank you.

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



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**WILLIAMS:** Thank you, Senator McCollister, Senator Wayne, and Senator Vargas. Senator Pahls, you're recognized.

**PAHLS:** Thank you, Mr. President. And I also want to thank Senator Halloran for bringing up the concept of, you need to read if you're going to be successful. And I did read what he-- the information he gave to us yesterday. 70 percent of those people who are in trouble, the ma-- a good number of the people in trouble can't read. I think we really ought to think twice when we start talking about certain subjects that we may not have a lot of information about, other than reading an article. Let's talk about reading. When was the last time you went to a reading class and observed teachers working in the area of reading? You probably would learn something. I know I'm being a little bit critical, but you have to do it. Just don't walk through the building. Sit there, and visit various grade levels, and see how the concept of reading is taught. It is not easy; it takes time. Now, if you're, if you're teaching a number of students or working with a number of students who feel their bellies are full, they know where mom and dad is, it's much easier-- I'll be honest with you, I've been there, it's much easier-- but if you have a lot of other issues facing that child, their mind is elsewhere many, many moments of the day. So I just, I find it ironic that we're saying right now reading is really important, which I believe it is. And also, I think for Wayne and Senator McKinney, they said technology is important. But isn't it interesting, right now we have people on this floor who want to talk about sex education, and we have people running for Governors, they talk about CRT, sex education. I don't hear them talk about technology and reading, the things that will make a difference. And when it comes to opportunity scholarships, if you can recall what I was saying, that we need to help those individuals who have issues because of poverty. If you pull a handful of, say, 500 students out of a certain area and give them a scholarship, that will help that 500 number of kids. The rest of them are still working through that process. I'm not against helping with scholarship, no. But we have a program in this state that is that they, they have information about the academic progress of kids through the various grade levels. We have that information. We have schools, 116, if you can recall, that it says schools of need. Thirty-some of them are in Omaha. That means the rest of them are out there in rural communities. We should be taking a look at that and think about let's help those school systems. Let's see what's happening in those schools, why they are not as successful as they should be. Let's look at the total picture. When we think of education, let's just don't get hung up on CRT, which isn't happening.

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And then the sex education, which seems to be a big bubble right now, there are schools who are, who are teaching sex education--

**WILLIAMS:** One minute.

**PAHLS:** --all on their own. Thank you. And just a side light. I-- as an administrator, I had the opportunity to interview lots of teachers, a lot of teachers from the Omaha area, the Omaha school system who wanted to come. I did hire a couple of them. They said they were so relaxed because they weren't fighting the, the tension within the schools, all of the things that the other kids had to deal with. And I actually did hire a couple of Catholic teachers because they wanted more money. Everybody was good 'cause it had nothing to do with being where you were located or of your religion. But let's start thinking big picture here. Let's get off of these little buzz words. The buzz word should be reading and technology, if nothing else. Thank you.

**WILLIAMS:** Thank you, Senator Pahls. Senator Linehan, you're recognized, and this is your third opportunity.

**LINEHAN:** Thank you, Mr. President. Good afternoon, colleagues. So many things to respond to. First of all, I would like to thank Senator Halloran for talking about the scholarship tax credit. This budget isn't about that. I understand that. There-- I-- there's a misconception-- and some of it's created by the lobby-- that because I have a scholarship bill, I don't care about education. Since I've been here, there are only two things, two stories I have framed and hanging on my wall in my office, and it is both about third grade reading. And yes, I think Senator Pahls asked, Have any of you been in a school and watched teachers teach reading? Yes, as a matter of fact. I don't know where Senator Pansing Brooks is, but I think we went to 18 schools, focused only on kindergarten through third grade and how they were teaching reading, and there were huge disparities in their effectiveness by what-- but I'm not an expert-- but from what I saw, I remember very well. We were in Senator Williams' district, and I told him this before-- Lexington, which is not Omaha, right? But it's Lexington, and there's, there are very diverse kids. As a matter of fact, they're hardly any white kids in school. And we walked in there, and they were doing jumping jacks, the ABCs. They were walking around with their hands like this. And I said, What are they doing there? Because it looked like they were praying. No, we do that because, if they have their hands like this, they can't pull the person's hair in front of them or push them or they can't be-- do kid things that kids do with their hands when they're not being busy otherwise. I, I support-- I know this will come as a huge shock to everybody in here--

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I support Senator Wayne's efforts to do more for Omaha, and it's not because-- he's not asking here and this, I think this point is getting missed. He's not asking for more SNAP benefits or more money for OPS. He's asking to let his community get a job. You know, another senator that I worked with a long time ago-- he's passed away now in the last year, Senator Dwite Pedersen-- he did a lot of work. He was a recovering alcoholic; he wasn't afraid to tell anybody. And he did a lot of work in the prison system and a lot of work with alcoholics. And he told me, from the very first time I met him, the most important thing you can have as a human being is a job. If you don't have a job, who are you? And if you don't have a job, and you're a dad and you can't feed your kids, or you don't have a job and you're a single mom, and yes, I understand just a little bit about what Senator McKinney and Senator Wayne are talking about, because my daughter, who works on school choice, when she was in high school, she tutored a family of four boys. One of them went to prison. The others got caught up in what you get caught up when your mom is a drug addict and you don't have any hope. So my friend finally took the youngest one, took him into her home, raised him, got him through college, and now he's a police officer in Miami. School choice won't save everything. It's not the answer to all the problems, but it's like the old starfish thing: you save them one at a time. And Senator Wayne has told me that many times. We can't just do one thing. We need to do it all.

**WILLIAMS:** One minute.

**LINEHAN:** I'm going to go back to Cheryl Logan, who I pray we can keep in Omaha. Part of the money they're doing in their COVID money-- and I think Senator Wayne and I talked about this when the first money came out-- the district will provide summer book program, so every child pre-kindergarten through sixth grade is going to get seven to ten books to take home this summer. Now, that might not sound like much. But how many of us ever-- I did kind of grow up in a home where we had very few books. We, my generation didn't have-- like, I love my grandkids, and I've got, like, every book I ever bought my kids at my house. Books are important. So is that going to save kids? No, but it's something. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Linehan. Senator Erdman, you're recognized.

**ERDMAN:** Question.

**WILLIAMS:** The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor, vote--

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**WAYNE:** Call of the house.

**WILLIAMS:** 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; those opposed vote nay. Record, Mr. Clerk. Record, Mr. Clerk.

**ASSISTANT CLERK:** 25 ayes, 5 nays to go under call, Mr. President.

**WILLIAMS:** 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. Members, the house is under call. All those unexcused senators, please report to the Chamber and check in. Senators Vargas, Bostelman, DeBoer, and Morfeld, the house is under call. Senator Morfeld, would you check in? Members, everyone is in attendance. The question is, shall debate cease? All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

**ASSISTANT CLERK:** 34 ayes, 11 nays to cease debate, Mr. President.

**WILLIAMS:** Debate does cease. Senator Wayne, you're recognized to close on your motion to indefinitely postpone.

**WAYNE:** Thank you, Mr. President. Colleagues, this vote won't obviously, probably, have 25, but I do hope we get to 17. So typically, IPP motions or recommit motions are a test motion you can use if you don't have the actual number to get it over with, to let the introducer of the underlying bill-- in this case, Appropriations Committee-- know that there's got to be work to be done; and that's where we're at with this vote. If you vote for this and it loses at 17, and you vote for the underlying bill, you can still tell all your constituents you voted for the, the budget. But here's what I will tell you, and this is what I would mean by-- I often say being comfortable with being uncomfortable. We can't sit here and talk about prisons and prison reforms and criminal justice reform, in which I believe, at one point throughout yesterday to today, said that it's a priority, and I believe almost everybody from the Judiciary Committee has said that, and then vote for this budget. You can't stand up and lecture us about how we need to do things, even school choice, and vote for this budget. No matter what side of the fence you're on-- liberal, conservative, Democrat, Republican-- you can't argue what you argued for the last two days and vote for this budget. See, this is the vote, and the cloture vote, if this fails, is the vote where you put your actions of what you were saying and saying you believe to

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reality. If you believe in criminal justice reform, out of all the cash transfers, it's \$4.3 million out of \$513 million. You can't say you believe in criminal justice reform and that is the only amount going on a cash transfer. Then that's not really a priority if you vote for this. See, the budget, you can't get away from just hiding how you really feel. Either you support it and you believe that's what has to happen 100 percent or you don't, because the budget reflects that criminal justice reform is not a priority. You can't say you really want to help out North and south Omaha, when we have an extra \$725 million through adjustments, whether general funds or cash funds, and there is zero guarantee to go to north Omaha-- zero. The housing fund is divided between Omaha and Lincoln, and there is nothing stopping Lincoln from putting together a whole proposal to take it all. Zero goes to North and south Omaha. And don't let the people say, well, you got an appropriation, you got ARPA coming down the line. No. This is what's on the board, the state's budget, our moral document, where we're going to invest. What are our priorities? If you believe criminal justice reform should happen, you have to vote no on the underlying bill. You have to IPP it and show that it means something. If you want to change the plight of the prison pipeline, tell me how this budget does it. And what we're talking about really, right now, is not even the budget, but the cash transfers of \$513 million. Tell me how the \$513 million lines up, lines up with your priorities. Or can we do better? Our cash reserves don't have to be \$1.3 billion. It could be a-- \$1 billion. That's \$300 million on the, on the table that we can change right now. We can talk about more programs, more things that can change communities all across the state, Gering, Nebraska,--

**WILLIAMS:** One minute.

**WAYNE:** --to north Omaha, Sydney to Lincoln. We can have that debate on the floor. And by God, I believe that the best place to do it is on this floor, because when we're on the floor debating and fighting, that's typically when the best things happen. Even if you don't agree with them, it's usually the best outcome from the state. I didn't agree with LB1107, but there are people in my district who are praising the fact that they got property tax relief. There's a lot of things we can do, but it starts today with this cash transfer. And I'm just hoping we could all come together to send a message saying, we know you worked hard, Appropriations Committee, but we're looking for more. We're looking for excellence for all Nebraskans, not just a selected few. Thank you, Mr. President.

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**WILLIAMS:** Thank you, Senator Wayne. Members, the question is the adoption of the motion to indefinitely postpone. All those in favor vote aye; those opposed vote nay. Have all voted? Record, Mr. Clerk.

**ASSISTANT CLERK:** 10 ayes, 30 nays on the motion to indefinitely postpone, Mr. President.

**WILLIAMS:** The motion is not adopted. Moving back to General File, Senator Stinner. Mr Clark, would you read the title? And we raise the call.

**ASSISTANT CLERK:** Mr. President, LB1013, offered by Speaker Hilgers at the request of the Governor. It's a bill for an act relating to the Cash Reserve Fund: to amend Section 84-612; provide and eliminate fund transfer provisions, repeal the original sections; and declare an emergency. The bill was introduced on January 13. It was referred to the Appropriations Committee. That committee placed the bill on General File with committee amendments.

**WILLIAMS:** Senator Stinner, you're recognized to open on LB1013.

**STINNER:** Thank you, Mr. President. How much time do I have on this?

**WILLIAMS:** You have ten minutes to open.

**STINNER:** Well, thank you. So I think we've discussed all the items in LB1013 as it relates to the amendment. But I'd like to rehash a little bit of it, to give you a flavor for what the committee's decisions were, what we were looking at, as a committee. And I'll just start on some of the items that we, we talked about already. But the Corrections facility, \$175 million is a big number, and that actually adds to the dollars that we added last time, which was \$100 million to the, to the Capital Construction Fund. There's about \$66 million in that's left because we actually repurposed some of those dollars for studies. We've repurposed some of that \$100 million and, and actually appropriated dollars for 96 mental health beds to be constructed. And we did allow about \$15 to \$18 million in order for them to, Corrections to proceed with design and build and options. So I think the Appropriations Committee is really kind of responding to the fact that, yes, we need to do something, but I also agree with Senator Lathrop is, we need to have a comprehensive strategy. And even my conversations with the Governor have been, we need to lower that trajectory. Otherwise, we're going to continue to build, build, build. And I think you saw some of the newspaper recordings of our committee hearing. We made that point, I think, abundantly clear that this could

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not just be a replacement; it has to be part of an overcrowding strategy. The \$53 million, Perkins County. I've already given you a little dissertation on that, so I'm going to pass on that. Jobs and the JEDI Fund is one that could not be put into the ARPA; it didn't qualify. So we had the option of either not doing it or trying to do it in the one-time Cash Reserve Fund. We moved that over to the Cash Reserve Fund. I think I've commented on the fact this big idea started as all being federal dollars to cover it. Now, no dollars are associated with it, and \$120 million is now being taken out of general funds and \$80 out of this. So then we get down to this ag innovation facility. Folks, we did take down about a third of the money. I think there's a contract out there, that the university can demonstrate, that this indeed is going to happen. It's 165 jobs, 65 PhDs, over \$100,000-type salaries. You've got people that are coming in that are, that are associated with that, either scientists or administrative people to help that. That's 165 jobs. If you do not build the incubator associated with that, all of what happens in that, from a research and development standpoint, stays on the lab floor. So what this does is take those ideas and transfers it into products and services for all of agriculture to use. So you're looking at jobs for Lincoln, you're looking at agriculture that benefits the entire state. I think that's a good, that is an outstanding program, one of the more outstanding programs that we'll look at. The rural projects-- that is railroads, Senator Groene's bill. Senator Groene brought it, and now we have this \$5 million to, over a ten-year period of time, to build up to that. We already have an application. The first application came in from North Platte. They're going to build a significantly large rail park. That brings jobs, folks. That's an economic development. And anybody that lives on the railroad, whether it be Schuyler, whether it be Scottsbluff, Gering, or whether it be Fremont, they have opportunities out of this fund to make applications to establish a rail park, like an industrial park; will bring jobs to the state of Nebraska. The \$25 million, let's see. Oh, Kearney's YRTC, this, this is about kids. This is about building a dormitory and enhancing the dormitory. It didn't fit in ARPA. It was there initially, but it didn't fit the guidelines. I think we have to rebuild those. I think that's an important one-time expenditure. Then we got \$8.3. OK, we got the, the MoPac Trail that's going to be completed. That's obviously something that we've talked a lot about. I think it, I think it's an OK deal. I'm not going to say it's the best deal I've had in this package, but I'm OK with it. \$30 million, rural workforce housing. That initially was a \$75 million proposition by the Governor in his proposal. That \$75 million then got chopped down to \$50 million, and we left \$20 million into the ARPA, and this \$30 million came up

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because it was revolving funds. And as we researched revolving funds, they could not qualify for ARPA. So you have \$20 million, a reduce-- you have a reduced request from \$75 to \$50. You got \$20 million for one-time spends as it relates to, to housing development. And then you have this, which could go out to different communities to be matched by those communities. It's a program that has worked, over \$100000-- or \$100 million worth of housing has been built in rural Nebraska, and it is a rural Nebraska project. Then we've got another \$50 million into water irrigation. Since I came to the Legislature, I've talked to surface water irrigation companies in western Nebraska. They have-- oh, they have projects, and they irrigate thousands and actually millions of acres of land in western Nebraska by surface water. These structures are over 100 years old, 100 years old, 120, and they're, they're now in serious need of serious dollar repair. We saw a tunnel collapse. That's just indicative of how the aging structure needs to be repaired, and there is a survey, that I believe that Senator Bostelman can show you, that shows about \$125 to \$150 million of needs out there. If you take all of that, that out of production, folks, because you didn't repair those canals because of resources weren't available, and the farmers can't pay it because it's, it's too much of a burden on their land, you just eliminated probably a million acres of farm ground. That's a heck of a lot of tax revenue. That's a whole lot of small towns that are absolutely dependent upon agriculture and the jobs that are associated with that. You don't think that's important? You know, we got an out-migration in, in rural Nebraska. We talk about it; it's important. So these are targeted programs. These are things that we have talked about over a long period of time. And maybe ARPA was the catalyst for bringing these ideas forward. But they're all interesting and all needed. InternNE was the Cash Fund. There's a \$20 or \$30 million ask that fits the ARPA request, but there are certain jobs you can't do, but you still want to have internships, \$20 of that came out as a one-time spend and one-time allocation. We've talked about that at length on the floor. I won't go through that. But what are we all about, folks? We got-- we need jobs. We need jobs and we need the-- where's our workforce at? Probably sitting in junior and senior high school. And these are the intern programs. These are the programs that will get you a qualified, quality workforce. U.S. Space Command, we've talked about that, the military base development. That's an important asset to the state of Nebraska. I think BRAC is part of this, part of the commentary to make sure that, when you have these families move to the state of Nebraska and serve on these military bases, the quality of life is important. And it shows, also, our commitment. It's a matching fund program, shows our commitment as a state to the military and the importance of the



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military. And then, of course, the \$20 million of middle-income housing is a revolving fund--

**WILLIAMS:** One minute.

**STINNER:** --for Lincoln, Omaha, and Grand Island middle-income housing. It's to build housing. It's to do housing developments and help developers with first-time buyers, with middle-income buyers. This is about jobs and housing. Number one need by the Chamber of Commerce is housing, jobs and housing, and that's what this is about. It's about reestablishing Nebraska's workforce. It's about providing houses. It's providing jobs. And it's taking care of the other needs that have piled up almost like a deferred maintenance. We still have, if you remember, \$453 million in General Fund; \$453 million, folks, is a record amount for the floor. I can tell you that you can probably add up how much we brought to the floor, as an Appropriations Committee,--

**WILLIAMS:** Time, Senator.

**STINNER:** --and at--

**WILLIAMS:** Thank you, Senator Stinner. As the Clerk stated, there are amendments from the Appropriations Committee. Senator Stinner, as Chair of the committee, you are recognized to open on the committee amendments.

**STINNER:** OK, that was the committee amendment I went through, the 10, that LB1013, I think, was-- if you started to look at-- there was a comparison in this, and the Governor obviously brought the \$400 million and the \$175, and \$5 million for for the film part of STRATCOM. I don't think I need to bore you, after going through that whole dissertation, but I would appreciate your green vote.

**WILLIAMS:** Thank you, Senator Stinner. Mr. Clerk, is there an amendment?

**ASSISTANT CLERK:** Mr. President, there are. Senator Lathrop would move to amend the committee amendments with FA80.

**WILLIAMS:** Senator Lathrop, you're recognized to open on FA80.

**LATHROP:** Thank you, Mr President and colleagues. Good afternoon once again. I do have amendments on the bill. It's not my intention to disrupt the, the Appropriation Committee amendment ultimately or the bill, or to filibuster it to some-- to its death. What I do want to continue is my dialogue on our process with CJI. And for those of you

that might not have been here yesterday, I'll give you a little background once again. So we have watched our population at the Department of Corrections increase, we are one of two states that have watched their Department of Corrections' population increase, while other states and nationally, the average daily population is going down. We have become an outlier in that respect. And many of the states that have seen a decline in their average daily population have worked with groups, such as CJI, on what we call criminal justice reform. And I want you to think of criminal justice reform as being smart on crime. For a generation, politicians ran on a platform that they would get tough on crime, and they made good on that promise. They came to legislatures, they came to the Congress, and they increased penalties, with the misguided notion that increasing the penalty will stop criminal activity. What we know from criminal science is, the thing that makes criminals pause is the risk of getting caught and not whatever the ultimate penalty is. If the increasing penalties would have been the solution, we wouldn't have any crime. So it's self-proving or self-evident that increasing all these penalties served one purpose. It got us to a place where we are now dealing with overcrowded prison facility in Nebraska. And as I said, we're outliers in that our population continues to grow. Further background: In Nebraska, we're watching our admissions to prison go down. So the number of people going in the front door is going, actually going down, while our average daily population continues to rise. It's at 153 percent of design capacity now. We have been in an overcrowding emergency, declared by the Governor, since July of 2020. We're going on almost two years, and we've made no improvements in the fact that we're in an overcrowding emergency, nor would we get out of that emergency if we closed the Pen and opened the 1,500 beds. I made this plea yesterday. I will begin my remarks on this bill making the same plea. We have a serious problem, colleagues. We have a serious problem. And I appreciate that this has been on the radar screen of the Judiciary Committee for years, and it's on the radar screen of the Appropriations Committee, has been for years. And now we're talking about criminal justice reform and building a new prison. And during debate on the last bill, we had a number of people that stood up and said, essentially, I know about that criminal justice reform stuff, but our prison needs to be replaced. Let's get after that; they're separate issues. They are not separate issues. They're not separate issues because we don't know what to build and how much capacity to create until we answer the question: What kind of reforms are we willing to engage in? And I'd be clear about something. This effort at criminal justice reform around the country has been led by conservatives. Now, when I stand up here, you may not look at me while

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I speak and say, there goes another one of those conservatives again. That's probably not what you're thinking. Senator Lowe clearly isn't thinking that. I get it. You know, I have a lot of people on the left that don't like what I do, and I have people on the right that don't like what I do. But I come down here and I try to solve problems that are facing the state. I think I got a track record of that. This is one of those issues. This is one of those issues. And you know what? Across the country, people recognize that it's time to ask: Where do we get the most bang for the taxpayer dollar when it comes to criminal justice? Our North Star in this process-- I said it from the day we brought CJI in-- our North Star is public safety. These proposals-- and I'll finish talking about these proposals-- these proposals are not sacrificing public safety. Again, I made this point yesterday. I'll use this illustration once again. If someone is going to do a 20-year sentence, that's costing us \$49,000 a year for that person to do a 20-year sentence. Take our budget, \$273 million, divide it by the 55,000-- 5,500 inmates, and you get to \$49,000 a guy per year. And that's before we account for the significant pay increase. Are we better off having that person spend 19 years and spending \$50,000 making sure that person is rehabilitated, or has the services or housing or whatever they need to be successful when they're discharged, or spend it on programming? We can talk about all the things we could spend it on to get better outcomes-- teaching them to read while they're incarcerated. All of those investments we could make, with the savings, with modest changes to sentencing. And, and colleagues, most of what I'm talking about in these proposals that have run into some resistance aren't saying you don't get to be punished or punished as months. It's saying we're going to take a look at you sooner on parole. And I cannot emphasize enough, I cannot emphasize enough, when you hear someone, as Senator Geist did, talking about letting criminals out early, the proposals that deal with parole, no one's getting out early unless the five people selected by the Governor to review their circumstance thinks it's a good idea. Three of the five have to vote for them to get parole. All we're doing with these proposals, for the most part and most significantly, is having them get a look by the parole board sooner. That doesn't mean they get out. Parole eligibility is one thing. Being released on parole is an, an entirely different thing. That-- our parole-- for people to be released on parole at their parole eligibility date, that number used to be 78 percent. It's now down to 58 percent. And I tell you that because the parole board is not a rubber stamp. People don't get done with their, their-- get done with their programming, whatever their requirements are, show up at the parole board and they rubber stamp them and go, good for you, you're on your own. 58 percent of

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them get approved. That's almost 40 percent of them not being approved. And so we have a check. We have a check against the people. When I have toured the different facilities, I've had an opportunity to talk to a number of the men who are, who have been incarcerated. And I've been to York, too, so I've talked to some of the women who have been incarcerated. And what you find is--

**WILLIAMS:** One minute.

**LATHROP:** --some of those people that have gotten past the, the, the years where they do impulsive things-- so I'll say older than 30-- a lot of them are like, I am in every program they'll let me in. I am doing every pro-social activity I'm allowed to. I don't want to do this again. But I've still got five more years to do, right? That guy should be in front of a parole board, right? It depends on the crime, and certainly people need to be punished for what they did. But the idea, with criminal justice reform and much of what you'll hear us talk about, is let the parole board sort out the people who have learned their lesson from the people that still need more time before they do. In my next time on the mike, I will go through the remaining options. I think I've been through 14 of them. They're 21 of them. And as we go through the balance of them, you will find that we're going to get into some of the nonconsensus items, those that touch--

**WILLIAMS:** Time, Senator.

**LATHROP:** --on the length of a sentence. Thank you.

**WILLIAMS:** Thank you, Senator Lathrop. Returning to debate, Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Good afternoon again, colleagues. When I was first elected, I went down to the Douglas County Court and met some of the judges. And we had an interesting conversation. The conversation went something like this. The judges told us about what they do. And I talked about the fact that crime rates had actually been dropping for the last 20 years, but the prison population had been increasing. But the judges were not sympathetic to that argument. They told me, Well, when people don't listen to me, I just send them to the jail. And I think that's the wrong attitude. I think we need to take a more nuanced approach to criminal justice reform than what that judge told me. Then I also went down to the prosecutors office and talked to them, and they were pretty unsympathetic to that argument as well. And they said, well, you do the crime, you do the time. And I understand that, but they have no

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realization or appreciation for the amount of money that we have to spend to put people in this prison system. When I first came here, we talked about \$35,000 a year. Now it's approaching \$50,000 a year. Chief Justice indicated it was \$50,000 a year. And you do the math. If you can do any multiplication at all, that's an expensive proposition; and we can do better. Senator Halloran was talking about food stamps. I passed a bill last year. You may recall LB108, and when we extended food stamps to 165 percent of the poverty rate. It's probably the best anti-poverty program the federal government has. And you need to recall that you're obligated to work in order to receive, receive SNAP benefits, and people do that. Why do we need SNAP benefits? Whether it's teachers or somebody working at Wal-Mart, the living wage just isn't sufficient to pay the bills. You can't make it on \$8, \$9, \$10 an hour. And so I'm happy to see some of the pay that occurs now, approaching \$15 an hour, even at some of the fast food restaurants. Who are, who are SNAP benefits good for? Veterans. A number of veterans don't make sufficient money to cover the cost of living, teachers as well. One-- a few comments now about education. Nebraska's got one of the best education systems in the country. I know we rank certainly within the top ten, and I think it's as high as seven and, seven or eight. Bert Peterson talks about the Nebraska education system as well, talking about the challenges of some, some minority groups have a hard time reaching some of the test statistics of, of our other populations. But it's those kinds of problems that Senator McKinney talked about that make it difficult for some citizens or some children of citizens to receive the education they need, and we need to work on some of those, those elements as well. Well, thank you, Mr. President.

**WILLIAMS:** Thank you, Senator McCollister. Senator Pahls, you're recognized. It does not appear Senator Pahls is on the floor. We'll move on. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. President. Well, that makes up for the time that I wasn't here earlier today. I want to take a moment to thank Chairman Stinner and members of the Appropriations Committee for adding my LB792 into LB1011. LB792 appropriates \$15,046,000 into the Youth Rehabilitation and Treatment Center in Kearney. LB792, has 18 co-sponsors, ranging across the political spectrum and made up of both urban and rural senators. This money is being used for the new living quarters for the youth at the facility, a new treatment and programming center, and replacing campus fire pump, and replacing a kitchen service elevator. These facility upgrades were recommended in a report that was published by the Department of Health and Human Services in conjunction with the Legislature Special YRTC Oversight

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Committee. The two major changes here are the living quarters and the new treatment and programming center. The current living facilities at YRTC Kearney are barrack-style facilities in which dozens of young men are in the same room, sleeping together, next to each other, usually a few feet apart. These living arrangements are not ideal. There have been dozens of instances where a youth is put in a situation where they do not feel comfortable or they feel threatened. This has led to situations where young men act out so they can be moved to a more private room. There have been issues where at night a youth is assaulted by another youth or where a youth assaults a staff member. Some of these assaults put staff members in the hospital and required an armed response by our local law enforcement. The new living facility would be created with this bill would allow for private rooms. This will provide for a safer and more comfortable environment for the young men, and safer environment for the staff as well. YRTC is an important part of my community, but it has had its issues over the last several decades. Dozens of senators have worked with me over the last few years to make major updates to the facility in order to ensure the community and staff and the youth are safe. Where also-- we also worked hard to ensure that the youth at the facility receive the best treatment services, so when they are released, they have opportunities to become successful. LB792 is one more team effort that we make. It is the best-- it is the best facility that it can be for our young men, and I appreciate the Appropriations Committee for allowing this part of this year's budget. These new housing units, though, there will be two of them. One will replace Morton, which, if you've been to YRTC-- and many of us have been up there-- Morton is the more security, secure sleeping quarters, but it is also like an institution. The rooms are private, but they are locked. The new facility will have 12 rooms on the outside of each building with windows in them, and that is what the youth want. It-- they can have their private rooms, private storage things for their things that they keep, whether it is a book or a radio,--

**WILLIAMS:** One minute.

**LOWE:** --a player of some sort. It's more secure. And right now, what happens if a youth acts out, and they're in their sleeping quarters or in their, their dormitory and down in the recreation room, they're sent to a place called Dickson. Dickson is a secure facility where the doors are slammed shut behind you. The window is very small, and it feels like you're incarcerated. With this new living quarters, you'll be sent back to your room to just cool down a little bit. And you're used to being in your room in, in your own bed, so it is much better.

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And I thank the Appropriations Committee for allowing LB792 in LB1013. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Lowe. Senator Machaela Cavanaugh, you're recognized.

**M. CAVANAUGH:** Thank you, Mr. President. Good afternoon, colleagues. I haven't actually looked at Senator Lathrop's amendment, so I'm not sure how I'm going to vote on that. And I--in-- I'm not sure about the underlying amendment of the Appropriations Committee, but I know that we will be continuing this conversation into next week, and I will take time over the break to really think about that. I did want to acknowledge, 'cause I'm pretty sure-- and I could be wrong, I stand for correction-- that today is St. Patrick's Day. And as a proud Irish-American, I thought it was worth mentioning, and I wanted to share a, a well-known Irish poem-- Irish blessing, if you will. It's, May the road rise up to meet you. May the winds always be at your back. May the sun shine warm upon your face, the rains fall soft upon your fields until we meet again. May God hold you in the palm of his hand. And this is something that I'm sure a lot of people have already heard and are familiar with. But I wanted to take a minute, since we're taking time today and-- to share some of the meaning behind that. So there are three main images. May the road rise up-- there-- these are the wind, the sun, and the rain. Many believe the symbolism-- two very important elements of the Irish culture, love and appreciation of nature and the environment-- and also representation of religion. I share that with you all because, when I read that interpretation, it really spoke to me about how I feel about the job that I am tasked with here. I do this job because I love Nebraska, and I want to serve Nebraska, and I want to make Nebraska a wonderful place to live. I want to preserve the nature of Nebraska, and I want others who grow up or move here to feel the way about Nebraska that I have felt my whole life. I have loved going to see the whooping crane migration in the spring every year. I haven't gone every year, but it happens every year. I love going out to the Sandhills and going horseback riding on my aunt and uncle's ranch. I love going tubing-- or not tubing, a horse tank down the Loup, the little-- oh, I'm sorry. Actually, it was the Dismal, the Dismal River, which is a terrible name for a river. I loved kayaking in high school in Valentine. I love going to our state parks. I love taking my kids to our state parks. I love Omaha. I love the arts in Omaha, the culture in Omaha. I love the community of Omaha. I love this state. And maybe I-- my feelings of appreciation of the state, maybe they're rooted in my Irish ancestry, I don't know. I grew up-- my father grew up in south Omaha and-- which is now represented by Senator Vargas. And there's a lot of churches in

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south Omaha, a lot of churches. And my grandmother also grew up there. My father grew up in the house that my grandmother also grew up in, and-- on 39th and R. And so when we were growing up, first of all, we would have spent this day in Duffy's Tavern.

**WILLIAMS:** One minute.

**M. CAVANAUGH:** Thank you. But we also spent, like, Christmas and Sunday afternoons in Duffy's Tavern. So it just, it just meant a lot. There was a-- St. Mary's is the Irish Church in north Omaha, and it, it's always just been a special place in my heart, and it reminds me so much of the warmth of, of what you're supposed to think of with St. Patrick's Day, and Ireland and family. And before I run out of time, I wanted to acknowledge many people, I think, have this pin on that I have on. Senator John Cavanaugh was distributing them, and just wanted to acknowledge that those are from the president of the Irish Parliament, the Senate: Mark Daly. He sent these to John, Senator Cavanaugh, to, to share with everyone here for St. Patrick's Day. So thank you. I yield the remainder of my time.

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

**LATHROP:** Thank you, Mr. President. Colleagues, I am going to take a little bit of time and go through some of the rest of these options. And then I'm going to invite you to ask me questions or tell me if any of them are giving you heartburn, because when we get through this, I think you'll see that these are not, these are not-- maybe you've heard a representation of what they are, and now you've heard of what they are and what they're not; and we'll talk about that. And, and if they cause you concern, then let's talk about it because I can tell you what the rationale is behind each one of them. Option 15 is to expand the use of sentence alternatives. This was actually a consensus item, creating standard objective criteria for who's able to access and participate in problem-solving courts. Now, if you think about that, problem-solving courts-- as I talked about yesterday, problem-solving courts are a great thing, and I think everybody likes the idea of problem-solving courts because, number one, number one, it's humane. It's a humane thing to do to say, rather than send you to the Department of Corrections, we're going to put you into a problem-solving court. And some of them are centered on veterans, some of them on, on drugs, some of them on emerging adults. And we even have a couple of pilot programs or a pilot program for a couple of mental health courts. Those mental, those problem-solving courts have a far higher success rate than does putting someone in prison. In



other words, they have a lower recidivism rate. Measuring success by repeat offending, they are a monumental success versus going to the Department of Corrections. And the one thing you should also know about putting somebody in a problem-solving court, it costs a lot less to dispose of that person. I think it's about-- and I could be wrong about this, but if I'm wrong, I'm not wrong by very far-- I think it's about \$3,000 a year to have somebody in a problem-solving court. That is in contrast to sending someone down to the penitentiary where we'll, where we will spend \$49,000. And if you've ever been to one of these problem-solving court graduations, it's very uplifting. And as I said yesterday, a lot of these people, for the first time, for the first time have had people say, Good job, well done. You know what? You turned it around. You're off of the drugs. And while we may have a variety of different problem-solving courts, and, and some of them become specialized, many of them, most of them-- probably all of them, but I dare say that or somebody will correct me-- get to substance abuse. Substance abuse is a huge problem. A lot of people come to it by way of different avenues. Alcoholism is a huge problem, right? This is the drug version of alcoholism. These people are addicted; they are addicted. And problem-solving courts, one of their mantras is to try to focus their resources on the high-need, high-risk individual, right? Somebody who seems like they're ready to take the cure, to do the things you need to do to go into treatment: to get the treatment, to stay sober, to be clean, go to the meetings, get a job, maintain their employment. Problem-solving courts are a great thing. This is a consensus item.

**WILLIAMS:** One minute.

**LATHROP:** One of the problems with problem-solving courts, if you will-- everybody likes the idea-- expanding them. The bottleneck for expanding problem-solving courts is judicial resources, so job, judges do this, district court judges do this, sort of on the side, if you will. It becomes an extra responsibility for them. Many of them enjoy doing it because it is a very positive thing, and not a lot of positive things happen down at the courthouse. This is one of those. We're running into a problem with having enough capacity or being able to expand the problem-solving courts unless or until we have judges, retired judges, or find some other means to expand those problem-solving courts. This is a consensus item. And as much as I am a fan of problem-solving courts, it might move the needle just a little bit. And by needle, I mean that line that's moving in a 30-degree direction that represents--

**WILLIAMS:** Time, Senator.

**LATHROP:** --our growth in the average daily population. Thank you.

**WILLIAMS:** Thank you, Senator Lathrop. Senator Kolterman, you're recognized.

**KOLTERMAN:** Thank you, Mr. President. Good afternoon, colleagues. I rise in support of LB1013 and AM2001. I believe we've done a lot of homework and got this budget-- contrary to what some people think, this budget's been well put together. But I do have some questions that I was wondering if Senator Lathrop would dialogue a little bit with me about.

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

**LATHROP:** Yes, I will.

**KOLTERMAN:** Senator Lathrop, I have been listening to much of what you've talked about over the last couple of days, and I find it fascinating, the direction that we're trying to go with, the Judiciary Committee is trying to go with LB920, and I look forward to that debate as that comes to the floor. I have toured all of the penitentiary, every, everything except for McCook; I haven't been to McCook. But I also had a chance to talk to the people from CJI and visit with them about concerns. I know that Judic-- Judiciary was involved in the committee process for CJI. And I know I've talked to the CJI people that came and helped facilitate that. They talked a lot about stacking of sentences or I think they call it extended stays or consecutive sentences. I'm not sure about all that, and I don't think the average person does. Could you talk a little bit about that? And then the last thing I'd talk about it, ask you about is, is there anything in, in this bill coming about ankle bracelets and probation and parole that can help us? I'll give you the rest of my time to address those issues.

**LATHROP:** OK, thank you. There's a lot there. I'll start with what, what is known as the stacking effect. And one of the things that I'll talk about in a moment is consecutive sentences, and because that's one of the one of the options for us to consider. But let me talk to you about the stacking effect. The stacking effect happens as you, as you look at the front door of the Department of Corrections and you look at the back door. People can leave the Department of Corrections in either of two ways: they can complete their sentence-- jam out, or they can be paroled. So that's our population that is leaving the Department of Corrections, and we have a population coming in. It's a little bit like inventory at a warehouse. When, when you have the

inventory coming through the front door, and you're not having it go out the back door or be distributed as fast as it's coming in the front door, you're stacking the inventory in your warehouse. In our case-- it's maybe a poor, poor metaphor, but I'm going to use it just the same. Our warehouse is the Department of Corrections. The people who are there are going in and, instead of getting out as soon as they used to ten years ago, they're staying in there longer, and the longer they stay, in comes the next guy. Instead of having that bed empty because their sentence has been complete, they're staying there longer, and so that bed isn't available for the next guy to come in the door. But he's still got to have a place to stay. So we stack these people, population-wise speaking, if you will. We're stacking sentences or stacking inmates because they're staying longer. They're not going out the back door as fast as they're coming in the front door. And like inventory, they're piling up inside the department, and that is a function of a number of things. One is the length of sentence. So even for smaller crimes, people are getting longer sentences than they used to. Just--

**HUGHES:** One minute.

**LATHROP:** It's sort of sentence creep, if you will. It's mandatory minimum sentences. We've seen the use of mandatory sentences grow in the last ten years by, I think, the number is 42 percent. So we got a lot of people spending more time on mandatory sentences. And we have parole releasing people. Fewer people are getting out on parole than was historically the case. In fact, I think it was 78 percent were released on parole, and now it's closer to 58 percent. That has the effect of stacking people up in our warehouse, which is our Department of Corrections. That's, that's the stacking effect that we talk about, that leads to the overcrowding that has us at 152 percent. I'll be happy to talk about the consecutive sentence piece of this and about-- and just a couple of options. But if you want to ask questions, I'm happy to answer those, too. But thank you.

**HUGHES:** Thank you, Senator Lathrop. Senator DeBoer, you're recognized.

**DeBOER:** Thank you, Mr. President. First, I'll say that, to folks who are asking how any of this is relevant to the budget, I think that we need to recognize that we're talking about a significant amount of money to spend, not just in a prison this time, but in the future, because we cannot get our curve for the number of average daily attendance beds we need, average daily incarcerated beds we need, under control. So it was mentioned that we are not one of the highest percentage of incarceration rates in the country, but we are one of

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only two who have that number rising. So we're going the wrong direction. Our percentage of incarceration rate is going up. So that's why that's a budget issue. I care about it, continue to have the discussion with Senator Lathrop. I think that's great, but I would also like to talk about LB1013 and AM2001 in general. My process for dealing with the budgets has, in the past, been to look through them. I take the Saturday after we get the Budget Book and I line them out with all kinds of different colors of highlighters, and I look at everything. And then I genuinely, generally defer to the committee for most things because they are the subject matter experts. They're the subject matter experts on our budget, on our budgeting process, on our cash transfers. They've heard the hearings on all of these different budget issues. So generally speaking, I'm going to give wide deference to the folks on the Appropriations Committee. They also see the entire landscape of all the requests, and they make balances. They make decisions balancing the entire requests, the entire landscape of requests from everyone. And I don't know that I have the ability to do that on the floor with individual amendments, to determine, sort of, how to rebalance everything that they've already struck this balance with, if I'm only seeing part of the picture. So one of the reasons that I generally am not that in favor of doing budget changes on the floor is because I don't have the whole picture the way the committee did. The committee represents a cross-section of our body. I think it does a pretty effective job of representing a cross-section of our body. The other reason I don't generally favor on-the-fly budget changes on the floor is because I did one time. I thought about supporting an amendment on the budget, on the fly. And when I did so, I found out later that, had we passed that amendment to the budget and infused a whole bunch of money into a particular program, it would have had the opposite effect. It would have encouraged fraud in that program. So I don't have all of the information on these things. I expect that our Appropriations Committee looks into that; I know that they do. And so that's one of the reasons that I'm generally against doing any sort of change on the floor to the budget, because I don't have all the information. Our budget is so complex that there are so many things and I haven't done the balancing act.

**HUGHES:** One minute.

**DeBOER:** But-- thank you, Mr. President. If I am going to do some kind of change to the budget on the floor, I sure as heck expect that I have the dollars and cents in front of me, I know what it's going to be used for exactly, I know how much is being asked for, I know who. I mean, I have to know all the information before I'm going to vote down a budget because there's something that somebody wants to put in

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there. So I'm looking for people to talk about specific amounts that they want, what they want them for, and make sure that we have done that in a balanced way. Then I'm happy to entertain those ideas. But until I get the specifics-- and I know that some people are going downstairs right now to make some specifics-- but I'm going to be a yes on this budget, as is, until somebody can give me--

**HUGHES:** Time, Senator.

**DeBOER:** --specifics. Thank you.

**HUGHES:** Thank you, Senator DeBoer. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** I think-- this thing working? There we go. Thank you, Mr. President. So I was actually-- I wanted to comment. Well, I've got a lot of things to say still about the prison reform and our, I guess, priorities and appropriation. But I wanted to comment on, Senator Stinner got up and talked about what is AM2001, which is the amendment to the, to LB1013. And I had talked about, on the previous bill, the surface water irrigation project, and we had a good, long back-and-forth, myself and Senator Bostelman and Senator Friesen and Senator Erdman, and I think others were engaged in that topic. And so that, you know, it's-- I've been interested in that a little bit, and so I appreciated Senator Stinner. When he went through the whole transfers for each of these, he gave a little bit of a commentary and justification for each of the transfers, which I-- again, I keep saying. I think it's important that we talk about the reasons why these appropriations are in here. And he commented on-- I wrote down-- a million acres of farmland would be taken out of production if we don't make these repairs, and then, of course, the effect on property taxes and agricultural production in the state of Nebraska overall and the, and particularly in the communities out there. So I just wanted to say I appreciated him adding a little bit more context to that conversation. I actually was, earlier today, looking up, trying to figure out more information about the number of these districts. Well, I know we settled on 63, and I actually got a map of where those districts are. And I know everybody will be surprised, they're mostly right on the --what you call a watershed-- very close to the Platte River, the North Platte River and probably other rivers along there. It's not a good enough quality picture to, to probably distribute as a printout; it won't translate. So I can email it to folks if they wanted to look at it. But so putting that broader context is helpful. It does, it does help us determine whether or not this is an appropriate use, transfer of \$50 million, and what we get out of that

and, and what the value in investing in this particular program is. And I would just remind folks of the conversation that Senator Friesen and Senator Bostelman had about rates charging for the services. And Senator Stinner again mentioned the agedness of these projects, some 100 years old, 70 years old, things like that, and, you know, that those are all, I think I-- well, I would take those as facts. I don't have any reason to question them. But we can look at those facts and put them in that context and still say this is a valuable program. But is this the question? The question still remains: Is that the right use of the \$50 million? So that, that is-- I, I-- in that project, I guess, I still have more questions and will continue to look at that issue to determine what I, kind of-- I think the value is there, and I would, I would-- I like having that kind of analysis and looking at everything, every appropriation, every transfer on balance, and then, kind of, looking at other projects, other ideas we could do with that. And there is-- we'll spend time in ARPA talking about it, but he-- Senator Stinner also mentioned the Laramie Canal. There's an ARPA appropriation, I think, of \$20 million, another project that I will spend some time, hopefully over the weekend, being able to look at and see what-- well, what I can learn about that so I know what--

**HUGHES:** One minute.

**J. CAVANAUGH:** --the appropriate questions are to ask on that. I'm going to run out of time before I move on to criminal justice issues, so I'll push my light again to talk about some of the things that people are talking about right now. But again, we are having a broader conversation about criminal justice and other reforms, some that cost money, some that don't cost money, but ways to address issues as a state, overall, in smarter ways that maybe wouldn't require us to spend so much money building a prison. And it is important to think about things in the way of cost-benefit analysis. What's our return on our investment? And what else we could be doing with that money and maybe get a better return for that. Thank you, Mr. President.

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

**M. CAVANAUGH:** Thank you, Mr. President. So AM2001, I think it's been discussed a little bit about where exactly the prison is in the budget, and it's not because we're not funding a prison, but we're setting aside money on the prison. And so that's what's happened in this AM. If you look at page 1, line-- starting on lines 25 and going over on to page two, The State Treasurer shall-- sorry, it's dark in here today-- "The State Treasurer shall transfer \$215,580,000 from the

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Cash Reserve Fund to the Nebraska Capital Construction Fund on or before, on or after July 1, 2022, but before June 15, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services." So we have that-- I think I put it in my drawer already-- the budget, like the overview, the text of what the budget is. And in there, it says, it breaks down this \$215,580,000. And so \$175 million of that is set aside for the prison. It's not appropriated, so it just sits there. It could just sit in the Cash Fund as well, but it just sits in this fund until some-- we-- the Legislature does something in future sessions. So what we've been hearing from those that are-- both the Judiciary Committee and on this, the committee that worked with CJI-- is that there are specific benchmarks that need to be met before we can appropriate that money to build a prison. And there, there seems to be this, sort of-- I don't know if it's a miscommunication, if it's purposely misrepresenting or misunderstanding, I'm not sure. But I think everyone in the body believes that a new facility, an updated facility, is, is a good thing, but not expanding capacity without criminal justice reform. They need to go together. You cannot solve this problem with just one thing. We have to have sentencing reform. We have to, we have to. This is costing our state too much money. I would encourage anyone who has concerns about outcomes, go look at that's-- that report that ALEC did about Texas. We don't want to be known as-- or I guess I shouldn't speak for everyone. I do not want our state to be known as the state that incarcerates mentally ill people. I want to be known as the state that is leading the pack on behavioral and mental health, that we have the lowest incarceration rates in the country because we invest so much in behavioral and mental health. That's what I want our reputation to be. I want our law enforcement to be safe, and if we continually do not address severe behavioral and mental health issues,--

**HUGHES:** One minute.

**M. CAVANAUGH:** --we are putting our law enforcement at risk because, as upsetting as it is when somebody is injured by law enforcement, there are times when they have no choice because somebody is so out of their mind. And that is an unfortunate situation-- more than unfortunate, that is a devastating situation. But most of them are preventable. If we were to have an actual behavioral health plan in this state, we could be preventing those kinds of interactions from ever happening. Let's invest in people, not prisons. Thank you.

**HUGHES:** Thank you, Senator Cavanaugh. Senator Lathrop, you're recognized.

**LATHROP:** Well, thank you, Mr. President. And colleagues, good afternoon once again. I'm going to talk about Option 16. There's 21, so we're getting there. Option 16 is a consensus item. It involves creating standardized statewide structure for diversion programs while reserving some flexibility to account for varying resources across the state. Ensuring counties have resources to-- and, and the second piece of that is to ensure that counties have resources to administer diversion programs that, in turn save state resources-- organize and fund the effort by judicial district. What are diversion programs?, you are asking me. I hear the cry. Give me an explanation for what diversion is. If you are charged with certain crimes, you may have your case. You may be eligible for diversion. Diversion is where they take you out of the process and essentially have you do probation and, if you successfully complete it, your charges are dismissed. It is a very effective tool. It spares somebody a conviction. And here's the challenge. We don't have any statewide standards and it's not available in all jurisdictions. So some jurisdictions have a robust diversion program. I think Douglas County does a pretty good job with this, as I recall. I suspect that Lancaster County does as well. Some of the limitation, and by the way, these things seem to be very-- they are, not seem-- they are very prosecutor discretion-oriented. That's the, that's by their very nature. The prosecutors can put somebody into diversion and give them an opportunity to get through some type of probation without ever having to end up with a conviction. The challenge that this option is attempting to address is the fact that in many jurisdictions they don't have the resources to divert somebody to. So if you get picked up, in some places, with some quantity of drugs, say a user amount of drugs and the prosecutor would otherwise want to send you to a diversion, into a, into diversion, they would need to know or need to have available drug treatment, counselors, the kind of people who can provide the services somebody on diversion would require. And there's a lot of places across the state-- and I'm talking to, I'm trying to tell you something many of you know in other parts of the state-- that those resources aren't there. And this is about trying to stand up those resources and develop and develop diversion programs that go into every judicial district so that prosecutors will have that available to them as an option for someone who has been charged. This is a, this is another opportunity to divert somebody, much like problem-solving courts, to divert somebody from going into prison. And, and that's a worthwhile topic to talk about in a broader sense, as long as I'm on this topic. People can, people can be convicted and have a lot of opportunities or some opportunities, particularly depending on the crime, to not end up at the Department of Corrections. Problem-solving courts is one, diversion is another,



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and being placed on probation is a third. To be placed on probation-- and by the way, our probation numbers are growing, which is a good thing--

**HUGHES:** One minute.

**LATHROP:** --to be placed on probation, you are convicted and you're sentenced to probation. And when you're sentenced to probation, the judge will set those terms, typically after a pre-sentence investigation and say, This is what your probation is going to look like, and if you are successful, successfully completed, you will be discharged from probation and you won't have to serve time-- generally speaking. Sometimes probation can, can involve some time, but generally, if you're getting probation, you're going to have some things you need to do. In probation, oftentimes, in small cases like misdemeanor stuff, it might be go do some community, community service, it might be go to some AA meetings. But when you start talking about felony stuff, you're talking, more often than not, or more often about substance abuse treatment--

**HUGHES:** Time, Senator.

**LATHROP:** --and things like that. Thank you.

**HUGHES:** Thank you, Senator Lathrop. And that was your third opportunity. Senator Kolterman, you're recognized.

**KOLTERMAN:** Thank you, Mr. President. Again, I'd like to ask Senator Lathrop a couple of questions and-- but see if he'll yield.

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

**LATHROP:** Yes, I will.

**KOLTERMAN:** Two things. I've been here for seven years. It's my eighth year, and there's 11 of us that are-- be going out. Most of us who are involved were supporting a program called 605 the first year we were here. That dealt with judicial reform. And I know you weren't here then, but you understand some of how it's benefited. Has that had-- my first question is: Has 605 helped us move the needle? And the second question deals with the Judiciary, and they've been involved in the CJI report, and they were there as a resource. Do they support the idea of changing the stacking or consecutive sentences? If you'd address those two questions, I'd appreciate it.

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**LATHROP:** I'd be happy to. We did have three members of the Judiciary, including the Chief Justice, on the CJI panel, the CJI working group. And judges participating in this process-- by the way, you got to have all three branches invite CJI to come into the state. Judges cannot get involved in policy, so you won't see the Chief Justice come into the Judiciary Committee. Well, you'll see him come in for pay raises, right? Because that, that they can do; that's not really policy. But they can't come into the Judiciary Committee and say, we think you need to shorten the sentence for burglary, lengthen the sentence for a homicide, because now they're, now they're offering opinions on policy, and judicial ethics prohibit the court from being involved in policy considerations. If you can imagine, if what, if a judge came in and said this is a great policy or that's a bad policy, and it gets implemented, and now its constitutionality is before the court, and there sits a judge that says, Well, I'm passing on the constitutionality of this, and I was in Judiciary Committee advocating for it just a year ago. So that's why they can't advocate. And in this case, the judges-- and we're grateful for their participation-- but mostly their role in the CJI process is to say, Does this cause a problem with the way the court functions? Is this a workable, is this a doable solution? What was the first question, Senator Kolterman?

**KOLTERMAN:** Uh--

**LATHROP:** Oh, the 605.

**KOLTERMAN:** The 605, yes.

**LATHROP:** So the 605, the 605 did a number of things. One of the things it did, one of the things that it did is it had-- I believe it lowered the amount of time you have to do on a Class III or a Class IV, and then, put at the end of it-- so now you get a flat sentence for a Class III or a Class IV-- and then, at the end of it, you have post-release supervision. So a little bit shorter sentence, but after you get done with that, you are, as the bill was drafted and passed, you have mandatory post-release supervision, so a period of incarceration followed by probation. You meet with a probation officer. That, my recollection is, remains mandatory with IIIs, but on IVs, we've since changed it to make that discretionary with the court. And that post-release supervision and this process of having-- 605 also did one other thing that's very important. It made probation presumptively the correct sentence for a Class IV felony, a Class IV felony being anything that carries a penalty greater than a year.

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**HUGHES:** One minute.

**LATHROP:** Class IV felony is the lowest level of felony on the books. And to make it presumptively probation meant that more people were going to be on probation, which is why we were talking about those assistant probation officers. We do have more people on probation and, colleagues, if we had not passed LB605 back in 2015, we would have been-- we would be well, well, well past 153 percent of design capacity in our, in our Department of Corrections. That was successful in getting more people on probation. But still, still we see a lot of people with Class IVs going to the penitentiary, some of whom are going there with consecutive sentences.

**KOLTERMAN:** OK, thank you very much. I appreciate that.

**LATHROP:** Thank you for the opportunity.

**HUGHES:** Thank you, Senator Kolterman and Senator Lathrop. Senator Hunt, you're recognized.

**HUNT:** Thank you, Mr. President. Good afternoon, Nebraskans. Listening to the discussion of the budget and the discussion of what to do with the pile of money, and seeing how we are appropriating it across the state from, not only its text in the budget bill, but in the handouts that we've received that I've been looking over for the last couple of days, looking at those things have brought some observations to me that relate to the problem I think we have with short-term thinking and lack of imagination that comes out of this Legislature and makes the rest of the country and the rest of the world see us as a very backwards-thinking and regressive place. I want to share a different type of thought that motivates a lot of the work that I do here and the goals that I believe we need to share during the short time that we all have here to work as policymakers. Colleagues, everything outside of Omaha, in Nebraska, and probably Lincoln, is in huge trouble. These communities will do a great job raising grain, raising crops for the next generation or so, probably raising red meat. But after that, we're going to be in huge trouble. There is no way the population in the rest of Nebraska will grow. The people to populate these areas in the rest of Nebraska were never born there. And that likely prediction that I have is based on actions we've taken in this Legislature and based on demographic research that consistently shows this trend moving forward over the last 25 years. At no point that demographic research has been done on growth in Nebraska has that trend reversed. That's based on solid demographic research from University of Nebraska, from the Planning Committee, from the Center

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of Public Affairs Research, and that's been presented to us year after year here in the Legislature, so we all have that data. The ratio in Nebraska of working age adults to aging and retired adults was six to one in 1950, and it was five to one in 2010, and by 2050, this next generation is expected to be three to one. And there is no way that domestic migration, whether it's migration from intrastate, from around our own state, or from other states in the country, there's no way that migration in the United States is going to be enough to change that. Since 2010, Nebraska's population has increased about 5 percent. But 66 counties have lost population. Nebraska is losing about 2,000 people a year to other states. But there is good news, and this is the news that I'm asking us to follow. Pre-pandemic and pre-lots of very repressive immigration policy time, bBut pre-pandemic, about 4,000 people came to Nebraska from international locations every year, more than we're getting born here, more than were-- you know, the net loss between who's getting born and who's moving out and who is moving in for jobs and things like that. The only place for population growth in Nebraska is international migration. And I'm talking about immigration, and I know that the political climate of. Conservatives in Nebraska-- or I could just say the Governor and his best friends in the Legislature-- I know that they hate that. This is not a popular idea to bring forth in terms of economic growth,--

**HUGHES:** One minute.

**HUNT:** --but millions of people from around the world who are from breadbasket economies just like Nebraska, who are agriculture workers in their own countries, just like we need in Nebraska, who are doctors and educators and researchers and business owners, just like we need more of in Nebraska, especially rural Nebraska, they are looking for homes. There is turmoil in the world, and the United States is still the beacon of hope and democracy that these people should be looking to to find opportunity. But the policies we have here in Nebraska, which are reflected in this budget, are closing the door even more on those people. So if this, if we had some kind of project to bring more immigrants into Nebraska and it fizzled out and the money didn't get used, it would be there for budget use in a few years when the federal punchbowl dries up. If that money is not taken off the table and burned--

**HUGHES:** Time, Senator.

**HUNT:** --by tax cuts.

**HUGHES:** Time.

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**HUNT:** Thank you.

**HUGHES:** Thank you, Senator Hunt. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. President. So-- well, I wanted to talk about a few things, and so there's a, a flier that Senator McKinney gave me that shows LB920 projection, projected to flatline prison growth, say, 55 million by 2030, so that's saving money and administration of the prison. Well, basically, it shows, by 2030, the prison population, at the rate we're going right now, would increase to 70-- 7,327 people, but with LB920, it would drop or would own-- about stay flat at 6,232. So that that was interesting thing, and, and one of the things that LB920 seeks to do is to get more individuals on that, sort of, term of supervision have the-- more services when people are on supervision, which data shows it's clear that reduces recidivism, reduces re-offense. And that was one of the things Senator Kolterman and Senator Lathrop we're talking about-- LB605 sought to do was to make sure that people had that period of post-release supervision, which is what the Legislature actually called that term after individuals served their sentence on Class III, Class III, And Class IV felonies. So you would get-- class-- those sentences became straight sentences, flat sentences, determinate sentences and with a period of post-release that was mandatory afterwards. And so people had to be on probation or parole. It-- but it was administered by the Office of Probation after the fact. So that was the-- what LB605 sought to do is to shorten some sentences and guarantee that people had post-release supervision. Part of LB920 is looking to make sure that more people have a period of post-release supervision. And so I was looking. I've been talking about the jail sentence census, the, the Department of Corrections Quarterly Population Summary for October through December of 2021. And on-- this is page 4 of 8-- they have the individuals discharged based off of type of discharge from the Department of Corrections. So we start on one end, which is people released to post-release supervision. So those are individuals who are in the Department of Corrections, Nebraska Department of Corrections, on Class IIIA, Class III, and Class IV felonies. And this would not include individuals who serve their sentence in a county jail. So if somebody gets a sentence of less than a year, they will serve that sentence in a county jail and they would still be released to post-release supervision. So these are not all the individuals being placed on post-release in the state. These are the ones that have served a sentence of more than a year in the State Department of Corrections. So there were about 150 people released in that quarter, 50 a month-- 51, 44 and 50. And so then they're-- the next category is

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deceased. So these are individuals who died while in the custody of the Department of Corrections-- was 5 in October 4 in November, 2 in December. The next is released to parole. So this is other people who were placed on a community-based supervision after their period of incarceration, where they then have to be subjected to the types of supervision that we're talking about here, which is drug testing, programming classes, getting a job, staying out of trouble. So these are individuals who are paroled-- 72 in October, 78 in November, 65 in December. So we have about 120 people a month being released to some form of supervision. We have released to other jurisdictions: 1 in October, 1 in November, 1 in December-- or 2 in December. Those are people who have a sentence, say in Iowa, they get sent to Iowa to serve that sentence after they finish their sentence here or something along those lines. Then we have flat sentences. So those are individuals whose sentence was 1 to 1, 2 to 2, 10 to 10. So the, that, these are some of the problematic ones we're talking about where they have their sentence, the top number and the bottom number are the same-- 38 in October, 25 in--

**HUGHES:** One minute.

**J. CAVANAUGH:** --November, 44 in December. So a little, around 100 people in that period released to flat sentences, no supervision-- getting straight out of prison, no supervision, no oversight, just going back out from incarceration to society. Mandatory discharge-- again, released with no supervision-- 22 in October, 30 in November, 33 in December-- so about 70 a month again being released between these two, flat and mandatory discharge, to no supervision. So it's about the same number of people being released to parole as are being released with no supervision under the current system. And the people who are most likely to reoffend, to re-- are the people with-- being released with no supervision, with no step-down in custody, with no programming to be supervised. So that is one of the things that LB920 seeks to do. That's something smart that we can do that will help solve some of the problems,--

**HUGHES:** Time, Senator.

**J. CAVANAUGH:** --decrease-- thank you, Mr. President.

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

**McCOLLISTER:** Thank you, Mr. President. Good afternoon again, colleagues. I was intrigued by Senator Hunt's comments about

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migration, and she's absolutely right. Migration is so important to Nebraska. In fact, if you look at the 19-- or 2010 census, Nebraska would have lost population if it hadn't been for migration into the state. And we always have the fear that we're going to lose one of our congressional seats, so maintaining our population is so important. You should also know that, in America, we aren't maintaining the birth rate. That is to say that we aren't replacing our population. So if we're going to-- want to maintain population in Nebraska, increasing migration is exactly where we need to go. So last weekend, I was in Washington attending a national conference on immigration. We talked about the current issues related to migration. Of course, in this body, in 2015, we debated the DACA driver's license issue, and we had great support for that particular bill. Senator Nordquist sponsored the bill. Senator Mello and I prioritized-- or I prioritized the bill, and we got that bill passed over our Governor's veto. And so that told people that Nebraska is a welcoming place for migrants and dreamers. Well, right now on the national scene, we do need immigration reform. And I think there is some possibility, given the recent affairs in Congress, where they're actually getting some work done. We may see some progress on that front. In fact, you should know that there are programs around where Afghan folks that left that country and, also, folks from Ukraine. And they've had about 3 million people leave that country. And it'd be a great idea if we could bring some of those trained people into our state. And I think I'm going to investigate programs that Nebraska could follow to perhaps make that possible. In talking about criminal justice reform, I've been involved with the Judiciary Committee almost every year since I came here in 2015. In fact, the problem-solving court idea-- both Senator Williams and I prioritized that-- and it's be-- has become a tremendous success in Nebraska. I've-- was able to attend a couple of graduations, and it's a very successful program. Diversion, probation are other areas that we need to encourage. The debate today on this particular bill has been a precursor for LB920. And when debate occurs, I think we need to be data-driven, driven. We don't need to reinvent the wheel-- because many states in the United States have undergone this process with CJI. And we know what things to do. We know what things work. So I don't think we need to make the mistakes that other people have made. We need to follow best practices and continue with the process that CJI has lined up with us. What I can't quite understand-- it's unconscionable-- why the county attorneys have not engaged in this process. They need to engage on this process like the Governor and the Legislature has done. They have a responsibility to make sure our costs are reasonable in the state, and they need to come to the table and continue the debate with the Judiciary Committee on LB920.

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**HUGHES:** One minute.

**McCOLLISTER:** And not only that, but they need to have the burden of proof. If they want to make blind assertions about scaring people that criminal justice reform is going to reduce public safety, show us the numbers, show us the facts. The burden of proof needs to be talked about when we-- this debate continues. Thank you, Mr. President.

**HUGHES:** Thank you, Senator McCollister. Senator Machaela Cavanaugh, you're recognized, and this is your third opportunity.

**M. CAVANAUGH:** Thank you, Mr. President. I'd like to yield my time to Senator Lathrop.

**HUGHES:** Senator Lathrop, 4:55.

**LATHROP:** Thank you, Mr. President, and Senator Cavanaugh, thank you. I want to continue, and hopefully I have a chance before 3:00 to get through all the options, and then, when we come back on Tuesday, we can have a broader discussion about any concerns people have with what they've heard and so forth. And I'm-- so I'm looking forward to Tuesday morning as well. So Option 17 is to appoint a working group to reconvene and review the implementation and fidelity of the reforms resulting from this effort. This one's pretty obvious. It's a consensus item. It's just to have a group of individuals meet to ensure that the, that those reforms that are found in the bill are carried out as the bill would require. Number 18 is a nonconsensus item and it is to create a geriatric parole mechanism. This one became controversial because anytime you talk about letting somebody-- by the way, they'd still have to go before the parole board-- but imagine somebody who is 75, which is in the bill, and has served 15 years. They're getting up there in years-- not that that's old 'cause I can see it from here-- but they're not likely to re-offend at some certain age, right? The Department of Corrections, I think, spends-- and I'm, I'm trying to remember this-- I think it's, on average, about \$8,500 per inmate on medical care. So like Medicare, most of those expenses are on the older guys who need to have a hip replaced or a knee replaced, or they have a heart problem or those kind of things. They-- we have established a community standard of care for people who are incarcerated. So if you have a medical need, if that's something that you would get care for, the Department of Corrections has a responsibility to make sure you get that care. The idea behind geriatric parole is that those individuals who are getting into the expensive part of their life, if you will, if they were to be paroled, we would have them outside the gates, outside of the responsibility of



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the Department of Corrections, where they could then become Medicaid-eligible and secure their care with the assistance of their Medicaid eligibility-- also part of the bill. So geriatric parole has two features, generally speaking. It will have an age. I think it was originally 65 in the bill, as introduced. It's up to 75 with an amendment, and you must have served 15 years. So we're talking about a pretty narrow group. And understand, once again, these individuals would have to go before the parole board, and the parole board would have to see the circumstances of their offense, all of those criteria that we talked about the other day, and determine that they're a suitable candidate for parole, and then they would be allowed to parole. By the way, if they screw up, they're back at the department. But it does allow us to put more people out who are at the expensive part of their life. I-- if I'm not mistaken, it is available to nonviolent offenders, so it's not everybody that would be an eligible person, but a certain class of people who have been convicted of certain class of crimes, and excluding others. This was a nonconsensus item because, almost every time when you start talking about an older inmate, you can find somebody that age that's done something horrible.

**HUGHES:** One minute.

**LATHROP:** And I would just offer this, that again, we need to rely upon the parole board to make that judgment. That person is not automatically eligible because they're 85 and they've been in there 15 years. They'd have to go before the parole board, and the parole board would evaluate them relative to the risk to reoffend and like circumstances, the seriousness of their offense, what their victims have to say about it, and then make a judgment about whether that individual would be a suitable, suitable candidate. Not really a scary thing, we're talking about a pretty narrow group of people. It, it moves the needle only marginally as, as an option, but it is a cost saver from a medical care point of view, and less so from the, an overpopulation point of view.

**HUGHES:** Time, Senator.

**LATHROP:** Thank you.

**HUGHES:** Senator Pansing Brooks, you're recognized.

**PANSING BROOKS:** Thank you, Mr. President. So I, I just wanted to stand up and talk about a number of different issues. Some people have stood up and said they're not happy with whatever wasn't funded that they brought and cared for. And of course, I have an issue that I care a

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lot about, too, and I think I'm just going to talk about it a little bit because, hopefully, next year someone will bring this, this bill to get this funding. So I brought a bill on CTOs [SIC], which are Career and Technology [SIC] Student Organizations, and those organizations are organizations in our high schools and sometimes our middle schools, across the state, that help to expand the school-to-workforce pipeline. And you all know that we've been talking about the school-to-prison pipeline. And, and I felt really excited about this bill because it really does work on our number one issue for businesses and for most people in the state, which is workforce development. And this takes our kids and helps them get into a program that connects students with career opportunities and professionals early in high school. It allows these students, these Nebraska's students, to understand and expand their opportunities in the fields in which they're interested. It's basically hands-on training, and I, I'm really, really excited about this. And I hope, since this didn't-- I, I'm still thinking about trying to amend it onto something-- but what I want you to understand is, is how valuable this is to provide the opportunities to our Nebraska kids. There are seven CTSOs in Nebraska, each aligned to a different grouping of, of career fields. I'm going to list them for you: one,) agriculture education has Future Farmers of America or FFA; business and information technology education has Future Business Leaders of America or FBLA; for the health sciences, there's Health Occupations Students of America, or HOSA; marketing and business students can also participate in Distributive Education Clubs of America, or DECA-- I never knew what that stood for; future teachers can participate in the Rising Educators [SIC] program; skilled and technical services, or the industrial arts, aligns with SkillsUSA; and human services careers align with Family, Career and Communities Leaders of America [SIC], or FCCLA. So these are all areas where we have high need in our state, high need for people to come and be trained. But rather than looking at the aftereffect, which I know we have to do that as well, why not spend some money and help our kids to get into these fields so they see the opportunities, they meet the people and have the chance to go into these fields? It provides-- during COVID, there was a significant decrease in members of these CTSOs, career and technology organizations, student organizations. And-- but if we would help to bolster these programs across the state and, of course, in the bigger cities, they are having more opportunity. The students are having more opportunities to do that. But it is real work experience for Nebraska workforce. Other states are funding these programs. So I just want to bring this up to you to--

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**HUGHES:** One minute.

**PANSING BROOKS:** If it doesn't go through this year, it should be going through at some point in the near future. We are alone in our unwillingness to properly fund these programs. I just want to speak, then again, briefly on-- LB605 did not work, partly because we didn't follow the requirements that there not be stacking of sentences, that we-- it was-- it all-- LB605 also recommended to us, CJI recommended that we stop doing determinate sentences, which then in 1972, the Legislature mandated that we do no more determinate sentences. And so-- but we went back to it and it was, it was snuck into a provision in the '90s, and-- but our whole goal is post-release supervision. And the way we're doing it now, we're just going to keep rising and keep having these numbers, and we're just hampered significantly--

**HUGHES:** Time, Senator.

**PANSING BROOKS:** --by the determinate sentences. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Pansing Brooks. Speaker Hilgers for an announcement.

**HILGERS:** Thank you, Mr. President. Good afternoon, colleagues. I want to make two brief scheduling announcements. One is we're going to end the day about 3:15 today. That will enable us to get cloture on LB1013 in the morning before lunch on Tuesday. The second is an addendum to my announcement earlier this morning. I appreciate the flexibility and nimbleness that the body has shown with scheduling. I'd initially intended LB1073 to be in the afternoon on Tuesday. Because of a scheduling issue, I'm going to have to move that to Wednesday morning. Wednesday morning, if there is a veto override, we will still have the veto override day on the same day, the following Tuesday, which is two days before March 31. But I wanted to announce that, give that, the body a heads-up, so it'll be Tuesday morning. I had, I have spoken to Senator Wayne and Senator Matt Hansen, and they understand. But in addition then, on that spot on the calendar next Tuesday, I'm going to put Senator Hunt's SNAP Bill, LB121, on the calendar in the latter part of the day. So I wanted to give the body a heads-up before we go into the weekend, to see the agenda. And it wasn't what I said this morning; that is why. If you have any questions, please let me know. Thank you, Mr. President.

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

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**ASSISTANT CLERK:** Thank you, Mr. President. A new A bill, LB848A, offered by Senator Halloran. It's a bill for an act relating to appropriations: to appropriate funds to carry out the provision of the legislative bill LB848. New resolution: LR342, offered by Senator Albrecht, congratulates the Nebraska Association of County Extension Boards on their 50th anniversary. Amendments to be printed: Senator Brewer to LB12, Senator Aguilar to LB1012, and Senator Cavanaugh to LB939. That's all I have at this time.

**HUGHES:** Thank you, Mr. Clerk. Returning to debate, Senator DeBoer, you're recognized.

**DeBOER:** Thank you, Mr. President. I yield my time to Senator Lathrop.

**HUGHES:** Senator Lathrop, 04:55.

**LATHROP:** Thank you, Mr. President, and Senator DeBoer, I appreciate that. Option number 19 is to modify drug possession penalties for people who are caught with a quantity of a controlled substance other than marijuana. They are charged with a Class IV felony. Class IV felony carries up to two years and would have post-release supervision. The number of people entering the Department of Corrections, oftentimes you hear that the Department of Corrections is full of nothing but violent offenders, people who have, that are doing mandatory minimums for gun violence or very serious or sex crimes. And the reality is, a significant number of people entering the Department of Corrections are entering the Department of Corrections for a drug possession offense. And what this recommendation or what this option would do would be to say, if you have been found guilty of less than a half a gram-- so a half a gram is chosen because that's an individual use type quantity-- that's not somebody that's trying to sell, that's somebody that's using-- that you would be guilty of a Class I misdemeanor which carries up to a year in the county jail rather than a Class IV felony. And it's important as it relates to overcrowding because it's the difference between whether you spend some time in the county jail or you spend some time at the Department of Corrections. We have carved out of this, in the amendment to LB920, fentanyl, which we had people come down and testify is a very, very, very different kind of a drug and a dangerous type of a-- very much more dangerous type drug. The rationale behind this particular option is basically twofold. One is, these people are-- represent a significant number of the individuals being admitted to the Department of Corrections. Two, and perhaps more importantly, is, these people have a problem. These people have an addiction, and we're treating it not like a health issue any longer, but purely as a criminal activity and then trying to

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punish them out of their addiction; and it doesn't work. Actually, the evidence shows that people who get care come out of these things less likely to reuse than people who simply go in and spend time in the Department of Corrections. It is, to be sure, controversial. It's not simple to say these will be treated as a crime that will get you one year in the county jail. But the reality is we're putting an awful lot of these people in the Department of Corrections, and, and I will be the first to acknowledge, typically not on their first time. It's not the guy who gets caught the first time with less than a half a gram of a controlled substance that's getting convicted of a felony and going to the Department of Corrections. It's somebody--

**HUGHES:** One minute.

**LATHROP:** --who, who generally will have multiple offenses, and that tells us something about that individual and what they need. They need treatment. They need treatment. They need to be treated for a substance abuse disorder. And incarcerating them-- and I'm going to tell you something that we know well in Judiciary Committee-- there's a lot of drugs inside the prison. It's K2. People can soak a page, a piece of paper, and send K2 into the Department of Corrections. And it's an issue. People have access to controlled substances, even while they're in the Department of Corrections, making it not a place where people sober up and where people get the care they need, but a place where they can continue to abuse, certainly, K2 and other drugs as well. This is an important, this is an important one. And this makes a significant difference in that line that we talked about. In terms of moving, moving the average daily population,--

**HUGHES:** Time, Senator.

**LATHROP:** --this is--

**HUGHES:** Thank you, Senator. Lathrop. Senator Morfeld, you're recognized.

**MORFELD:** Thank you, Mr. President. I'd like to yield my time to Senator Lathrop.

**HUGHES:** Senator Lathrop, 4:55.

**LATHROP:** Well, thank you, Mr. President and Senator Morfeld. I was talking about Option 19 and modifying drug possession penalties. And maybe, if you step back and take an historical perspective on this, we talk about the war on drugs, right? And when we were, we elected officials were getting elected being tough on crime, one of the things

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they promised to do is to make-- by, gosh, we're going to increase the penalty on these drug users. And Senator McKinney, the other day, said, Raise your hand if you want a prison in your district. And I realize we don't have 49 people on the floor, but I'm going to say, Raise your hand if you didn't drink beer before you were legally allowed to. Halloran, I don't believe it. Wishart, I believe it [LAUGHTER]. OK, two people raised their hand. The record will reflect that two people raised their hand. As much as we may not want to talk about it, as much as we may not want to talk about it, people are going to get into stuff we've made illegal before they're supposed to or when they shouldn't. And you know, some of this stuff-- and I have to say none of it has appealed to me, but I did drink beer before I was old enough to. Some of this stuff is like a one-hit addiction. People can get hooked on this and think, like I did with cigarettes, I can do this, I can control these, I can stop anytime I want. And addiction is a different-- it's a different thing. And we have criminalized addiction in this country, and we need to get these people care and treatment. Now if somebody has an addiction and that causes them to go burglarize a place or go steal something or a car or hold somebody up-- separate crimes. They're different crimes. We're not talking about that. We're just talking about the guy that gets caught with a small quantity. Now we're filling the prisons with them, and while they're there, they have access to K2 and other, other drugs. And that's not a criticism of the director. I've had Scott Frakes in front of the committee and we've talked about K2. It's really hard to stop that stuff. And he has people, and he still-- he, director Frakes doesn't know how contraband gets in there. Not just cell phones, but drugs, they're in our prison system. And it's not a place where you're going to not have access to this stuff. The war on drugs, the war on drugs has claimed casualties, and now we're putting people in prison for it, for an addiction. It's a health issue. This is important. Other states have done this. Actually, Oklahoma did this and they made it a misdemeanor. It wasn't the end of the world. Crime rates didn't go up. I appreciate that that may not be the easiest thing to go back to your district to talk about. But if you talk to your constituents, as I am with you, about whether the war on drugs and making felons out of people who have a medical problem, an addiction, has been a success. Because as soon as we make them a felon-- colleagues, as soon as we make them a felon, we've just made it more difficult for them to find work. We've made it more difficult for them to find housing. When you--

**HILGERS:** One minute.

**LATHROP:** --incarcerate them-- did you say time?

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**HILGERS:** One minute.

**LATHROP:** When, when they are incarcerated, they're not paying child support, they're not spending time with their family, they're not parenting their kids. It's time we treat drug possession of a small quantity-- , a small quantity-- like the health problem it is. Still, we have leverage over these people to get the care and treatment they need because they're still, with a Class I misdemeanor, looking at a year in the county jail. I think that's enough incentive for people to go get the care, be involved in diversion, be involved in probation that would include drug treatment, follow-up, staying clean, and going to AA or NA meetings. How much time do I have?

**HILGERS:** Ten seconds.

**LATHROP:** I'll rest with that. Thank you.

**HILGERS:** Thank you, Senator Lathrop. Senator Walz, you're recognized.

**WALZ:** Thank you, Mr. President. I am going to yield my time to Senator Lathrop if he'd take it, but I just have been pretty interested in, and I didn't realize that there was this publication: The Nebraska Criminal Justice Review. Are you familiar, familiar? OK. It says it's a quarterly publication of Holy Family Ministries from Omaha. Sound familiar?

**LATHROP:** Not to me.

**WALZ:** OK. Anna-- oh, Senator Wishart, sorry. Do you have any information on, on this publication?

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

**WISHART:** I was-- hi, Lynne [LAUGHTER]. I was telling you he could yield me time instead, to give Senator Lathrop a [INAUDIBLE].

**WALZ:** Got it. I-- OK, I thought you were--

**WISHART:** Right.

**WALZ:** --going to answer the question. I will yield my time to Senator Wishart.

**HILGERS:** Senator Wishart, 4:05.

**WISHART:** Thank you, Mike. Thank you, Mr. President [LAUGHTER]. So colleagues, I, I rise in opposition to Senator Lathrop's floor

amendment, but I do support the underlying discussion going on around criminal justice reform. I do plan on voting in support of the package that the Judiciary Committee has put forward to help us reduce the increase of inmates in our correctional system and help us address overcrowding. I want to speak a little bit about an experience I had, probably ten years ago, when I was a staff member at the Capitol and had an opportunity to tour a rehabilitation center called Delancey Street, in California, with Senator Brad Ashford at the time and a couple of other senators. Delancey Street is a program that's known across the world as one of the most successful rehabilitation programs for offenders in the world, and what it is, is, it's a nonprofit institute that was created by this young woman named Mimi. We got a chance to meet her. She was a criminal justice major, her and her husband, but she grew up as an immigrant in Delancey Street, which is a famous street in New York City. And she remembers her parents and her grandparents and all the kids in the family, what it took for them all working together to start businesses and be successful as new Americans. And when she went to study criminal justice, what she realized is that people who have committed an offense and have been incarcerated or in and out of the justice system for years, sometimes 30 years, when they come back into the community, then in a lot of ways, so many things are new, so many things have changed. And so can you use a similar structure of having sort of an each-one-teach-one sort of supportive community model that would help somebody land on their feet and be successful? The reason this program is so successful is it's a two year intensive experience for people who are coming out of the justice system. It also acts as an opportunity for judges to allow someone to serve a shorter period of their sentence in this institute. It's a, it is completely self-funded because the residents, 500 residents, live in a facility that's one of the most beautiful facilities I've seen, one of the richest areas of San Francisco, and they run 20 multi-million dollar businesses out of this institute.

**HILGERS:** One minute.

**WISHART:** And when you come and you spend your time here, you learn every type of business, you learn how to run your own business. And what they found is they have an over 90 percent success rate. Somebody who goes and spends two years in this program has a 90 percent success rate of not going back to prison. And in fact, a lot of them become doctors, lawyers, run their own businesses. They opened a credit union that's run by Delancey Street that gives loans out to inmates-- excuse me-- to former inmates who have come through this program. So I just wanted to give you a picture of an alternative that exists and has been successful, and has existed for many years that we in this state



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could be looking at, again, instead of doing the status quo, which continues to not work, building beds and not addressing the underlying issue. Thank you.

**HILGERS:** Thank you, Senator Wishart and Senator Walz. Senator John Cavanaugh, you're recognized. This is your third opportunity.

**J. CAVANAUGH:** Thank you, Mr. President. So I wanted to pick up where I was left off talking about the releases and things and where we're at. This is, again, for those following along at home, the Nebraska Department of Corrections Quarterly Population Summary, October through December of 2021. And I went through all of the different levels of release last time, folks being released to post-release supervision, which means that they are-- have a community-based corrections, supervision-- they're supervised after they finish their sentence, people who passed away while in custody, people who were released to parole, which is, again, people who are released to be supervised, than people who are released to other jurisdictions, which is a very small number, then people serving a flat sentence and mandatorily discharged, which they're essentially people not supervised, just being released straight out of custody. And so one of the things about this, though, is that there are different levels of custody. We've talked about programming where people have programming available and things like that. But then there's also different facilities. So there's maximum security, medium security, min, minimum security, community-based corrections, and some of those people can go to work release, the work release center and things like that. And so we have transitions through community-based corrections prior to prison. So out of these, about 500 individuals who are released in those, that three months, October through December of 2021, we had 248, which is about half of them were not appropriate for community-based correction center assignment. So what that means is these are individuals who are released directly from the state penitentiary without a step down in level of custody, meaning that they don't have even the Department of Corrections' best option available to them for step-down supervision where they get to be, you know, go out of the facility. Some of them, they get day passes to go to, you know, obviously like jobs and programming treatment. So there are other-- these types of community-based corrections. So about half of those individuals who were released were released directly without any community-based supervision, being that they didn't go on parole or probation, and about half of them were released from the highest level of custody, not community-based correction. So they-- the most shocking difference in, in experience from them without having, you know, going to outside facilities without having contacts, without

having a job setting up. So we are not setting people up for success, is basically what I'm saying here. And then we have-- the next slide is page 5 of 8, talks about outstanding clinical program recommendations. And the one I wanted to draw people's attention to is nonresidential substance use treatment program. And there's about 2-- 1,200 to 1,300-- the line's kind of unclear-- individuals who have that as one of their clinical program recommendations. And about 800 of them, of the 1,200, 1,300, get into those programs pre-parole eligibility date, which essentially is saying about two-thirds to three-quarters of the people are able to get into the recommended program before their parole eligibility date, which means the other section is the other remaining 300 to 400 people are not getting into this recommended program, being nonresidential substance use treatment program, until after their parole eligibility date,--

**HILGERS:** One minute.

**J. CAVANAUGH:** --which means people are not able to get into the recommended program before the date on which we are saying that they, that they should be potentially be able to be released, which pushes back their parole-- when they can be paroled, because they haven't completed their programming. It pushes back the amount of time they've had to live after they've completed that kind of programming, meaning if you need, if you go into drug and alcohol treatment, you go and you get it done, and then you maybe do some things after that so that you-- and you practice the skills, the life skills that you learn in that and all of those things. And so we have people about, about a third of them a quarter to a third of people who have this recommended are not able to get it before they get to their parole date. So these are the types of things that we need to be working on. These are the smart, simple solutions, getting more programming like this available so people can actually get the programming that we want them to get and be successful when they are released back into the community, make sure people actually-- we achieve the objectives of our criminal justice system, which is decreasing crime and decreasing recidivism. Thank you, Mr. President.

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

**MORFELD:** Thank you, Mr. President. Colleagues, I want to pick up off a little bit of what I discussed a little bit earlier, in terms of the criteria for diversion services. I, I received some feedback about what the policy was that I was talking about on the mike earlier in Lancaster County, and so I just want to read. I mean, this comes

directly from the website, and county attorneys that I know in that office and public defenders that I also know in Lancaster County have all told me that they follow this policy. So if people are not following the policy or there's an alternative policy, the website should be updated and the policy should be made available and people should follow it. But just to give you an idea, this is Lancaster County's policy. There's literally 90 or so other policies across the state in some cases. And in some counties, they don't have the luxury or the ability to have these types of problem-solving courts and diversion programs. And I think Senator Lathrop brought up, in one of the recommendations, proposed recommendations in LB920, is making sure that there is a problem-solving court in each court jurisdiction across the state so that there is availability there. And I think that that's a great step in the right direction. Now that doesn't necessarily provide uniformity in terms of the criteria in which people will be made, will be able to access that. But I think it's a step in the right direction to even have it available in the first place. So I'll just read through the Lancaster County one here. General criteria-- well, I'll go to a prior criminal record because that's a little bit more on point, and I only have a few minutes. So prior criminal record: Applicants with a prior felony conviction are ineligible at the discretion of the county/city attorney. If someone is otherwise eligible, an applicant may be considered for the program if he or she has received an official pardon for a previous felony conviction. Applicants with more than two misdemeanor convictions are not eligible for the program. So that's what I was talking about a little bit earlier. And if you look at some of our-- excuse me, still losing my voice here. If you look at, you know, what constitutes a misdemeanor, I mean, these are pretty-- you know, if you have a Class IV or V misdemeanor, I mean, this is pretty low-level types of crime, so people can do very nonviolent things that, yes, should be punished and there should be accountability, but let's just say it's not hard to get a misdemeanor. So going back to the actual language here: Applicants with more than two misdemeanor convictions are not eligible for the program. This would include convictions for Class III and Class W misdemeanors and above and comparable city ordinances. Expungement or a set-aside of a prior conviction does not does-- not make a person eligible, if otherwise ineligible for a prior conviction record. So this is a pretty narrow class of people that are actually eligible for diversion in Lancaster County, which is why we have a bunch of folks that are sitting in county jail, the county jail that we built, I believe, just ten years ago. I think it was ten years ago that we built the Lancaster County Jail and they said that, Wow, this will, you know, we'll have capacity. We won't have a problem for 20

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years. We're almost full in some cases. So moving back here, the county attorney, city attorney reserves the right to reject applicants previously charged with a felony which was reduced to a misdemeanor. So even if you were charged with a felony and then it was pled down to a misdemeanor, they also have the discretion to be able to reject that individual as well. So even if you're charged for the crime that they later found that they wouldn't be able to actually get a conviction on and they pled down--

**HILGERS:** One minute.

**MORFELD:** --or they just made a deal, and you're charged with a misdemeanor, you're still likely ineligible for diversion in Lancaster County. Applicants charged with a felony will not be considered for pretrial diversion unless they apply before the matter is bound over to the district court. However, juveniles may apply after a juvenile transfer hearing, so eligible felony offenses are acquire of controlled substance by fraud, arson, third degree, burglary, criminal mischief, delivery of a controlled substance, forgery, fraud by use of a computer, insufficient fund checks insurance fraud, manufacturing of marijuana for personal use, possession of controlled substance, including possession of marijuana weighing more than one pound, possession of forged instruments and devices, sales tax violation theft, unauthorized use of financial transaction devices. Now these are the eligible felony offenses for diversion but, if you had two misdemeanors at any point in your history before then, you're not eligible at all in the first place. And--

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

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

**HILGERS:** Thank you, Senator Morfeld. Senator McCollister, you're recognized. This is your third opportunity.

**McCOLLISTER:** Thank you, Mr. President. Good afternoon again, colleagues. We've been talking a lot in this body about workforce development. And I contend, and I'm sure you agree that those people in our prison system constitute workforce that we could put to work. As a matter of fact, at McCollister and Company, we had a barrel reconditioning facility and we employed people on work release, and they were some of our best workers. You can count on them being there in the morning and they sure didn't skip out in the afternoon; they were good workers. So, you know, those people in the prison system do constitute a workforce that we can access. We have 1.8 percent

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unemployment in the state. We are desperate for people. In fact, we are 60,000 people short of filling the, the job openings that we have. So we have to find good people to do that. In fact, I have a bill, LB709, coming out. Hopefully, the Speaker will schedule it soon. And we talk about license reform. And some of the people who would benefit most from license reform are those people that have been incarcerated. Yeah, if you generally say good moral character and things like that, that gives a licensing board the opportunity to kick somebody out. Another group that would benefit from that is veterans, and also immigrants coming into the state. So licenses reform, license reform is something that I think we hopefully will get to before we adjourn this year. And I've also, during my time in the Legislature, put bills before the Judiciary Committee for ban the box and a set-aside that would enable people that have some kind of criminal record to make it more easily for them to find gainful employment. And that's part of the deal we need to make for those people coming out of the prison system. We need to give them housing. We need to give them SNAP benefits; and I think Senator Hunt will have a bill to that effect before we adjourn. SNAP benefits are real important. If you can't feed yourself, you're more likely to go back to a life of crime. Another great program in this city, and I think in both Omaha and Lincoln is the RISE program. As I look at how I'm going to spend my time soon as I get out of this, out of the Legislature, that's maybe one program that I'll, I'll look up, look at participating in, also food stamps. Food insecurity is still a problem in this country, even with all the programs that have come out from the federal government. So we do need criminal justice reform. LB920 is going to be an important bill. I hope to participate in that. And with that, I'll yield to any time that I have left over to Senator Lathrop.

**HILGERS:** Senator Lathrop, 1:55.

**LATHROP:** OK, that's mine.

**McCOLLISTER:** OK.

**LATHROP:** Senator McCollister yielded me time and then took my pad away. The-- how much time do I have, did you say?

**HILGERS:** 1:40.

**LATHROP:** OK. Well, I'm going to start on Option 20, but it's probably not going to be enough time. Option 20, for our consideration, coming out of the CJI process, is to ensure consecutive used-- sentences are used consistently and appropriately across the state. Let me talk to

you about what a consecutive sentence is. So oftentimes when people do something criminal, it can be a crime, it can be several crimes at once. So for example, if I take out a knife and I stab somebody, I have committed a first degree assault-- or a homicide if they don't make it. I've also committed the crime--

**HILGERS:** One minute.

**LATHROP:** --of use of a, use of a deadly weapon in the commission of a crime, right? So you get the idea that there can be people who commit multiple crimes in a single act. Each one of those is charged independently. Consecutive sentences take place when an individual is before the court and they are going to be sentenced for whatever they've been convicted of. Either they've pled guilty or they've been found guilty, and it's of multiple offenses. You can, as a court, sentence someone to concurrent sentences. So if I'm going to give somebody two years for two different crimes, I can say you will serve them concurrently, which means both of those two years, the clock starts at the same time. Or I can say you're going to serve those consecutively. In which case--

**HILGERS:** That's time, Senator. Thank you, Senator Lathrop and Senator McCollister. Senator DeBoer, you're recognized. This is your third opportunity.

**DeBOER:** Thank you, Mr. President. Senator Lathrop, I'll yield, yield you my time.

**HILGERS:** Senator Lathrop, 4:55.

**LATHROP:** Thank you, Senator DeBoer. Thank you, Mr. President. Continuing with my description of consecutive sentences, that's where you require that one sentence be complete before the inmate begins the second one or the third one, right? Some consecutive sentences are required, so if you get a mandatory minimum, whatever's left must come or be done after the mandatory minimum is complete. So if you use a gun in the commission of a felony, you may have a mandatory five years and whatever you did with that gun is going to be a consecutive sentence. We call those mandatory consecutive sentences. 86 percent of consecutive sentences are discretionary. That means it's up to the judge to make that decision, and they have that discretion. No problem with letting them have discretion, right? But what we're seeing in the data-- and it's in the CJI work that was done-- is that 86 percent of consecutive sentences are discretionary, meaning they didn't have to do that at the time of sentencing. And there is a large variation from

county to county in the use of consecutive sentences. York County uses them 18 percent of the time, while Lancaster County uses them 46 percent of the time. So in a very real way, how much time you do or whether your sentences are consecutive is a matter of geography. Douglas County, 19 percent of the time, Buffalo County, 39 percent of the time. This isn't a knock on the judges or the court. But what Option 20 calls for is setting up some circumstance and saying, con, consecutive sentences will be the norm unless certain circumstances exist, different-- committing your crimes on different days, crimes that are exceptionally depraved or heinous. I'm going to have to look at the terms we use. Yeah, I don't have the terms. But it is, we would set out circumstances under which concurrent sentences are the norm and circumstances where consecutive sentences would be in order not to say you can't do them. Not to say they'd then be required, but they would be within the court's discretion to impose them. Consecutive sentences move the needle. You talk about stacking people. You want to send somebody down to the Department of Corrections. I'll give you an example just to illustrate. Let's say that they stop a guy and he has a small quantity of heroin and a small quantity of cocaine. Two separate offenses, right? If the court's going to sentence them to a Class IV felony, they could make those two sentences run concurrent, in which case they would get a two-year sentence, two two-year sentences that ran together, or they can run them consecutively, and now that sentence has been doubled. So having some guide rails on the use of consecutive sentences, given the fact that they are used so differently from county to county, is one of the recommendations, and this one does move the needle, colleagues. This is part of, how do we get that line that, that is the projection of--

**HILGERS:** One minute.

**LATHROP:** --our population to flatten out. This is an important one, and it's not taking away that tool from the court. It's saying this should be the norm. And if these circumstances exist-- and they're, they're set out in LB920-- if those circumstances exist, you're free to run sentences consecutively. One of the, one of the comments that we heard when we were talking about consecutive sentences-- and most of them, by the way, are on low-level felonies. Low-level felonies are where a majority of the consecutive sentences are to be found. And I've had more than one person tell me that it really is in response to LB605. When a judge wants to whack somebody, But the changes in LB605 don't permit a long sentence, they simply take three things and make them run end to end. And now that person is in the system, not for--

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**HILGERS:** That's time, Senator. Thank you, Senator Morfeld and Senator DeBoer. Senator Pansing Brooks, you're recognized.

**PANSING BROOKS:** Thank you, Mr. Speaker. So I just wanted to talk a little bit about, again, the issues that we've had regarding some of the-- I'm getting my notes here-- about LB605. There were discussions about LB605 earlier, when CJI came in, and it didn't work because, as people have mentioned, there were stack-- we've continued stacking sentences, we've continued determinate sentences. And as I explained yesterday, determinate sentences are the term of years that, say that it's 12 to 12 years. That's a determinate sentence, rather than an indeterminate sentence that might be 6 to 12 years. So the problem is, with the, the determinate sentences, that the goal of post-release supervision has been hampered by those determinate sentences. And you know, I, I've stood up and talked about this for all eight years in my time here in the Legislature, and we continue to discuss this, and it continues to fall on deaf ears. But I will try again with these discussions. We've brought-- I've been fortunate enough to bring multiple bills encouraging us to stop using determinate sentences. As I said before today, in 1972, the Legislature mandated that we dissolve all determinate sentences, allowing appropriate post-release supervision. I've also brought multiple bills on implementing robust programming. Programming is one of the key issues to why we are having this recidivism. Senator Geist talked about that we need to look at recidivism. Well, there's one clear avenue that will help us to stop the increasing recidivism, and that's appropriate programming early in the inmate's time during the sentence. But again, it's all been voted down. It costs too much money. Well, how much money is the prison costing again? So we, we have a choice, and it's, it's trying to either solve the, the problem and stop something from happening or just continuing to necessitate the problem of continuing to build. Senator Lathrop, you know, I also want to say that programming in this body seems to be sort of considered a luxury. And I would ask that, in the following years-- 'cause I don't have a lot of faith that anything's going to happen this year, either-- in the following years, please do not look at programming as a luxury, as if we're pampering the inmate by giving them appropriate programming that deals with sexual assault and domestic violence, drug and alcohol addiction. Those are not, those are not programs that pamper and sort of baby the inmate. Those are programs that are essential to the safety of our communities, to the costs of our prisons, because we're just going to continue building them if we cannot get help for these people that we've placed in our prisons. Again, Senator Lathrop discussed the importance of diversion, and diversion helps an individual overcome



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the charges that they have. I had a bill earlier this year that was filibustered. And in that bill I had-- there was--

**HILGERS:** One minute.

**PANSING BROOKS:** --there's \$3.5 million that comes from the General Fund for diversion in our state, especially for juvenile diversion. My bill added another \$5 million. We would have \$8.5 million right now to help with diversion. I had no one from the community opposing that. The only people opposing it here were a former senator and one other senator here who ran the filibuster against me. This, that is a program helping to, helping on truancy. Helping put kids into diversion is something that will save us money, and make our communities safer, and give us more children who grow up to be able to be in the workforce rather than having charges against them. Thank you, Mr. President.

**LATHROP:** Thank you, Senator Pansing Brooks. Senator Morfeld, you are recognized. This is your third opportunity.

**MORFELD:** Thank you, Mr. President. I'm going to yield my time to Senator Lathrop so he can continue and finish his discussion before we adjourn. Thank you.

**HILGERS:** Senator Lathrop, 4:50.

**LATHROP:** OK, thank you, and thank you, Senator Morfeld. I was talking about the language on consecutive and concurrent sentences found in-- or the circumstances under which the, the, the-- I'll call them the guardrails on consecutive sentences. It would read: Except when a consecutive sentence is required by statute-- so that mandatory minimum piece-- court shall not order a sentence to run consecutive to another sentence, whether being imposed at the same time or already being served, unless the court finds on the record that at least one of the following aggravating factors applies: the offense occurred on different days; the offense involved the use of force or threat of serious bodily harm against separate victims; one of the offenses was a violation of about eight different sections involving a sexual assault or involved a sexual assault. So there's a number of serious offenses that would be eligible for a consecutive sentence. And finally, one of the offenses was especially heinous, atrocious or cruel, or manifest exceptional depravity by ordinary standards of morality and intelligence. So what we're trying to get away with-- or not get away with, get, get around is the circumstance where somebody does something dumb, commits an offense at which they commit multiple

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offenses, and then those things are run one after the other, with the purpose of expanding by half or three times the length of time an individual has to serve at the Department of Corrections. And as I said, that's one of those, that's one of those options that makes a significant difference. And finally, Option 21: Discourage the use of mandatory minimum sentences for nonviolent felonies and allow credit to be earned during mandatory term towards a nonmandatory portion of a sentence. What's that mean? Let me explain that to you. If you are, if you receive a mandatory minimum-- well, let's just talk about good time first. If you are incarcerated and you are given a term of years at the Department of Corrections, that number, when you go in, is cut in half. By the way, judges understand this. They understand this, and they will take it into account when they impose the sentence. But the way good time works in Nebraska is, if you were to be, you were to receive a ten-year sentence, you start out with having to do five years in order to be eligible to be released. If you misbehave, the Department of Corrections can take away your good time and thereby lengthen the term that you spend up to the maximum of ten years. So that's how good time works in Nebraska. If you get a mandatory minimum, let's say you do something and you get a mandatory minimum and some additional time on top of the mandatory minimum, you do not get credit for good time during the mandatory minimum. So the only thing you went to prison on was a five-year mandatory minimum, you are going to do a five-year mandatory minimum. There's no good time, and you won't get out for the entire five years of your mandatory minimum, no matter how well-behaved you are. If you have--

**HILGERS:** One minute.

**LATHROP:** --additional time to do, you will get good time on that additional time. This recommendation or this option would allow you to cash in good time on your mandatory minimum on what's left of your sentence after you have completed your mandatory minimum. Does that make sense? So if-- let's say you're doing five years mandatory minimum and you have another five years after that. After you complete your mandatory minimum, you would get credit for the two and a half years you were in on the mandatory minimum and did not have any violations or problems that would otherwise have that taken away, and it applies to the balance of whatever your sentence is. This was probably not well explained. How much time do I have?

**HILGERS:** Eight seconds.

**LATHROP:** All right. Well, I'm not going to get it explained in eight seconds.

**HILGERS:** Thank you, Senator Lathrop--

**LATHROP:** Thank you.

**HILGERS:** --and Senator Morfeld. Senator Pansing Brooks, you're recognized, and this is your third opportunity.

**PANSING BROOKS:** OK. Thank you, Mr. President. We're going up to 3:15 here. I just, I just want us to understand our efforts to do nothing about programming, to do nothing about sentencing reform, I've brought a bill on stop, on banning mandatory minimums, just like Senator Lathrop is discussing. But it falls on deaf ears, because it's as if, Oh my gosh, we're trying to, we're just trying to be light and soft on crime. But what we're trying to do is to be smart on crime. We see all sorts of conservative states around this country who are doing better. They're doing better at sentencing, they're doing better at programming. They're making the people who go into our prisons come out safer and less angry and given more hope. In my time here, we've done very little to do that, to help the people coming back into the community to be safer neighbors, friends, and associates. We've done very little. Before we came in, there was there was a bill that, that gave the Center for People in Needs [SIC] money for trades, and there have been, there have been groups in the community that went out to the Center for People in Need and helped these, these people as they come out of prison to learn the trades of-- and it's actually while they're still in prison-- the trades of how, of house-- building houses and roofing and putting siding on houses, giving them marketable skills that allow them to participate in our community. And again, diversion is an opportunity to help people to get out of, out of the system and give them hope to move on. The STOP class: many of you have heard of it and probably taken a STOP class. That's a diversionary program, often for speeding, but there are multiple diversionary programs. My truancy bill allowed \$8 million to go into funding diversionary programs across this state, but it couldn't overcome the filibuster of the senator who's now left, resigned, and a couple of others in here who shall remain nameless, but I hope that you will look at these issues and these programs as we move forward, the work that Senator Lathrop has done on on CJI and others-- Senator McKinney, Senator Geist. These are issues that need to be changed, and if we just keep funding the prisons, we're going to only do that and the numbers are going to continue to build. I'll give the rest of my time to Senator Lathrop. Thank you, Mr. President.

**HILGERS:** Senator Lathrop, 1:45.

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**LATHROP:** OK. So rather than try to make this up, I'm going to read something that helps explain what I'm talking about with respect to those mandatory minimums. The credit system authorizes sentencing credits be afforded to those who are incarcerated on a day-for-day rate, facilitating parole eligibility halfway through one's minimum sentence. However, credits cannot be earned during a mandatory minimum sentence, and a person may only accumulate credits after they've served the entire mandatory minimum. The credit rule for mandatory minimum sentences means that the circumstances-- that means that, in many circumstances,--

**HILGERS:** One minute.

**LATHROP:** --the actual mandatory term is longer than the stated mandatory minimum. For example, under the current law, a person serving a 10 to 20, with a mandatory minimum of 5, would not be parole eligible until they have served 7 and a half years. Without the mandatory minimum term, the person would be eligible for parole after serving 5. The goal of earning credits to lower parole eligibility is to incentivize good behavior and participation in education and treatment programs. In other words, once you get done with your mandatory minimum, whatever block of time that is-- typically five years-- that 2 and a half years of good time that you behaved, you would be awarded that after you did your mandatory minimum to be applied to the balance of your sentence. That's the explanation. It is, again-- it helps-- good time helps us--

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

**LATHROP:** --maintain control inside the Department of Corrections. Thank you.

**HILGERS:** Thank you, Senator Lathrop and Senator Pansing Brooks. Mr. Clerk, for items.

**ASSISTANT CLERK:** Mr. President, just one item, priority motion, Senator Clements would move to adjourn until Tuesday, March 22, 2022, at 9:00 a.m.

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